ZEBULON
BOARD OF COMMISSIONERS
AGENDA
April 12, 2021
7:00pm

Due to COVID-19 we have limited in person seating. If you would like to attend please email Stacie Paratore (sparatore@townofzebulon.org) by 12:00pm on April 12, 2021 to reserve your seat. We perform COVID-19 symptom and temperature screenings at the door.

All meetings are live streamed on our Facebook (@TownofZebulon) and YouTube (@TownofZebulon) pages.

I. PLEDGE OF ALLEGIANCE

II. APPROVAL OF AGENDA

III. SCHOOL RECOGNITION

A. Zebulon Middle School

1. Elijah Easley – Student
2. Tyra Keitt – Teacher

IV. PROCLAMATION

A. April – School Library Month

V. PUBLIC COMMENT PERIOD

Due to COVID-19 we will be taking public comments in writing. Comments will be read into the record at the meeting. Please get all comments of 400 words or less to the Deputy Town Clerk – Stacie Paratore (sparatore@townofzebulon.org) by 3:00pm on April 12, 2021.

VI. CONSENT

A. Minutes

1. March 1, 2021 – Regular Meeting
2. March 1, 2021 – Closed Session
3. March 8, 2021 – Joint Public Hearing
4. March 22, 2021 – Special Called Meeting
5. March 22, 2021 – Closed Session

B. Finance

1. Monthly Items
    a. Wake County Tax Report – January 2021
    b. Financial Report as of March 29, 2021
    c. Budget Amendment
        i. Ordinance 2021-56 – Appropriation of Green Pace Rd Property Sale Proceeds
        ii. Ordinance 2021-57 – Appropriation of Insurance Proceeds
        iii. Ordinance 2021-58– Appropriation of United Healthcare Wellness Grant Proceeds

C. Planning

1. Interlocal Agreement Contract with Wake County for Building Services

VII. OLD BUSINESS

A. Planning

1. Ordinance 2021-60 – TA 2021-01 – Building Maintenance Regulations
2. Ordinance 2021-61 – RZ 2020-02 – 1513 N. Arendell Avenue
3. Ordinance 2021-62 – RZ 2020-03 – 49 Green Pace Road
4. Ordinance 2021-63 – RZ 2020-04 – 213 Moss Road
5. Ordinance 2021-64 – CZ 2020-06 – Zebulon Outdoor Storage

B. Administration

1. Utility Merger Agreement – Second Amendment

VIII. NEW BUSINESS

A. Planning

1. TA 2021-02 – 160D

B. Community and Economic Development

1. Ordinance 2021-59 – FY 2021 CIP Budget Transfer Request

C. Finance

1. Auditor Recommendation

D. Administration

1. Board Appointments

E. Public Works

1. Resolution 2021-07 – Weavers Pond - Phase 6 Infrastructure Acceptance

IX. BOARD COMMENTS

X. MANAGER'S REPORT

A. Joint Public Hearing (4/19)

B. April Work Session (4/21)

1. Comprehensive Plan: Land Use
2. Comprehensive Plan: Transportation
3. FY '22 Budget preview

PROCLAMATION
APRIL - SCHOOL LIBRARY MONTH

WHEREAS, the School Library is essential to effective education for an information-based society; and

WHEREAS, by supporting the goals of the Wake County Schools, and by serving all students and teachers, this program is an integral part of the instructional process, Kindergarten through grade Twelve; and

WHEREAS, the School Library offers an environment conducive to reading and learning, critical thinking, creative expression, investigation and research, professional growth, and curriculum development and enhancement; and

WHEREAS, the School Libraries in the Town of Zebulon are enriched by its dedicated staff, volunteers, and gifts;

NOW, THEREFORE, I, Robert S. Matheny, Mayor and the Zebulon Board of Commissioners, hereby proclaim that the Town of Zebulon joins with towns across the nation in declaring April "**SCHOOL LIBRARY MONTH**;" and

DO FURTHER PROCLAIM that students and other citizens of the Town of Zebulon are encouraged to visit the School Libraries in each of our schools to partake of the special programs planned for the month-long celebration and to familiarize themselves with the services always available.

Signed this the 12th day of April 2021.

_____
Robert S. Matheny – Mayor

Seal

_____
Lisa M. Markland, CMC – Town Clerk

Zebulon Board of Commissioners
Minutes
March 1, 2021

Present: Robert S. Matheny, Beverly Clark, Annie Moore, Larry Loucks, Shannon Baxter, Glenn York, Joe Moore-Town Manager, Lisa Markland-Town Clerk, Stacie Paratore-Deputy Town Clerk, Chris Ray-Public Works, Jacqui Boykin-Police, Chris Perry-Fire, Sheila Long-Parks & Recreation, Bobby Fitts-Finance, Michael Clark-Planning, Eric Vernon-Town Attorney

Mayor Matheny called the meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE
The pledge of allegiance was led by Commissioner York.

APPROVAL OF AGENDA
Commissioner Clark made a motion, second by Commissioner Moore to approve the agenda. There was no discussion and the motion passed unanimously.

SCHOOL RECOGNITION
Mayor Matheny recognized student Nikolas Moss and teacher Timothy Chartrand, both from Zebulon Elementary School.

SPECIAL RECOGNITION
East Wake Academy was recognized for their State Volleyball Championship.

PUBLIC COMMENT PERIOD
No comments were submitted.

CONSENT

A. Minutes

Commissioner Clark made a motion, second by Commissioner Loucks to approve the minutes of the January 20, 2021 work session. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve the minutes of the January 20, 2021 closed session. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve the minutes of the February 1, 2021 meeting. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve the minutes of the February 8, 2021 Joint Public Hearing. There was no discussion and the motion passed unanimously.

B. Finance

Commissioner Clark made a motion, second by Commissioner Loucks to approve the Wake County Tax Report – December 2020. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve the financial report as of February 15, 2021. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve Ordinance 2021-53 – Planning and Fire vehicles. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve Ordinance 2021-54 – Appropriation of Insurance Proceeds. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner Loucks to approve the quarterly reports for Police and Parks and Recreation. There was no discussion and the motion passed unanimously.

OLD BUSINESS

A. Finance

1. Non-Profit Funding Requests – FY 20211 Strategic Plan Grant Application

Bobby Fitts stated the non-profit funding application period was posted through the Town's social media outlets beginning January 11, 2021. Nine applications were received by the February 8, 2021 deadline. Funding requests received this year were:

- Dew4Him Ministries, Inc.
- East Wake Education Foundation
- The Family Violence Prevention Center, Inc.; dba InterAct
- Miss Zebulon Organization
- Preservation Zebulon
- Share His Glory
- Shepherd's Care Medical Clinic
- Zebulon United Methodist Church Food Pantry
- Go The Extra Mile

The March Board of Commissioners meeting offered applicants the opportunity to make brief presentations describing what their organization does and how they intended to use the grant.

A video submission from the Miss Zebulon Organization and Go the Extra Mile were shown. Bobby Fitts read written submissions from Preservation Zebulon and The Family Violence Prevention Center, Inc.; dba InterAct.

Roger Brantley spoke about Share His Glory.

Shannon White spoke about the East Wake Education Foundation.

Shepards Care Medical Clinic was not present and did not submit a statement or video.

Dew4Him Ministries, Inc. was not present and did not submit a statement or video.

Bob Russo spoke about the Zebulon United Methodist Church Food Pantry.

Laura Johnson stated the Martin Luther King, Jr. breakfast received funding for the breakfast scheduled for 2021 but was canceled due to the pandemic. It was state the awarded funds would be held to fund the 2022 breakfast.

Mayor Matheny explained he received a request for a late application from Progressive Teamworks Outreach. The Board was asked if they wanted to consider the late entry.

Commissioner York made a motion, second by Commissioner Moore to accept the entry from Progressive Teamworks Outreach.

Commissioner Loucks stated it was fair to accept the late application since this was the first year submitting online applications. There was no further discussion and the motion passed unanimously.

B. Planning

1. Sign Regulations – Ordinance 2021-55

Michael Clark explained staff was proposing a text amendment to UDO Sections 3.5.3.E, 3.5.4.E and 5.11.9 to allow ground signs in the DTP (Downtown Periphery) and DTC (Downtown Core) districts. This would amend the maximum height of ground signs and provide clarification to the type of measurement for maximum size of a ground sign.

A local business within the Downtown Core (DTC) zoning district submitted an inquiry to install a ground sign. Staff discovered one section of the UDO permitted these signs while another section prohibited them. The proposed amendments provided a correction and the proposed amendments established maximum heights for ground signs based on the district in which they were located and clarify the type of measurement pertaining to the maximum size of the proposed ground signs.

The table at section 5.11.9 added square feet to the maximum sign area being 36 sq. ft. The maximum height in the DTP and DTC would be three feet. This size allowed for signs to be closer to the front property line and prevented vision obstruction.

The Planning Board voted unanimously at the February 8, 2021 meeting to recommend approval of Ordinance 2021-55.

Commissioner Baxter asked what could be done if a sign at the allowable three feet height obstructed vision. Staff explained this would a case-by-case situation and could be required to be modified if vision was obstructed.

Commissioner Baxter made a motion, second by Commissioner York to approve Ordinance 2021-55. There was no discussion and the motion passed unanimously.

BOARD COMMENTS

Commissioner Loucks thanked the volunteers who participated in the clean sweep highway trash pick-up and reminded everyone to sign-up to receive their vaccination.

Commissioner Moore reminded everyone to get their vaccination.

Commissioner Clark wished Commissioners Baxter and York a Happy Birthday.

Commissioner Baxter stated the vaccine clinic in Zebulon distributed 115 vaccines and asked others to check-in with the elderly members of the community to assist them in signing up to receive the vaccine.

Commissioner York reminded citizens to practice social distance, wear your mask, and wash your hands.

MANAGER'S REPORT

A. Joe Moore gave some detail about the upcoming Joint Public Hearing scheduled for March 8, 2021. The meeting would include downtown building code requirements, rezoning clean-up, and a conditional zoning request.

B. Joe Moore gave some detail about the upcoming work session scheduled for March 17, 2021 at 6:00pm. The meeting would include the second amendment to the Raleigh Merger Agreement and a Comprehensive Plan Primer for the Land Use and Transportation Plan.

Bobby Fitts gave the following budget transfers:

Administration:
Moved $3,000 to Professional Services - $1,000 from Vehicle Maintenance and $2,000 from Fuel Expense

Project & Property Management:
Moved $1,250 from Professional Services to Cell Phones

Operations:
Moved $2,000 to Vehicle Maintenance - $1,000 from NC 811 Service and $1,000 from Materials & Supplies (Streets);
Moved $2,000 to Equipment Maintenance - $1,000 from Travel & Training and $1,000 from Contract Services (Streets)

Parks & Recreation:
Moved $5,000 from Athletics to Grounds Maintenance

Mayor Matheny stated the Board needed a motion to go into closed session as permitted by N.C. General Statute § 143-318.11(a)(5): "... to instruct the [Town] staff or negotiating agents concerning the position to be taken by or on behalf of the [Town] in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; ..."

Commissioner Loucks made a motion, second by Commissioner Clark to go into closed session. There was no discussion and the motion passed unanimously.

Note: In closed session Commissioner Loucks made a motion, second by Commissioner York to come out of closed session. There was no discussion and the motion passed unanimously.

Commissioner Baxter made a motion, second by Commissioner Loucks to adjourn. There was no discussion and the motion passed unanimously.

Adopted this the 12th day of April 2021.

_____
Robert S. Matheny—Mayor

SEAL

_____
Lisa M. Markland, CMC—Town Clerk

Zebulon
Joint Public Hearing
Minutes
March 8, 2021

Present: Robert S. Matheny, Beverly Clark, Annie Moore, Glenn York, Shannon Baxter, Larry Loucks, Joe Moore-Town Manager, Lisa Markland-Town Clerk, Stacie Paratore-Deputy Town Clerk, Michael Clark-Planning, Eric Vernon-Attorney

Planning Board Present: Laura Johnson, Michael Germano, Jessica Luther, David Lowry
Absent: Stephanie Jenkins and Gene Blount

Mayor Matheny called the meeting to order at 7:00pm.

PUBLIC HEARING

A. TA 2021-01 Building Maintenance Regulations

Mayor Matheny opened the public hearing.

Michael Clark explained this was a staff initiated request to amend Chapter 95 of the Zebulon Code of Ordinances. This amendment would establish regulations regarding the conditions and appearance of non-residential buildings within the DTP (Downtown Periphery) and DTC (Downtown Core) districts.

The proposed text amendments were in response to deteriorating conditions of buildings within the Downtown Zoning Districts and the number of vacant buildings that work against the Town's effort to have a Vibrant Downtown. The proposed regulations required building exteriors to be maintained in a way that addressed safety and aesthetic concerns, and some level of display located in the front window of vacant buildings to eliminate the appearance of vacancy. Examples of some of the deteriorating conditions downtown were shown. The text amendment would create vibrancy outlined in the Town's 2030 Strategic Plan.

Staff recommended approval of TA 2021-01.

Mayor Matheny asked if either Board had questions.

Jessica Luther asked if there would be regulations about window displays. Michael Clark explained business owners would work with staff to create a plan for the window displays. The sign regulations were separate from the window displays which were identified as ground level windows in the storefront.

David Lowry pointed out redundancy in Section 95.63A. In Section 95.63E there was no definition for rotting. Staff would review and update the language. Mr. Lowry suggested adding the language "signage needed to be consistent with UDO requirements" in Section 95.63H. Staff would update the language. It was also suggested to add penalties for failure to register as a vacant building.

Michael Germano asked how to address vacant buildings being used for non-conforming uses. Michael Clark explained if it was an existing legal non-conformity, staff had to wait until the non-

conformity status expired. From the maintenance side the standards would still be applicable. There was discussion about storage of items on vacant lots.

David Lowry inquired about the "appearance of disrepair" language. Staff would work with business owners to make the necessary repairs to prevent giving an appearance of vacancy.

Mayor Matheny asked if brick was required to be painted since the section stated "exterior should be painted." Staff would update the language to state exteriors of the building shall be maintained and/or painted so they do not appear vacant.

There was a question about the reference to the Board of Appeals in the Code of Ordinances. The Board of Appeals was the Town's Board of Adjustment.

David Lowry inquired about the reference to 160D in Section 95.69. Michael Clark explained all regulations going forward were required to be consistent with 160D. The State made it effective June 2020 but gave municipalities one year to bring local ordinances into compliance with 160D.

Mayor Matheny asked if anyone wished to speak in favor.

Amanda Cruz, who owns the Creative Cup, stated buildings should be maintained to help the appearance and establish a new atmosphere in downtown. The regulation would help to create a unified look.

Dallas Pearce, of Dallas Pearce Realty, commended Town staff for making the recommendation for the building maintenance regulation. Mr. Pearce spoke about future plans and was excited about the future of downtown Zebulon.

Stacie Paratore read comments that were emailed to Teresa Piner from Brandon McCraney. Mr. McCraney stated the regulation would create a positive impact on existing businesses and would create basic standards for the buildings downtown.

Mayor Matheny asked if anyone else wished to speak in favor. There was none.

Mayor Matheny asked if anyone wished to speak in opposition.

Stacie Paratore read comments submitted by Chuck Corbett. Mr. Corbett stated the regulation was unnecessary and the condition of commercial property was market driven.

Mayor Matheny asked if anyone else wished to speak in opposition. There was none.

Mayor Matheny closed the public hearing and referred the matter to the Planning Board for their recommendation.

B. CZ 2020-06 - Old US 264, Zebulon Outdoor Storage

Mayor Matheny opened the public hearing.

Meade Bradshaw explained this was a request by John Olgesby representing the property owner, Tommy Perry who was requesting a Conditional Zoning from Heavy Industrial (HI) to Heavy Industrial-Conditional (HI-C) for the property at 1817 Old US 264 Hwy.

The parcel size was approximately 15.28 acres. The vicinity map, aerial map, zoning map and pictures of the parcel were shown.

In accordance with Section 2.2.6 of the Town of Zebulon Unified Development Ordinance and NCGS 160D-703, the following conditions are agreed upon for request CZ 2020-06.

1. There shall be a maximum of 80% site coverage with washed stone surfacing and grass parking areas.
    a. Top layer of crushed stone surfacing will be No. 5 washed stone to prevent dust.
    b. Stone will provide semi-pervious surface to reduce total runoff by allowing infiltration.
    c. All stone vehicular areas shall be within a security fence and screened by an opaque evergreen hedge row with a minimum height of 6 feet at the time of planting.
    d. All stone vehicular areas shall be properly maintained, including vegetation control, smoothing, scraping, top dressing at regular intervals.
2. The entrance apron and approximately 250 feet of access road shall be paved by one of the surface materials listed in § 5.8.5.F.1 until the main entrance gate.
3. Additional landscaping shall be provided along paved access road, between pavement and security fence for additional screening of parking areas within fence.
4. There shall be a total of 40' of Type D Opaque buffer between the security fence and Old US 264 Highway.
5. There shall be a total of 30' of Type C Semi-Opaque buffer between the US 264 Highway controlled access right-of-way and the security fence. The 20' width of existing vegetation/trees within the property boundary will not be disturbed.
6. There shall be a total of 20' of Type C Semi-Opaque buffer between the adjoining property identified as Wake County PIN 2715737661 and the security fence.
7. There shall be approximately 400 feet of 6' wide concrete sidewalk adjacent to Old US 264 Highway approximately 1' inside the existing right-of-way.
8. The applicant shall apply to annex the subject property into the Town of Zebulon within 30 days of final approval of this conditional rezoning.

*All other applicable Unified Development Ordinance requirements shall remain as written and the requirements by other agencies will be reviewed and regulated at the time of Technical Review Committee review process.

The concept plan was shown. Staff explained the applicant wanted to use gravel in the parking area and driveway which was a deviation from code standard 5.8.5(f)(1). The code required materials to be asphalt, concrete, or of sufficient thickness for any parking areas, driveways or vehicular service areas on developed sites. Staff did not support the site being 100% gravel finding the allowance of gravel created public health and safety issues. Many uses within the Heavy Industrial District attracted and generated high traffic volumes and heavy weights. Gravel required more frequent maintenance and degraded quicker when exposed to all weather events than other surface treatments such as asphalt, concrete, or pervious surfaces. The quicker degradation and higher traffic volumes created unsounded surfaces for parking, storing, walking and ADA accessibility. The resolution of these issues required a large amount of staff time and magnified the frequency of code enforcement needs.

The Unified Development Ordinance Section 2.2.6.K provides the following standards in which the Board was to base a decision:

1. Whether the proposed conditional rezoning advances the public health, safety, or welfare;
2. Whether the extent to which the proposed conditional rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objective, and policies of the Town's adopted policy guidance;
3. Whether an approval of the conditional rezoning is reasonable and in the public interest;
4. Whether the extent to which the concept plan associated with the conditional rezoning is consistent with this Ordinance and
5. Any other factors as the Board of Commissioners may determine to be relevant.

Mayor Matheny asked if either Board had questions. There were none.

Mayor Matheny asked if anyone wished to speak in favor.

Ashley Honeycutt Terrazas, an attorney from Fox Rothschild LLP representing the property owner Tommy Perry, asked the Board to consider approving the installation of a crushed stone lot. The history of the property was given. This was Mr. Perry's second location for his storage business. Ms. Honeycutt Terrazas stated the property owner would apply for annexation and the business would increase tax revenue for the Town. The crushed stone surface allowed changes to the parking layout and would make it easier for the site to be re-developed in the future.

Mayor Matheny asked if either Board had questions. There were none.

Mayor Matheny asked if anyone wished to speak in favor.

John Olgesby, the project engineer with CSD Engineering, spoke about increased stormwater filtration with crushed stone as compared to asphalt, and how the proposed stone thickness and durability was sufficient for the proposed use.

Mayor Matheny asked if either Board had questions.

David Lowry asked about the degradation of asphalt with long term storage compared to stop-and-go traffic. Mr. Olgebsy explained most heavy loads such as tractor trailers were not stored long term like boats and RVs.

The 250ft access road would be asphalt as long as it was approved by DOT.

There was discussion about the stormwater runoff area on the property. Mr. Olgesby explained they had a permit from the US Army Corps of Engineers to drain the pond in the back of the property. After approximately nine months the US Army Corps of Engineers would determine if the area was designated as wetlands. No gravel was planned for that area. There was discussion about stormwater management on the property.

Michael Germano asked Mr. Olgesby about his interpretation of the impervious nature of gravel. Mr. Olgesby stated gravel was considered impervious and would slow down the time of concentration. Regardless how long gravel was at an area there would be a possibility of infiltration and would never get to 0% impervious like asphalt. There was discussion about the time of concentration and runoff characteristics of gravel vs. asphalt.

David Lowry asked if there were plans for future improvements. The property owner had the options for future improvements. Fixed structures would not be constructed with the storage facility, but the property had the potential to be asphalted and built on in the future.

There was a question about grassed areas. Mr. Olgesby explained there may be a small area that would be grassed to be used for overflow parking.

Ashley Honeycutt Terrazas spoke about the proposed conditions. Pictures of the crushed stone parking lot at Zebulon Road storage was shown.

Mayor Matheny asked if either Board had any more questions.

Commissioner Baxter inquired about the vegetation control measures used on the property and expressed concerns of herbicides entering the water table. Mr. Olgesby stated the material used was a granulated preemergent which would runoff into stormwater detention and be removed through biological processes.

Mayor Matheny asked if either Board had any more questions. There were none.

Mayor Matheny asked if anyone else wished to speak. There were none.

Mayor Matheny closed the public hearing and referred the matter to the Planning Board for their recommendation.

C. RZ 2020-02, 1513 N. Arendell Avenue

Mayor Matheny opened the public hearing.

Michael Clark explained this was a staff initiated rezoning request to amend the official zoning map from Heavy Industrial (HI) to Heavy Commercial (HC) for the property at 1513 N. Arendell

Avenue. The parcel size was approximately 1.32 acres. The vicinity map, aerial map, zoning map and pictures of the parcel were shown.

The subject parcel was zoned HB-Heavy Business under the previous zoning code, however due to a file corruption with the GIS file used for the rezoning as part of the Unified Development Ordinance, the subject property was designated as LI Light Industrial in error. The site was currently occupied by Bojangles and under the LI Light Industrial, it is an existing, nonconforming use. The rezoning to HC would bring the use into conformance with the UDO.

Staff recommended approval of RZ 2020-02.

Mayor Matheny asked if either Board had any questions. There were none.

Mayor Matheny asked if anyone wished to speak in favor. There were none.

Mayor Matheny asked if anyone wished to speak in opposition. There were none.

Mayor Matheny closed the public hearing and referred the matter to the Planning Board for their recommendation.

D. RZ 2020-03, 49 Green Pace Road

Mayor Matheny opened the public hearing.

Michael Clark explained this was a staff initiated request to amend the official zoning map from Light Industrial (LI) to Heavy Commercial (HC) for a section of the property at 49 Green Pace Rd. that fronts on N. Arendell south of 1513 N. Arendell Ave. The parcel size is approximately 1.31 acres. The vicinity map, aerial map, zoning map and pictures of the parcel were shown.

The property was zoned LI-Light Industrial as part of the previous zoning code until January 1, 2020. Due to a file corruption with the GIS file used for the rezoning as part of the Unified Development Ordinance, the property was designated as LI Light Industrial in error. The site was currently vacant but was part of the tract owned and operated by BB&T.

Staff recommended approval of RZ 2020-03.

David Lowry asked how a tract of a property had two different zoning codes. Michael Clark explained a recombination plat was requested last year. It was further stated a recombination plat only changed the property lines not the zoning classifications.

Mayor Matheny asked if either Board had any questions. There were none.

Mayor Matheny asked if anyone wished to speak in favor. There were none.

Mayor Matheny asked if anyone wished to speak in opposition. There were none.

Mayor Matheny closed the public hearing and referred the matter to the Planning Board for their recommendation.

E. RZ 2020-04 213 Moss Road

Mayor Matheny opened the public hearing.

Michael Clark explained this was a staff initiated rezoning request to amend the official zoning map from Residential (R-2) to Heavy Commercial (HC) for the property at 213 Moss Road. The parcel size was approximately 1.27 acres. The vicinity map, aerial map, zoning map and pictures of the parcel were shown.

The property at 213 Moss Road was rezoned from Residential to HB Commercial in 2012 and remained in that classification as part of the previous zoning code. Due to a file corruption with the GIS file used for the rezoning as part of the Unified Development Ordinance, the subject area was designated as R2- Residential in error. The site was currently occupied by a commercial use and owned by Wilbur and Theresa Pulley.

Staff recommended approval of RZ 2020-04.

Mayor Matheny asked if either Board had any questions.

Commissioner Loucks inquired about a previous rezoning request where the property was misclassified, and the rezoning fee was charged to the property owners. Michael Clark explained if this were a traditional rezoning, the fee would be waived. However, the applicant requested a conditional rezoning which required additional time.

Mayor Matheny asked if either Board had any other questions. There were none.

Mayor Matheny asked if anyone wished to speak in favor. There were none.

Mayor Matheny asked if anyone wished to speak in opposition. There were none.

Mayor Matheny closed the public hearing and referred the matter to the Planning Board for their recommendation.

Commissioner Loucks made a motion, second by Commissioner York to adjourn the meeting. There was no discussion and the motion passed unanimously.

Adopted this the 12th day of April 2021.

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Robert S. Matheny—Mayor

SEAL

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Lisa M. Markland, CMC—Town Clerk

Zebulon Board of Commissioners
Special Called Meeting
Minutes
March 22, 2021

Present: Robert S. Matheny, Beverly Clark, Annie Moore, Shannon Baxter, Glenn York, Larry Loucks, Joe Moore-Town Manager, Lisa Markland-Town Clerk, Stacie Paratore-Deputy Town Clerk, Chris Perry-Fire, Michael Clark-Planning, Bobby Fitts-Finance, Sheila Long-Parks and Recreation, Jacqui Boykin-Police, Chris Ray-Public Works, Eric Vernon-Attorney

Mayor Matheny called the meeting to order at 6:00pm.

APPROVAL OF AGENDA
Commissioner Clark made a motion, second by Commissioner Loucks to approve the agenda. There was no discussion and the motion passed unanimously.

OLD BUSINESS

A. Comprehensive Plan: Draft Land Use and Transportation Plan Preview

Joe Moore explained a town's Land Use Plan was its "blueprint" on how land should be developed, redeveloped, or preserved in the future. A town's Transportation Plan was the "network" of roads, sidewalks, bike lanes, greenways, and transit necessary to let the Land Use function satisfactorily.

The next topic to be covered at the meeting was the Water Merger Agreement the Town entered into with the City of Raleigh in 2006. Staff would present opportunities on how to close the merger earlier.

Michael Clark gave an overview of the Land Use Plan. It was explained why the Town needed the plan, how it related to other plans and how it should and should not be used. It was explained how the Land Use Development plan would be used as an economic development tool and would focus on current conditions and future projections. The plan would create foundational principles to guide the land use directions for the Town to achieve future goals. The proposed future land use map was shown.

Wake County was in the process of updating their Comprehensive Land Use Plan. Wake County and the Town had similar goals for their plans. It was stated Wake County was focusing on infill development within municipalities and the Town's long-range planning areas were consistent with Wake County's Future Land Use Map.

The Town's consultants would be present at the April 21 meeting to present the draft plan. The Joint Public Hearing was scheduled for May 10 and the Comprehensive Land Use Plan would be available for adoption at the June 6 meeting.

There was discussion about development and utility connections outside of the Town's ETJ.

Michael Clark gave an overview of the Town's Transportation Plan. The proposed plan would look long range, provide the greatest opportunity to work with development communities, simplify

the number of cross sections, and would go beyond vehicles with complete streets and walkability. The proposed transportation map was shown.

It was explained the Town worked with partners on the study including CAMPO, Wake County and The North East Area Study.

The Town's consultants would be present at the April 21 meeting to present the draft plan. The Joint Public Hearing was scheduled for May 10 and the Comprehensive Transportation plan would be available for adoption at the June 6 meeting.

The Land Use Plan and Transportation Plan would work together long-term to guide future development.

B. Water Merger Agreement

Joe Moore gave an outline of the merger history. The Town of Zebulon's Water and Sewer Utility System was transferred to the City of Raleigh in 2006. The schedule and method for the City of Raleigh to recover costs associated with the transfer were memorialized in a Merger Agreement and subsequent First Amendment. The pay-out schedule and potential terms of a Second Amendment to accelerate the pay-out schedule were discussed. The Town could sell back water, and sewer capacity, transfer cash, and receive credit for projects that were scrubbed.

Graphs showing the current purchased water and sewer capacity vs. the actual and forecasted capacity were shown. A map showing the growth opportunities and capacity availability were also shown. There was detailed discussion about future water and sewer capacity.

Michael Clark explained over the last three years the Town population had increased by 7.5%. It would take years to develop the entire ETJ. The Town had enough water capacity now to serve the population of Wake Forest and the water allocation would continue to grow each year.

Staff would bring the Merger Agreement to the Board at their April 12 meeting and confirm the Town's growth rate at that time.

It was explained if the Board wanted a particular industry, it should be added to the Town's Land Use Plan to ensure there was enough water and sewer capacity.

The close-out scenarios were discussed. It was stated the Town did not have the capacity to receive the water purchased. Staff would find out how much actual capacity the Town had.

Staff would present the second amendment and the additional requested information at the April 12 meeting.

C. Closed Session

Mayor Matheny stated they needed a motion to go into closed session as permitted by N.C. General Statute § 143-318.11(a)(5): "... to instruct the [Town] staff or negotiating agents concerning the position to be taken by or on behalf of the [Town] in negotiating the price and other material terms

of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; …"

Commissioner Loucks made a motion, second by Commissioner York to go into closed session. There was no discussion and the motion passed unanimously.

NOTE: In closed session, Commissioner Loucks made a motion, second by Commissioner Moore to come out of closed session. There was no discussion and the motion passed unanimously.

Commissioner Clark made a motion, second by Commissioner York to adjourn. There was no discussion and the motion passed unanimously.

Adopted this the 12th day of April 2021.

_____
Robert S. Matheny—Mayor

SEAL

_____
Lisa M. Markland, CMC—Town Clerk

WAKE COUNTY
NORTH CAROLINA

Board of Commissioners
P.O. Box 550 • Raleigh, NC 27602

TEL 919 856 6180
FAX 919 856 5699

MATT CALABRIA, CHAIR
VICKIE ADAMSON, VICE-CHAIR
MARIA CERVANIA
SUSAN EVANS
SIG HUTCHINSON
SHINICA THOMAS
JAMES WEST

March 2, 2021

Ms. Lisa Markland
Town Clerk
Town of Zebulon
1003 North Arendell Avenue
Zebulon, North Carolina 27597

Dear Ms. Markland:

The Wake County Board of Commissioners, in regular session on March 1, 2021, approved and accepted the enclosed tax report for the Town of Zebulon.

The attached adopted actions are submitted for your review; no local board action is required.

Sincerely,

Yvonne Gilyard
Deputy Clerk to the Board
Wake County Board of Commissioners

Enclosure(s)

WAKE COUNTY
NORTH CAROLINA

Wake County Tax Administration
Rebate Details
01/01/2021 - 01/31/2021
ZEBULON

DATE	TIME	PAGE
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REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	YEAR FOR	BILLING TYPE	OWNER
BUSINESS ACCOUNTS											
775811	0.00	0.00	0.47	0.00	0.47	01/07/2021	0006707784	2020	2020	007200	ADVANTAGE SALES & MARKETING LLC
775584	11.76	0.00	0.00	0.00	11.76	01/05/2021	0006023344	2020	2020	007200	WELLS FARGO FINANCIAL LEASING INC
SUBTOTALS FOR BUSINESS ACCOUNTS	**11.76**	**0.00**	**0.47**	**0.00**	**12.23**		**2**	**Properties Rebated**			
TOTAL REBATED FOR ZEBULON	**11.76**	**0.00**	**0.47**	**0.00**	**12.23**		**2**	**Properties Rebated for City**			

WAKE COUNTY
SOUTH CAROLINA

Wake County Tax Administration
Rebate Details
01/01/2021 - 01/31/2021
ZEBULON

DATE 02/01/2021 | TIME 9:42:29 PM | PAGE 1

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	YEAR FOR	BILLING TYPE	OWNER
Grand Total:	154,860.89	2,715.00	3,161.96	0.00	160,737.85		120 Properties Rebated for All Cities				

ZEBULON
NORTH CAROLINA

STAFF REPORT
FINANCIAL STATEMENTS UPDATE
APRIL 12, 2021

Topic: FY 2021 Monthly Financial Statement Update
Speaker: Bobby Fitts, Finance Director (if pulled from Consent)
Prepared by: Bobby Fitts, Finance Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
This monthly report summarizes the status of the Town's revenues and expenditures.

Background:
The attached financials are a summary of revenues and expenditures to date. These are provided to keep the Board informed, on a monthly basis, of how revenues and expenditures are trending throughout the year. The enclosed statements are through March 29, 2021.

Information:
Expenditures
At 9 months into Fiscal Year 2021, the Town has spent approximately 55% (~ $7,799,000) of its General Fund budget of $14,146,415. The higher percentage of Powell Bill expenditures is a reflection of the recently completed Street Improvements paving project.

Revenues

- Property Tax (largest revenue stream)
  + $7,328,000 collected to date (96.7% of budgeted revenues ($7,579,300)).
  + 7.0% more than collected this time last fiscal year ($6,844,144).
  + Observations:
    # Most of the larger taxpayers have now paid their FY 2021 taxes.
    # Four more months of vehicle taxes will be received this fiscal year.
    # Five of our largest taxpayers experienced a decline in personal property values (The 5.9% decline in value ($24,900,000) resulted in an approximate decrease of $137,000 in property tax revenue).

- Sales Tax (second largest revenue stream)
  + Monthly comparisons (December's sales (reports lag 3-months)):
    # $19,726 (+18.2%) more collected than last December for all sales tax.
    # $7,878 (+15.6%) more collected than last December for "local" sales tax.
  + Year-to-Date comparisons (sales through the first six months of the fiscal year)
    # $56,283 (+9.4%) more collected than at this time last for all sales tax
    # Collections are 62% of budgeted revenues (ahead of schedule through conservative budgeting and robust sales).

ZEBULON
NORTH CAROLINA

STAFF REPORT
FINANCIAL STATEMENTS UPDATE
APRIL 12, 2021

- Utilities Sales Tax (5% of revenue stream): second quarterly disbursement received March 15
  + FY 2021 (2nd quarter totals) (reports received quarterly)
  + $15,313 (- 9.9%) less than collected in FY 2020 for same quarter
  + Reflects natural gas and electricity sales and heavily weather dependent

- Permits & Zoning
  + $214,883 collected to date (143% of budgeted revenues ($150,000))
  + 29.1% more than what was collected this time last fiscal year ($166,491).
  + An indication of development activity and corresponding support services.

- Transportation Impact Fees
  + $373,761 collected to date (267% of budgeted revenues ($140,000)).
  + 33% more than what was collected to date this time last fiscal year ($281,421).
  + Revenue placed in reserve for transportation projects to be spent within 10 years

Policy Analysis: N/A

Financial Analysis: Budgeted revenue is $14,146,415 while year to date revenue collected is $10,902,272 (77.1% of budgeted). As shown in the chart on the Revenue Statement, 68% of year-to-date revenues come from property taxes.

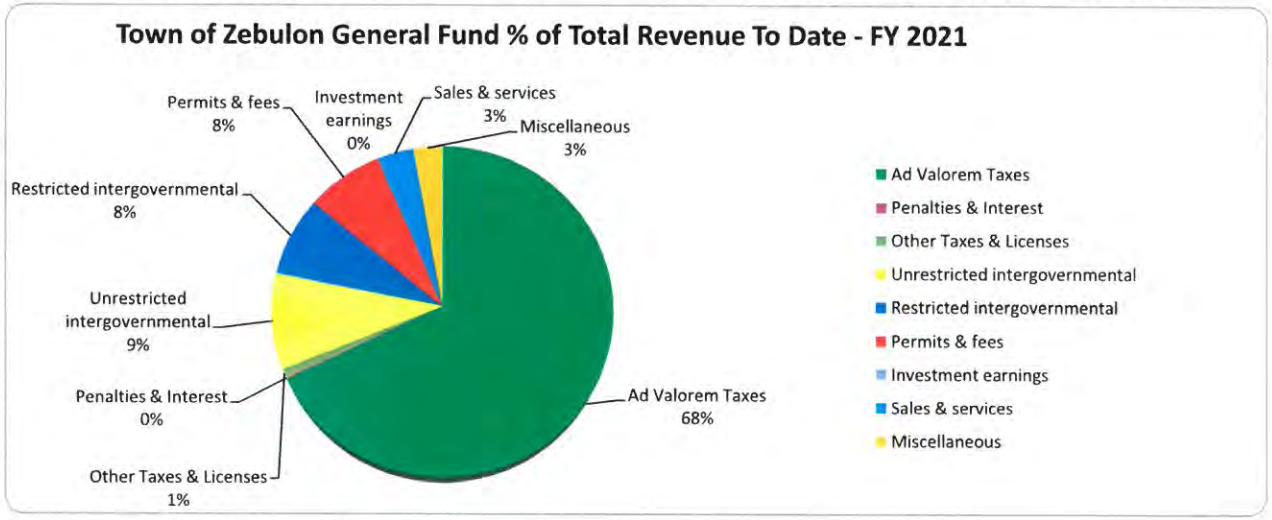
Staff Recommendation:
No staff recommendation or Board action is necessary. These are informational only.

Attachments:
1. General Fund Fiscal Year 2021 Expenditure Statement and Revenue Statement (as of March 29, 2021)
2. Sales Tax – FY 2021

ZEBULON
NORTH CAROLINA

TOWN OF ZEBULON
Revenue Statement:2020 - 2021 As of 3/29/2021
for Accounting Period 6/30/2021
GENERAL FUND

Revenue Categories	Estimated Revenue	Revenue YTD	% Collected	% of Total Revenue YTD
Ad Valorem Taxes	$7,623,800	$7,397,432	97.0%	67.9%
Penalties & Interest	$11,000	$14,648	133.2%	0.1%
Other Taxes & Licenses	$95,500	$93,122	97.5%	0.9%
Unrestricted intergovernmental	$1,742,600	$1,015,732	58.3%	9.3%
Restricted intergovernmental	$884,500	$856,244	96.8%	7.9%
Permits & fees	$412,500	$825,627	200.2%	7.6%
Investment earnings	$120,000	$2,433	2.0%	0.0%
Sales & services	$699,500	$383,864	54.9%	3.5%
Miscellaneous	$97,674	$313,169	320.6%	2.9%
Fund Balance Appropriated	$2,459,341	$0	0.0%	0.0%
Total Revenues	**$14,146,415**	**$10,902,272**	**77.1%**	**100%**



ZEBULON
NORTH CAROLINA

TOWN OF ZEBULON
Expenditure Statement:2020 - 2021 As of 3/29/2021
for Accounting Period 6/30/2021
GENERAL FUND

Dept #	Department	Approp Amount	Expenditure YTD	% Exp.
410	GOVERNING BODY	$437,594	$236,196	54.0%
420	FINANCE	$412,250	$249,251	60.5%
430	ADMINISTRATION	$1,014,265	$604,892	59.6%
490	PLANNING AND ZONING	$911,257	$531,468	58.3%
500	PUBLIC WORKS-PROPERTY & PROJECT MGMT	$2,228,127	$1,115,829	50.1%
510	POLICE	$2,683,857	$1,683,186	62.7%
520	PUBLIC WORKS-OPERATIONS	$2,282,858	$1,396,645	61.2%
530	FIRE	$2,708,314	$1,273,322	47.0%
570	POWELL BILL	$129,500	$103,998	80.3%
620	PARKS & RECREATION	$1,108,706	$571,373	51.5%
690	COMMUNITY & ECONOMIC DEVELOPMENT	$229,687	$32,606	14.2%
	Total Expenditures	**$14,146,415**	**$7,798,766**	**55.1%**

Sales Tax

FY 2021

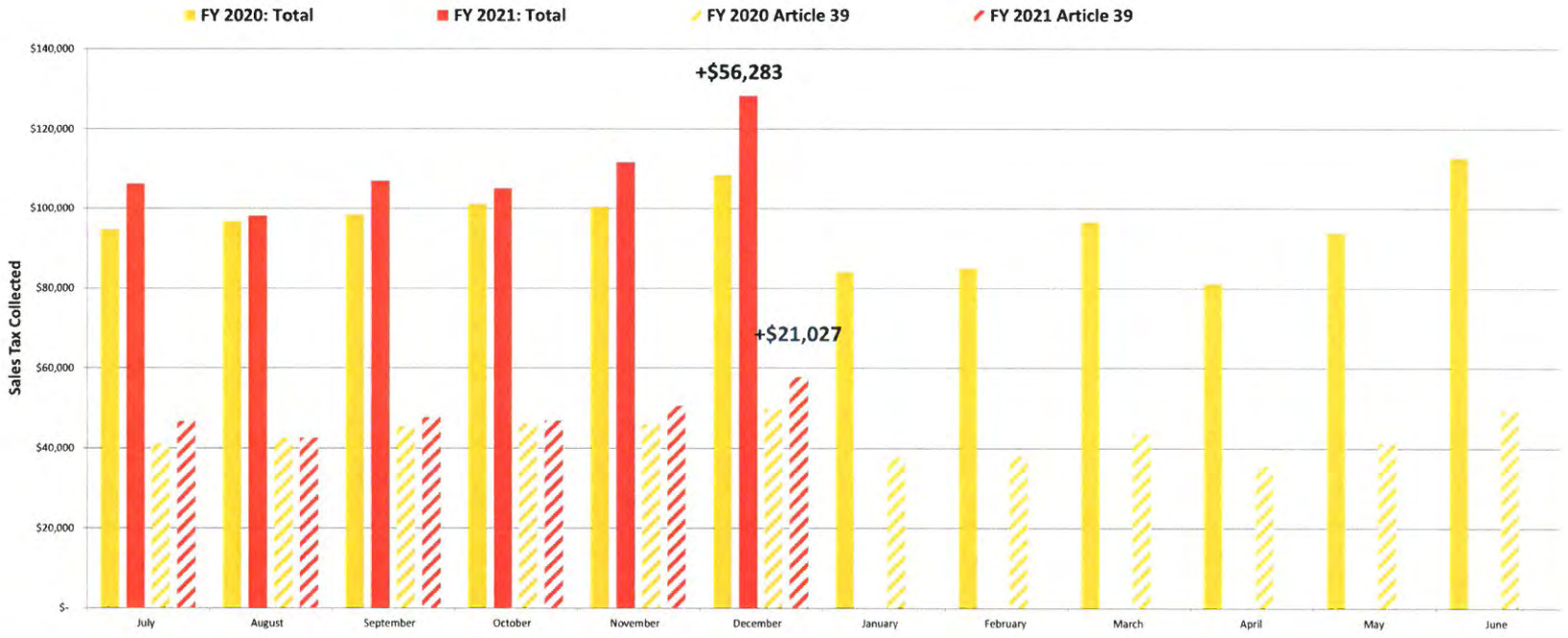
Month	Article 39 (1) *	Article 40 (1/2)	Article 42 (1/2)	Article 44 (1/2)	City Hold Harmless	FY 21 Totals	Prior Year (FY 2020)	% Inc (Dec) from Prior Yr
July	$ 46,727	$ 19,891	$ 23,331	$ (7)	$ 16,351	$ 106,293	$ 94,711	12.2%
August	42,713	18,626	21,327	11	15,457	98,134	96,820	1.4%
September	47,770	19,733	23,858	(2)	15,658	107,017	98,482	8.7%
October	46,956	19,326	23,433	(13)	15,354	105,056	101,205	3.8%
November	50,717	20,199	25,285	(2)	15,574	111,773	100,498	11.2%
December	58,329	23,016	29,146	10	17,704	128,204	108,478	18.2%
January	-	-	-	-	-	-	84,115	-100.0%
February	-	-	-	-	-	-	85,027	-100.0%
March	-	-	-	-	-	-	96,647	-100.0%
April	-	-	-	-	-	-	81,112	-100.0%
May	-	-	-	-	-	-	93,940	-100.0%
June	-	-	-	-	-	-	112,742	-100.0%
Total	**$ 293,212**	**$ 120,790**	**$ 146,380**	**$ (4)**	**$ 96,099**	**$ 656,477**	$ 600,194	9.4%

FY 2020

Month	Article 39 (1) *	Article 40 (1/2)	Article 42 (1/2)	Article 44 (1/2)	City Hold Harmless	FY 20 Totals	Prior Year (FY 2019)	% Inc (Dec) from Prior Yr
July	$ 41,205	$ 17,900	$ 20,548	$ 43	$ 15,016	$ 94,711	$ 82,490	14.8%
August	42,670	18,069	21,290	1	14,791	96,820	90,393	7.1%
September	45,534	17,330	22,718	1	12,899	98,482	89,061	10.6%
October	46,223	17,994	23,069	(1)	13,920	101,205	89,671	12.9%
November	46,102	17,842	22,999	9	13,546	100,498	97,904	2.6%
December	50,451	18,922	25,168	2	13,935	108,478	104,983	3.3%
January	37,739	15,421	18,827	0	12,127	84,115	76,871	9.4%
February	38,082	15,647	18,979	0	12,318	85,027	75,834	12.1%
March	43,777	17,750	21,887	(1)	13,235	96,647	104,736	-7.7%
April	35,710	15,381	17,829	(0)	12,193	81,112	97,795	-17.1%
May	41,524	17,658	20,749	(0)	14,009	93,940	101,771	-7.7%
June	49,544	21,107	24,751	(0)	17,341	112,742	105,892	6.5%
Total	**$ 518,561**	**$ 211,021**	**$ 258,812**	**$ 54**	**$ 165,330**	**$ 1,153,778**	$ 1,117,401	3.3%

* Net proceeds of the Article 39 tax are returned to the county of origin.

Monthly Summary of Sales Tax Collected



ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-56
FIRE STATION CAPITAL RESERVE –
APPROPRIATION OF GREEN PACE RD PROPERTY
SALE PROCEEDS
APRIL 12, 2021

Topic: Ordinance 2021-56 - Fire Station Capital Reserve - Appropriation of Green Pace Rd Property Sale Proceeds

Speaker: Bobby Fitts, Finance Director
From: Bobby Fitts, Finance Director
Prepared by: Bobby Fitts, Finance Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider appropriating the proceeds from the recent sale of Town property on Green Pace Road.

Background:
On March 12, 2021, the Town closed on the sale of the property at 469 Green Pace Road. Sale proceeds of $174,975 will go towards the capital reserve for the future fire station land acquisition.

Discussion:
The Board of Commissioners must recognize revenues through a Budget Adjustment in order to appropriate those funds towards use for current or future projects. Adoption of the attached ordinance will appropriate funds toward the future fire station project.

Policy Analysis:
NCGS 159-15, as part of The Local Government Budget and Fiscal Control Act, allows amendments to the budget ordinance with Board approval.

Staff Recommendation:
Staff recommends approval of Ordinance 2021-56

Attachments:
1. Ordinance 2021-56

ORDINANCE 2021-56

BE IT ORDAINED by the Board of Commissioners of the Town of Zebulon, that pursuant to North Carolina General Statutes 159-15, the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2021.

Section 1. To amend the General Fund budget as follows:

	INCREASE	DECREASE
REVENUES		
Sale of Fixed Assets	$174,975.00	
EXPENDITURES		
Fire—Land Acquisition	$174,975.00	

Section 2. Copies of this amendment shall be furnished to the Town Clerk, and to the Budget Officer, and to the Finance Officer for their direction.

Adopted: April 12, 2021

Effective: April 12, 2021

_____

Robert S. Matheny - Mayor

ATTEST:

_____

Lisa M. Markland, CMC - Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-57
PARKS & RECREATION VEHICLE MAINTENANCE –
APPROPRIATION OF
INSURANCE PROCEEDS
APRIL 12, 2021

Topic: Ordinance 2021-57 - Parks & Recreation Vehicle - Appropriation of Insurance Proceeds

Speaker: Bobby Fitts, Finance Director (if pulled from consent)
From: Bobby Fitts, Finance Director
Prepared by: Bobby Fitts, Finance Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider appropriating insurance proceeds towards repair of a Parks & Recreation vehicle (2008 Ford F-250 truck).

Background:
On February 22, 2021, the Town's 2008 Ford F-250 truck was damaged in an accident. Insurance proceeds of approximately $2,645 will go towards repair of the damaged truck.

Discussion:
The Board of Commissioners must recognize insurance proceeds through a Budget Adjustment in order to appropriate those funds towards repair work or replacement. Adoption of the attached ordinance will appropriate funds toward replacing this vehicle.

Policy Analysis:
NCGS 159-15, as part of The Local Government Budget and Fiscal Control Act, allows amendments to the budget ordinance with Board approval.

Staff Recommendation:
Staff recommends approval of Ordinance 2021-57

Attachments:
1. Ordinance 2021-57

ORDINANCE 2021-57

BE IT ORDAINED by the Board of Commissioners of the Town of Zebulon, that pursuant to North Carolina General Statutes 159-15, the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2021.

Section 1. To amend the General Fund budget as follows:

	INCREASE	DECREASE
REVENUES		
Insurance Proceeds	$2,645.00	
EXPENDITURES		
Parks & Recreation—Vehicle Maintenance	$2,645.00	

Section 2. Copies of this amendment shall be furnished to the Town Clerk, and to the Budget Officer, and to the Finance Officer for their direction.

Adopted: April 12, 2021

Effective: April 12, 2021

_____

Robert S. Matheny - Mayor

ATTEST:

_____

Lisa M. Markland, CMC - Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-58
UNITEDHEALTHCARE WELLNESS GRANT –
APPROPRIATION OF GRANT FUNDING
APRIL 12, 2021

Topic: Ordinance 2021-58 - UnitedHealthCare Wellness Grant - Appropriation of Grant Proceeds

Speaker: Bobby Fitts, Finance Director (if pulled from consent)
From: Bobby Fitts, Finance Director
Prepared by: Bobby Fitts, Finance Director
Lisa Markland, Human Resources Director / Town Clerk
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider appropriating grant proceeds towards the wellness program.

Background:
As part of our 2021 health insurance renewal with UnitedHealthCare and with the help of our new benefits partners, Independent Benefit Advisors, the Town received a $5,000 wellness grant. Use of funds are intended to support biometric screening of employees. Biometric screening establishes a health baseline for each employee (e.g., blood pressure, cholesterol levels, body-mass index). These screenings help evaluate risks for a variety of health issues and identify programs to address these issues (e.g., nutritional counseling, smoking cessation).

Unmonitored and unchecked health issues lead to chronic diseases which increase the Town's health insurance premiums and reduce productivity and effectiveness of a lean workforce.

Discussion:
The Board of Commissioners must recognize grant proceeds through a Budget Adjustment in order to appropriate those funds towards expenditures. Adoption of the attached ordinance will appropriate funds towards the wellness program.

Policy Analysis:
Maintaining a healthy and effective workforce, and keeping health insurance premiums in-check, are a means to "maintain appropriate staffing to support expected service levels for a growing community.

Staff Recommendation:
Staff recommends approval of Ordinance 2021-58

Attachments:
1. Ordinance 2021-58

ORDINANCE 2021-58

BE IT ORDAINED by the Board of Commissioners of the Town of Zebulon, that pursuant to North Carolina General Statutes 159-15, the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2021.

Section 1. To amend the General Fund budget as follows:

	INCREASE	DECREASE
REVENUES		
UnitedHealthCare Wellness Grant	$5,000.00	
EXPENDITURES		
Administration—Wellness Program	$5,000.00	

Section 2. Copies of this amendment shall be furnished to the Town Clerk, and to the Budget Officer, and to the Finance Officer for their direction.

Adopted: April 12, 2021

Effective: April 12, 2021

_____

Robert S. Matheny - Mayor

ATTEST:

_____

Lisa M. Markland, CMC - Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
INTERLOCAL AGREEMENT WITH WAKE COUNTY
BUILDING SERVICES
APRIL 12, 2021

Topic: Interlocal Agreement Contract with Wake County for Building Services
Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider contracting with Wake County to provide building inspection services.

Background:
In 1992 the Town of Zebulon contracted our building inspections to Wake County Building Services Division. Wake County has had similar services for other municipalities within east wake county and is looking to standardize the agreements among all the communities. The proposed Interlocal Agreement (ILA) continues these services including building permit code review and inspections for general building, mechanical, electrical, and plumbing construction Wake County is compensated directly through the building permit fees and inspection fees. The Town is reimbursed a portion of that fee for administrative and processing tasks performed by the Planning Technicians. The proposed contract has been reviewed by the Town's Attorney.

Discussion:
The discussion before the Board of Commissioners is whether to continue contracting building permit review and inspections with Wake County Building Services Division.

Policy Analysis:
The proposed agreement continues the existing operations with Wake County and has worked well in the past as the number and value of permits received did not justify the cost for a fulltime building inspector as Town Staff. Furthermore, it established redundancy with inspectors to cover vacations, sick leave, and other situations in an effort to maintain continuous service to the building community. However, at some point if building permit trends continue, the Town may want to evaluate the costs vs benefits of hiring inspectors directly.

Financial Analysis:
Wake County would continue to be compensated directly from the building permit applicant and would not have any current financial impacts to the Town.

Staff Recommendation:
Staff recommends approval of the proposed contract for Interlocal Agreement with Wake County Building Services Division.

Attachments:
1. Proposed ILA

INTERLOCAL AGREEMENT BETWEEN THE TOWN OF ZEBULON AND WAKE COUNTY FOR INSPECTIONS PURSUANT TO THE NORTH CAROLINA STATE BUILDING CODE

This Interlocal Agreement is dated as of _____, 2021, between **ZEBULON, NORTH CAROLINA** (the "Town"), a municipal corporation and public body politic of the State of North Carolina, and **WAKE COUNTY, NORTH CAROLINA** (the "County"), a public body politic and corporate of the State of North Carolina (individually a "Party" and collectively "Parties").

RECITALS:

WHEREAS, the County performs, Building Plan Review and Building Inspections pursuant to Article 11 of § N.C.G.S. Chapter 160D; and

WHEREAS, the Town may arrange for the County to perform, Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction pursuant to Article 11 of N.C.G.S. § 160D; and

WHEREAS, on September 13, 1982, the Town and County entered into the Original Agreement authorizing the County to perform Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction; and

WHEREAS, the County is committed to continuing the provision of these services within the Town's territorial jurisdiction by providing the necessary resources and expertise in accordance with North Carolina law; and

WHEREAS, the Parties desire to continue this arrangement by updating the Original Agreement with this Agreement pursuant to the statutory authority authorizing interlocal agreements, N.C.G.S §§160A-460 to 160A-464, in order to pursue the goals stated herein.

NOW THEREFORE, for and in consideration of the promises and covenants contained in the Agreement, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I
Definitions

1.01. Definitions: For all purposes of this Agreement, unless the context requires otherwise, the following terms shall have the following meanings:

"Agreement" means this Interlocal Agreement.

"Building Inspection" means review of actual building construction in the field to determine compliance with the North Carolina State Building Code (except for those provisions related to fire inspections) and permitted and approved construction plans.

"Building Permit" means the authorization to construct a building or structure in accordance with approved construction plans and North Carolina State Building Code.

"Building Plan Review" means the review of building construction plans to determine compliance with the North Carolina State Building Code.

"Certificate of Occupancy" means certification that the construction project has met all requirements of the approved construction plans, applicable municipal ordinances, and North Carolina State Building Code; and authorizing a building to be occupied for its intended use.

"North Carolina State Building Code" means the building codes adopted by the State of North Carolina Building Code Council and collectively referred to as the "technical codes" including the technical codes denominated Building, Electrical, Energy, Existing Buildings, Fire Prevention, Fuel Gas, Mechanical, Plumbing, and Residential.

"Original Agreement" means that certain Agreement Between the Town and County for Inspections within Municipal Limits Pursuant to the North Carolina State Building Code dated as of April 19, 1982, by and between the Parties.

ARTICLE II
Purpose & Structure

2.01. Recitals; Purpose: The Recitals are incorporated herein. The Town hereby authorizes the County to perform Building Plan Review and Building Inspection services within the Town's regulatory jurisdiction, as set forth herein. Notwithstanding the foregoing or anything herein to the contrary, both parties acknowledge and agree that the Town shall be solely responsible for performing fire inspections within the Town's regulatory jurisdiction and collecting any fees associated therewith.

2.02. Roles and Responsibilities of the Parties:

(A) The County shall:

1. Provide uniform enforcement of the North Carolina State Building Code within the Town's regulatory jurisdiction pursuant to Article 11 of § N.C.G.S. Chapter 160D.
2. Provide qualified personnel and resources to perform all necessary work under this Agreement.
3. Perform Building Plan Review and Building Inspections, in accordance with the North Carolina State Building Code.
4. Perform code enforcement inspections and other actions, pursuant to the North Carolina State Building Code, in response to complaints and inquiries related to unsafe conditions or unpermitted structures.
5. Provide support for the Town's minimum housing code pursuant to the North Carolina State Building Code.
6. Collect payments for Building Permits, Building Plan Review, and Building Inspections pursuant to Section 3.01 and collect other Town development fees as described in Section 3.02.

(B) The Town shall:

1. Be responsible for enforcing ordinances and regulations adopted by their governing bodies related to the minimum housing code, zoning, storm water, transportation, landscaping, buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code.
2. Provide notification to the County that zoning and other local development regulations are satisfied prior to the County commencing the services authorized herein. Notification may be issued by the Town through the County's online permitting software system or by other mutually agreed method.
3. Issue Building Permits authorizing construction in accordance with permitted and approved construction plans, municipal development ordinances and the North Carolina State Building Code.
4. Issue Certificates of Occupancy in accordance with permitted and approved construction plans, municipal development ordinances and North Carolina State Building Code.
5. Issue violation notices and pursue other legal actions to compel compliance with all provisions and ordinances adopted by its governing body not subject to the North Carolina State Building Code.
6. Collect payments for Building Permits, Building Plan Review, and Building Inspections in accordance with the cash handling procedures outlined in Appendix A, attached hereto.

ARTICLE III
Fees, Costs, & Personnel

3.01. Collection of County Permit Fees: The County shall assess, collect, and retain all County fees associated with Building Permits, Building Plan Review and Building Inspections within the regulatory jurisdiction of the Town in accordance with the fee schedules approved by the Wake County Board of Commissioners. Pursuant to N.C.G.S. § 160D-402, all fees collected by the County may only be used to support the administration and activities of the inspections division.

3.02. Collection of Town Permit Fees: The County, at the request of the Town, shall collect other permit fees assessed by the Town with respect to zoning, transportation, landscaping, buffers, utilities, and other aspects of site development that are not governed by the North Carolina State Building Code. The County shall provide the total sum of the Town permit fees collected on a monthly basis for reimbursement to the Town.

ARTICLE IV
Effective Date, Term & Termination

4.01. Effective Date: This Agreement shall become effective on July 1, 2021, subject to approval by the governing boards of each Party on or before this date.

4.02. Term: The term of this Agreement shall commence on July 1, 2021 and run for a period of ten (10) years, ending June 30, 2031. The term shall be automatically extended for successive ten (10) year terms unless terminated in accordance with Section 4.03.

4.03. Termination: Any Party shall have the right to withdraw or terminate participation in this Agreement with or without cause upon 180-day's advance written notice to the other Party. The withdrawing party must give a concurrent electronic notice to the other party at the then current email address for that party/position.

4.04. Duties upon Termination. All duties under this Agreement shall continue in effect from the date of notice through the Effective Date of Termination (which shall be 180 days from notice of termination unless otherwise agreed by the parties in an amendment to this Agreement approved by the governing boards of each party). Upon the Effective Date of Termination, all responsibility for Building Permits, Building Plan Review and Building Inspections in progress shall transfer to the other Party. The parties shall cooperate to ensure a smooth transition of operations, with each party responsible for their own costs and personnel.

ARTICLE V
Notice

5.01. Notice: Any written or electronic notice required by this Agreement shall be delivered to the Parties at the following addresses:

For the County:

Planning Development & Inspections Director
Wake County Office Building
337 S. Salisbury St.
Raleigh, NC 27601

For the Town:

Town Manager
Town of Zebulon
1003 N. Arendell, Ave.
Zebulon, NC 27597

ARTICLE VI
Miscellaneous

6.01. Governing Law and Venue: The Parties agree that North Carolina law shall govern this Agreement. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.

6.02. Severability: If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

6.03. Entire Agreement, Amendments: This Agreement supersedes and replaces the Original Agreement and constitutes the entire Agreement between the

Parties. This Agreement shall not be modified or amended except in writing signed by both Parties.

6.04. Liability of Officers and Agents: No officer, agent or employee of any Party shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This Section 6.04 shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

6.05. Counterparts: This Agreement may be executed in several counterparts, each of which shall be an original. Alternatively, each Party may execute an original of this Agreement and all individually executed originals shall constitute a single Agreement.

6.06. Assignment: No Party shall sell or assign or subcontract any interest in or obligation under this Agreement without the prior written consent of both Parties.

6.07. No Waiver Of Sovereign Immunity: Nothing in this Agreement shall be construed to mandate purchase of insurance by the County pursuant to N.C.G.S. § 153A-435 or by the Town pursuant to N.C.G.S. § 160A-485; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive any Party's defense of sovereign or governmental immunity from any cause of action alleged or brought against a Party for any reason if otherwise available as a matter of law.

6.08. Real Property: This Agreement does not involve the acquisition or ownership of real property.

6.09. Electronic Version of Agreement: To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (N.C.G.S. § 64-26(a)) relating to the E-Verify requirements.

6.10. Breach and Default: In the event of breach of this Agreement, the Parties shall be entitled to such legal or equitable remedy as may be available, including specific performance.

6.11. Representations and Warranties: The Parties each represent, covenant and warrant for the other's benefit as follows:

(a) Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been authorized by resolution spread upon the minutes of each Party's governing body. This Agreement is a valid and binding obligation of each Party.

(b) To the knowledge of each Party, neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the

consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party is now a Party or by which either is bound, or constitutes a default under any of the foregoing.

(c) To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such Party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties, pursuant to resolutions of their respective governing boards spread upon their minutes, have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

COUNTY OF WAKE, NORTH CAROLINA

David Ellis
Wake County Manager

Frank Cope
Community Services Director

ATTEST:

By:_____
Chair, Board of Commissioners

_____
Clerk
County of Wake, North Carolina

This instrument is pre-audited in the manor required by the Local Government Budget and Fiscal Control Act

_____
Finance Director, Wake County

TOWN OF ZEBULON, NORTH CAROLINA

ATTEST:

By:_____
Joseph M. Moore, II
Town Manager

_____
Lisa M. Markland, Town Clerk
Town of Zebulon, North Carolina

This instrument is pre-audited in the manor required by the Local Government Budget and Fiscal Control Act

_____
Finance Director, Town of Zebulon

Appendix A

Wake County Cash Handling Procedures

Resources Needed

- Access to electronic permitting system
- Wake County deposit tickets, check endorsement stamp, deposit bags
- At least 2 staff members
    - Cashier – Accepts payments & provides receipts to customers. May also prepare deposit.
    - Supervisor (or other designated Cash Handler) – Verifies cashier collections. May prepare deposit **or** verify deposit, but not both.

Collecting Funds and Receipting Revenues

- Each cashier should have their own cash drawer or cash pouch. Funds collected by different cashiers should not be comingled.
- Checks must be made payable to Wake County and stamped "For Deposit Only" with a Wake County check endorsement stamp at the time of receipt.
- Payments must be entered in electronic permitting system at the time of receipt.
- A receipt must be given to the customer at the time of the transaction.

Daily Close Out & Balancing

- Cashier must close electronic permitting till session at the end of each day.
- A reconciliation to compare receipts to cash/check collections must be performed daily.
    - Run the electronic permitting **Daily Cashier Reconciliation Report** to include all users for your office.
    - Count cash & check totals and write at bottom of report.
    - Differences in the report total and the actual cash/check totals should be indicated in the Over/Short field.
- Cashier must sign the Daily Cashier Reconciliation report.
- Verifier must the sign Daily Cashier Reconciliation report.

Deposits

- Deposits must be prepared daily using Wake County issued deposit tickets.
- Prepared deposits must be delivered to the bank daily.
- The deposit ticket and the Daily Cash Reconciliation Report must be scanned and emailed to cs.deposits@wakegov.com daily.

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-60
TA 2021-01 – BUILDING MAINTENANCE REGULATIONS
APRIL 12, 2021

Topic: Ordinance 2021-60 – TA 2021-01 Building Maintenance Regulations
Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider a staff initiated text amendment establishing display requirements and minimum building maintenance regulations for non-residential structures within the Downtown Periphery (DTP) and Downtown Core (DTC) zoning districts.

Background:
The proposed text amendments are in response to deteriorating conditions of buildings within the Downtown Zoning Districts and the number of vacant buildings that work against the Town's effort to have a Vibrant Downtown. The proposed regulations require building exteriors maintained in a way that addresses safety and aesthetic concerns, and some level of display located in the front window of vacant buildings to eliminate the appearance of vacancy.

Discussion:
The discussion before the Board of Commissioners is whether to approve the proposed text amendments as presented.

Policy Analysis:
The proposed text amendments respond to the 2030 Strategic Plan's Vibrant Downtown goal of establishing "... a clean, attractive, and historic downtown ..." The proposed text amendments are intended to both create attractive buildings that in-turn attract events, entertainment, shops, restaurants, business, and housing downtown, as well as, attract quality development investment throughout Town.

Continual maintenance of these structures prevents them from falling into disrepair and becoming more costly for developers to meet the North Carolina Commercial Building Code. A well-kept downtown also reveals to developers, regardless of where they intend to invest, a town's commitment to development standards and a town's support of developers committed to those standards.

Financial Analysis:
The adoption of the proposed text amendments will result in increased property values of commercial structures within Downtown as both the aesthetics and building maintenance conditions improve. As buildings improve, the ability for the property owners to attract tenants will increase sales tax revenue. Finally, continued maintenance of these structures will reduce costly and time-consuming code enforcement actions.

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-60
TA 2021-01 – BUILDING MAINTENANCE REGULATIONS
APRIL 12, 2021

Joint Public Hearing:
At the March 8, 2021 Joint Public Hearing, two people spoke in favor of the amendment and one letter of opposition was submitted. Staff received one message of support directly and that letter was read into the record at the meeting.

Planning Board Recommendation:
While there is no statutory requirement for the Planning Board to make a formal recommendation as the proposed regulations are not part of the Unified Development Ordinance, the Planning Board was still included in the discussion due to the potential land use influences. At their March 8, 2021 meeting, the Planning Board informally recommended unanimous approval as amended per discussion at the Joint Public Hearing.

Staff Recommendation:
Staff approval of the UDO Map Amendment as proposed. The following sample motion/ consistency statement may be used:

I hereby move to approve Ordinance 2021-60 to amend Chapter 95 of the Town of Zebulon Code of Ordinances finding the proposed request is consistent with the Vision 2030 Strategic Plan to establish a vibrant downtown.

Attachments:
1. Ordinance 2021-60

ORDINANCE 2021-60
AMENDMENT TO CHAPTER 95
OF THE ZEBULON CODE OF ORDINANCES
BUILDING MAINTENANCE REGULATIONS

CHAPTER 95: ~~GARBAGE; RUBBISH; WEEDS~~ PROPERTY MAINTENANCE

Commercial Building Maintenance Code

§95.60 Intent and Scope It is the purpose and intent of the Zebulon Town Board of Commissioners, through the adoption of this section, to establish commercial property maintenance standards ordinance as a mechanism to preserve the historic integrity of Zebulon's Downtown Districts and to protect the Town's commercial districts from becoming blighted through the lack of adequate maintenance and security of abandoned and vacant properties and occupied buildings that are falling into disrepair. Additionally the Town desires to deter crime and theft of materials, to minimize loss of property value to vacant properties and surrounding occupied properties, to reduce the risk of damage from fire, flooding or other hazards, and to promote the comfort, happiness and emotional stability of area residents. The Town finds that the presence of properties exhibiting evidence of vacancy pose special risks to the health, safety, and welfare of the community and therefore require heightened regulatory attention. The provisions of this Sections 95.60 – 95.69 shall apply to all properties in the DTC and DTP Business districts of the Town of Zebulon.

§95.61 Definitions For the purposes of Sections 95.60 – 95.69, certain words and phrases used in this section are defined as follows:

"Days" means consecutive calendar days.

"Disrepair" means falling into poor condition due to damage, neglect, decay, or similar condition with conditions including, but are not limited to, overgrown or dead vegetation, extensively chipped or peeling exterior paint, exterior walls in poor condition, porches and steps in poor condition, roof in poor condition, broken windows and other signs of general disrepair, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, damaged blinds, or shutters.

"Evidence of Vacancy" means any aesthetic condition that on its own or combined with other conditions present would lead a reasonable person to believe that the Property is vacant. Such conditions include, disrepair or the absence of furnishings or personal items consistent with commercial habitation, statements by neighbors, passersby, delivery agents, government employees that the Property is vacant.

"Government Agency" means any public body having authority over the Property and residents of the Town, including but not limited to the Town of Zebulon, Wake County, Zebulon Police Department, Zebulon Fire Department, Wake County Sheriff's Office

"Government Official" means any public official representing a public body which has authority over the Property and residents of the Town, including but not limited to the Code Enforcement Officer, Planning Director, Building Inspector, Police Chief, Fire Inspector, and Town Manager.

"Non-residential Property" means any real property used or intended to be used for anything other than residential property as defined herein.

"Owner" means any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property. No trustee in any Deed of Trust shall be considered an owner.

"Owner of Record" is the person or entity listed on recorded deed, probated will or heir by intestacy.

"Property" means any unimproved or improved real property or portion thereof, situated in the Town and includes the buildings or structures located on the Property regardless of condition.

"Residential Property" means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses, and apartment hotels.

"Town" means the Town of Zebulon corporate limits and its Extra Territorial Jurisdiction.

"Utilities" means water, sewer, telephone, natural and propane gas, and electricity services.

"Vacant" means a Property that has not been legally occupied for 180 days. Legally occupied means occupancy by the owner or any business or individual whose presence therein is with the consent of the owner with utilities furnished to the Property.

§95.62 Vacant Building Registration Required

(A) Any vacant commercial property located within the Town's DTC or DTP districts must be registered by the Owner with the Town, either (1) of the Owner of a Vacant Property's own accord before receiving a Notice of Registration Requirement, or (2) within 30 days of receiving a Notice of Registration Requirement from the Town.

(B) The Town will send a Notice of Registration Requirement to the Owner of Record of Properties that exhibit Evidence of Vacancy. Owner shall register Property within the time set forth in Section 3(a) unless Owner can provide clear and convincing evidence to the Town Administrator, within such time period, that the Property is not Vacant.

(C) The Vacant Building Registration shall contain:

(1) the name of the Owner (corporation or individual),

(2) the direct street/office mailing address of the Owner and P.O. Box if applicable,

(3) a direct contact name and phone number,

(D) Any changes in the information in (C)(1)-(C)(3) of this Section shall be reported to the Town within thirty (30) days of such changes.

(E) Registration must be renewed annually.

(F) Vacant properties shall remain subject to the annual registration, maintenance, and security requirements of this section if they remain Vacant.

(G) Once the Property is no longer Vacant or is sold, the owner must provide written proof of occupancy or sale to the Town.

§95.63 Maintenance Requirements

Commercial and mixed-use properties subject to this section shall be kept in compliance with the following maintenance requirements:

(A) The exteriors of building(s)/structure(s) on the Property shall be painted or maintained in a way that does not exhibit any appearance of Disrepair or Evidence of Vacancy.

(B) The yard(s) of the Property shall be free of rubbish as defined in Section 95.01 and shall be maintained in a way that does not provide appearance of Disrepair or Evidence of Vacancy.

(C) The deck(s) and porch(s) located on the Property shall be maintained in a way that does not provide appearance of Disrepair or Evidence of Vacancy.

(D) The window(s) and door(s) of building(s)/structure(s) of the property shall be intact and operable and shall be maintained in a way that does not provide appearance of Disrepair or Evidence of Vacancy.

(E) Instances of disrepair of building(s)/structure(s) located on the Property or portion thereof shall be corrected in order to eliminate appearance of Disrepair or Evidence of Vacancy so that no visible rotting, with the exterior free of peeling paint, loose bricks, or other required maintenance and kept in good aesthetic condition, and signage shall conform to Chapter 5 of the Town of Zebulon Unified Development Ordinance.

(F) The Property shall be maintained to exhibit no appearance of Disrepair or Evidence of Vacancy.

(G) The storefronts, facades, and awnings of buildings shall be maintained in a way that does not provide appearance of Disrepair or Evidence of Vacancy.

(H) The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit appearance of Disrepair or Evidence of Vacancy. This may be accomplished with displays within the window bay or similar point of interest decals, photos, or similar elements displayed on the glass.

§95.64 Security Requirements.

Vacant properties subject to this section shall comply with the following security requirements.

(A) The Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage), gates, pet doors, and any other such opening of such size that it may allow a child to access the interior of the Property or structure(s).

(B) Broken windows shall be replaced and/or re-glazed; windows at street level shall not be boarded up, and windows on upper floors shall be secured to still appear to be in good operation. If windows are boarded up, they shall be painted to look like fully operable windows.

§95.65 Inspections.

The Town shall have the authority and the duty to inspect properties subject to this section for compliance and to issue citations for any violations. The Town shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that Sections 95.60 – 95.69 is enforced.

§95.66 Enforcement; Violations; and Penalties.

(A) It shall be unlawful for any Owner to be in violation of any of the provisions of this section.

(B) Any person who violates a provision of this section or fails to comply with any order made thereunder and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in this Chapter.

(C) The imposition of one penalty for any violation shall not excuse the violation or authorize its continuance.

(D) All such persons shall be required to submit an acceptable plan of action to the Town Administrator within 15 business days of notification. This plan of action must include, but is not limited to, a description of the work to be done, by whom and a specific schedule. Plans shall be reviewed by the Town and work is to commence within 15 days of staff approval. When not otherwise specified, failure to meet any stated condition within 15 days of required action shall constitute a separate offense.

(E) Penalties for failure to comply:

(1) Maintenance and Security Requirements. Failure to meet the maintenance and security requirements is punishable by a civil penalty of $500.

(2) Failure to implement plan or failure to register. Failure to implement plan within 15 days of approval or complete the plan within the approved time unless given an extension in writing by the Town Administrator, or failure to register within 15 dates of receiving notice to register vacant building is a violation punishable by a civil penalty of $500.

(3) For violations of Sections 95.60-95.69, each day that a violation remains in effect shall constitute a new violation.

§95.67 Appeals.

Any person aggrieved by any of the requirements of Sections 95.60 – 95.69 may present an appeal in writing to the Board of Adjustment.

§95.68 Severability.

Should any provision, section, paragraph, sentence or word of Section 95.60 – 95.69 be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

§95.69 Preemption.

Except as specifically preempted by NCGS §160D-1201, et. seq. 160D-1129 or Town ordinances promulgated pursuant to NCGS. §160D-1129, et. seq., Sections 95.60 – 95.69 shall apply to all Commercial, Mixed-Use, and Vacant Properties in the DTC and DTP zoning districts in the Town of Zebulon as described in the Town of Zebulon Unified Development Ordinance.

Adopted this the 12th day of April 2021.

_____

Robert S. Matheny – Mayor

SEAL

_____

Lisa M. Markland, CMC – Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-61
RZ 2020-02 1513 N. ARENDELL AVENUE
APRIL 12, 2021

Topic: ORDINANCE 2021-61 - RZ2020-02: 1513 N. Arendell Ave
Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider a staff initiated rezoning request for 1513 N. Arendell Avenue from Light Industrial (LI) to Heavy Commercial (HC).

Background:
The subject parcel was zoned "HB-Heavy Business" under the previous zoning code, however due to a file corruption with the GIS file used for the rezoning as part of the Unified Development Ordinance, the subject property was designated as LI Light Industrial in error. The site is currently occupied by Bojangles and under the LI Light Industrial, it is an existing, nonconforming use however the rezoning to HC Heavy Commercial would bring the use into conformance with the UDO.

Discussion:
The discussion before the Board of Commissioners is whether to approve a UDO Map Amendment to rezone the subject parcels from LI Light Industrial to HC Heavy Commercial.

Policy Analysis:
The proposed request is consistent with Section 2.2.24. of the Unified Development Ordinance and the 2008 Comprehensive Master Plan Future Land Use Map.

Financial Analysis:
The property is currently improved with a fast-food drive through restaurant, which will continue. However, if the use of the property was vacated for a period of more than 6 months, only uses within the LI Light Industrial classification would be able to reoccupy the site. The HC Heavy Commercial Uses would introduce higher property taxes and personal property taxes within a location that is currently within the Town service boundaries.

Joint Public Hearing:
No one was present to speak in favor or opposition to the proposed request at the March 8, 2021 Joint Public Hearing.

Planning Board Recommendation:
At the March 8, 2021 meeting, the Planning Board unanimously recommended approval finding that it was consistent with Section 2.2.24.H of the UDO.

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-61
RZ 2020-02 1513 N. ARENDELL AVENUE
APRIL 12, 2021

Staff Recommendation:
Staff approval of the UDO Map Amendment as proposed. The following sample motion/ consistency statement may be used:

I hereby move to approve Ordinance 2021-61 to amend the Official Zoning Map as regulated in Section 3.2 of the UDO to change 1513 N. Arendell St from LI Light Industrial to HC Heavy Commercial, finding that the proposed request complies with Section 2.2.24.J of the UDO and the 2008 Town of Zebulon Comprehensive Plan.

Attachments:
1. Vicinity Map
2. Zoning Map
3. Aerial Map
4. Land Use Map
5. Site Pictures
6. Public Hearing Notice
7. 150' Radius of Notified Mailed Property Owners Map
8. Ordinance 2021-61



Vicinity Map

Case: RZ 2020-02 - 1513 N. Arendell

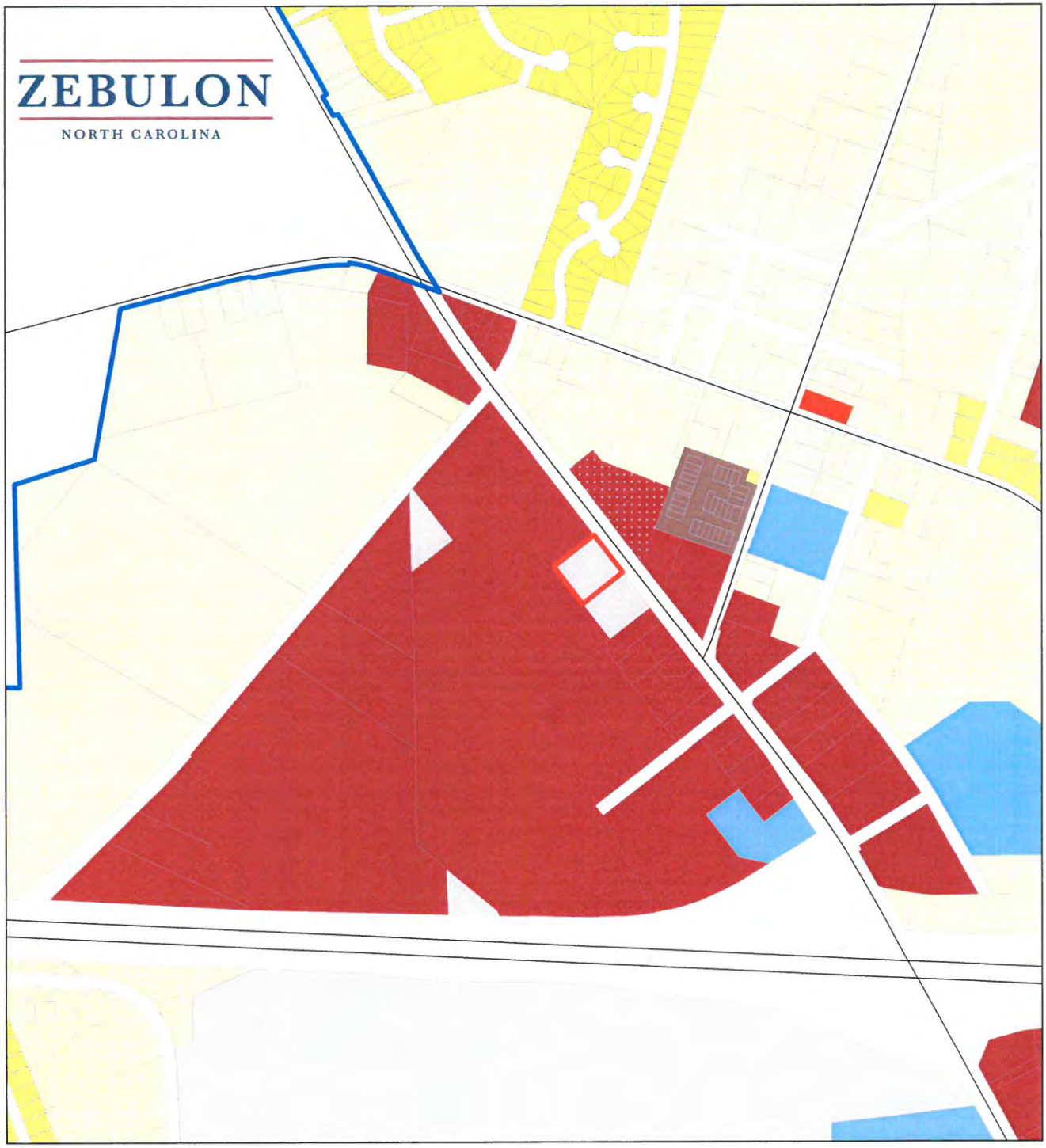
ZEBULON
NORTH CAROLINA

Legend

- RZ 2020-02
- ETJ
- Streets
- Parcel

N

0 0.25 0.5 Miles



Zoning Districts

- RZ 2020-02
- R1, Residential Watershed
- R2, Residential Suburban
- R4, Residential Neighborhood
- RMF, Residential Multi-Family
- R-13 SUD, Residential 13 - Special Use Districts
- GC, General Commercial
- HC, Heavy Commercial
- LI, Light Industrial
- OI, Office and Institutional
- CZ, Conditional Zoning
- Zebulon Planning Jurisdiction

Zoning Map Case: RZ 2020-02

N

0 0.075 0.15 0.3 Miles



Aerial Map

Case: RZ 2020-02 - 1513 N. Arendell

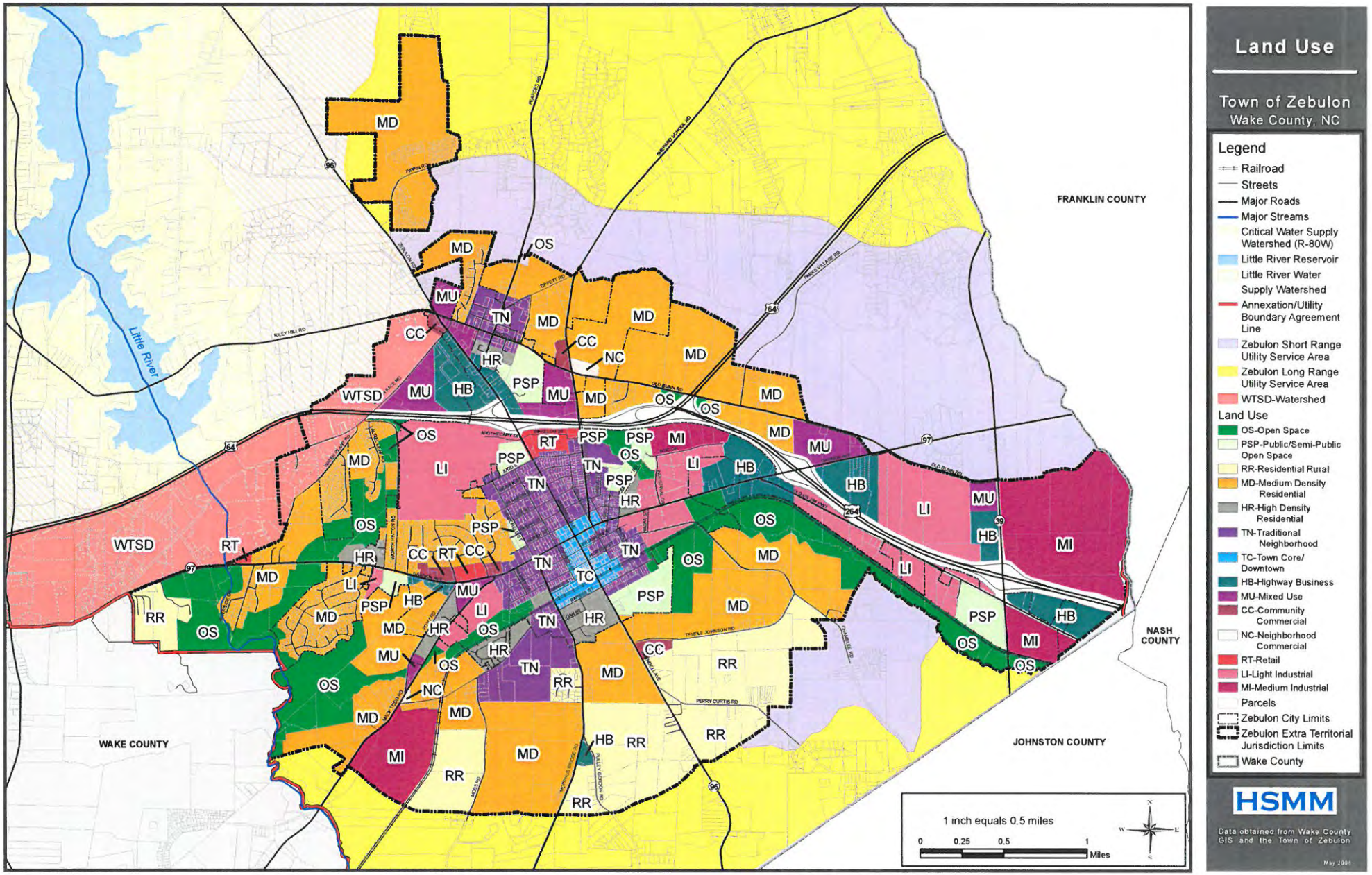
ZEBULON
NORTH CAROLINA

Legend

- RZ 2020-02
- Streets
- Parcel

N

0 0.015 0.03 Miles


Land Use
Town of Zebulon
Wake County, NC
Legend
Railroad
Streets
Major Roads
Major Streams
Critical Water Supply Watershed (R-80W)
Little River Reservoir
Little River Water Supply Watershed
Annexation/Utility Boundary Agreement Line
Zebulon Short Range Utility Service Area
Zebulon Long Range Utility Service Area
WTSD-Watershed
Land Use
OS-Open Space
PSP-Public/Semi-Public Open Space
RR-Residential Rural
MD-Medium Density Residential
HR-High Density Residential
TN-Traditional Neighborhood
TC-Town Core/ Downtown
HB-Highway Business
MU-Mixed Use
CC-Community Commercial
NC-Neighborhood Commercial
RT-Retail
LI-Light Industrial
MI-Medium Industrial
Parcels
Zebulon City Limits
Zebulon Extra Territorial Jurisdiction Limits
Wake County
HSMM
Data obtained from Wake County GIS and the Town of Zebulon
May 2008
FRANKLIN COUNTY
WAKE COUNTY
JOHNSTON COUNTY
NASH COUNTY
Little River
1 inch equals 0.5 miles
0 0.25 0.5 1 Miles

RZ 2020-02 Attachment 5





RZ 2020-02 Attachment 5





RZ 2020-02 Attachment 5





RZ 2020-02 Attachment 5



ZEBULON

NORTH CAROLINA

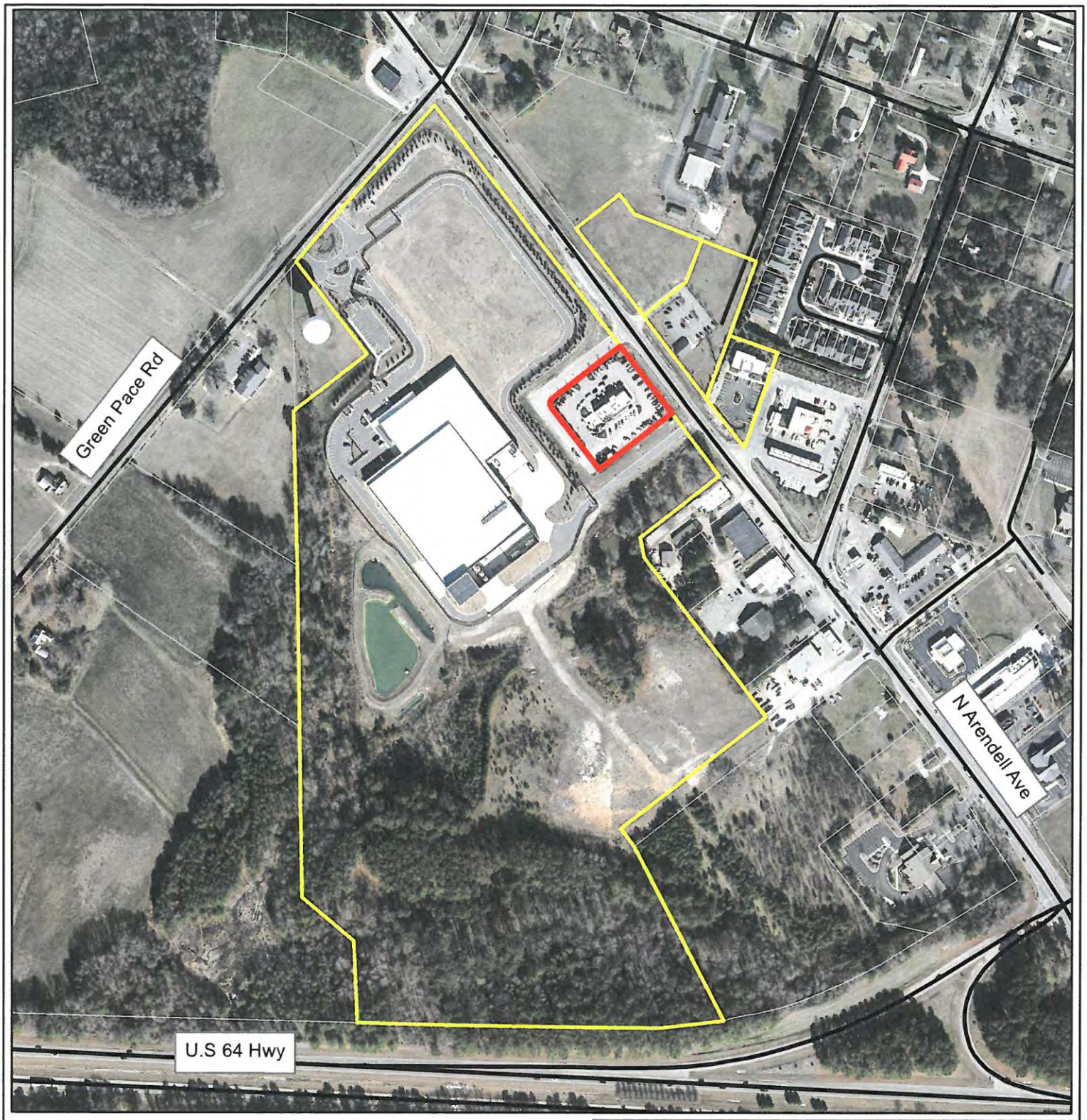
Notice of Public Hearing

Notice is hereby given pursuant to the provisions of Article 2.2.2 of the Town of Zebulon Unified Development Ordinance that a public hearing will be held on **March 8, 2021 at 7:00 PM** at the **Zebulon Municipal Complex, 1003 N. Arendell Avenue**, and will be conducted by the Board of Commissioners of the Town of Zebulon for the purpose of considering the following items:

> ***RZ 2020-02, 1513 N Arendell Avenue.*** A staff initiated rezoning request to amend the official Zoning Map from Heavy Industrial (HI) to Heavy Commercial (HC) for the property at 1513 N. Arendell Avenue.
>
> ***RZ 2020-03, 49 Green Pace Road.*** A staff initiated rezoning request to amend the official Zoning Map from Heavy Industrial (HI) to Heavy Commercial (HC) for a section of the property at 49 Green Pace Rd that fronts on N. Arendell, south of 1513 N. Arendell Avenue.

Due to potential social distancing and occupancy limits related to the State's COVID-19 Order, in-person public comments will be accepted; however, the Town of Zebulon encourages that all public comments be submitted to Deputy Town Clerk Stacie Paratore at SParatore@TownofZebulon.org no later than 12:00 Noon on the day of the hearing to be read into the record. The meeting will be streamed live and links will be provided along with the full application packet and documentation on the Planning Department web page at www.TownofZebulon.org/services/planning. For questions or additional information, please contact us at (919) 823-1808.





Public Hearing Notification Radius

Case: RZ 2020-02 - 1513 N. Arendell

ZEBULON
NORTH CAROLINA

Legend

- RZ 2020-02
- Radius
- Streets
- Parcel

N

0 0.075 0.15 Miles

ORDINANCE 2021-61
AMENDMENT TO ZONING MAP FOR
1513 N. ARENDELL AVENUE

The proposed Zoning Map Amendment for approximately 1.32 acres located at 1513 N. Arendell Avenue, with associated Wake County Pin # 1796915297 would be rezoned from Light Industrial (LI) to Heavy Commercial (HC) in accordance with Section 2.2.24 of the Town of Zebulon Unified Development Ordinance and the attached map.

Adopted this the 12th day of April 2021.

_____

Robert S. Matheny – Mayor

SEAL

_____

Lisa M. Markland, CMC – Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-62
RZ 2020-03 REZONING REQUEST
49 GREEN PACE RD
APRIL 12, 2021

Topic: ORDINANCE 2021-62 - RZ 2020-03: 49 Green Pace Road
Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider a staff initiated rezoning request for a section of 49 Green Pace Road located south of 1513 N. Arendell Avenue from LI- Light Industrial to HC Heavy Commercial

Background:
The subject section of 49 Green Pace Road that fronts on N. Arendell south of 1513 N. Arendell as indicated on the attachments was an independent parcel of record until December 2020. Furthermore, the subject area was zoned "HB-Heavy Business" as part of the previous zoning code until January 1, 2020. However, due to a file corruption with the GIS file used for the rezoning as part of the Unified Development Ordinance, the subject area designated as LI-Light Industrial in error. The site is currently vacant but is part of the tract owned and operated by BB&T and under the LI-Light Industrial.

Discussion:
The discussion before the Board of Commissioners is whether to approve a UDO Map Amendment to rezone the subject parcels from LI-Light Industrial to HC-Heavy Commercial.

Policy Analysis:
The proposed request is consistent with Section 2.2.24.H of the Unified Development Ordinance and the 2008 Comprehensive Master Plan Future Land Use Map.

Financial Analysis:
The property is currently vacant and only uses within the LI-Light Industrial classification would be able to occupy this section the site. The HC-Heavy Commercial Uses would introduce higher property taxes and personal property taxes within a location that is currently within the Town service boundaries.

Joint Public Hearing:
No one was present to speak in favor or opposition to the proposed request at the March 8, 2021 Joint Public Hearing.

Planning Board Recommendation:
At the March 8, 2021 meeting, the Planning Board unanimously recommended approval finding that it was consistent with Section 2.2.24.H of the UDO.

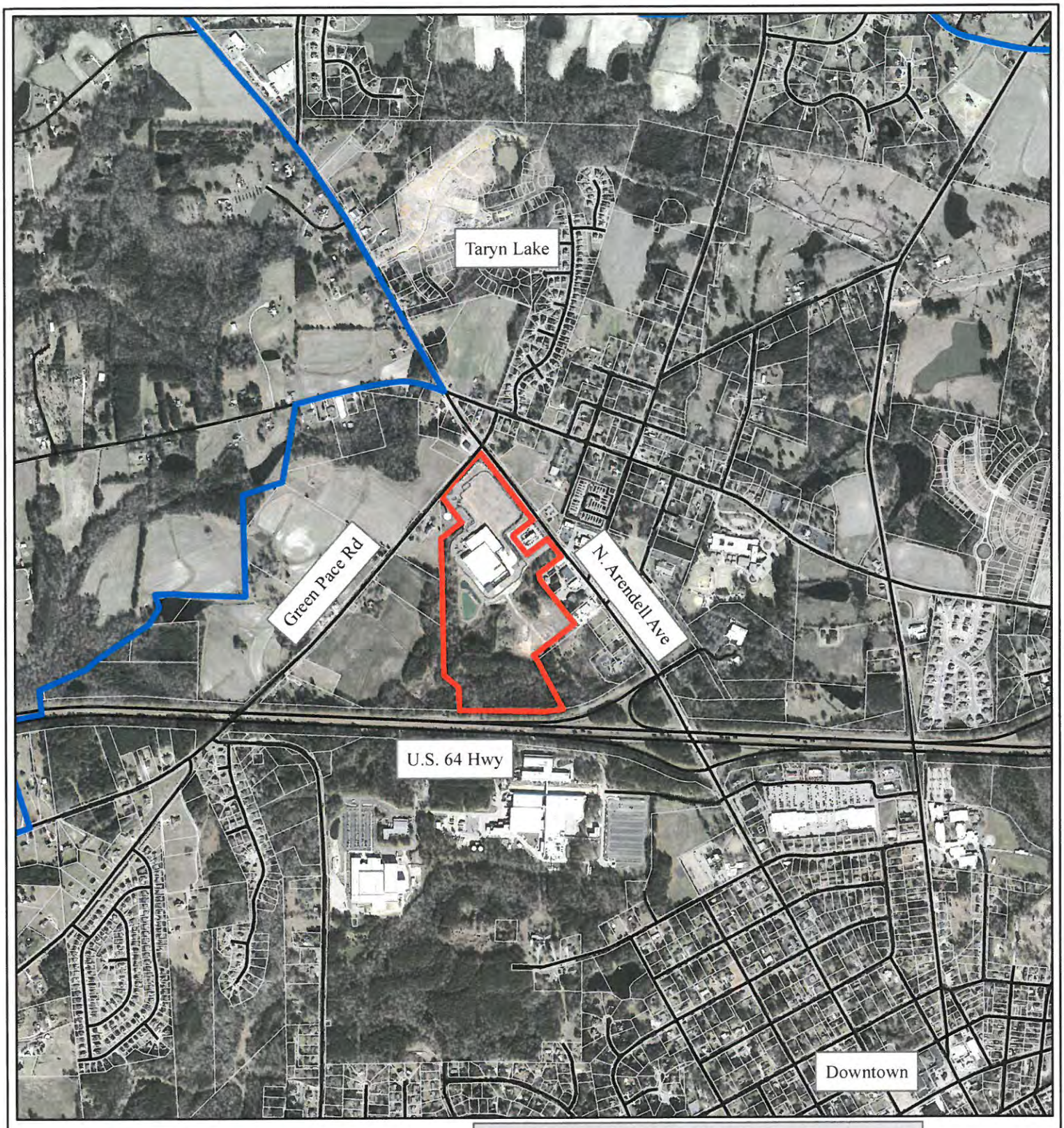
ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-62
RZ 2020-03 REZONING REQUEST
49 GREEN PACE RD
APRIL 12, 2021

Staff Recommendation:
Staff approval of the UDO Map Amendment as proposed. The following sample motion/ consistency statement may be used:

I hereby move to approve Ordinance 2021-62 to amend the Official Zoning Map as regulated in Section 3.2 of the UDO to change the section of 49 Green Pace Rd as described in the staff report presented at the April 12, 2021 Board of Commissioners meeting, from LI-Light Industrial to HC-Heavy Commercial, finding that the proposed request complies with Section 2.2.24.J of the UDO and the 2008 Town of Zebulon Comprehensive Plan.

Attachments:
1. Vicinity Map
2. Zoning Map
3. Aerial Map
4. Land Use Map
5. Site Pictures
6. Public Hearing Notice
7. 150' Radius of Notified Mailed Property Owners Map
8. Ordinance 2021-62



Vicinity Map

Case: RZ 2020-03 - 49 Green Pace Rd

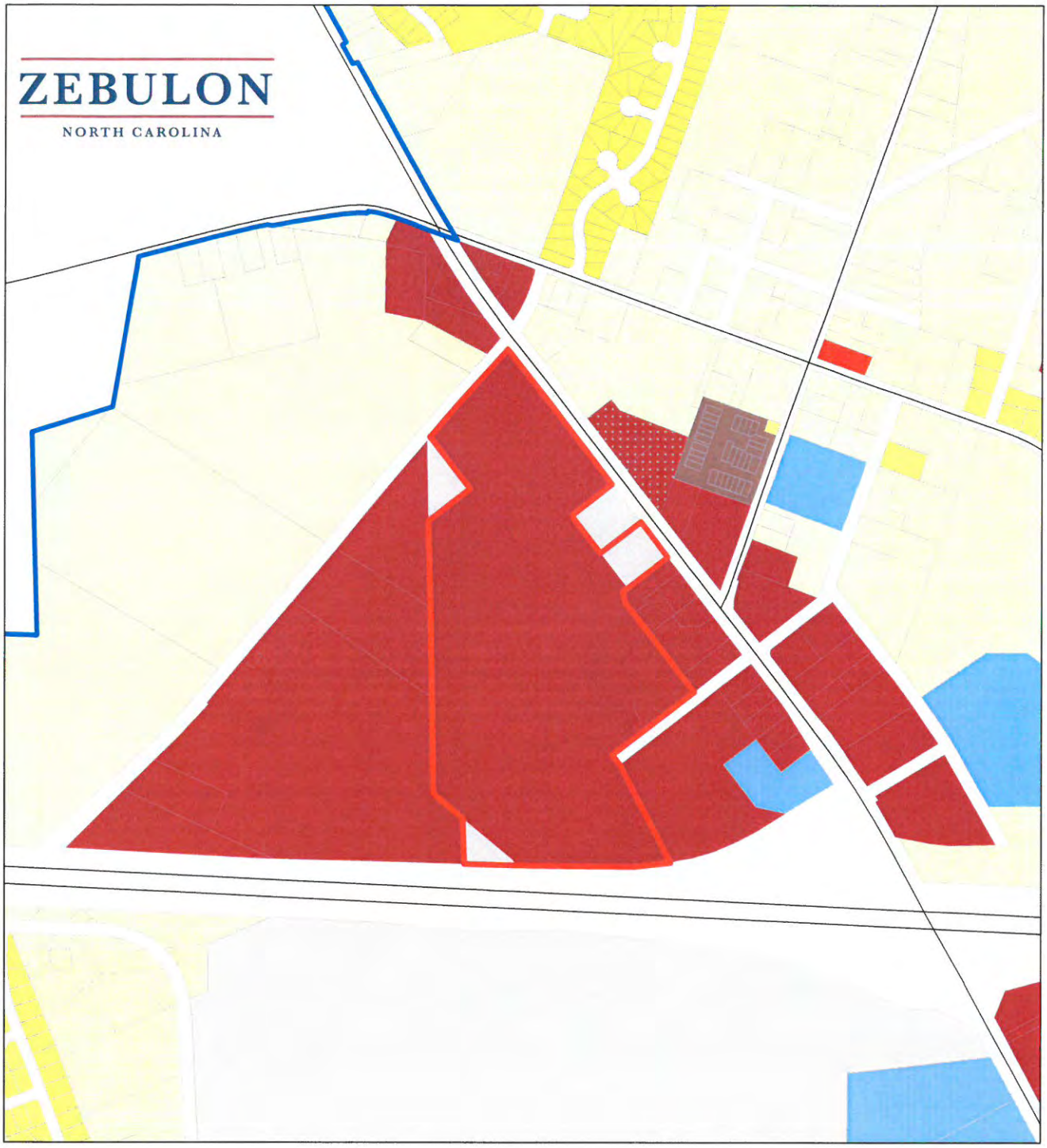
ZEBULON
NORTH CAROLINA

Legend

- RZ 2020-03
- ETJ
- Streets
- Parcel

N

0 0.25 0.5 Miles



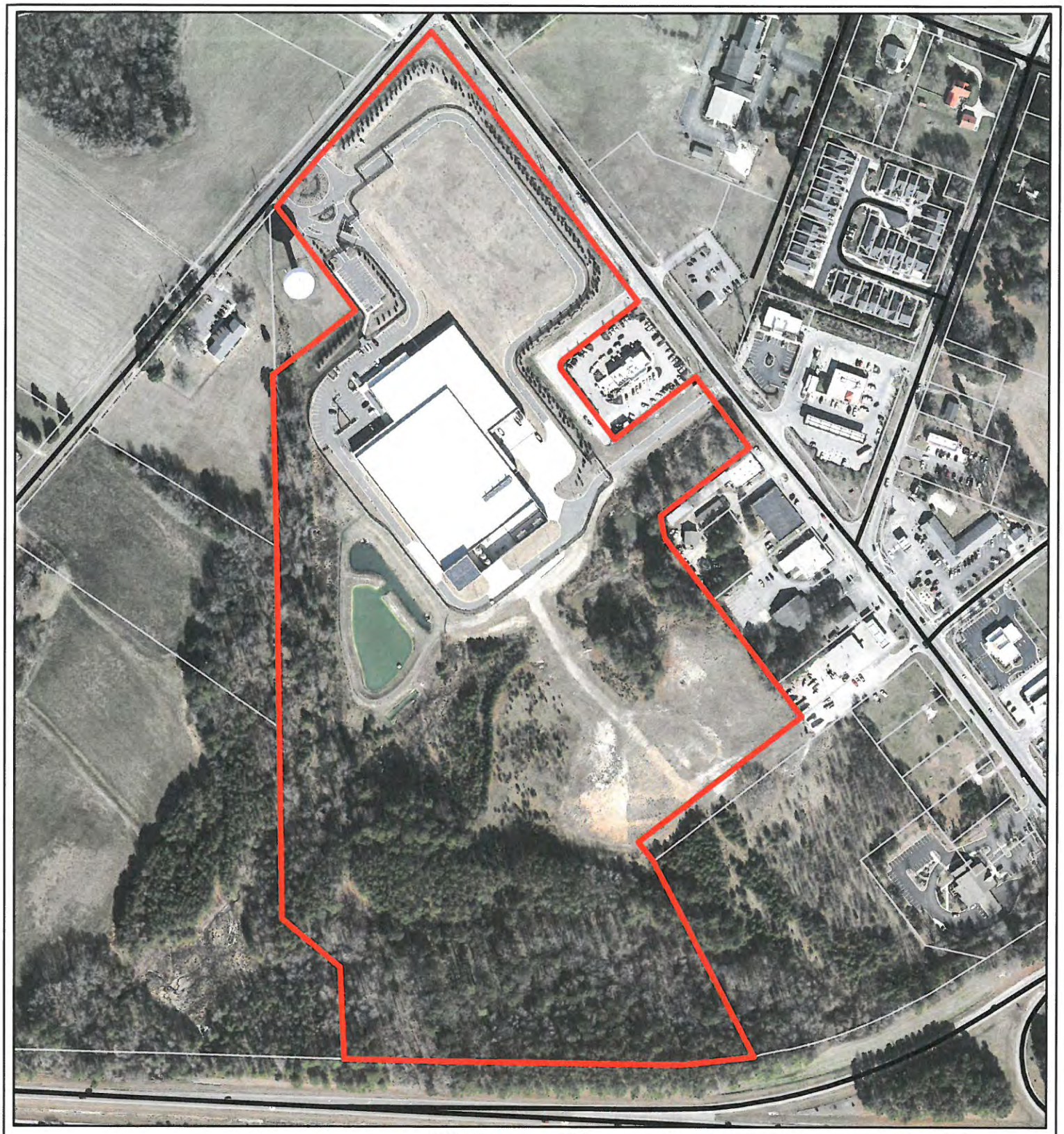
Zoning Districts

- RZ 2020-03
- R1, Residential Watershed
- R2, Residential Suburban
- R4, Residential Neighborhood
- RMF, Residential Multi-Family
- R-13 SUD, Residential 13 - Special Use Districts
- GC, General Commercial
- HC, Heavy Commercial
- LI, Light Industrial
- OI, Office and Institutional
- CZ, Conditional Zoning
- Zebulon Planning Jurisdiction

Zoning Map Case: RZ 2020-03

N

0 0.075 0.15 0.3 Miles



Aerial Map

Case: RZ 2020-03 - 49 Green Pace Rd

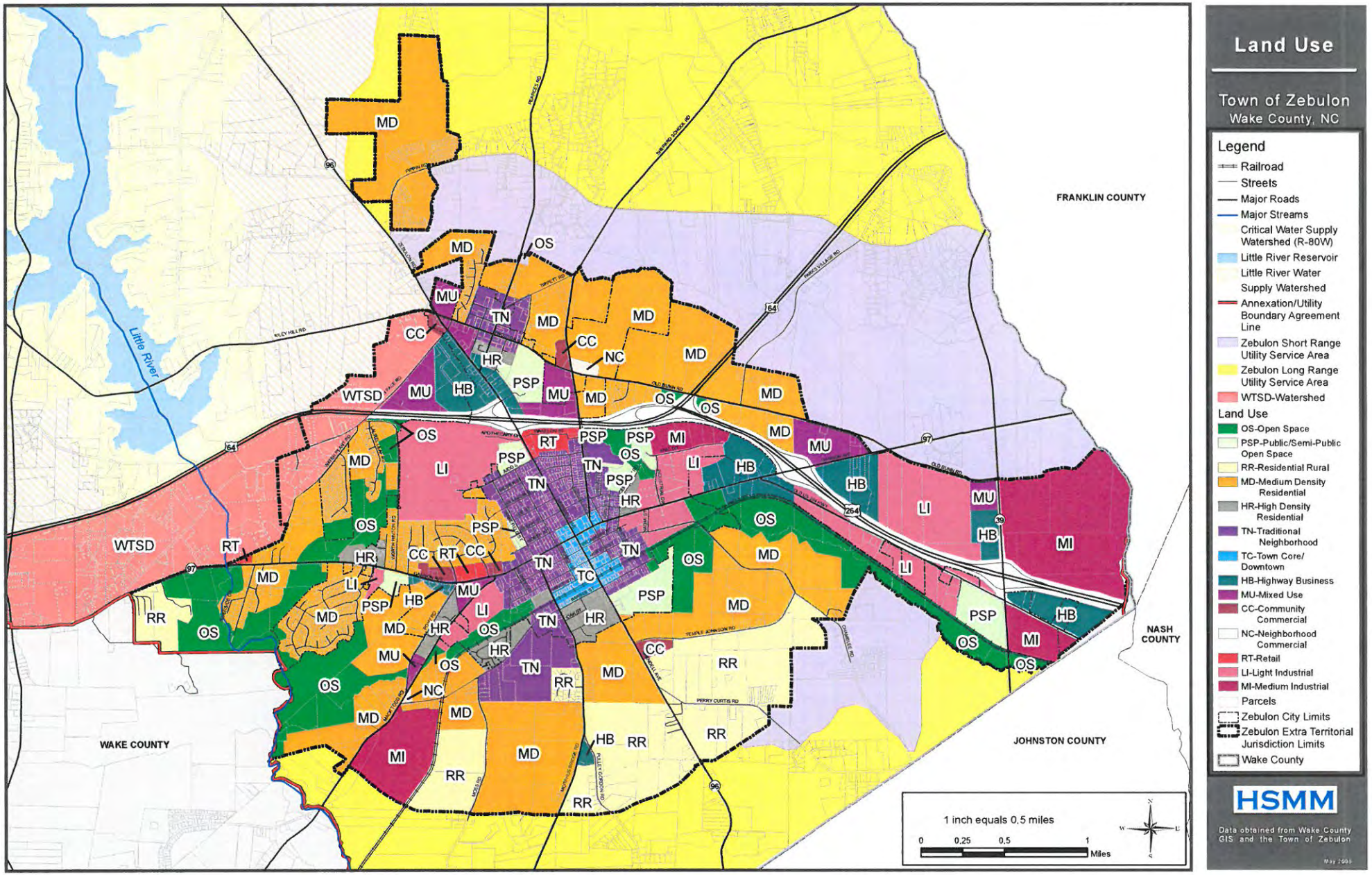
ZEBULON
NORTH CAROLINA

Legend

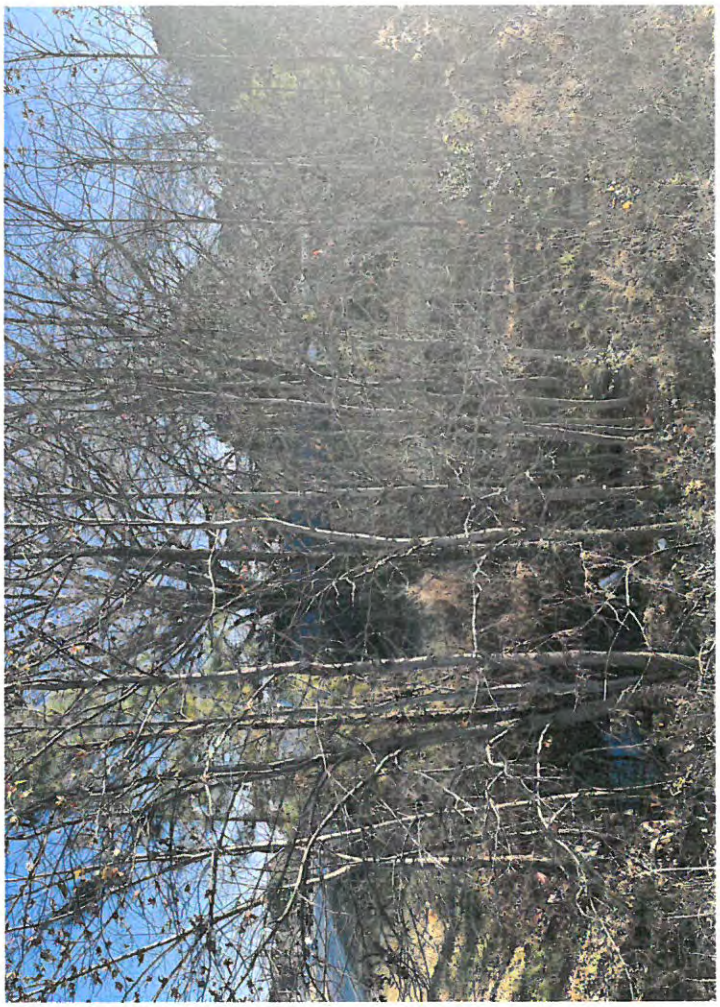
- RZ 2020-03
- Streets
- Parcel

N

0 0.075 0.15 Miles

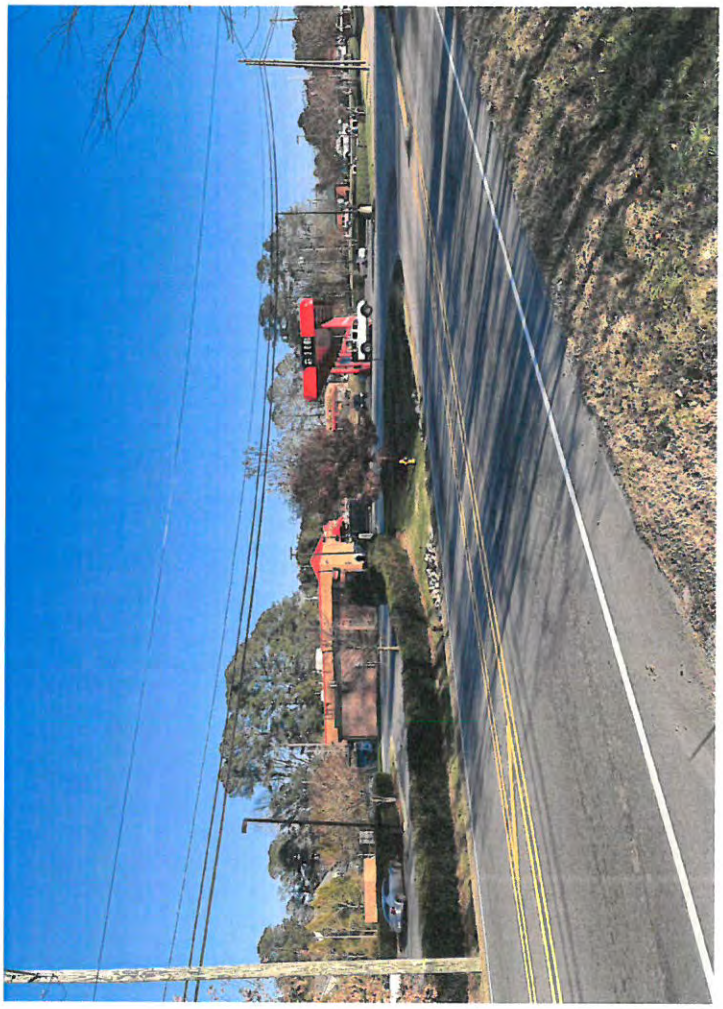

Land Use
Town of Zebulon
Wake County, NC
Legend
Railroad
Streets
Major Roads
Major Streams
Critical Water Supply Watershed (R-80W)
Little River Reservoir
Little River Water Supply Watershed
Annexation/Utility Boundary Agreement Line
Zebulon Short Range Utility Service Area
Zebulon Long Range Utility Service Area
WTSD-Watershed
Land Use
OS-Open Space
PSP-Public/Semi-Public Open Space
RR-Residential Rural
MD-Medium Density Residential
HR-High Density Residential
TN-Traditional Neighborhood
TC-Town Core/ Downtown
HB-Highway Business
MU-Mixed Use
CC-Community Commercial
NC-Neighborhood Commercial
RT-Retail
LI-Light Industrial
MI-Medium Industrial
Parcels
Zebulon City Limits
Zebulon Extra Territorial Jurisdiction Limits
Wake County
FRANKLIN COUNTY
NASH COUNTY
JOHNSTON COUNTY
WAKE COUNTY
Little River
1 inch equals 0.5 miles
0 0.25 0.5 1 Miles
HSMM
Data obtained from Wake County GIS and the Town of Zebulon
May 2008

RZ 2020-03 Attachment 5





RZ 2020-03 Attachment 5





ZEBULON

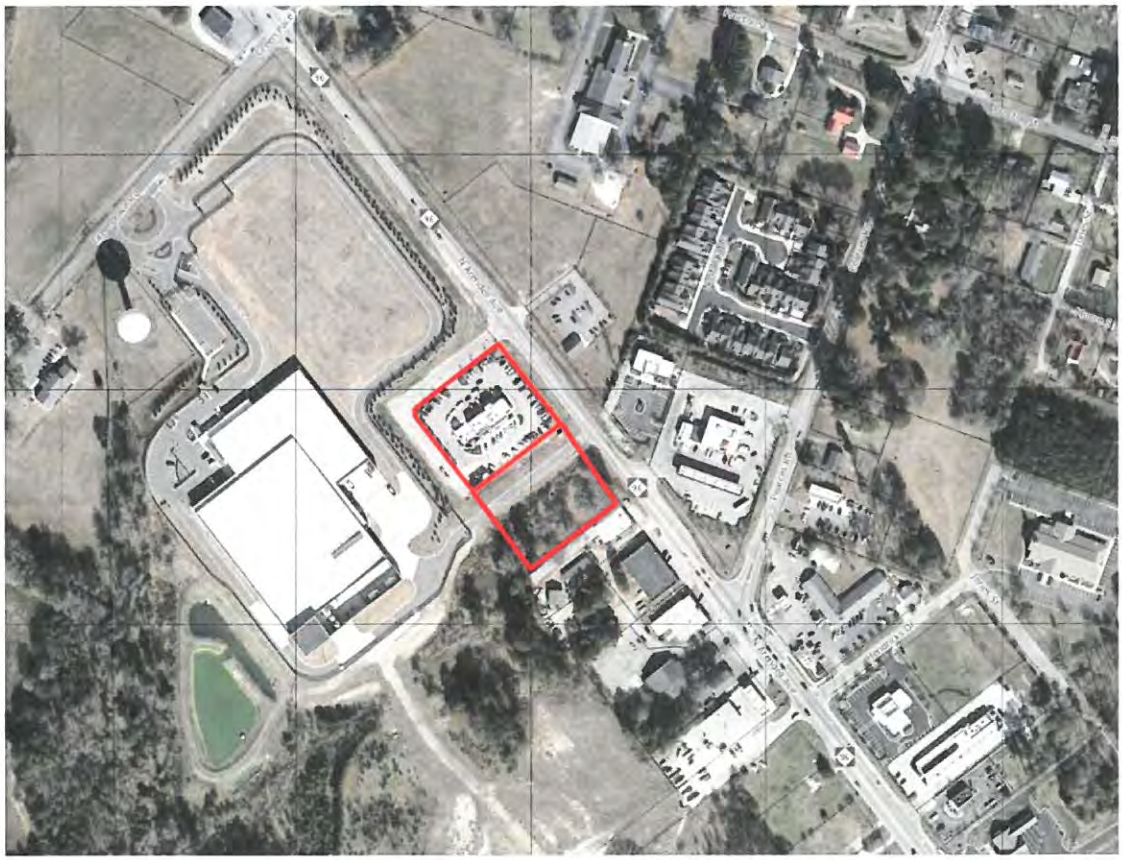
NORTH CAROLINA

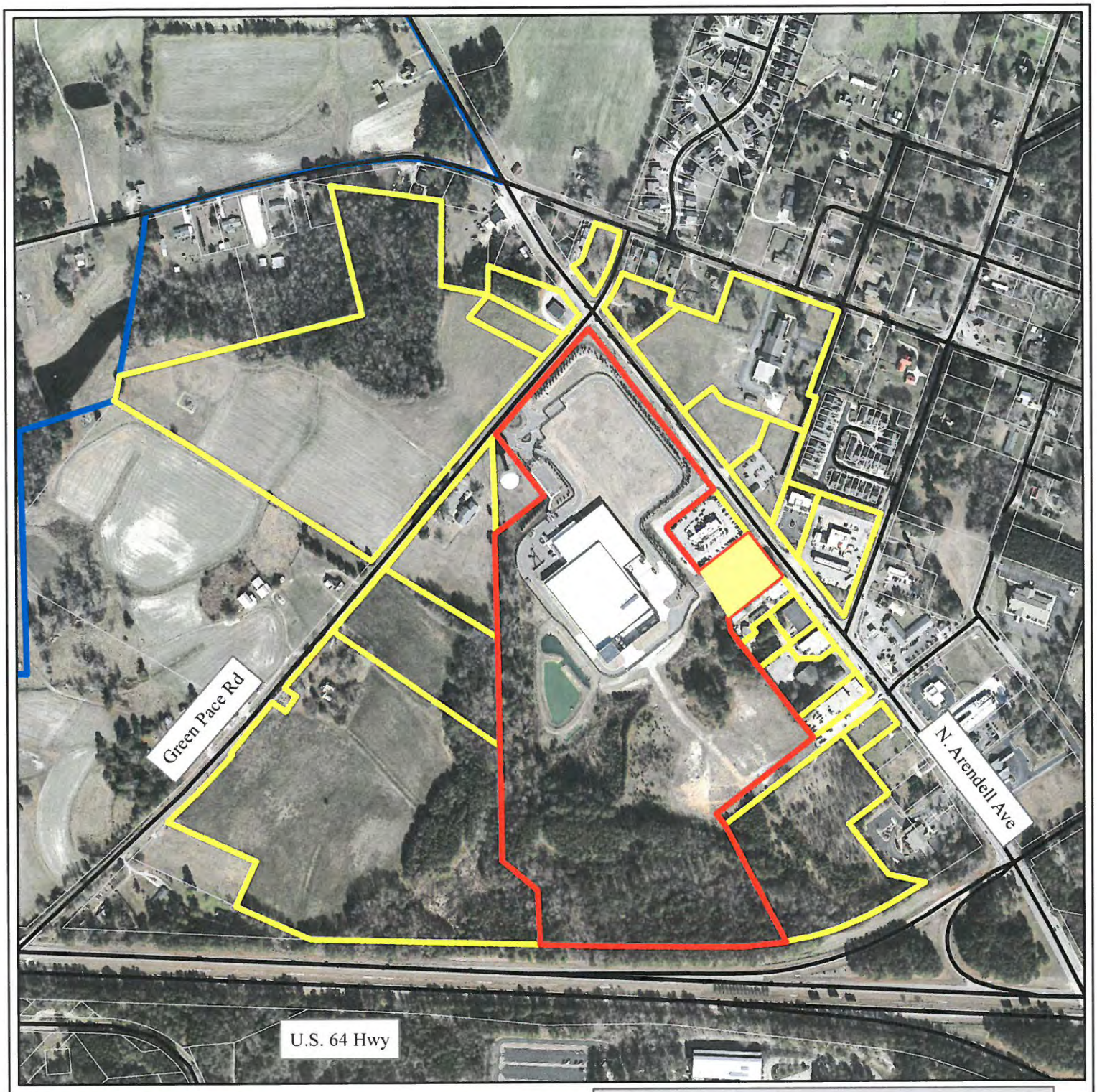
Notice of Public Hearing

Notice is hereby given pursuant to the provisions of Article 2.2.2 of the Town of Zebulon Unified Development Ordinance that a public hearing will be held on **March 8, 2021 at 7:00 PM** at the **Zebulon Municipal Complex, 1003 N. Arendell Avenue**, and will be conducted by the Board of Commissioners of the Town of Zebulon for the purpose of considering the following items:

> ***RZ 2020-02, 1513 N Arendell Avenue.*** A staff initiated rezoning request to amend the official Zoning Map from Heavy Industrial (HI) to Heavy Commercial (HC) for the property at 1513 N. Arendell Avenue.
>
> ***RZ 2020-03, 49 Green Pace Road.*** A staff initiated rezoning request to amend the official Zoning Map from Heavy Industrial (HI) to Heavy Commercial (HC) for a section of the property at 49 Green Pace Rd that fronts on N. Arendell, south of 1513 N. Arendell Avenue.

Due to potential social distancing and occupancy limits related to the State's COVID-19 Order, in-person public comments will be accepted; however, the Town of Zebulon encourages that all public comments be submitted to Deputy Town Clerk Stacie Paratore at SParatore@TownofZebulon.org no later than 12:00 Noon on the day of the hearing to be read into the record. The meeting will be streamed live and links will be provided along with the full application packet and documentation on the Planning Department web page at www.TownofZebulon.org/services/planning. For questions or additional information, please contact us at (919) 823-1808.





Public Hearing Notification Radius

Case: RZ 2020-03 - 49 Green Pace Rd

ZEBULON
NORTH CAROLINA

Legend

- Area of Subject Rezoning
- RZ 2020-03
- Radius
- Streets
- ETJ
- Parcel

N

0 0.1 0.2 Miles

ORDINANCE 2021-62
AMENDMENT TO ZONING MAP FOR
49 GREEN PACE ROAD

The proposed Zoning Map Amendment for approximately 1.31 acres located at 49 Green Pace Road, with associated Wake County Pin #1796902666 would be rezoned from Light Industrial (LI) to Heavy Commercial (HC) in accordance with Section 2.2.24 of the Town of Zebulon Unified Development Ordinance and the attached map.

Adopted this the 12th day of April 2021.

_____

Robert S. Matheny – Mayor

SEAL

_____

Lisa M. Markland, CMC – Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-63
RZ 2020-04 REZONING REQUEST
213 MOSS ROAD
APRIL 12, 2021

Topic: Ordinance 2021-63 - RZ 2020-04: 213 Moss Road
Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider a staff initiated rezoning request for 213 Moss Road R-2 Residential to HC Heavy Commercial

Background:
The subject property at 213 Moss Road was rezoned from R-2 Residential to HB – Heavy Business in 2012 and remained in that classification as part of the previous zoning code. However due to a file corruption with the GIS file used for the rezoning as part of the Unified Development Ordinance, the subject area designated as R-2 Residential in error. The site is currently occupied by a commercial use and owned by Wilbur and Theresa Pulley.

Discussion:
The discussion before the Board of Commissioners is whether to approve a UDO Map Amendment to rezone the subject parcel from R-2 Residential to HC Heavy Commercial.

Policy Analysis:
The proposed request is consistent with Section 2.2.24.H of the Unified Development Ordinance and the 2008 Comprehensive Master Plan Future Land Use Map.

Financial Analysis:
The property is currently occupied by a commercial use and while it would be able to remain, site modifications and expansions would not be permissible under the current zoning classification. Furthermore, if the site was vacated, only uses within the R2 - Residential classification would be able to reoccupy this section the site. The HC Heavy Commercial Uses would introduce higher property taxes and personal property taxes within a location that is currently within the Town service boundaries.

Joint Public Hearing:
No one was present to speak in favor or opposition to the proposed request at the March 8, 2021 Joint Public Hearing.

Planning Board Recommendation:
At the March 8, 2021 meeting, the Planning Board 3-1 to rezoning the subject property from R2-Residential to NC-Neighborhood Commercial finding that was more in keeping with the surrounding land classifications and that it was consistent with Section 2.2.24.H

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-63
RZ 2020-04 REZONING REQUEST
213 MOSS ROAD
APRIL 12, 2021

Staff Recommendation:
While the Planning Board Recommended an NC – Neighborhood Commercial classification, staff approval of the UDO Map Amendment as originally proposed as the original activity was auto repair use from the 2013 Rezoning Request. The following sample motion/ consistency statement may be used:

I hereby move to approve Ordinance 2021-63 to amend the Official Zoning Map as regulated in Section 3.2 of the UDO to change 213 Moss Road from R2-Residential to HC - Heavy Commercial, finding that the proposed request complies with Section 2.2.24.J of the UDO, resulting in an amendment 2008 Town of Zebulon Future Land Use Map.

Attachments:
1. Vicinity Map
2. Zoning Map
3. Aerial Map
4. Land Use Map
5. Site Pictures
6. Public Hearing Notice
7. 150' Radius of Notified Mailed Property Owners Map
8. Ordinance 2021-63



Vicinity Map

Case: RZ 2020-04 - 213 Moss Rd

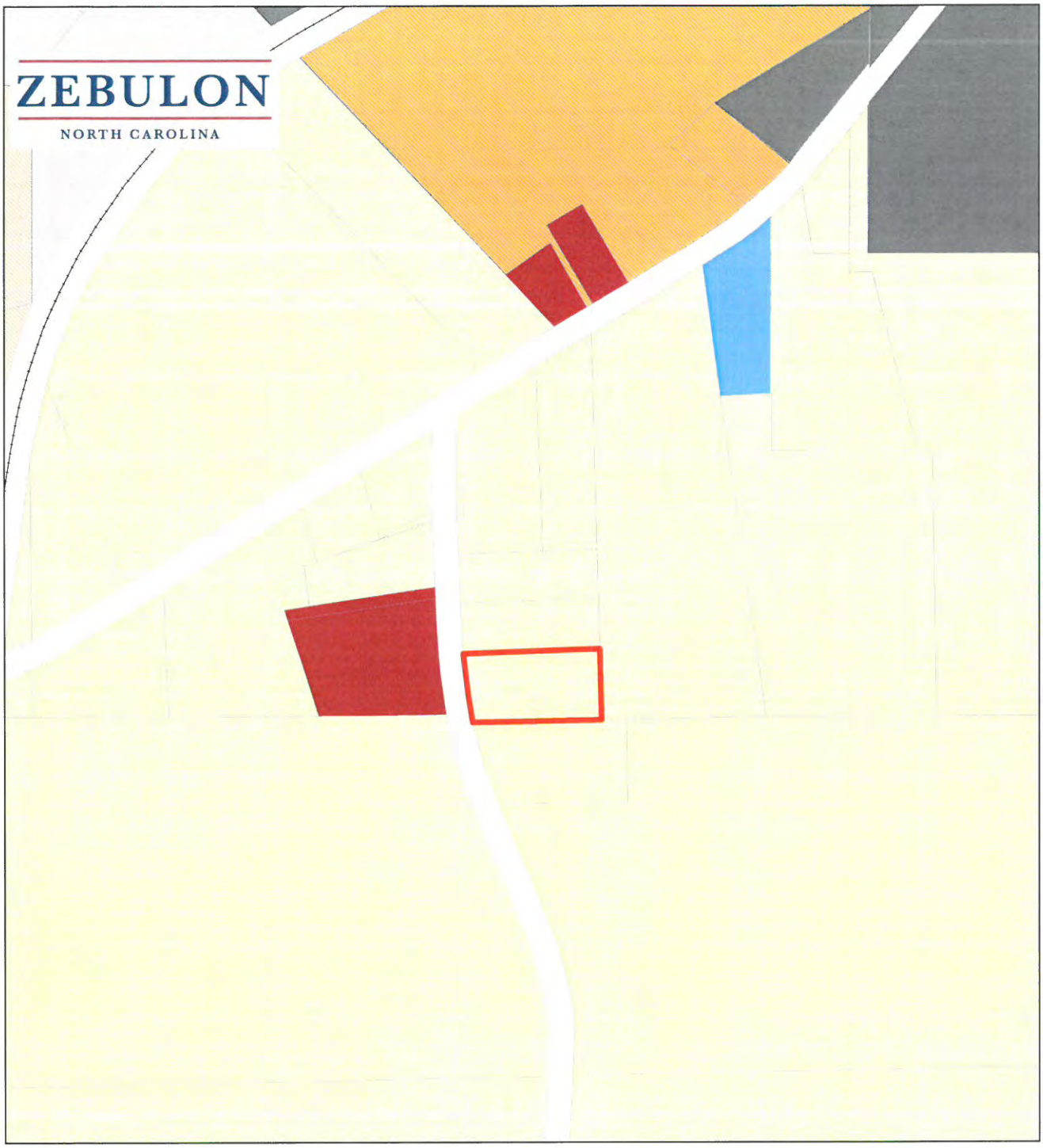
ZEBULON
NORTH CAROLINA

Legend

- RZ 2020-04
- ETJ
- Streets
- Parcel

N

0 0.125 0.25 0.5 Miles



Zoning Map Case: RZ 2020-04

Zoning Districts

- RZ 2020-04
- R2, Residential Suburban
- R6, Residential Urban
- HC, Heavy Commercial
- LI, Light Industrial
- HI, Heavy Industrial
- OI, Office and Institutional
- MHO, Manufactured Home Overlay

N

0 0.0375 0.075 0.15
Miles



Aerial Map

Case: RZ 2020-04 - 213 Moss Rd

ZEBULON
NORTH CAROLINA

Legend

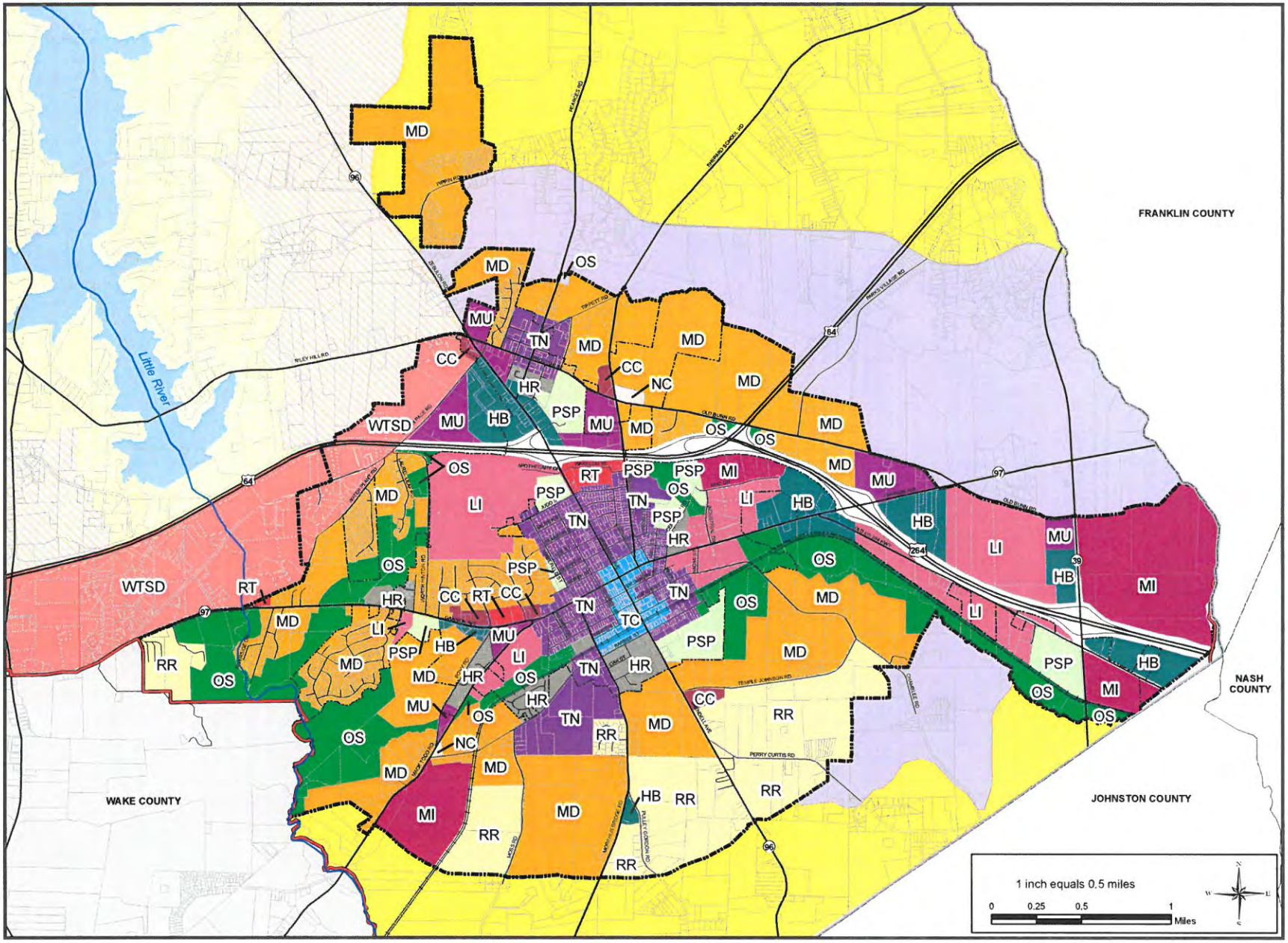
RZ 2020-04

Streets

Parcel

N

0 0.01 0.02 Miles



Land Use

Town of Zebulon
Wake County, NC

Legend

- Railroad
- Streets
- Major Roads
- Major Streams
- Critical Water Supply Watershed (R-80W)
- Little River Reservoir
- Little River Water Supply Watershed
- Annexation/Utility Boundary Agreement Line
- Zebulon Short Range Utility Service Area
- Zebulon Long Range Utility Service Area
- WTSD-Watershed

Land Use

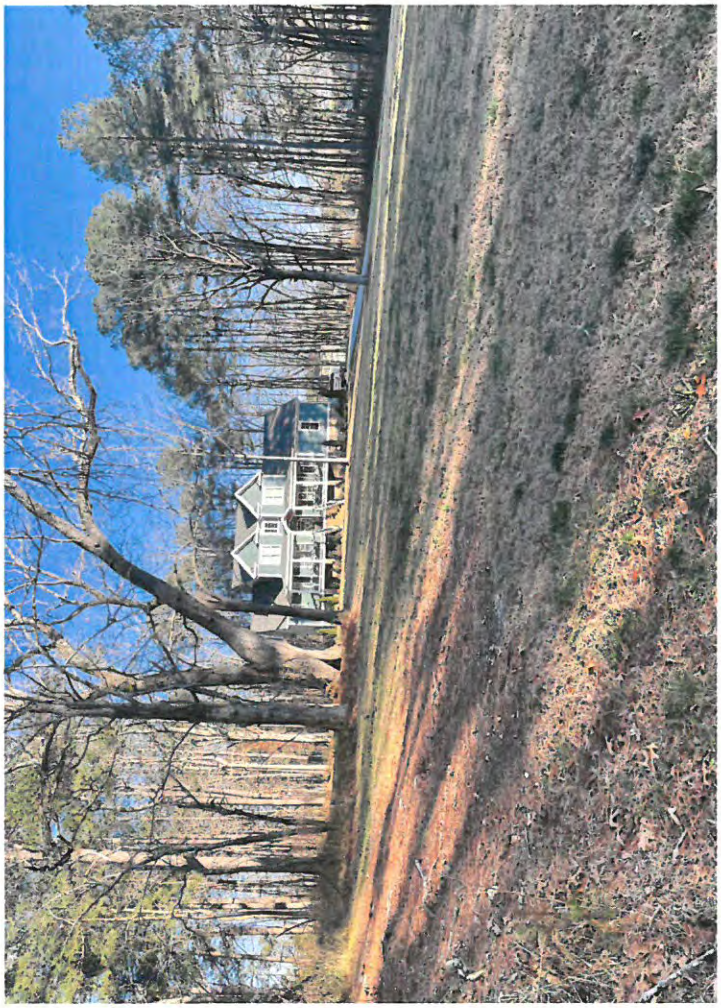
- OS-Open Space
- PSP-Public/Semi-Public Open Space
- RR-Residential Rural
- MD-Medium Density Residential
- HR-High Density Residential
- TN-Traditional Neighborhood
- TC-Town Core/ Downtown
- HB-Highway Business
- MU-Mixed Use
- CC-Community Commercial
- NC-Neighborhood Commercial
- RT-Retail
- LI-Light Industrial
- MI-Medium Industrial
- Parcels
- Zebulon City Limits
- Zebulon Extra Territorial Jurisdiction Limits
- Wake County

HSMM

Data obtained from Wake County GIS and the Town of Zebulon

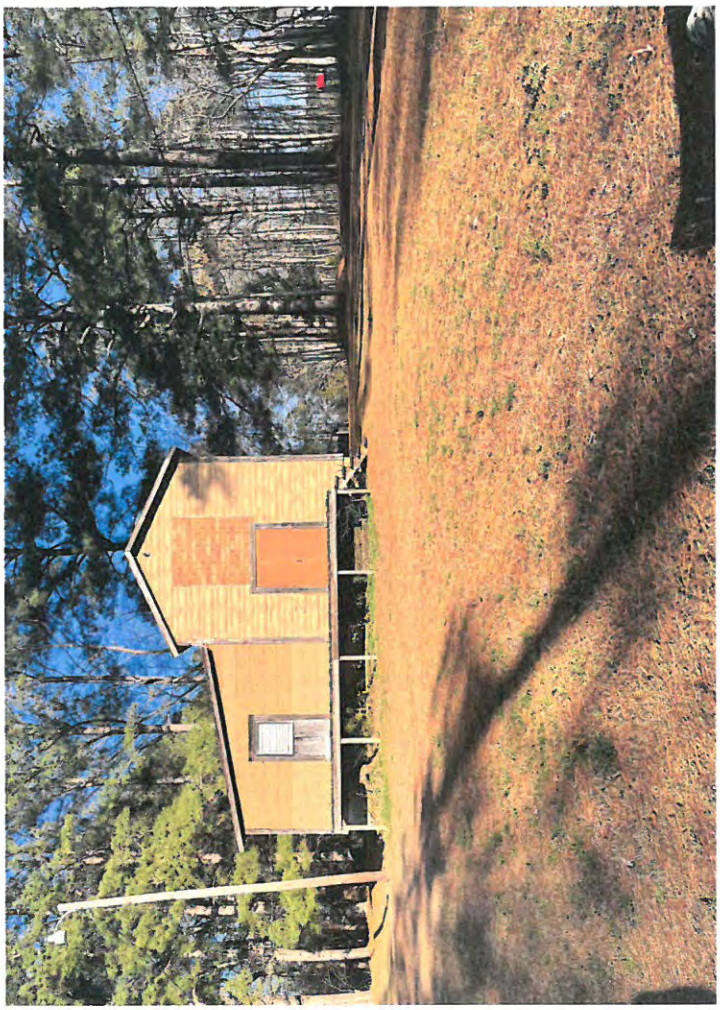
May 2008

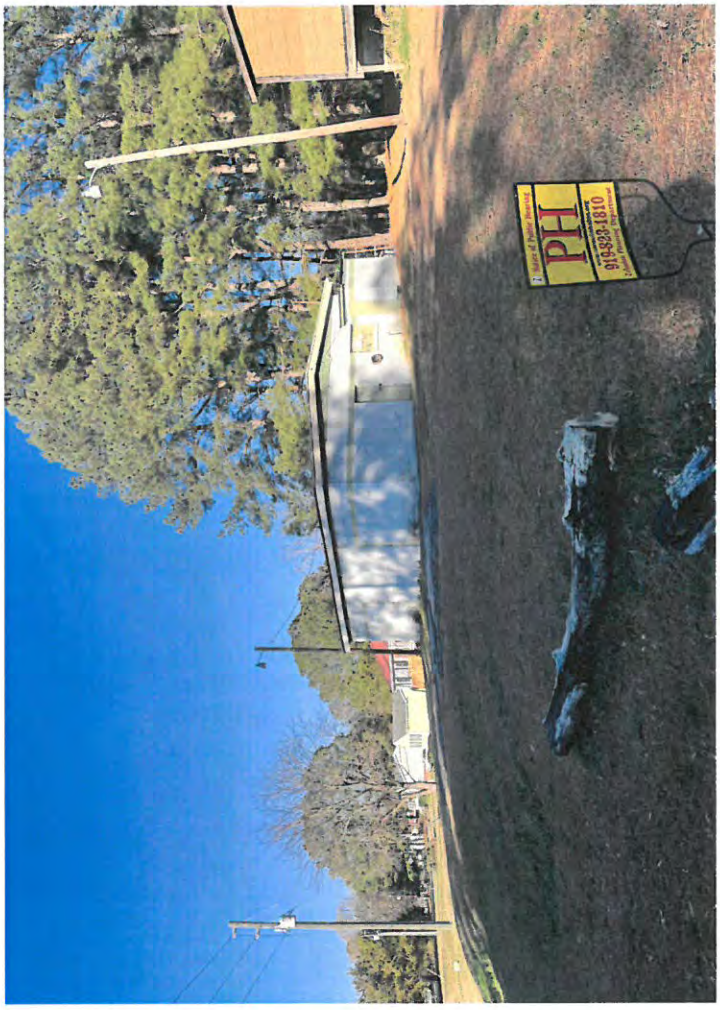
RZ 2020-04 Attachment 5



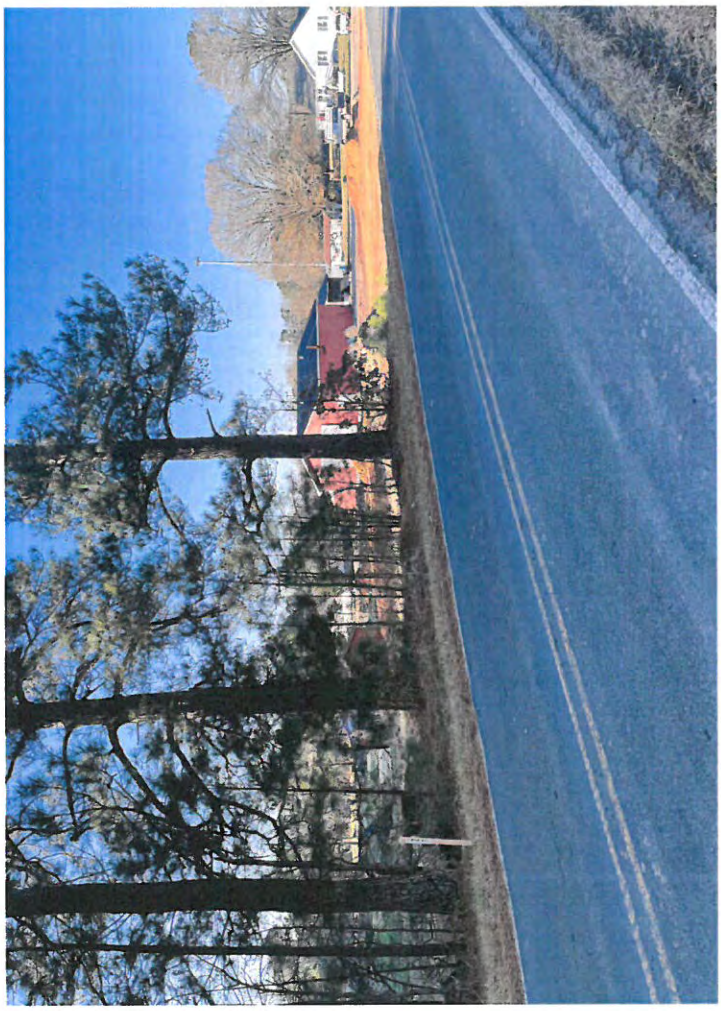


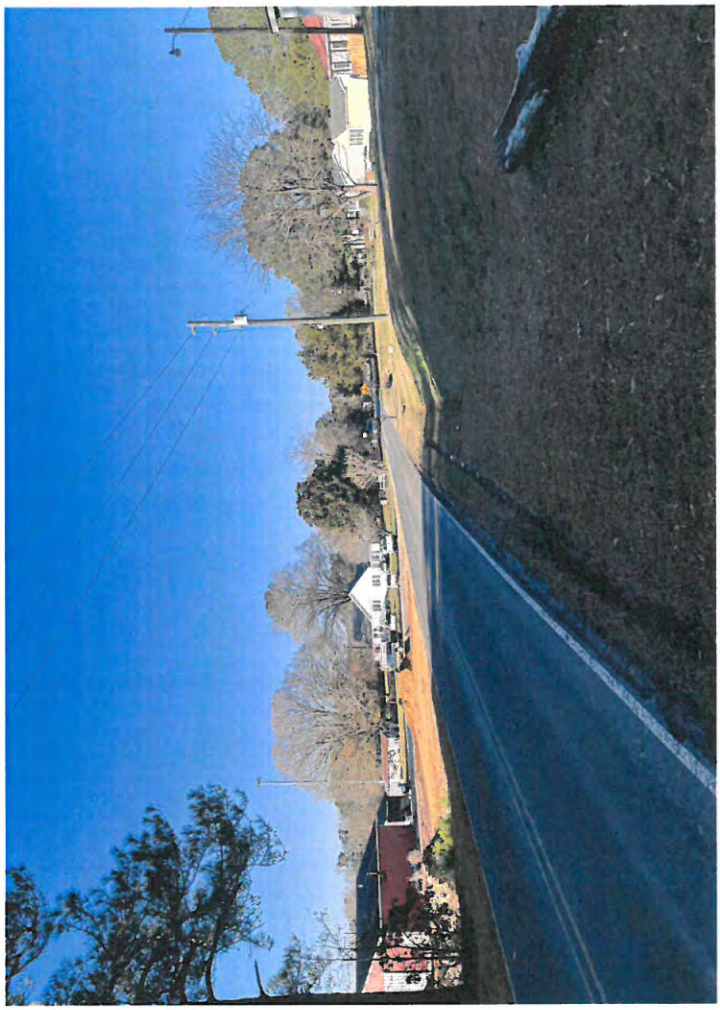
RZ 2020-04 Attachment 5



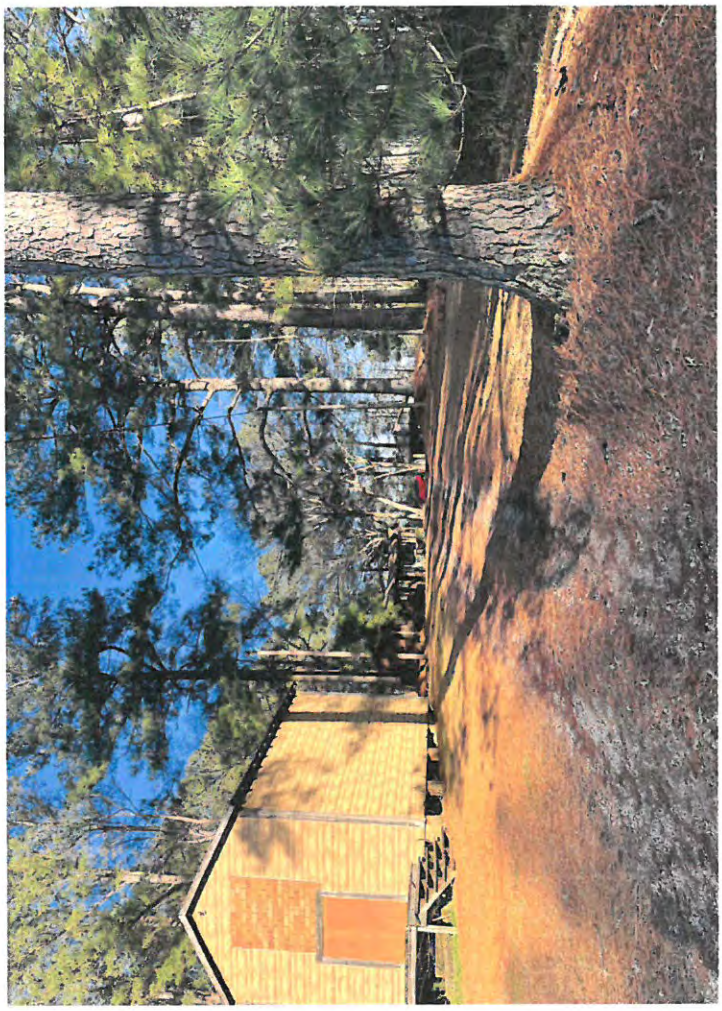


RZ 2020-04 Attachment 5





RZ 2020-04 Attachment 5



ZEBULON

NORTH CAROLINA

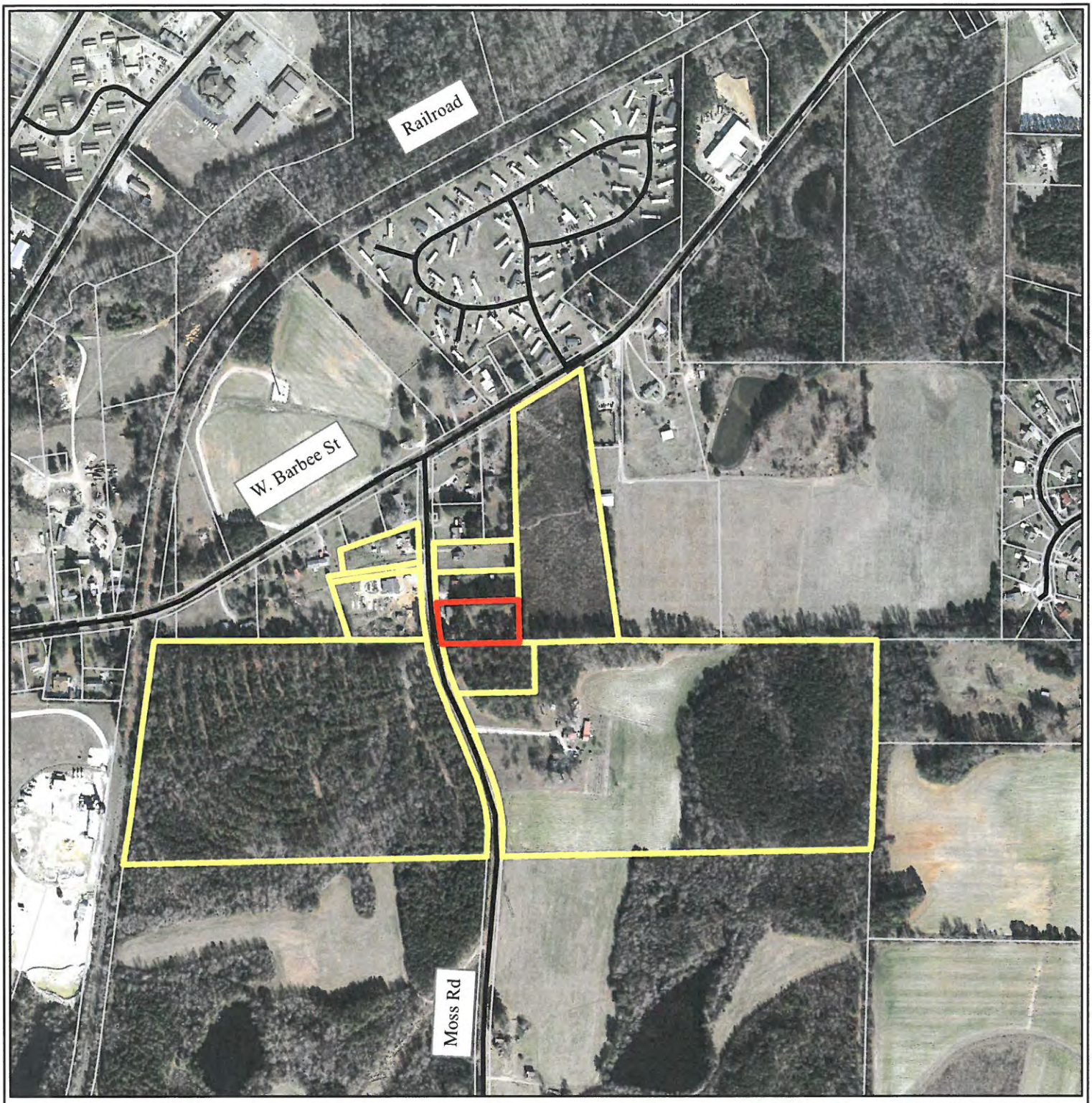
Notice of Public Hearing

Notice is hereby given pursuant to the provisions of Article 2.2.2 of the Town of Zebulon Unified Development Ordinance that a public hearing will be held on **March 8, 2021 at 7:00 PM** at the **Zebulon Municipal Complex, 1003 N. Arendell Avenue**, and will be conducted by the Board of Commissioners of the Town of Zebulon for the purpose of considering the following items:

> ***RZ 2020-04 213 Moss Road.*** A staff initiated rezoning request to amend the official Zoning Map from Residential (R-2) to Heavy Commercial (HC) for the property at 213 Moss Road.

Due to potential social distancing and occupancy limits related to the State's COVID-19 Order, in-person public comments will be accepted; however, the Town of Zebulon encourages that all public comments be submitted to Deputy Town Clerk Stacie Paratore at SParatore@TownofZebulon.org no later than 12:00 Noon on the day of the hearing to be read into the record. The meeting will be streamed live and links will be provided along with the full application packet and documentation on the Planning Department web page at www.TownofZebulon.org/services/planning. For questions or additional information, please contact us at (919) 823-1808.





Public Hearing Notification Radius

Case: RZ 2020-04 - 213 Moss Rd

ZEBULON
NORTH CAROLINA

Legend

- RZ 2020-04
- Radius
- Streets
- Parcel

N

0 0.075 0.15 0.3 Miles

ORDINANCE 2021-63
AMENDMENT TO ZONING MAP FOR
213 MOSS ROAD

The proposed Zoning Map Amendment for approximately 1.27 acres located at 213 Moss Road, with associated Wake County Pin # 2705003500 would be rezoned from R-2 Residential to HC Heavy Commercial in accordance with Section 2.2.24 of the Town of Zebulon Unified Development Ordinance and the attached map.

Adopted this the 12th day of April 2021.

_____

Robert S. Matheny – Mayor

SEAL

_____

Lisa M. Markland, CMC – Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDIANCE 2021-64
CZ 2020-06 CONDITIONAL ZONING
MAP AMENDMENT REQUEST
ZEBULON OUTDOOR STORAGE - 1817 OLD US 264
APRIL 12, 2021

Topic: **Ordinance 2021-64 - CZ 2020-06 Zebulon Outdoor Storage**
Speaker: Meade O. Bradshaw, III, CZO, Assistant Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Meade O. Bradshaw, III, CZO, Assistant Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider a Conditional Zoning Map Amendment for 1817 Old US 264 Highway from Heavy Industrial District (HI) to Heavy Industrial Conditional Zoning District (HI-C).

Background:
The applicant, Engineer John F. Oglesby of CSD Engineering, on behalf of the property owner, Zebulon Outdoor Storage, requests rezoning a 15.28-acre parcel from Heavy Industrial (HI) to Heavy Industrial Conditional Zoning (HI-C). The subject property is located on Old US 264 Highway, east of its intersection with NC Highway 39, across from US Foods. The parcel was recently cleared but currently vacant.

A notice of public hearing was mailed to all property owners within 150 feet of the subject property on February 24, 2021. The site was posted with public hearing signs on January 21, 2021. A notice was published in the Wake Weekly on February 24, 2021 and March 4, 2021. A Joint Public Hearing was held March 8, 2021. The Planning Board convened following the Joint Public Hearing.

Following the Joint Public Hearing and Planning Board Decision, Staff and Applicant successfully worked together to address concerns through revisions to the proposed conditions. Updated conditions are listed in Attachment 10.

Discussion:
The discussion before the Board is consideration of the request for a Conditional Zoning Map Amendment to Heavy Industrial Conditional Zoning District (HI-C). The Board bases their decision on whether the following standards are met (see UDO § 2.2.6.K):

1. The proposed conditional rezoning advances the public health, safety, or welfare;
2. The extent to which the proposed conditional rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
3. Approval of the conditional rezoning is reasonable and in the public interest;
4. The extent to which the concept plan associated with the conditional rezoning is consistent with this Ordinance; and
5. Any other factors as the Board of Commissioners may determine to be relevant.

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDIANCE 2021-64
CZ 2020-06 CONDITIONAL ZONING
MAP AMENDMENT REQUEST
ZEBULON OUTDOOR STORAGE - 1817 OLD US 264
APRIL 12, 2021

Policy Analysis:
A conditional rezoning grants an applicant the opportunity to propose conditions in exchange for assurances of a particular result or objective. Typically, the applicant requests a reduction in uses and deviations from development standards by offering alternate means of complying with the intent and purpose of the development standards.

This Conditional Rezoning request, as originally submitted, did not meet the requirements, or the intent and purpose, of the Unified Development Ordinance (see UDO § 5.8.5.F.3). Most notably to address issues resulting from (see Joint Public Hearing Staff Report for more details):

1. Traffic volume and weight
2. Public Health and Safety
3. Code Enforcement Effectiveness and Efficiency

Staff considers the additional/revised conditions address the noted issues.

Use of gravel reinforced with a geosynthetic material (e.g., Geogrid) will resist degradation and erosion typically seen in gravel parking lots and may be a viable option for this type of land use. Staff intends to bring forward a text change to the Unified Development Ordinance later this calendar year for Board consideration.

Fiscal Analysis:
From a land use perspective, a conditional zoning change from Heavy Industrial to Heavy Industrial - Conditional does not create a fiscal change with the property. Staff does not consider the proposed vehicular surface area will create public health and safety issues pulling resources away from other code enforcement actions.

Proposed Conditions:
Town of Zebulon Staff worked with the applicant to finalize conditions that are still in the spirit and intent of the Unified Development Ordinance.

See Attachment 10 for the updated conditions.

Joint Public Hearing:
At the March 8, 2021 Joint Public Hearing, no one other than the Applicant was present to speak in favor or opposition to the proposed request.

Planning Board Recommendation:
At the March 8, 2021 Planning Board Meeting, the Planning Board voted unanimously (4-0) to recommend denial finding that the proposed request did not meet conditions 2 and 4 of Section 2.2.6.K of the Town of Zebulon Unified Development Ordinance.

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDIANCE 2021-64
CZ 2020-06 CONDITIONAL ZONING
MAP AMENDMENT REQUEST
ZEBULON OUTDOOR STORAGE - 1817 OLD US 264
APRIL 12, 2021

Staff Recommendation:
Staff recommends approval of CZ 2020-06 with the updated conditions as it is consistent with Comprehensive Plan Policies and Land Use Policies and adoption of Ordinance 2021-64. The following Motion may be used by the Board if they concur with the recommendation:

I hereby make a motion to approve Ordinance 2021-64 for conditional rezoning request CZ 2020-06 to rezone the property at 1817 Old US 264 from Heavy Industrial (HI) to Heavy Industrial Conditional Zoning District (HI-C) with the revised conditions presented by the applicant at the April 12, 2021 meeting finding the request to be consistent with Section 2.2.6.K of the Town of Zebulon UDO with the Comprehensive Plan policies and Land Use Plan policies.

Attachments:
1. Application
2. Boundary Survey/Concept Plan
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Proposed Conditions
7. Site Pictures
8. Public Hearing Notice
9. 150' Radius of Notified Mailed Property Owners Map
10. Updated Conditions
11. UDO § 5.8.5.F.3
12. Joint Public Hearing Staff Report
13. Ordinance 2021-64

ZEBULON

APPLICATION FOR CONDITIONAL REZONING MAP AMENDMENT

PART 1. DESCRIPTION OF REQUEST/PROPERTY

Street Address of the Property:		Acreage:
1817 OLD US HWY 264 ZEBULON, NC 27597		15.28
Parcel Identification Number (NC PIN):	Deed Book:	Deed Page(s):
2715830482	18096	1246
Existing Zoning of the Property:	Proposed Zoning of the Property:	
HEAVY INDUSTRIAL (HI)	HEAVY INDUSTRIAL - Conditional Zoning (HI-CZ)	
Existing Use of the Property:	Proposed Use of the Property:	
VACANT	LONG-TERM PARKING FACILITY FOR LARGE TRUCKS, BOX TRUCKS, TRAILERS, ETC	

Reason for Conditional Rezoning:

UDO Section 5.8.5.F requires the vehicle use areas including drive aisles and parking spaces have to be concrete, asphalt or similar material. The owner/developer is requesting he have the option to use gravel in vehicle use areas including drive aisles and parking spaces. Town planning staff will not administratively approve gravel or similar materials; therefore, requiring this request for conditional zoning. The request for gravel as an approved option for vehicle areas is to allow a semi-impervious to porous surface that will reduce surface runoff and allow some infiltration. Other conditions requested include increasing the maximum coverage area to 80% with a semi-impervious vehicle use area; parking setbacks along public right-of-way be set at 15' min; and, allowing metal buildings in the future.

PART 2. APPLICANT/AGENT INFORMATION

Name of Applicant/Agent:		
CSD Engineering (John F. Oglesby, PE - Sr. Project Manager)		
Street Address of Applicant/Agent:		
3 N. Main Street - Suite D (Physical) and P.O. Box 1250 (Mailing)		
City:	State:	Zip Code:
Wendell	NC	27591
Email of Applicant/Agent:	Telephone Number of Applicant/Agent:	Fax Number of Applicant/Agent:
john@csd-engineering.com	(919) 624-0997	(910) 791-1501

Are you the owner of the property? ☐ Yes ☑ No

Are you the owner's agent? ☑ Yes ☐ No

Note: If you are not the owner of the property, you must obtain the Owner's consent and signature giving you permission to submit this application.

PART 3. PROPERTY OWNER INFORMATION

Name of Property Owner:		
Zebulon Outdoor Storage, LLC (Tommy Perry - Manager)		
Street Address of Property Owner:		
20 Bunn Avenue		
City:	State:	Zip Code:
Zebulon	NC	27597
Email of Property Owner:	Telephone Number of Property Owner:	Fax Number of Property Owner:
tommy@perrycorpnc.com	(919) 422-5660	

I hereby state that the facts related in this application and any documents submitted herewith are complete, true, correct, and accurate to the best of my knowledge.

Signature of Applicant:	*Print Name:*	*Date:*
John F. Oglesby	John F. Oglesby	12/7/20
Signature of Owner:	*Print Name:*	*Date:*
Tommy Perry	Tommy Perry	12-7-20

ZEBULON

APPLICATION FOR

CONDITIONAL REZONING MAP AMENDMENT

LEGISLATIVE CONSIDERATIONS – CONDITIONAL REZONING

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning is in the public interest. Therese considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Failure to adequately address the findings below may result in denial of the application. Please attach additional pages if necessary. The petition is justified based on the facts as they relate to the Standards in Section 2.2.6.K of the UDO as follows:

1. Please explain how the proposed Conditional Rezoning advances the public health, safety, or welfare
The use of semi-impervious surface material in vehicle use areas will significantly reduce stormwater runoff; reduce the amount of energy and use of fossil fuels required to mix and install asphalt cement concrete and/or Portand cement concrete. Providing a parking facility will meet the demand for long-term parking as eastern Wake County grows. The location is ideal for this use as trucks are currently parking on side of road causing a safety concern for traveling public.
2. Please explain how the proposed conditional rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the town's adopted policy guidance:
This location is ideal and within an industrial area with no residential property nearby. Using gravel in vehicle use areas is common for long-term parking facilities, which are in high demand. The screening of the parking area will reduce the visual impact of the traveling public and help mitigate potential dust. Fencing, existing vegetation, additional landscaping will meet the intent of the town's purposes, goals, objectives and policies of maintaining consistency with growth and appearance.
3. Please explain how an approval of the conditional rezoning is reasonable and in the public interest:
Paving 65% to 80% of a land area (in this case, from 9 to 12 acres) is not practical given the concern for stormwater management. The proposed use for long-term parking does not require pavement. A gravel, soil, and/or grass surface gives the owner flexibility in parking configuration. The owner is not proposing a full-service truck stop, for which pavement would be preferred for commercial use. There are no buildings proposed and no uses that require short-term off-street parking. Screening will help reduce visual impact for traveling public. Neighbors have no objection.
4. Please explain how the concept plan associated with the conditional rezoning is consistent with this Ordinance; and
The site plan meets the Ordinance as written for min. setbacks, street yard buffers, maximum coverage (current plan shows less than 65% coverage; however, additional land could be utilized for parking). The concept plan shows min. 50' stem length at driveway entrance. The development will maintain most of the ordinance requirements as written with only minor exceptions that give flexibility to the owner to provide a use that is in high demand.
5. Please explain how the proposed conditional rezoning addresses any other factors as the Board of Commissioners may determine to be relevant. These include but are not limited to the proposed uses requested and any requested deviations and proposed alternative means of compliance.
The current zoning (HI) accommodates large-scale industrial uses including outdoor operations with extensive movement of vehicles and truck traffic. The property is surrounded by heavy industrial uses and controlled access right-of-way. Pavement will have more adverse impact on the environment and will prohibit the owner from providing flexible alternatives for providing parking for large trucks. Vegetative and fence screening will reduce the minimally adverse visual impact. Otherwise, the use will meet the current UDO requirements.

ZEBULON

APPLICATION FOR
CONDITIONAL REZONING MAP AMENDMENT

CONCEPT PLAN REQUIREMENTS

Every applicant requesting a Conditional Zoning Amendment shall submit **8 copies** and **1 pdf (e-mail or USB Drive)** of a concept plan drawing with the application for a Conditional Rezoning. The concept plan shall contain sufficient information to adequately determine the type of development being proposed. The concept plan drawing shall include, at a minimum, the following features unless otherwise specified by the Planning Department:

ITEM		CHECK IF SUBMITTED
1.	Plot plan showing all existing and planned structures, building setback lines, perimeter boundaries, and easements.	✓
2.	Elevation drawings of all buildings indicating the proposed exterior finish materials.	n/a
3.	Landscaping plan, lighting, fencing, screening, and walls, indicating all heights and locations.	✓
4.	Location of all ingress and egress.	✓
5.	Off-street parking and loading facilities, with calculations showing how the quantities were obtained.	✓
6.	All pedestrian walks and open areas for use by residents, tenants, or the public.	n/a
7.	Proposed land uses indicating areas in square feet.	✓
8.	The location and types of all signs, including lighting and heights, with elevation drawings.	✓
9.	Existing and/or proposed street names.	n/a ✓
10.	Proposed potable or reuse water, wastewater connections, and storm sewer line; proposed grading and drainage patterns; proposed water and sewer allocations.	n/a
11.	Such additional items and conditions, including design standards as the Planning Board and Board of Commissioners deems necessary.	✓
12.	Trip generation data and TIA	

Please see notes on cover/transmittal letter.

PROPOSED CONDITIONAL USES

An application has been duly filed requesting that the property described in this application be rezoned from Heavy Industrial to Heavy Industrial - Conditional Zoning. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval. Use additional pages as needed.

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the Use Table and any additional limitations or regulations stated below. For convenience, some relevant sections of the Unified Development may be referenced; such references do not imply that other sections of the Unified Development Ordinance do not apply.

1.	Uses allowed by HI Zoning	25.	
2.	plus addtional condtions	26.	
3.		27.	
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18.		42.	
19.		43.	
20.		44.	
21.		45.	
22.		46.	
23.		47.	
24.		48.	

PROPOSED DEVELOPMENT CONDITIONS

The applicant hereby requests that the Zebulon Board of Commissioners, pursuant Section 2.2.6 of the UDO approve the Conditional Zoning for the Conditional Zoning for the above listed use(s), subject to the following condition(s), requested deviations, and proposed alternative means of compliance. (Attach additional pages as needed)

1. Any use allowed as a permitted use within the Heavy Industrial district.
2. District Dimensional Standards:
   - Maximum Lot Coverage: 80% with semi-impervious (gravel, soil/grass) parking surfaces
   - Minimum setbacks for parking area: 15' along public R/W and 5' at interior lot lines
3. Type C or D perimeter buffer width and amount of required landscape material reduced by 50% where existing vegetation will not be removed, and existing vegetation that is preserved will be credited toward the remaining required planting.
4. For Type C Semi-Opaque Buffer or Type D Opaque Buffer: the provision of a fully opaque fence, wall or berm; or increasing the planting requirements by an additional 25% will allow the buffer width to be reduced to 15 feet.
5. Gravel, crushed stone, reinforced soil/grass surfacing material will be allowed in all vehicular use areas except for driveway apron from edge of existing pavement to right-of-way/property line.
6. Vehicle areas surfaced with gravel or crushed stone will be adequately screened with existing vegetation and/or evergreen vegetation with a minimum height of 4 feet at the time of planting.
7. Metal buildings will be allowed for tool storage and future office space, if needed.

OWNER'S CONSENT FORM

Name of Project: Zebulon Outdoor Storage Submittal Date: 12/7/2020

OWNER'S AUTHORIZATION

I hereby give CONSENT to CSD Engineering (c/o John F. Oglesby, PE) (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in is the subject of this application. I acknowledge and agree that, pursuant to Section 2.2.6 M. of the Town of Zebulon Unified Development Ordinance, that lands subject to a conditional rezoning shall be subject to all the standards, conditions, and plans approved as part of that application. These standards, plans, and approved conditions are perpetually binding on the land as an amendment to this Ordinance and the Official Zoning Map, and may only be changed in accordance with the procedures established in this Ordinance. Development located outside the Town of Zebulon's corporate limits shall comply with all Town policies related to annexation and the extension of utilities. I understand that all other applicable standards and regulations of the UDO will remain applicable to the subject lands unless specifically listed as conditions or deviations as part of this request. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Zebulon to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Signature of Owner	Tommy Perry *Print Name*	12.7.20 *Date*

CERTIFICATION OF PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Zebulon, North Carolina, and will not be returned.

Signature of Owner	Tommy Perry *Print Name*	12.7.20 *Date*

*Owner of record as shown by the Wake County Revenue Department (www.wakegov.com). An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this form.

ADJACENT OWNERS AND HOA CONTACTS:

Provide a certified list of property owners subject to this application and all properties owners within 150-feet feet of the subject property, and any HOA Contacts for developments which fall within 300-feet of the subject property.

Parcel Address	Parcel ID Number	Owner's Name
Old US 264 Hwy, Zebulon, NC 27597	2715737661	Stallings Brothers, Inc.
Old US 264 Hwy, Zebulon, NC 27597	2715736619	Stallings Brothers, Inc.
Old US 264 Hwy, Zebulon, NC 27597	2715731696	Stallings Brothers, Inc.
2124 Winslowe Farm Drive, Zebulon, NC 27597	2715945116	Twin Lake Farmz, LLC
1825 Old US 264 Hwy, Zebulon, NC 27597	2715836204	Duke Energy Progress, Inc.
1500 NC 39 Hwy, Zebulon, NC 27597	2715826278	US Food Service, Inc.
1500 NC 39 Hwy, Zebulon, NC 27597	2715723642	USF PropCo, LLC

HOA Contacts:

Development Name	Contact Name	Contact Address
N/A		

Zebulon Outdoor Storage – Zebulon, NC

Legal Description

A 15.28 acre tract of land located in Little River Township, Wake County, North Carolina; tract of land as described in Deed Book 18096, Page 1248, "Exhibit A" as recorded in the Wake County Registry on September 28, 2020.

EXHIBIT A

BEGINNING at a point in the centerline of SR 2404 (Old Hwy 264) said beginning point being located in the southwestern most corner of that certain tract of land conveyed to Carolina Power and Light Company in Deed recorded in Book 8764, Page 342, Wake County Registry; runs thence with the centerline of SR 2404 North 58 degrees 23 mins. 38 seconds West 776.17 feet to a point; thence leaving said centerline north 24 degrees 21 minutes 37 seconds east 383.53 feet and north 18 degrees 14 minutes 22 seconds east 354.18 feet to a point in the southern right of way line of US Hwy 264; runs thence with said right of way line in a curve having an arc of 36.38 feet, a radius of 1,307.39 feet, and a curve length of 36.38 feet with an arc direction of South 77 degrees 14 mins. 24 seconds east; runs thence continuing with said right of way line South 73 degrees 11 mins. 15 seconds East 188.69 feet and south 71 degrees 18 minutes 04 seconds East 704.35 feet; runs thence leaving said right of way line South 31 degrees 35 minutes 17 seconds West 942.95 feet to a point in the centerline of SR 2404, the point and place of beginning and being designated as Tract 1 containing 16.176 gross acres as is shown on a survey entitled "Property map for William Avon Privette, Jr." prepared by Williams-Pearce & Assoc., Professional Land Surveyors dated April 7, 2003.
Property address: 1817 Old US 264 Hwy, Zebulon, NC 27597 (Wake County)

John Oglesby

Subject:	Copy: Zebulon Outdoor Storage - Neighborhood Meeting
Location:	join.me/513-570-701, see conference numbers in the invitation
Start:	Thu 12/3/2020 6:30 PM
End:	Thu 12/3/2020 8:30 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	John Oglesby
Required Attendees:	Jeff Stallings; David Hicks; Shane McKinney; Joe Haywood ; Ginger Oglesby - CSD; Tommy Perry
Categories:	Project

Good afternoon,

You are invited to a neighborhood meeting to review and discuss a development proposal in your vicinity. The official notification letter is attached to this email and was mailed to the address we have on file for you. Thank you very much for providing your email address. Due to COVID, we are offering a virtual meeting option through Join Me (see below). However, you are welcome to attend in person at my office. We will follow CDC guidelines for social distancing and wearing of masks. We do not expect more that 10 people if everyone shows up at my office.

We look forward to meeting all of you. If you have any questions, please contact me at (919) 624-0997. Please confirm receipt of this invitation and the mailed letter.

Thank you,
John F. Oglesby, PE
CSD Engineering

You have been invited to a join.me meeting

Join the meeting: join.me/513-570-701

To dial in by phone:

United States - Boston, MA
+1.857.444.6500

United States - Camden, DE
+1.302.202.5900

United States - Denver, CO
+1.720.650.5050

United States - Los Angeles, CA
+1.213.226.1066

United States - New York, NY
+1.646.307.1990

United States - Salt Lake City, UT
+1.801.448.0006

United States - San Francisco, CA
+1.415.594.5500

United States - Seattle, WA
+1.206.636.0011

United States - Tampa, FL
+1.813.769.0500

United States - Washington, DC
+1.202.602.1295

More phone numbers

Conference ID:
513-570-701 #

Need to share screen? Download the app

PROJECT CONTACT INFORMATION

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Development Contacts:		
Project Name: Zebulon Outdoor Storage		Zoning: Heavy Industrial
Location: 1817 Old Hwy 264 Zebulon, NC 27597		
Property PIN(s): 2715830482		Acreage/Square Feet: 15.28 ac / 665,684 sf
Property Owner: Zebulon Outdoor Storage, LLC (Tommy Perry)		
Address: 20 Bunn Avenue		
City: Zebulon	State: NC	Zip: 27597
Phone: (919) 422-5660		Email: tommy@perrycorpnc.com
Developer: Same as Property Owner		
Address:		
City:	State:	Zip:
Phone:	Fax:	Email:
Engineer: CSD Engineering (John F. Oglesby, PE)		
Address: 3 N. Main Street, Suite D (physical) and P.O. Box 1250		
City: Wendell	State: NC	Zip: 27591
Phone: (919) 624-0997	Fax: (910) 791-1501	Email: john@csd-engineering.com
Builder (if known):		
Address:		
City:	State:	Zip:
Phone:	Fax:	Email:

NEIGHBORHOOD MEETING SIGN-IN SHEET:

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Project Name: Zebulon Outdoor Storage

Meeting Address: 3 N. Main Street, Suite D - Wendell, NC 27591

Date of Meeting: 12/3/2020 **Time of Meeting:** 6:30-8:30

Property Owner(s) Names: Zebulon Outdoor Storage, LLC

Applicants: CSD Engineering on behalf of Tommy Perry, Manager of Zebulon Outdoor Storage, LLC

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

	Name/ Organization	Address	Phone#	E-mail
1	Joe Haywood / US Food	1500 NC Hwy 39	919 404 4165	joe.haywood@usfoods.com
2	David Hicks / Twin Lake Farms	2124 Winslove Farm Rd	252 813 5828	
3			919 427 3545	dspencerh 0214
4	Jeff Stallings	Po Box 40	252 230 0860	@ gmail.com
5	Stallings Bros.	Middlesex		jeffstallings@
6				ymail.com
7	Shane McKinney	1825 Old US Hwy	919 906	shane.mckinney
8	Progress Duke	264	5480	@duke-energy.com
9				
10				
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25				

Attach Additional Sheets If Necessary.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Project Name: Zebulon Outdoor Storage

Meeting Address: 3 N. Main Street, Suite D Wendell, NC 27591 (everyone called in; not in-person)

Date of Meeting: 12/3/2020 **Time of Meeting:** 6:30 - 8:30

Property Owner(s) Names: Zebulon Outdoor Storage, LLC

Applicants: CSD Engineering

Please summarize the questions/comments and your response from the Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/ Concern #1 Joe Haywood (US Foods): "Is this a parking area? Looks like very large spaces. Is it for large trucks? If so, we have no concerns. Will lot be fenced in?"

Applicant Response: Yes, this will be a parking area for tractor-trailers, box truck, dump trucks, large pickup trucks with utility trailers, etc. We are requesting the parking surface to be gravel. Yes, the lot will be fenced with locked gate that can be accessed by unique code.

Question/ Concern #2 Shane McKinney (Duke Energy): "Will the lot be fenced and locked?"

Applicant Response: Yes. The lot will be enclosed by fencing with locked gate that can be entered by a unique code that is given to every customer.

Question/ Concern #3 Jeff Stallings (Stallings Brothers, Inc.): "I know what Tommy is doing and have no concerns. I support Tommy 100%."

Applicant Response: Thank you.

Question/ Concern #4 David Hicks (Twin Lake Farmz, LLC): "Will the site be secure and not attract crime and rift-raft? Otherwise, I have no concern; I can't see it from my house."

Applicant Response: Yes sir, the site will be secure with fence and locked gate. The owner only rents to owner/operators of tractor trailers and well-known trucking companies. The site will also have security cameras and lighting.

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

I. John F. Oglesby, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit.

2. The meeting invitations were mailed to the Zebulon Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.

3. The meeting was conducted at 3. N Main Street Wendell (and online) (location/address) on 12/3/20 (date) from 6:30 (start time) to 8:30 (end time).

4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.

5. I have prepared these materials in good faith and to the best of my ability.

12/7/2020 By: John F. Oglesby
Date

STATE OF NC
COUNTY OF Johnston

Sworn and subscribed before me, E. Ann Horton, a Notary Public for the above State and County, on this the 7 day of December, 2020.

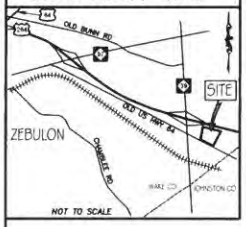
E ANN HORTON NOTARY PUBLIC JOHNSTON COUNTY NC SEAL

E. Ann Horton
Notary Public

E. Ann Horton
Print Name

My Commission Expires:
May 4, 2024

LOCATION MAP



LANDSCAPING NOTES:

1. A TREE SURVEY WILL BE PERFORMED WITHIN PROPOSED TREE PRESERVATION AREAS.
2. THE SITE CURRENTLY CONSISTS OF PINE WITH SCATTERED HARDWOODS.
3. CARE SHALL BE TAKEN TO ENSURE THE PRESERVATION OF EXISTING TREES WITHIN BUFFER YARDS ADJACENT TO PUBLIC RIGHT-OF-WAY.
4. THE TREE PRESERVATION AREAS WILL BE ENHANCED BY ADDITIONAL LANDSCAPING TO MEET BUFFER YARD REQUIREMENTS, IF NECESSARY.



CSD ENGINEERING
LICENSE # C-2710
ENGINEERING
LAND PLANNING
COMMERCIAL / RESIDENTIAL
P.O. BOX 1250
WENDELL, NC 27591
(919) 791-4441

CONCEPTUAL LANDSCAPE PLAN
PARKING FOR COMMERCIAL TRUCK

SITE PLAN DRAWING FOR
ZEBULON OUTDOOR STORAGE
LOCATED IN TOWN OF ZEBULON
WAKE COUNTY, NORTH CAROLINA

OWNER: ZEBULON OUTDOOR STORAGE, LLC
CONTACT: JOSHUA JEFFREYS @ 252-243-4160
ADDRESS: 20 BUNN AVENUE ZEBULON, NC

PRELIMINARY

REV. NO.	REMARKS	BY	DATE

DATE: 12/7/2020
HORZ. SCALE: 1" = 30'
VERT. SCALE: N/A
DRAWN BY: JFD
CHECKED BY: HSR
PROJECT NO: 20-0520

Sheet L1
Sheet No. 1 of 1



Attachment 3 - Aerial Map CZ 2020-06

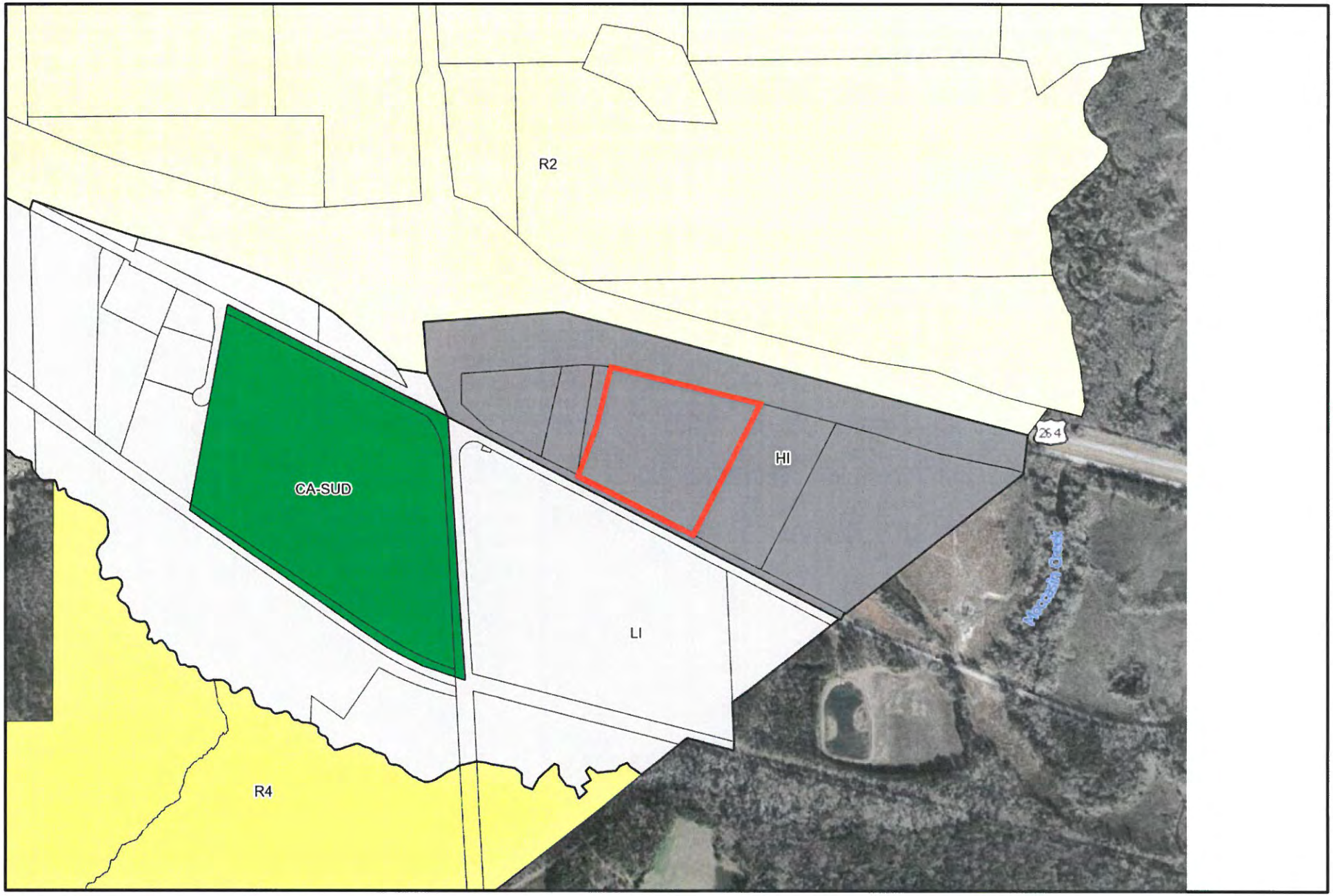
N

0 425 850 1,700 ft

1 inch = 800 feet

Disclaimer

iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are ***NOT*** *surveys. No warranties, expressed or implied ,are provided for the data therein, its use,or its interpretation.*



Attachment 4 - Zoning Map CZ 2020-06

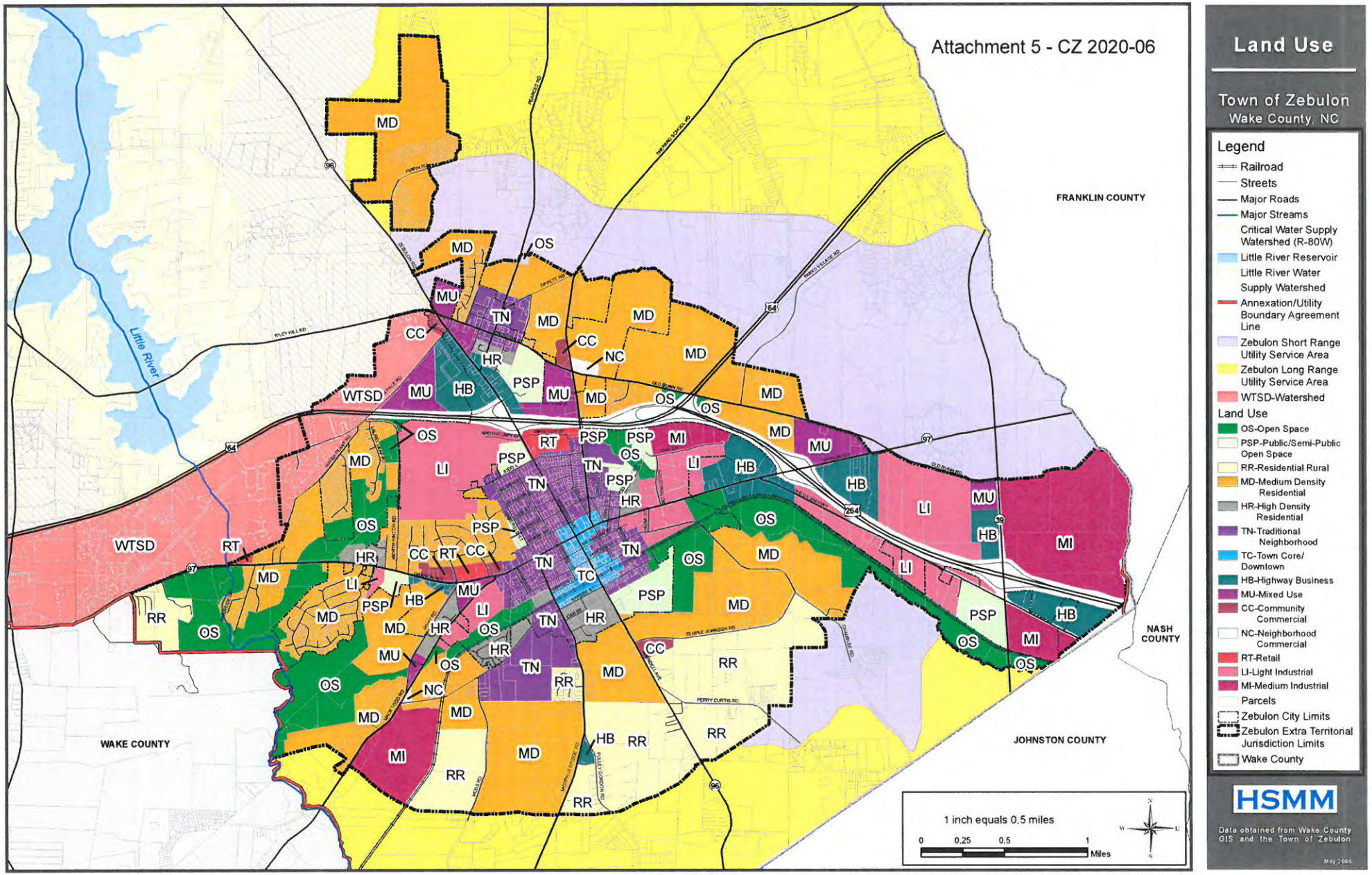
N

0 425 850 1,700 ft

1 inch = 800 feet

Disclaimer

*iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied ,are provided for the data therein, its use,or its interpretation.*


Attachment 5 - CZ 2020-06
Land Use
Town of Zebulon
Wake County, NC
Legend
Railroad
Streets
Major Roads
Major Streams
Critical Water Supply Watershed (R-80W)
Little River Reservoir
Little River Water Supply Watershed
Annexation/Utility Boundary Agreement Line
Zebulon Short Range Utility Service Area
Zebulon Long Range Utility Service Area
WTSD-Watershed
Land Use
OS-Open Space
PSP-Public/Semi-Public Open Space
RR-Residential Rural
MD-Medium Density Residential
HR-High Density Residential
TN-Traditional Neighborhood
TC-Town Core/ Downtown
HB-Highway Business
MU-Mixed Use
CC-Community Commercial
NC-Neighborhood Commercial
RT-Retail
LI-Light Industrial
MI-Medium Industrial
Parcels
Zebulon City Limits
Zebulon Extra Territorial Jurisdiction Limits
Wake County
FRANKLIN COUNTY
NASH COUNTY
WAKE COUNTY
JOHNSTON COUNTY
Little River
1 inch equals 0.5 miles
0 0.25 0.5 1 Miles
HSMM
Data obtained from Wake County GIS and the Town of Zebulon
May 2020

Conditional Rezoning Conditions

In accordance with Section 2.2.6 of the Town of Zebulon Unified Development Ordinance and NCGS 160D-703, the following conditions are agreed upon for request CZ 2020-06.

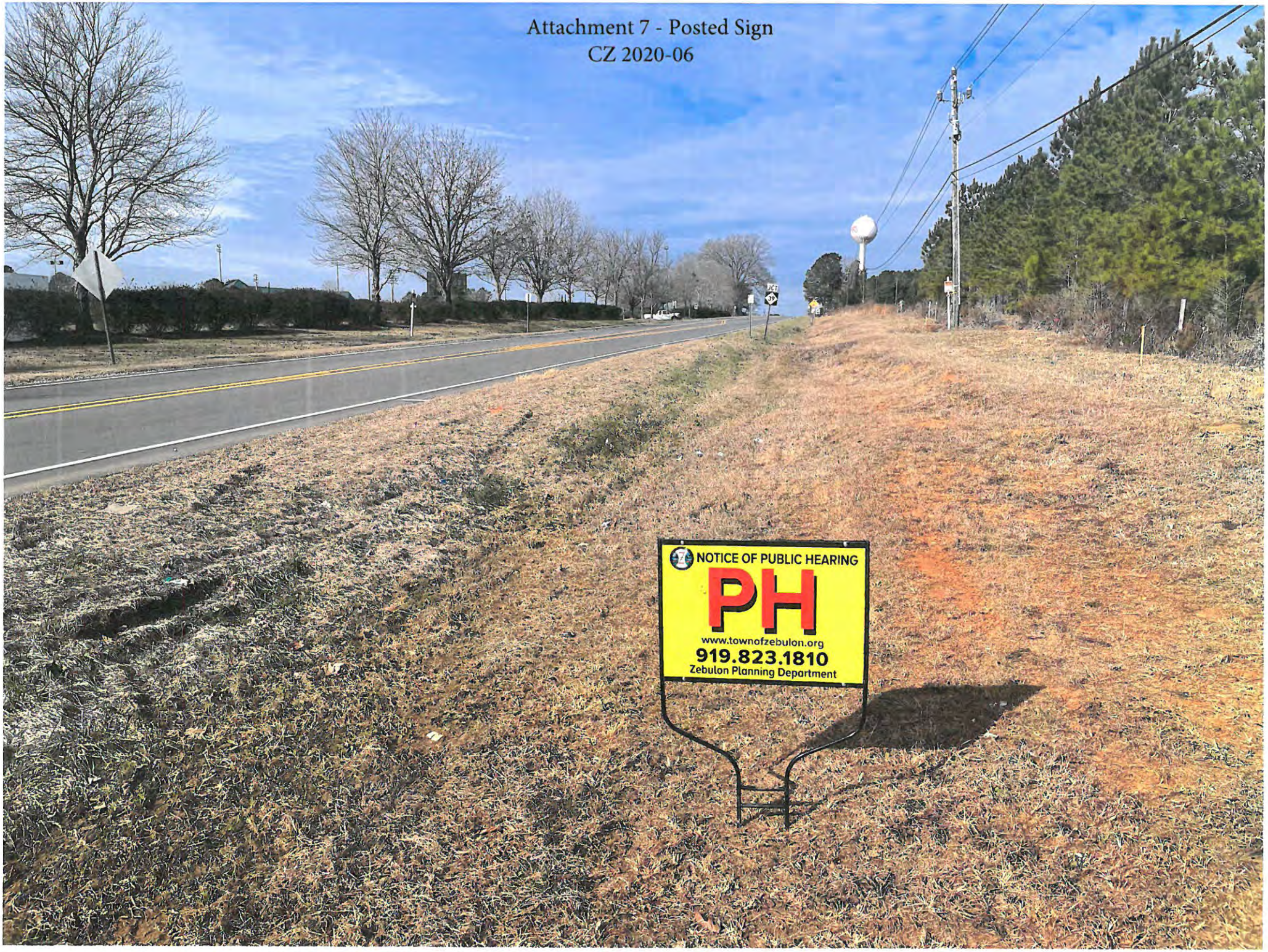
1. There shall be a maximum of 80% site coverage with washed stone surfacing and grass parking areas.
    a. Top layer of crushed stone surfacing will be No. 5 washed stone to prevent dust.
    b. Stone will provide semi-pervious surface to reduce total runoff by allowing infiltration.
    c. All stone vehicular areas shall be within a security fence and screened by an opaque evergreen hedge row with a minimum height of 6 feet at the time of planting. **(I got this from that other case)**
    d. All stone vehicular areas shall be properly maintained, including vegetation control, smoothing, scraping, top dressing at regular intervals. **(to address your concern about maintenance)**
2. The entrance apron and approximately 250 feet of access road shall be paved by one of the surface materials listed in § 5.8.5.F.1 until the main entrance gate.
3. Additional landscaping shall be provided along paved access road, between pavement and security fence for additional screening of parking areas within fence.
4. There shall be a total of 40' of Type D Opaque buffer between the security fence and Old US 264 Highway.
5. There shall be a total of 30' of Type C Semi-Opaque buffer between the US 264 Highway controlled access right-of-way and the security fence. The 20' width of existing vegetation/trees within the property boundary will not be disturbed.
6. There shall be a total of 20' of Type C Semi-Opaque buffer between the adjoining property identified as Wake County PIN 2715737661 and the security fence. **(Also got this from the other case—we thought that this buffer would be especially important on the side of the property adjacent to the undeveloped parcels because, as you mentioned during our last conversation, they may someday be developed as a hotel or some other kind of mixed, non-industrial, use. The Duke site already has a very thick layer of plantings on the property line.)**
7. There shall be approximately 400 feet of 6' wide concrete sidewalk adjacent to Old US 264 Highway approximately 1' inside the existing right-of-way. **(To proactively make our project comply with the forthcoming Transportation Plan)**
8. The applicant shall apply to annex the subject property into the Town of Zebulon within 30 days of final approval of this conditional rezoning.

Conditional Rezoning Conditions

*All other applicable Unified Development Ordinance requirements shall remain as written and the requirements by other agencies will be reviewed and regulated at the time of Technical Review Committee review process.

_____	_____	_____
Applicant Signature	Print Name	Date
_____	_____	_____
Owner Signature	Print Name	Date
_____	_____	_____
Town of Zebulon Signature	Print Name	Date

Attachment 7 - Posted Sign
CZ 2020-06




Attachment 7 - Subject Site
CZ 2020-06

Attachment 7 - Looking East on Old US 264 Highway
CZ 2020-06




Attachment 7 -Subject Site
CZ 2020-06

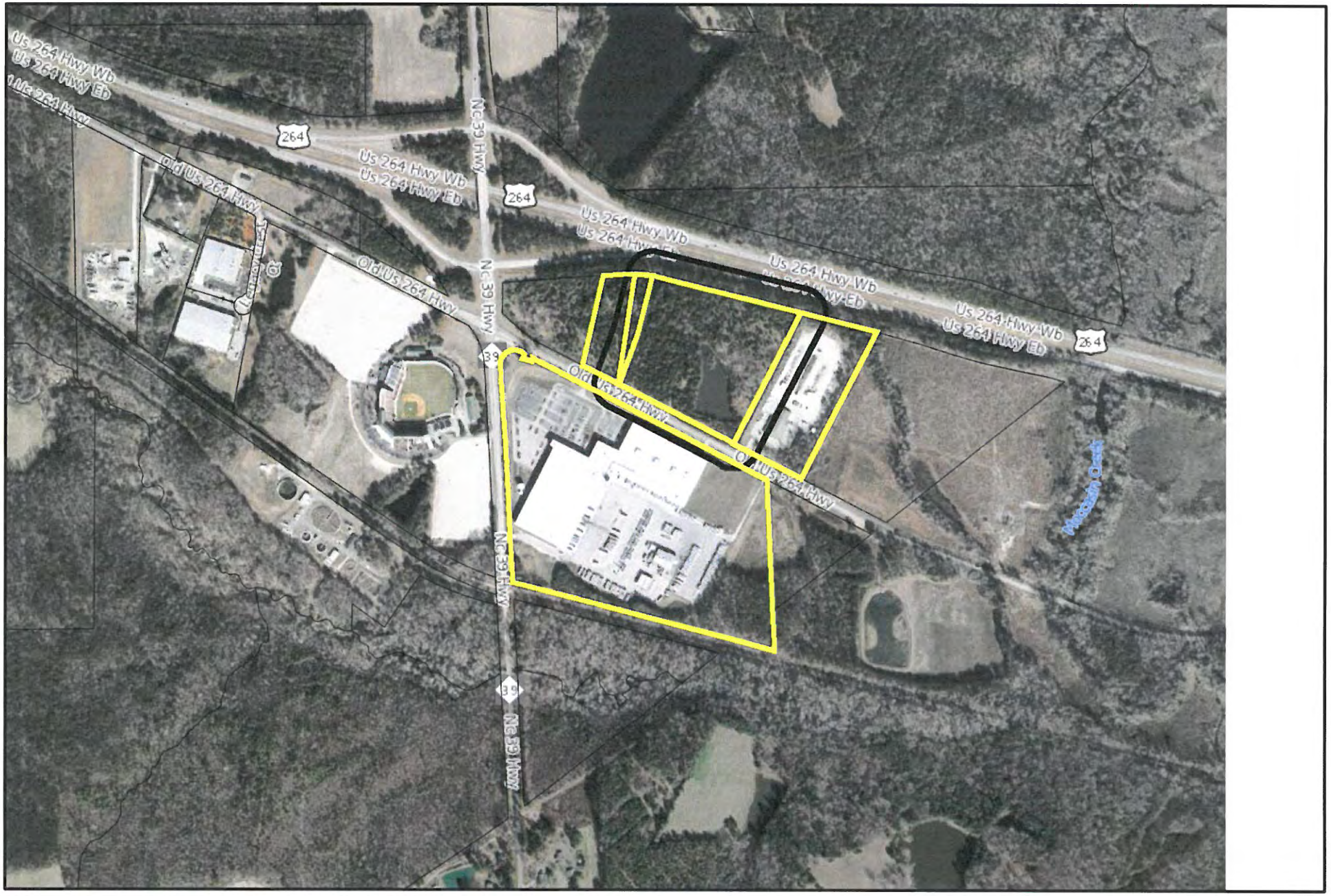

Attachment 7 - Property's Frontage
CZ 2020-06

Notice of Public Hearing

Notice is hereby given pursuant to the provisions of Article 2.2.2 of the Town of Zebulon Unified Development Ordinance that a public hearing will be held on **March 8, 2021 at 7:00 PM** at the **Zebulon Municipal Complex, 1003 N. Arendell Avenue**, and will be conducted by the Board of Commissioners of the Town of Zebulon for the purpose of considering the following items:

> ***CZ 2020-06 Zebulon Outdoor Storage.*** *1817 Old US 264 Hwy.* A request by John Oglesby representing the property owner, Tommy Perry, requesting a Conditional Zoning from Heavy Industrial District (HI) to Heavy Industrial-Conditional District (HI-C).

Due to potential social distancing and occupancy limits related to the State's COVID-19 Order, in-person public comments will be accepted; however, the Town of Zebulon encourages that all public comments be submitted to Deputy Town Clerk Stacie Paratore at SParatore@TownofZebulon.org no later than 12:00 Noon on the day of the hearing to be read into the record. The meeting will be streamed live and links will be provided along with the full application packet and documentation on the Planning Department web page at www.TownofZebulon.org/services/planning. For questions or additional information, please contact us at (919) 823-1809.



Attachment 9 - 150' Mailed Notice Buffer CZ 2020-06

0 425 850 1,700 ft

1 inch = 800 feet

Disclaimer

*iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied ,are provided for the data therein, its use,or its interpretation.*

Conditional Rezoning Conditions

In accordance with Section 2.2.6 of the Town of Zebulon Unified Development Ordinance and NCGS 160D-703, the following conditions are agreed upon for request CZ 2020-06.

1. There shall be a maximum of 80 % site coverage with washed stone surfacing.

   a. Top layer of crushed stone surfacing will be No. 5 washed stone to prevent dust.
   b. All stone vehicular areas shall be properly maintained, including vegetation control, smoothing, scraping, top dressing at regular intervals.
   c. See the attached Exhibit, prepared by CSD Engineering, for typical cross sections governing the proposed paved area and crushed stone. Deviations from this cross section may be approved by Town Staff if recommended by a Geotechnical Engineering Firm engaged by the property owner following evaluation of the soils on the site, determination of compaction requirements and recommendations of the appropriate thickness of ABC Stone. In either event, the final site work design and calculations for gravel and pavement shall be submitted for review and approval by Town Staff prior to installation.

2. The site shall be designed to a storm water management standard that would recognize crushed stone surface areas as being fully impermeable. No parking and/or vehicle storage shall occur on grass areas.

3. The entrance apron and approximately 300 feet of access road shall consist of concrete or asphalt following analysis of the soils on site and recommendation of a Geotechnical Engineering Firm engaged by the property owner, reviewed and approved by Town Staff prior to installation.

4. There shall be an evergreen hedge 6 feet in height with plants spaced 8 feet on center between the access roadway and security fence for additional screening of parking/storage areas.

5. There shall be a 40 foot wide Type D opaque buffer between the security fence and the Old US 264 Highway right of way. The buffer shall consist of an undisturbed 20 foot area and a 20 foot area planted with new vegetation including a 6 foot high evergreen hedge with plants spaced 8 feet on center. (Note: the 20 ft. undisturbed area along the Old 264 right of way lies slightly behind power lines running across the front of property, thus new plantings, if any, will be limited.)

6. A 30 ft. vegetative buffer shall be installed and maintained between the US 264 Highway controlled access right of way and the subject property's security fence. This buffer will consist of 20 feet in width of existing vegetation/ trees which will be left undisturbed and an additional 10 foot contiguous area to be planted with 2-3 foot tall Type D plantings (8 feet on center forming an evergreen hedge). Note: To clarify, the buffer referenced in this Condition #6 will be 80 feet, consisting of the 50 feet of existing trees/vegetation within the Highway 264 right-of-way, 20 feet of existing trees/vegetation within the subject property (which shall remain

undisturbed) and ten feet within the subject property to be enhanced by the planting of 2-3 foot tall shrubs on eight foot centers.

7. There shall be a total of 20 ft. Type C Semi opaque buffer, as illustrated on the site plan submitted as part of the Conditional Zoning application, between the adjoining property identified as Wake County PIN 2715737661 and the security fence starting at the gate.

8. Approximately 400 feet of 6 ft. wide concrete sidewalk shall be provided adjacent to Old US 264 Highway approximately 1 ft. inside the existing right of way either through construction by the property owner concurrent with development, or via payment of a fee in lieu in an amount agreed upon by the property owner's engineer and Town Staff.

9. The applicant shall apply to annex the subject property into the Town of Zebulon within 30 days of final approval of this conditional rezoning.

10. Signs shall not exceed five feet in height until or unless approved as part of a site plan for an alternate use meeting Zebulon specifications in the HI zoning district.

11. Lighting shall be designed by Duke/Progress Energy engineers to meet Zebulon's lighting requirements in the HI zoning district.

12. The use shall be limited to outdoor parking/storage as illustrated on the site plan submitted as part of the Conditional Zoning application until and unless a revised site plan for outdoor storage is reviewed and approved, or until a new site plan for an alternative use permitted in the Zebulon HI zoning district is reviewed and approved by Town staff.

13. The design weights for both parking/storage areas and the access drive shall be the maximum highway loads allowed by NCDOT on area highways. Use of the site for vehicle parking/storage will be by contract only the terms of which will specify that weights exceeding NCDOT allowances are prohibited.

Conditional Rezoning Conditions

*All other applicable Unified Development Ordinance requirements shall remain as written and the requirements by other agencies will be reviewed and regulated at the time of Technical Review Committee review process.

Applicant Signature	Print Name	Date
Owner Signature	Print Name	Date
Town of Zebulon Signature	Print Name	Date

Attachment 10

F. SURFACE MATERIALS

1. Except for use types identified in subsection (3) below, all off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights (see Figure 5.8.5.F: Parking Lot Surface Materials).
2. The use of pervious or semi-pervious materials may be approved as part of an alternative parking plan (see Section 5.8.11, Parking Alternatives), provided it is demonstrated that the materials will function in a similar fashion as required materials.
3. Required off-street parking spaces (excluding accessible parking spaces), drive aisles, and vehicular use areas may be constructed with gravel or other approved comparable all-weather surface for the following:
   a. Parking used on an irregular basis for religious institutions, private clubs or lodges, and other similar nonprofit organizations;
   b. Parking for a bed and breakfast establishment where six or fewer spaces are required; and
   c. Parking for an office use converted from a single-family detached dwelling where four or fewer spaces are required.
4. Configuration of parking lots in accordance with low impact development practices (see Table 5.12.6: Menu of Sustainable Development Practices) is encouraged.

ZEBULON
NORTH CAROLINA

STAFF REPORT
JOINT PUBLIC HEARING
CZ 2020-06 ZEBULON OUTDOOR STORAGE
MARCH 8, 2021

Topic:	**CZ 2020-06 Zebulon Outdoor Storage**
Speaker:	Meade O. Bradshaw, III, CZO, Assistant Planning Director
From:	Michael J. Clark, AICP, CZO, Planning Director
Prepared by:	Meade O. Bradshaw, III, CZO, Assistant Planning Director
Approved by:	Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider a Conditional Zoning Map Amendment for 1817 Old US Highway 264.

Background:
The applicant, Engineer John F. Oglesby of CSD Engineering, on behalf of the property owner, Zebulon Outdoor Storage, requests rezoning a 15.28-acre parcel from Heavy Industrial (HI) to Heavy Industrial Conditional Zoning (HI-C). The subject property is located on Old US Highway 264, east of its intersection with NC Highway 39, across from US Foods. The parcel has been recently cleared without authorization but is currently vacant.

A notice of public hearing was mailed to all property owners within 150 feet of the subject property on February 24, 2021. The site was posted with public hearing signs on January 21, 2021. A notice was published in the Wake Weekly on February 24, 2021 and March 4, 2021.

Discussion:
The discussion before the Board is consideration of the request for a Conditional Zoning Map Amendment to Heavy Industrial Conditional Zoning District (HI-C).

Unified Development Ordinance Section 2.2.6.K provides the following standards in which the Board is to base a decision:

1. Whether the proposed conditional rezoning advances the public health, safety, or welfare;
2. Whether the extent to which the proposed conditional rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
3. Whether an approval of the conditional rezoning is reasonable and in the public interest;
4. Whether the extent to which the concept plan associated with the conditional rezoning is consistent with this Ordinance; and
5. Any other factors as the Board of Commissioners may determine to be relevant.

ZEBULON
NORTH CAROLINA

STAFF REPORT
JOINT PUBLIC HEARING
CZ 2020-06 ZEBULON OUTDOOR STORAGE
MARCH 8, 2021

Policy Analysis:
A conditional rezoning grants an applicant the opportunity to propose conditions in exchange for assurances of a particular result or objective. Typically, the applicant requests a reduction in uses and deviations from development standards by offering alternate means of complying with the intent and purpose of the development standards.

This Conditional Rezoning request would not alter any uses, but the applicant is requesting the use of gravel for drive aisles, vehicular storage, and parking. The use of gravel for *"off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use"* are limited to a few exceptional uses (e.g. religious institutions, private clubs, bed and breakfast establishments (see UDO § 5.8.5.F.3 for the full list)). Outside of the noted exceptions, *"concrete, asphalt or similar material of sufficient thickness and consistency is required to support anticipated traffic volumes and weights."* This requirement is a continuation of a long-standing expectation that *"vehicular areas be graded and surfaced with asphalt or concrete to prove protection against potholes, erosion, and dust."* While the applicant is proposing additional landscape buffers to minimize the visibility, the purpose and intent of the development standards remains unmet.

The Purpose and Intent of this ordinance is meant to address the following issues:

1. Traffic volume and weight:
   With the exception of the uses noted in the development ordinance, many uses within the Heavy Industrial District attract and generate high traffic volumes with heavier weights. Gravel requires more frequent maintenance and degrades quicker when exposed to all-weather events than other surface treatments such as asphalt, concrete, or pervious surfaces (e.g. pervious concrete, permeable paving systems).

2. Public Health and Safety:
   The quicker degradation of gravel exposed to higher traffic volumes, heavier traffic loads, and all-weather events produces unsound surfaces for parking, storing, walking, or ADA accessibility.

3. Code Enforcement Effectiveness and Efficiency:
   Improperly maintained private lots are largely out of Town control and the resolution of these issues requires an inordinate amount of Staff time to resolve (e.g. potholes in private parking lots). Allowance of gravel in a Heavy Industrial District would magnify the number and frequency of these issues and pull resources away from addressing other code enforcement needs throughout Town.

If the conditional zoning case is approved, two precedents will be established for subsequent conditional zoning cases. First, the use of gravel on this site will run with the land regardless of future ownership, and grant consideration for use on other sites seeking Heavy Industrial District Conditional Zonings in the future. Second, legislative

allowance would undercut an opportunity for the compromise/collaboration nature of the conditional zoning process to produce an ingenious solution (e.g. a recent conditional rezoning along Green Pace Road resulted in a successful compromise/collaboration on the use of gravel).

The Unified Development Ordinance, both through the compromise/collaborative nature of the process, and the allowable use of alternate materials (see attached Figure 5.8.5.F), offers the chance at a better solution than simply allowing gravel on this and future sites within a Heavy Industrial District. Staff does not support the use of gravel for an outdoor/vehicle storage facility on this parcel.

If the proposed conditional zoning case is denied, the applicant may still operate the intended *Outdoor Storage* use subject to meeting the requirements of the UDO as written, including the surfacing requirements.

Fiscal Analysis:
From a land use perspective, a conditional zoning change from Heavy Industrial to Heavy Industrial - Conditional does not create a fiscal change with the property. The allowance of gravel will create public health and safety issues pulling resources away from other code enforcement actions, and develop a product with less taxable value and producing less revenue.

Proposed Conditions:
Town of Zebulon Staff worked with the applicant to finalize conditions that are still in the spirit and intent of the Unified Development Ordinance, however an agreed upon alternative means of compliance to the proposed deviations from the UDO were not achieved.

See Attachment 6

Staff Recommendation:
Following the Joint Public Hearing and a recommendation from the Planning Board, staff recommends denial of CZ 2020-06.

Attachments:
1. Application
2. Boundary Survey/Concept Plan
3. Zoning Map
4. Aerial Map
5. Land Use Map
6. Proposed Conditions
7. Site Pictures
8. Public Hearing Notice
9. 150' Radius of Notified Mailed Property Owners Map

ORDINANCE 2021-64
AMENDMENT TO CONDITIONAL ZONING MAP FOR 1817 OLD US 264 HIGHWAY TO HI-C

The proposed Conditional Zoning Map Amendment for approximately 15.28 acres located at 1817 Old US 264 Highway would be rezoned from Heavy Industrial District (HI) to Heavy Industrial Conditional Zoning District (HI-C) in accordance with Section 2.2.6 of the Town of Zebulon Unified Development and NCGS 160D-703, with the following proposed conditions:

1. There shall be a maximum of 80 % site coverage with washed stone surfacing.

   a. Top layer of crushed stone surfacing will be No. 5 washed stone to prevent dust.
   b. All stone vehicular areas shall be properly maintained, including vegetation control, smoothing, scraping, top dressing at regular intervals.
   c. See the attached Exhibit, prepared by CSD Engineering, for typical cross sections governing the proposed paved area and crushed stone. Deviations from this cross section may be approved by Town Staff if recommended by a Geotechnical Engineering Firm engaged by the property owner following evaluation of the soils on the site, determination of compaction requirements and recommendations of the appropriate thickness of ABC Stone. In either event, the final site work design and calculations for gravel and pavement shall be submitted for review and approval by Town Staff prior to installation.

2. The site shall be designed to a storm water management standard that would recognize crushed stone surface areas as being fully impermeable. No parking and/or vehicle storage shall occur on grass areas.

3. The entrance apron and approximately 300 feet of access road shall consist of concrete or asphalt following analysis of the soils on site and recommendation of a Geotechnical Engineering Firm engaged by the property owner, reviewed and approved by Town Staff prior to installation.

4. There shall be an evergreen hedge 6 feet in height with plants spaced 8 feet on center between the access roadway and security fence for additional screening of parking/storage areas.

5. There shall be a 40 foot wide Type D opaque buffer between the security fence and the Old US 264 Highway right of way. The buffer shall consist of an undisturbed 20 foot area and a 20 foot area planted with new vegetation including a 6 foot high evergreen hedge with plants spaced 8 feet on center. (Note: the 20 ft. undisturbed area along the Old 264 right of way lies slightly behind power lines running across the front of property, thus new plantings, if any, will be limited.)

6. A 30 ft. vegetative buffer shall be installed and maintained between the US 264 Highway controlled access right of way and the subject property's security fence. This buffer will consist of 20 feet in width of existing vegetation/ trees which will be left undisturbed and an additional 10 foot contiguous area to be planted with 2-3 foot tall Type D plantings (8 feet on center forming an evergreen hedge). **Note:** To clarify, the buffer referenced in this Condition #6 will be 80 feet, consisting of the 50 feet of existing trees/vegetation within the Highway 264 right-of-way, 20 feet of existing trees/vegetation within the subject property (which shall remain undisturbed) and ten feet within the subject property to be enhanced by the planting of 2-3 foot tall shrubs on eight foot centers.

7. There shall be a total of 20 ft. Type C Semi opaque buffer, as illustrated on the site plan submitted as part of the Conditional Zoning application, between the adjoining property identified as Wake County PIN 2715737661 and the security fence starting at the gate.

8. Approximately 400 feet of 6 ft. wide concrete sidewalk shall be provided adjacent to Old US 264 Highway approximately 1 ft. inside the existing right of way either through construction by the property owner concurrent with development, or via payment of a fee in lieu in an amount agreed upon by the property owner's engineer and Town Staff.

9. The applicant shall apply to annex the subject property into the Town of Zebulon within 30 days of final approval of this conditional rezoning.

10. Signs shall not exceed five feet in height until or unless approved as part of a site plan for an alternate use meeting Zebulon specifications in the HI zoning district.

11. Lighting shall be designed by Duke/Progress Energy engineers to meet Zebulon's lighting requirements in the HI zoning district.

12. The use shall be limited to outdoor parking/storage as illustrated on the site plan submitted as part of the Conditional Zoning application until and unless a revised site plan for outdoor storage is reviewed and approved, or until a new site plan for an alternative use permitted in the Zebulon HI zoning district is reviewed and approved by Town staff.

13. The design weights for both parking/storage areas and the access drive shall be the maximum highway loads allowed by NCDOT on area highways. Use of the site for vehicle parking/storage will be by contract only the terms of which will specify that weights exceeding NCDOT allowances are prohibited.

*All other applicable Unified Development Ordinance requirements shall remain as written and the requirements by other agencies will be reviewed and regulated at the time of Technical Review Committee review process.

Adopted this the 12th day of April 2021.

_____

Robert S. Matheny – Mayor

SEAL

_____

Lisa M. Markland, CMC – Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
UTILITY MERGER AGREEMENT –
SECOND AMENDMENT
APRIL 12, 2021

Topic: Utility Merger Agreement – Second Amendment
Speaker: Joseph M. Moore II, PE, Town Manager
Prepared by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider the Second Amendment to the Zebulon/Raleigh Utility Merger Agreement.

Background:
The Town of Zebulon's Water and Sewer Utility System was transferred to the City of Raleigh in 2006. The costs associated with this transfer represented the requirement to both operate and maintain the existing system, and to expand that system to meet future needs. The Town of Zebulon purchased a base capacity of water and sewer. The base capacity increased by 4% annual compounding (for years 2011 to 2021), 3% (for years 2021 to 2031), and then annual growth rates the same as the City of Raleigh thereafter.

The schedule and method for the City of Raleigh to recover costs associated with this transfer would come through annual rates, fees, and charges set forth in the Merger Agreement over a 15-year recovery period. Specifically, the rates for Zebulon customers would increase annually by no less than 3%.

The stagnant housing market of 2009's Great Recession hampered the ability of some "merged" communities to meet the terms set out in the Merger Agreement (Garner, Knightdale, Rolesville, Wake Forest, Wendell, and Zebulon "merged" their utility systems with Raleigh). Those communities "amended" the terms of their respective agreements. As part of their First Amendment to the Merger Agreement, Zebulon agreed to return 0.3 MGD of water capacity, extend the pay-out window to 18-years, and accelerate the annual rate increases to no less than 5.5% until July 1, 2021. Included is the potential to add a surcharge between July 1, 2021 through July 1, 2024 to close-out the transfer (July 1, 2024 is the contractual end date of the Merger Agreement)

At their August 19, 2020 Work Session, the Zebulon Board of Commissioners received information from Staff indicating economic distress resulting from utility bills paid by Zebulon customers. Staff also presented information on the capacity for future growth, and how the sell back of this capacity could provide a means to close out the Merger Agreement earlier.

At their September 23, 2020 Work Session, the Zebulon Board of Commissioners received follow-up information to address questions raised at the earlier Work Session. The Board then granted Staff the authority to begin formal negotiations with the City of Raleigh to prepare a draft Second Amendment to the Merger Agreement for their consideration.

ZEBULON
NORTH CAROLINA

STAFF REPORT
UTILITY MERGER AGREEMENT – SECOND AMENDMENT
APRIL 12, 2021

Staff presented a draft of the Second Amendment to the Board at their March 22, 2021 Worksession. Major details included selling back 0.25 MGD of sewer capacity, 0.1MGD of water capacity, and the transfer of $500,000 collected from development impact fees, in exchange for closing out the Merger Agreement and returning Zebulon customer rates in-line with those paid by Raleigh customers.

Discussion:
The discussion before the Board of Commissioners follows:

- Approve the Second Amendment to the Zebulon/Raleigh Utility Merger Agreement
- Deny the proposal and continue under the conditions of the First Amendment.
- Table the issue for more information.
- Modify the proposal for the City of Raleigh to consider.

Policy Analysis:
The current capacity exceeds the current Land Use Plan. The current and projected capacity is adequate to meet both projected and sustainable growth needs.

Financial Analysis:
The economic distress related to the utility bills paid by Zebulon customers will increase. This increase will both, effect the affordability of residential and commercial development, and limit the ability of the Town's tax base to financially support future infrastructure needs (e.g., bond referendums on roads, parks, etc.).

Staff Recommendation:
Staff recommends approval of the Second Amendment to the Zebulon/Raleigh Utility Merger Agreement.

Attachments:
1. *Merger Agreement Merging the Water and Sewer Utility Systems* (highlights added)
2. *First Amendment to the Zebulon/Raleigh Utility Merger Agreement* (highlights added)
3. *Second Amendment to the Zebulon/Raleigh Utility Merger Agreement* (highlights added)
4. *Zebulon Rate Differential*
5. *Utility Merger Amendment – Closeout* (presentation from March 2021 Work Session)

Merger Agreement

Merging
The Water and Sewer Utility Systems
of
Zebulon, North Carolina
And
Raleigh, North Carolina

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

AGREEMENT

This Agreement is made and entered into by and between the Town of Zebulon, a North Carolina municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as "Zebulon", and the City of Raleigh, a North Carolina municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as "Raleigh".

The purposes of this Agreement are to:

- Assure the continued provision of high quality, reliable, economical, safe and sanitary water, sewer, and reclaimed water service within the present and future corporate limits and Urban Service Area limits of Zebulon;
- Provide for the orderly and permanent transfer of responsibility for the ownership, construction, operation, maintenance, management, and financing of Zebulon's water, sewer, and reclaimed water utility system from Zebulon to Raleigh, and;
- Transfer the managerial, operational, and financial responsibility of operating, maintaining, and expanding the water, sewer, and reclaimed water utility systems serving the present and future corporate limits and Urban Service Area limits of Zebulon from Zebulon to Raleigh.

WHEREAS, Article 20, Interlocal Cooperation of North Carolina General Statutes 160A authorizes and empowers any units of local government to enter into interlocal agreements for the ownership, construction, operation, maintenance, management, and financing of all or portions of water, sewer, and reclaimed water utility systems within or outside the corporate limits of those units of local government;

WHEREAS, Zebulon owns, operates, and maintains water, sewer, and reclaimed water utility systems within and outside its corporate limits;

WHEREAS, Zebulon desires to transfer its water, sewer, and reclaimed water utility systems to Raleigh in accordance with the terms and conditions hereinafter stated;

WHEREAS, Raleigh agrees to assume full responsibility for the provision of water and sewer services in Zebulon, including responsibility for Zebulon's water, sewer, and reclaimed water utility systems and related equipment and property rights;

WHEREAS, Raleigh further agrees to operate, maintain and expand said water, sewer, and reclaimed water utility systems to accommodate planned growth and development within Zebulon's planning and zoning jurisdiction in accordance with the terms and conditions hereinafter stated;

NOW, THEREFORE, for the considerations hereinafter stated, the parties do agree as follows:

a) This agreement shall have a term of 99 years. The expiration of the term shall only affect the agreements hereunder with respect to events and performances that occur after the expiration date of such term, and shall not affect the existence of validity of any transfer,

conveyance, undertaking, liability, or other action or right that occurred or arose prior to the end of the term of this Agreement. Notwithstanding the expiration of the term of this Agreement, Raleigh hereby acknowledges that Zebulon is entering into this Agreement in reliance upon the agreement set forth in the final paragraph of Section 3.7 to the effect that once all merger costs have been recovered, Raleigh shall apply rates and non-consumption fees and charges to customers located in Zebulon that are equivalent to those that are being charged to customers in Raleigh and represents that it shall continue such practice after the expiration of the term hereof.

b) No joint agency is established by this Agreement.

c) Raleigh shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.

d) The responsibility for financing the construction, operation and maintenance of the merged water, sewer, and reclaimed water utility system and any extensions thereof shall be in accordance with the terms of this Agreement. Raleigh shall be entitled to the receipt of all revenues from the merged water and sewer system and any extensions thereof.

e) Zebulon agrees and grants the authority for appropriate employees of Raleigh to work and act in Zebulon as necessary to carry out the purposes of this agreement as appropriate under the ordinances and regulations of both Raleigh and Zebulon.

f) Zebulon shall transfer to Raleigh and its assignees or successors, and Raleigh and its assignees and successors shall receive from Zebulon, in accordance with the terms and conditions set forth in this Agreement:

   i) All pipes, water lines, hydrants, sewer lines, pump stations, force mains, mains, meters, meter boxes, and service laterals, elevated water tanks, maintenance facilities, and all other appurtenances normally associated with, and owned by Zebulon, and presently in use within Zebulon's water, sewer and reclaimed water utility system (See Exhibit A);

   ii) All of Zebulon's rights, titles and interests in land, easements, and encroachment agreements necessary to own and operate Zebulon's water, sewer and reclaimed water utility systems. All of the property and rights described above shall be hereafter referred to as "the Property" (See Exhibit B);

   iii) All property currently used in the operation of the water, sewer and reclaimed water utility system, but that is to be retained by Zebulon, will be identified prior to the Transfer Date as defined in this Agreement (See Exhibit C);

g) Raleigh shall have the right to exercise its power of eminent domain within the current and future municipal and planning limits of Zebulon for activities necessary to fulfill Raleigh's water, sewer and reclaimed water service obligations defined in this Agreement; and

h) Cost of the transfer of ownership of the systems from Zebulon to Raleigh will be borne by Raleigh, and will be recovered through the water, sewer and reclaimed water rates, fees, and charges that will be charged to Zebulon customers as set forth in this Agreement.

1.0 Definitions

The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

1.1 **Effective Date:** The date on which all of this Agreement is approved and signed by all parties.

1.2 **Transfer Date or Closing Date:** The date on which title or leasehold to the subject water, sewer and reclaimed water system passes from Zebulon to Raleigh, which shall be a reasonable time after the Effective Date of this Agreement.

1.3 **Systems:** The real and personal property comprising Zebulon's water, sewer and reclaimed water system which is to be transferred to Raleigh.

1.4 **Inside City Rate(s):** The rate(s) charged by Raleigh to the water, sewer and reclaimed water customers inside the corporate limits of Raleigh.

1.5 **Outside City Rate(s):** The rate(s) charged by Raleigh to the water, sewer and reclaimed water customers outside the corporate limits of Raleigh.

2.0 Transfer Date

The City Manager of Raleigh and the Town Manager of Zebulon, or their designees, shall be responsible for determining all implementation details related to this Agreement not specifically addressed in this Agreement. The Transfer Date for this Agreement is October 2, 2006. The Transfer Date shall not be delayed unreasonably by either party.

2.1 Due Diligence Assessment

Upon execution of the Agreement, Raleigh and Zebulon will conduct a final due diligence assessment for the merger. The activities of the due diligence assessment will be completed by September 1, 2006.

The purpose of the due diligence assessment will be to verify that the merger can be accomplished in accordance with the assumptions used to develop the terms and conditions of the Agreement, including the revenue and expense projections used to develop the business/financial plan for the merger.

The due diligence assessment will include, but is not limited to, a review of the capital improvements plan, operations plan, employee transfer plan and customer information/billing migration plan required to implement the merger. The findings of the due diligence assessment will be submitted to the City Manager of Raleigh and the Town Manager of Zebulon in the form of a summary report.

2.2 Due Diligence Disposition

If the City Manager of Raleigh and the Town Manager of Zebulon determine that the merger can proceed in accordance with the terms and conditions of the Agreement, then the City Manager of Raleigh and the Town Manager of Zebulon will submit a letter to their respective governing boards documenting the completion of the due diligence assessment, and confirming that the Transfer Date for the merger will be October 2, 2006.

If the City Manager of Raleigh and the Town Manager of Zebulon determine that the merger can not proceed in accordance with the terms and conditions of the Agreement, then the City

Manager of Raleigh and the Town Manager of Zebulon will notify their respective governing boards and conduct additional studies and analyses as required to address specific issues of concern. The Transfer Date will be deferred until the additional studies and analyses have been completed and the issues of concern have been addressed to the mutual satisfaction of the City Manager of Raleigh and the Town Manager of Zebulon.

If upon completion of the additional studies and analyses, the issues of concern can not be resolved to the mutual satisfaction of the City Manager of Raleigh and the Town Manager of Zebulon, then either party can terminate this Agreement by providing written notice to the other party.

3.0 Responsibility for Merged System

Upon the Transfer Date, Raleigh shall assume immediate and sole duty and responsibility for financing; operating; maintaining; improving; and expanding the water, sewer and reclaimed water systems serving Zebulon's existing and future corporate limits and Urban Services Area. Zebulon water, sewer and reclaimed water system planning activities will be performed in accordance with the terms of Section 3.1 of this Agreement. Prior to the Transfer Date, Zebulon will be responsible for the operation and maintenance of Zebulon's water, sewer and reclaimed water system. During the period after the Effective Date, but prior to the Transfer Date, Zebulon will be responsible for the expansions to the Zebulon water, sewer and reclaimed water system, but will solicit participation from Raleigh staff regarding design standards and utility operations planning, to ensure that future expansions are in accordance with Raleigh policies, standards, and procedures. After the Transfer Date, Zebulon's water, sewer and reclaimed water system shall be fully incorporated into the water, sewer and reclaimed water system operated and maintained by Raleigh. Said duty and responsibility shall be in accordance with current and future policies, standards, and procedures of Raleigh, and shall be applied in the same extent and in the same manner as applied to other inside city customers of Raleigh. Said duty shall involve the input and recommendations from the Water and Sewer Utility Advisory Committee addressed in Section 3.1 below.

3.1 Water and Sewer Utility Advisory Committee

Prior to the Transfer Date, a permanent Water and Sewer Utility Advisory Committee (UAC) will be established and shall meet periodically at a frequency to be determined by the City Manager of Raleigh, the Town Manager of Garner, the Town Manager of Rolesville, the Town Manager of Wake Forest, the Town Manager of Knightdale, the Town Manager of Wendell, and the Town Manager of Zebulon to review and develop planning recommendations for the upgrade, expansion, and extension of water, sewer and reclaimed water utility services in Zebulon service areas. The Utility Advisory Committee will periodically report its findings and recommendations to the City/ Town Managers of all parties to the UAC. The ultimate responsibility for the operation of the merged water, sewer and reclaimed water system shall be Raleigh. The role of the UAC will be limited to an advisory role. The composition of the UAC will be as follows:

- Two staff members appointed by the Raleigh City Manager
- Two staff members appointed by the Garner Town Manager
- Two staff members appointed by the Rolesville Town Manager
- Two staff members appointed by the Wake Forest Town Manager
- Two staff members appointed by the Knightdale Town Manager

- Two staff members appointed by the Wendell Town Manager
- Two staff members appointed by the Zebulon Town Manager
- Planning Director, Wake County

As other utilities join the merged water, sewer and reclaimed water utility, additional members may be added to the UAC.

3.2 Name of Merged Water and Sewer Utility

The name of the merged water, sewer and reclaimed water utility will be the City of Raleigh Public Utilities Department. Raleigh may, at its discretion, change the name of the utility to correspond to Raleigh's broader regional role as future growth or mergers with other water, sewer and reclaimed water service providers occur.

3.3 Right to Operate

Zebulon hereby irrevocably grants Raleigh the right to design, construct, operate, maintain and perform all related activities required to operate, maintain, expand, upgrade and improve Zebulon's existing water, sewer and reclaimed water utility system in accordance with Raleigh's water, sewer and reclaimed water utility system standards and policies for operation and performance, level of service, reliability, and redundancy. Said Right to Operate includes the encroachment authority for Raleigh to operate in all public rights-of-way over which Zebulon has the sole authority or joint authority with the North Carolina Department of Transportation. Said water, sewer and reclaimed water utility system standards and policies shall be applied in Zebulon to the same extent and in the same manner as applied to other customers of Raleigh's water, sewer and reclaimed water utility system.

In all instances, Raleigh or its authorized contractor shall be required to restore and repair any street or other property of Zebulon upon the completion of any construction, operation, maintenance, replacement, improvement or related activity causing damage thereto. Said restoration or repair shall be to the standards acceptable to Zebulon and shall be subject to inspection by Zebulon. As an alternative, Zebulon will provide street patching at Zebulon standards and charge Raleigh on a quarterly basis for such service.

THIS AMOUNT WAS MODIFIED IN THE "FIRST AMENDMENT" AND PROPOSED FOR FURTHER MODIFICATION IN THE "SECOND AMENDMENT"

3.4 System Upgrades and Improvements

Raleigh shall undertake and complete all activities relating to the design, construction, startup, and operation of the system upgrade and improvement projects agreed upon as a part of this Agreement and listed in Exhibit D, including the purchases of an additional 1.5 million gallons per day of water capacity (based on the maximum day usage) to be included in Exhibit D at $4.44 per gallon, for a total water capacity cost of $6,660,000.

If the Little Creek Waste Water Treatment Plant expansion does not provide Zebulon with sufficient wastewater capacity within the merger cost recovery period then Zebulon will purchase 1.0 million gallons per day of wastewater capacity to be included in Exhibit D at $3.80 per gallon, for a total wastewater capacity cost of $3,800,000. Purchase of such wastewater capacity shall be considered "merger costs" recoverable by Raleigh pursuant to the terms of Section 3.7 of this Agreement.

Said upgrade and improvement projects will be undertaken and completed by Raleigh to upgrade and improve Zebulon's water, sewer and reclaimed water utility system in accordance with Raleigh's water, sewer and reclaimed water utility system standards for operation and performance, level of service, reliability, and redundancy. Raleigh may, at its discretion,

undertake alternative upgrade and improvement projects that accomplish the same purposes as the projects agreed upon. In the event the alternative project is an enhancement and more costly than the project as defined in Exhibit D based upon an up to date cost estimate and quote (and which is agreed to be a design upgrade beyond the original project scope which does not provide commensurate benefits to the present Zebulon service area), then the increased cost shall be borne by Raleigh.

Any upgrades by Raleigh beyond those outlined in Exhibit D will be accomplished in accordance with Raleigh's normal operations and capital program prioritization process. Raleigh will notify in writing, and confer with representatives of Zebulon's governing Board and the UAC, before final adoption of any upgrade and improvement projects beyond those outlined in Exhibit D, any water, sewer and reclaimed water utility system expansion program, or water, sewer and reclaimed water utility system master plan or capital improvements plan affecting the water, sewer and reclaimed water utility systems within the corporate or Urban Service Area limits of Zebulon.

The costs for the upgrade and improvement projects will be recovered from customers located in Zebulon's municipal corporate and Urban Services Area limits through the schedule of rates, fees and charges as described elsewhere in this Agreement. Cost-sharing for projects of mutual benefit to Zebulon and other municipalities will be reviewed on a case-by-case basis.

3.5 Notices of Violation

In the event that fines or penalties are levied by the State of North Carolina for violation of Zebulon water or wastewater system permits following the Transfer Date, payment of fines for notices of violations will be paid by Raleigh. Any fines or penalties for actions prior to the Transfer Date will be paid completely by Zebulon.

3.6 Rates, Fees, Charges, and Penalties

Raleigh shall have the sole responsibility and authority to establish and set rates, fees, charges, and penalties necessary for the operation, maintenance, upgrade, improvement, and expansion of the water, sewer and reclaimed water utility system. Subject to the provisions hereof, it is intended that the expansion, upgrade, improvement, operation and maintenance of the water, sewer and reclaimed water system shall be on a self-sustaining basis. All revenues of Raleigh water, sewer and reclaimed water utility shall be used exclusively by the water, sewer and reclaimed water utility fund for direct and indirect costs of the water, sewer and reclaimed water utility operations. In maintaining and operating the water, sewer and reclaimed water system, Raleigh will:

1) Set and charge reasonable rates, based on cost of service principles, to all classes of users of the water, sewer and reclaimed water system;

2) Operate and maintain the water, sewer and reclaimed water system at the lowest possible rates, consistent with Raleigh's obligation and commitment to provide proper, efficient, and environmentally sound water, sewer and reclaimed water services now and in the future;

3) Use the revenues of the water, sewer and reclaimed water system for:

   a) The maintenance and operation of the water, sewer and reclaimed water system,

   b) The payment of debt service or other debt instruments issued therefore, and the funding of resources in connection with the issuance of such debt for the water, sewer and reclaimed water system,

c) The expansion, extension, upgrade, and improvement of the water, sewer and reclaimed water system and such other purposes as Raleigh may deem proper for the operation of the water, sewer and reclaimed water system,

d) Watershed protection activities, or

e) Other lawful public purposes.

3.7 Schedules of Rates, Fees, Charges, and Penalties

Raleigh shall apply to customers located in Zebulon's corporate limits and Urban Services Area a schedule of rates, fees and charges sufficient to recover all of the costs, as determined by Raleigh, required to accomplish the water, sewer and reclaimed water utility merger between Raleigh and Zebulon. Said costs will include, but not be limited to, capital upgrades and improvements, administration and other transfer costs directly related to the water, sewer and reclaimed water utility merger. SOME OF THESE PROJECTS HAVE BEEN "SCRUBBED" (i.e., eliminated/re-scoped) IN THE "SECOND AMENDMENT".

Capital cost estimates for system upgrade and improvement projects are listed in Exhibit D. It is understood that the actual costs for the upgrade and improvement projects may vary from the estimated costs presented in Exhibit D because of changes in scope, site conditions, schedule or other factors beyond the control of Raleigh. Potential cost increases resulting from factors beyond the control of Raleigh will be recovered through the schedules of rates, fees and charges applied to customers in the Zebulon service area. THE PAY-OUT PERIOD WAS EXTENDED IN THE "FIRST AMENDMENT"

The cost recovery program for the water, sewer and reclaimed water utility merger will be phased over a 15-year period. The schedule of estimated revenues and expenses for the Zebulon service area is presented in Exhibit E. The sequence of rates, fees and charges to be applied to customers in the Zebulon area during this period is scheduled as follows:

1) For the period extending from the Transfer Date to July 1, 2021, the base water, sewer and reclaimed water charge and water, sewer and reclaimed water consumptive retail rates for Zebulon customers will increase annually by 3 percent above the rate in effect on the Transfer Date.

2) For the period extending from July 1, 2011 to July 1, 2021, a surcharge may be applied to the consumptive retail rate of Zebulon customers if:

   a) The actual capital costs, and associated annual debt service, exceed the estimated capital costs for the upgrade and improvement projects identified in Exhibit D, or

   b) The actual revenue from the Zebulon service area is insufficient to recover all of the merger-related costs within the 15-year period.

   If a surcharge is required, then the surcharge will apply for a future period to be determined based upon the recovery period projected as of July 1, 2011.

3) After July 1, 2021, the consumptive retail rate for Zebulon customers will be same as for Raleigh customers, subject to any continuing surcharge that may be added to the rates in subparagraph 2 above.

4) If net revenues collected from the Zebulon service area during the approximate 15-year period exceed the merger-related costs as defined by Raleigh, and as verified by audit, then Raleigh shall offer one of two options to Zebulon, the choice being solely that of Zebulon. The first option is to apply the excess revenues toward the purchase of additional water and/or sewer capacity allocations beyond the agreed upon indexes specified in Section 5.1.

The second option is to adjust the consumptive retail rate for Zebulon customers to the same as Raleigh customers prior to the date in paragraph 3.7.3, above. In the event the additional capacity allocations is chosen, the quantity of additional water and/or sewer capacity under this provision will be determined by dividing the excess revenues by Raleigh water and/or wastewater capacity fee(s) in effect at the time that the calculation is taking place.

Zebulon's non-consumption fees and charges related to utility service, such as acreage fees, capacity fees, frontage fees, Neuse River nitrogen fees and utility connection ("tap") charges will continue to be assessed and collected by the Zebulon customer service center, and remitted to Raleigh, until all said merger costs have been fully recovered. Zebulon will implement a Neuse River nitrogen fee beginning July 1, 2006, and this fee will continue following the Transfer Date. For the period extending from the Transfer Date to July 1, 2021, the non-consumptive, development fees and charges for Zebulon customers relating to utility service will remain at the rate in effect on the Transfer Date. However, within this period Zebulon will review fees and may make annual adjustments to ensure recovery of merger costs.

Once all said merger costs have been fully recovered, Raleigh shall apply rates and non-consumption fees and charges to customers located inside the municipal limits of Zebulon that are equivalent to those that are being charged to customers inside the municipal limits of Raleigh, and shall apply rates and non-consumption fees and charges to customers located outside the municipal limits of Zebulon that are equivalent to those that are being charged to customers outside the municipal limits of Raleigh. During the 15-year period from the Transfer Date through July 1, 2021, Raleigh shall provide Zebulon with an annual statement summarizing the status of Zebulon utility revenues and merger costs as compared to original estimates.

Raleigh will provide at least thirty (30) days written notice to Zebulon customers prior to adopting any revisions to the schedule of rates, fees, and charges.

Zebulon has an established policy that the cost of reclaimed water will be no more than 50% of rate for potable water. This policy is consistent with that of Raleigh and will be maintained by Raleigh. For the period extending from the Transfer Date to July 1, 2021, the fees and charges for Zebulon customers relating to reclaimed water service will increase by 3 percent above the rate in effect on the Transfer Date.

4.0 Zebulon Existing Facilities and Property

Zebulon's water, sewer and reclaimed water utility system provides water, sewer and reclaimed water service to approximately 4,714 persons through approximately 1,885 water accounts and 1,790 sewer accounts.

Zebulon's water distribution system consists of approximately 34 miles of water mains and two elevated storage tanks, with capacities of one million gallons and one/half million gallons. In addition to elevated storage, Zebulon has one/half million gallons of storage in the Zebulon Water Treatment Plant clearwell. Zebulon's water is supplied by contract with Raleigh, Wendell, and Knightdale.

Zebulon's wastewater collection system consists of approximately 35 miles of gravity and pressure mains and 9 wastewater-pumping stations. Wastewater is treated at the Little Creek WWTP (1.85 mgd maximum month average daily flow capacity), owned by Zebulon.

Zebulon's reclaimed water system utilizes effluent from the Little Creek WWTP to supply approximately one mile of reclaimed water main and a 250,000 gallon elevated storage tank.

4.1 Representation and Warranties by Zebulon

Zebulon makes the following representations and warranties to Raleigh:

1) Zebulon is the sole owner of all water, sewer and reclaimed water lines, pipes, meters, valves, meter boxes, laterals, and any other property transferred to Raleigh under the terms and conditions of this Agreement, and

2) Said facilities, property, land, equipment, information, and data is free and clear of all encumbrances (except as it may be included in the full, faith and credit of Zebulon as a part of existing bonded indebtedness or loans). In the event that Zebulon's bonds have provisions that do not allow the sale of the systems while bonds are outstanding, Zebulon and Raleigh agree to enter into a long term leasing arrangement for the portions of the system that are affected until such time as the bonds are retired. Upon retirement of the bonds, the full ownership transfer will take place.

4.2 Property Transfer

Upon the Transfer Date of this Agreement, a Bill of Sale shall be executed by Zebulon to transfer ownership of all facilities, property, land, equipment, financial assets, information, and data subject to this Agreement to Raleigh. Such documents shall be sufficient to convey to Raleigh all of Zebulon's right, title, and interest in Zebulon's water, sewer and reclaimed water system, including easements and rights-of-way, whether or not recorded. Said rights-of-way shall include the right to operate and maintain the subject water, sewer and reclaimed water system within any public streets within Zebulon. Any documents needed to memorialize this passage of title shall not be required to contain any warranties of condition or title, except as expressly set forth herein. A non-warranty deed shall be executed by Zebulon to convey all interests in real property and improvements thereto which are subject to this Agreement.

Zebulon shall cooperate with Raleigh in establishing title to any portion of Zebulon's water, sewer and reclaimed water system where ownership may be contested.

A detailed list of real property and easements and encroachment agreements is included as Exhibit B. A list of water, sewer and reclaimed water utility property and fixed assets to be retained by Zebulon is included as Exhibit C. If at any time in the future property transferred to Raleigh is no longer used for water, sewer and reclaimed water purposes, Raleigh shall return the land to Zebulon.

The former Water Treatment Plant site will be transferred to Raleigh in its entirety. However, a portion of this asset, as identified on the plan included as Exhibit F, will revert to Zebulon ownership, at no cost to Zebulon, should Raleigh determine that the site is not required for the purpose of a future Little River Water Treatment Plant. Until the time that a decision is made on the use of the site for the Little River Water Treatment Plant, Raleigh will grant an easement, for the area shown on the plan in Exhibit F, to Zebulon for the continued use of the area as a park facility. Additional details of this use of the facility for recreation are to be addressed in a separate agreement as outlined in paragraph 11.0.

Raleigh shall grant an easement for a walking trail at the Little Creek Wastewater Treatment Plant, as identified on the plan included in Exhibit F.

4.3 Easements and Encroachments

Zebulon has fully-executed and properly recorded easements and encroachment agreements for portions of Zebulon's water, sewer and reclaimed water utility system. As a condition of this Agreement, a complete list of all recorded easements and encroachment agreements will be

provided to Raleigh. To the extent possible, all easements for Zebulon's water, sewer and reclaimed water utility system shall be conveyed by Zebulon to Raleigh by an appropriate instrument suitable for recording in the Office of the Register of Deeds for Wake County, North Carolina. As a condition of this Agreement, Zebulon will provide Raleigh with copies of any encroachment agreements it has with the North Carolina Department of Transportation and with any other utility companies (See Exhibit B). To the extent allowed by North Carolina law, the City shall indemnify and hold harmless Zebulon from all liability, costs and legal fees arising out of use of the referenced easements or encroachments. The parties understand and acknowledge that no North Carolina case, statute, or Constitutional provision authorizes a local government to indemnify another party and that this contract provision may be unenforceable. Zebulon agrees to resolve any known easement or encroachment issues prior to the effective date of this merger.

For new easements acquired by Raleigh as a part of the operational needs of the Zebulon system and system expansions, Raleigh agrees to allow Zebulon to acquire easements for the same area, to include greenway/park needs.

Zebulon has some facilities installed on the properties of others for which it does not have express easements or encroachment agreements, and some facilities installed in streets and rights-of-way for which it has no encroachment agreements. In the event a landowner on whose land such a facility exists contests Raleigh's right to maintain such facilities, Raleigh shall notify Zebulon in writing and Zebulon shall be responsible to obtain at its expense the necessary easement, encroachment agreements or fee simple title across said land either by negotiation or by eminent domain. After Zebulon has obtained such easement or fee simple title, it shall transfer ownership thereof to Raleigh. Any reasonable and direct expense borne by Raleigh in resolution of these disputed easements shall be paid by Zebulon, and Zebulon shall also make adequate reservation for the necessary rights-of-way for all planned water, sewer and reclaimed water facilities prior to closing any street. If Zebulon fails to comply with the provisions of this paragraph, Zebulon shall reimburse Raleigh in full for all expenses incurred in acquiring the necessary rights-of-way by purchase or condemnation.

4.4 Existing Water and Sewer Capacity Allocations

Zebulon currently has a water supply allocation from Raleigh for 1 mgd, for maximum daily demand flows. Zebulon currently has no wastewater capacity allocation in the Neuse River Wastewater Treatment Plant, although Zebulon's Little Creek WWTP has a current permitted capacity of 1.85 mgd on a maximum month average daily flow basis.

Raleigh will construct additional wastewater and water supply capacity as necessary to accommodate new growth and development within the corporate limits and Urban Service Area of Zebulon, consistent with Paragraph 5.1 of this agreement. See Exhibit G for identification of corporate and urban service area limits. Said additional wastewater and water supply capacity will be financed by Raleigh using revenues generated by Raleigh's schedule of rates, fees, and charges, or other debt instruments as determined by Raleigh. During the period prior to the system being fully accepted by Raleigh, and the Zebulon customers' rates being adjusted to the same as the rates for Raleigh customers, the financing by Raleigh for the additional constructed water and wastewater facilities will be offset by the differential in rates being paid by Zebulon customers and the rate that they would pay if inside Raleigh.

4.5 Financial Assets and Closeout

The financial records of Zebulon water, sewer and reclaimed water enterprise fund will be closed as of the Transfer Date of this Agreement. As of this closeout, with the exception of

funds necessary to complete existing capital projects that are in process, the full amount of the Zebulon capital reserve and operating fund balances will be transferred to Raleigh to be used for payments of water/wastewater transition and other approved capital and merger costs. Payment of the funds equity will be made following the special audit. The accounting for all other asset and liability accounts will transfer at closeout to Raleigh water, sewer and reclaimed water enterprise fund, subject to audit verification by the Raleigh Internal Audits Division and an independent auditor. Zebulon shall write-off all inactive accounts considered uncollectible and adjust other accounts to a current status prior to Raleigh's assumption of the financial accounts.

5.0 Expansion and Extension of Water, Sewer and Reclaimed Water Services

Raleigh shall provide, maintain, and extend the water, sewer and reclaimed water systems and facilities as may be required under applicable laws and regulations so as to serve present and future demands, and in particular so as not to impede the orderly growth and development of Zebulon, except as provided in Paragraph 5.1 below. Raleigh shall not practice or permit any discrimination against Zebulon in the provision of such services based upon location of the point of service within Zebulon or its Urban Services Area.

MODIFIED WITH THE "FIRST AMENDMENT"

5.1 Growth and Development Index

Raleigh will provide water services to customers in Zebulon within the following parameters:

1) For the period extending from the Transfer Date to September 30, 2011, the total water flow allocation for Zebulon will be 2.5 mgd maximum day water flow, which includes 1.5 mgd additional capacity which Zebulon must purchase from Raleigh on the Transfer Date.

2) For the period extending from October 1, 2011 to September 30, 2021, the annual growth rate in peak day water use will be limited to 4 percent per year, compounded upon the prior year's allocation.

3) For the period extending from October 1, 2021 to September 30, 2031, the annual growth in peak day water use will be limited to 3 percent, compounded upon the prior year's allocation.

4) For the period extending beyond September 30, 2031, the annual growth in peak day water demands will be the same as for the Raleigh service area as determined by the Raleigh City Council.

Following the Transfer Date, Zebulon's initial allocation for wastewater treatment capacity will be the permitted capacity of the Little Creek WWTP. Zebulon is applying to increase the rated capacity of the Little Creek WWTP from the current 1.85 mgd to 2.2 mgd, on a maximum month average day basis.

1) For the period extending from the Transfer Date to September 30, 2011, the total wastewater flow allocation for Zebulon will be 1.0 mgd on an average daily flow basis, if required and as identified in Section 3.4 of this Agreement.

2) For the period extending from October 1, 2011 to September 30, 2021, the annual growth rate in wastewater flow will be limited to 4 percent per year, compounded upon the prior year's allocation.

3) For the period extending from October 1, 2021 to September 30, 2031, the annual growth in wastewater flow will be limited to 3 percent, compounded upon the prior year's allocation.

4) For the period extending beyond September 30, 2031, the annual growth in wastewater flow will be the same as for Raleigh service area as determined by Raleigh City Council.

The calculation of Zebulon's water and wastewater flow allocations will be based on the summation of estimated flows for new connection permits and actual flows metered for the Zebulon service area. An exceedance of the prescribed growth rate in any given year will be allowed, provided it is reconciled within the following 2 years. For example, during the period October 1, 2011 to September 30, 2021, the annual growth rate limit is 4 percent. Annual growth over a three consecutive year period may be 6 percent (year 1), 2 percent (year 2) and 4 percent (year 3), equivalent to an average 4 percent growth rate. Because the growth exceedance in year 1 was reconciled to the prescribed average within the following 2 years, the overall growth for this period would not violate this agreement.

These growth levels would be subject to modification by Raleigh if problems are encountered with the implementation of treatment plant expansions. If such is necessary, Zebulon's water growth capacity would be no less than 1 percent of the total treatment capacity of the Raleigh system for water at that time.

Raleigh may offer Zebulon additional water capacity beyond the agreed-upon indexes, on a case-by-case basis, to accommodate major industrial or commercial projects that elect to locate within Zebulon's Urban Services Area and provide benefits to both Raleigh and Zebulon.

5.2 Requests for Service

Upon the Transfer Date, all future requests for new service connections will be made to Raleigh through Zebulon. Request for new services that require extensions will be first presented to Zebulon to assure all zoning and land use issues have been addressed then forwarded to Raleigh for approval of water, sewer and reclaimed water plans. Both Zebulon and Raleigh, in conjunction with the UAC, will provide information to customers and potential customers regarding details of service. Raleigh agrees to provide existing and future water, sewer and reclaimed water customers located within Zebulon's corporate limits or the portion of the Urban Services Area within the extra-territorial jurisdiction (ETJ), service of a quality comparable to the quality and quantity of service provided to water, sewer and reclaimed water customers within the municipal boundaries of Raleigh. Raleigh specifically agrees that the geographical location of the water, sewer and reclaimed water customers in Zebulon or in the portion of its Urban Services Area within the ETJ shall not have any substantial effect on the quality of service or timing of repairs to be made by Raleigh.

5.3 Developer-Requested Extensions to the System

Subject to the provisions of this Agreement, extensions of the subject water, sewer and reclaimed water system that are undertaken by third-party developers shall be made under the policies published and used by Raleigh, and as may be amended from time to time. Said policies shall be uniform throughout Raleigh's water, sewer and reclaimed water system, including those areas affected by this Agreement. Raleigh may, at its discretion, make changes to the extension policies as Raleigh determines to be appropriate. Said changes shall apply to all portions of the water, sewer and reclaimed water system operated and maintained by Raleigh, including those areas located in Zebulon's corporate and Urban Services Area limits.

For water, sewer and reclaimed water extensions outside of Zebulon's municipal corporate limits, all applicable water, sewer and reclaimed water extension policies that apply outside of Raleigh's corporate municipal limits will apply.

Any request to Raleigh for water, sewer and reclaimed water service extensions in Zebulon's corporate limits, extra-territorial jurisdiction (ETJ), or Urban Services Area (USA) will require prior written approval by Zebulon's governing board before the service can be provided by Raleigh.

Utility fees and charges for new Zebulon customers may not be paid by Zebulon or any other public entity, either directly or indirectly, as a part of an economic development program for Zebulon. Violation of this condition will constitute a breach of the Agreement.

Approval for request for service or extension under provisions of this section will not be unreasonably withheld by either Raleigh or Zebulon.

5.4 Zebulon-Requested Extensions to the System

Zebulon-requested extensions to the merged water, sewer and reclaimed water system or extensions thereof required by Zebulon beyond those included in the Raleigh Capital Improvement Program, shall be financed by Zebulon and shall be accomplished by contract between Zebulon and Raleigh. Reasonable notice to proceed with such extensions will be provided to Raleigh by Zebulon, such that applicable time limitations can be met. However, under no circumstances shall Raleigh be liable to Zebulon for the payment of damages, penalties, fines or any other monetary recovery as a result of any failure to satisfy such time limitations for Zebulon-requested extensions. For extensions required due to annexation, annexation plans shall be submitted by Zebulon to Raleigh to evaluate the feasibility thereof under then existing conditions, prior to proceeding with implementation of annexation.

Raleigh shall reimburse Zebulon for costs associated with extensions by Zebulon in accordance with established extension and reimbursement procedures applicable to developers and customers of Raleigh.

5.5 Annexations

Any annexation considerations will be resolved based on the urban service areas for Zebulon (See Exhibit G). Prior to approval of extension of service to property outside the corporate limits of Zebulon, Zebulon must require application for annexation into Zebulon's municipal corporate limits. Zebulon must require application for annexation and act on an annexation petition prior to approval to add new water, sewer and reclaimed water customers into Zebulon limits.

Raleigh will provide water, sewer and reclaimed water services to areas that cannot be annexed, only by exceptions to be considered on a case-by-case basis, to address specific health-related concerns. All required annexations must proceed within a reasonable amount of time of committing to the provision of water, sewer and reclaimed water service. Any assessments levied on property by Zebulon associated with extensions to the system will be paid to Zebulon.

For water, sewer and reclaimed water extensions required as a part of an annexation by Zebulon, the cost of said extensions shall be the responsibility of Zebulon, to be paid by Zebulon prior to initiation of annexation project. Zebulon may use assessments as a means of providing for financing of these annexation water, sewer and reclaimed water extensions.

5.6 Assessments

Assessments for extension needs generated by and for the benefit of Zebulon will be developed and implemented by Zebulon. Assessments needed by Raleigh, as a part of the Raleigh Capital Improvement Program, within the corporate limits of Zebulon will be developed by Raleigh, and implemented on Raleigh's behalf by Zebulon.

6.0 Employee Transfer

All existing staff of Zebulon's water, sewer and reclaimed water utility system will be offered employment with Raleigh's water, sewer and reclaimed water utility system. Zebulon employees accepting positions with Raleigh will suffer no loss of pay, annual leave, sick leave, or years credit in retirement program. It is anticipated that ten of the eleven Zebulon employees will accept the new positions with Raleigh. Relative to level of compensation, Raleigh has conducted a wage and salary analysis and confirms that employees transferring will suffer no loss of current compensation. The benefit package that will be available to Zebulon employees transferring to Raleigh will be similar but not exactly the same as the Zebulon package. Zebulon employees transferring to Raleigh will retain equivalent tenure and length of service for annual and sick leave, retirement, and other benefits at Raleigh, as they possessed at Zebulon. The rate of accrual of length of service-dependent benefits for Zebulon employees transferring to Raleigh will be commensurate with the rate of accrual for Raleigh employees of similar length of service.

6.1 Employee Probation Period

All transferring employees will serve a six (6) months probation period during which each employee must demonstrate proficiency in the job assigned. Following the probation period, each employee will receive a performance evaluation similar to that applicable to existing water and sewer utility employees of Raleigh. For employees requesting transfer from Zebulon to Raleigh, it will be necessary for the employees to successfully pass a criminal background check and a drug screening.

6.2 Fund Transfers for Accrued Employee Benefits

In accordance with the terms of the financial closeout (section 4.5), Zebulon will transfer funds sufficient to pay for all accrued vacation and sick leave for each transferring employee. Information relative to the total number of hours of accrued leave and sick leave will be provided to Raleigh prior to the Transfer Date of this Agreement.

Pending governmental accounting standards will require the recording of post employment healthcare and other benefits over the active employment term of recipients. Implementation for Raleigh will be in fiscal year 2006-07. At the time that an actuarial study has determined the prior liability for the transferring employees, Zebulon will have the option of either (1) paying Raleigh for the accumulated value of such benefits, or (2) adjusting the financial proforma results at such point to allow for their existing rate structure to pay for the accumulated expense.

7.0 Records Transfer

Zebulon shall transfer to Raleigh all available reproducible and electronic copies of any and all records, data, information, and models arising from the construction, operation and maintenance of Zebulon's water, sewer and reclaimed water utility system and any other related activity, including projects in progress, and including, but not limited to, the following:

1) Construction contracts, drawings, maps, and all other related documents evidencing the condition or location of any portion of the subject water, sewer and reclaimed water systems including such documents as may be in the possession of any engineer or other consultant of Zebulon;

2) Billing, collection and payment records on all present customers of the subject water, sewer and reclaimed water systems;

3) An accurate tabulation or listing of all actual service locations in the Zebulon system to be transferred to Raleigh from Zebulon, to include:
   a) Address - Number and Street;
   b) Account Name (if active);
   c) Billing Address for Each Account Number;
   d) Account Numbers and all meter reading books and the history of all accounts for the past twelve (12) months;
   e) One Year's Account History;
   f) Meter Location Description;
4) Contracts or agreements for the supply of equipment, materials, supplies, and products;
5) Pending applications for water, sewer and reclaimed water service;
6) Contracts or agreements to provide water and or sewer service currently in effect;
7) Receipts, accounts and other records of deposits made by all present and past customers of the subject water, sewer and reclaimed water systems;
8) Any and all warranty information on any facilities, property, land, and equipment transferred to Raleigh pursuant to this Agreement;
9) Repair, maintenance, trouble, and emergency response records for all portions of Zebulon's water, sewer and reclaimed water systems;
10) Any and all notices of violation, legal actions, and lawsuits pertaining to Zebulon's water, sewer and reclaimed water system ;
11) Plans, permits, reports, specifications, surveys, etc., for water, sewer and reclaimed water facilities and operations;
12) Number and locations of all unmetered services;
13) Copies of all water, sewer and reclaimed water system maps;
14) Copies of all easements;
15) Copies of all encroachment agreements;
16) Identification of all inside Zebulon customers;
17) Identification of all outside Zebulon customers;
18) Record of all assessments for system extensions;
19) Identification of all taps for which payment has been made;
20) Identification of all backflow prevention installations;
21) Identification of all Pretreatment Program installations;
22) Copies of such records as are necessary to inform Raleigh of the location of all facilities of Zebulon for other utility operations;

23) Accounts receivable records;

24) Accounts payable records; and,

25) Any other information, data, and records pertaining to Zebulon's water, sewer and reclaimed water utility.

Zebulon agrees that within a reasonable time after the Transfer Date, Zebulon shall submit to Raleigh such accounting, commercial, engineering, planning, personnel, and facility records pertaining to Zebulon's water, sewer and reclaimed water utility system. Zebulon may make copies of said materials for Zebulon's records and archives. Prior to the Transfer Date, the City Manager of Raleigh and Town Manager of Zebulon, or their designees, shall determine mutually satisfactory administrative details for the transfer of the above-referenced records.

8.0 Customer Transfer

As of the Transfer Date, all customers and users of Zebulon's water, sewer and reclaimed water system shall become subject to all rules, regulations and ordinances of Raleigh as the same apply to all users and customers of the water, sewer and reclaimed water system of Raleigh, and as same are now or may hereafter be amended. Such rules, regulations and ordinances and schedule of rates, fees, charges and penalties shall constitute a part of the Agreement between Raleigh and any customer or user of the subject water, sewer and reclaimed water system and any extensions thereof for the provision of water, sewer and reclaimed water service.

A team comprised of Raleigh and Zebulon staff shall develop a seamless transfer of customer accounts at Transfer Date in order to provide continuity of account activity after the merger. All accounting after the Transfer Date shall be made within the Raleigh utility enterprise fund.

8.1 Customer Deposits

Prior to the Transfer Date, Zebulon, under the direction of the Zebulon Town Manager or his designee, shall refund deposits to its customers or credit customer accounts for deposit balances.

8.2 Billing Cycles

The billing cycle for Zebulon water, sewer and reclaimed water customers is currently a monthly cycle. The billing cycle for Raleigh water and sewer customers is currently a bi-monthly (every two months) cycle. As of the Transfer Date, Raleigh agrees to continue to bill Zebulon customers monthly for water, sewer and reclaimed water. The first bill of a two-month cycle may be based on an estimated reading and the second will be based on an actual meter reading. Raleigh reserves the right to adjust the billing cycle for Zebulon water, sewer and reclaimed water customers to a bi-monthly cycle at a later time, if Raleigh deems this is necessary.

8.3 Water Meter Readings

As of the Effective Date, Zebulon's water meters measure water volume in units of 1,000 gallons, and Raleigh's water meters measure water volume in units of 100 cubic feet. At the Transfer Date, Raleigh shall assume all responsibility for reading all customer meters and for preparation of water, sewer and reclaimed water bills, and water, sewer and reclaimed water customers in Zebulon will be billed for water, sewer and reclaimed water service based on 100 cubic feet units. Zebulon's gallon unit water meters shall be replaced with cubic feet water meters and upgraded to radio read capability by Raleigh as part of the System Upgrades and Improvements identified in Exhibit D. If the replacement of Zebulon's water meters cannot be

completed prior to the initial collection of water meter readings by Raleigh staff, Raleigh will collect water meter readings from Zebulon customers using 1,000 gallon units, and Raleigh's water billing system will convert the readings to 100 cubic feet units for the purposes of producing water, sewer and reclaimed water bills.

The transition of meter readings will be coordinated by a joint implementation team.

9.0 Bonded Indebtedness

Raleigh agrees to pay Zebulon all amounts necessary to enable Zebulon to make all debt service payments when due and payable on all existing outstanding bonded indebtedness of Zebulon for water, sewer and reclaimed water facilities covered under this Agreement. The payments required to be made in accordance with this provision of the Agreement shall be made in a timely manner, and Raleigh's obligation hereunder shall be a continuing one until all outstanding bonded indebtedness of Zebulon borrowed for such purposes shall have been paid in full. A statement of Zebulon's outstanding bonded indebtedness and a schedule of the debt service to be made pursuant to this provision of the Agreement shall be submitted to Raleigh prior to the Transfer Date of this Agreement (See Exhibit H). Zebulon agrees to cooperate with Raleigh in determining opportunities for early retirement or refinancing of any of the outstanding debt, when such adjustments are permitted by the bonding agencies, and Raleigh retains the right to exercise an option of debt refinancing or retirement if costs to the water, sewer and reclaimed water utility can be lowered as a result. Projected debt service shall be included as a part of the transfer cost calculated as a part of this agreement.

10.0 Prior Agreements

10.1 Zebulon and Raleigh

All prior agreements between Zebulon and Raleigh pertaining to water, sewer and reclaimed water services are rescinded as of the Transfer Date.

10.2 Zebulon Commitments to Private Third Parties

Zebulon has certain commitments to developers of residential and non-residential projects inside and outside the corporate boundaries of Zebulon. All agreements previously entered into between Zebulon and developers will be honored by Raleigh, provided that such contracts that require expenditure of Raleigh funds shall be considered "merger costs" recoverable by Raleigh pursuant to the terms of Section 3.7 of this Agreement.

Zebulon will install the meters, set the boxes, and collect tap fees in all of such developments to fulfill its existing commitments prior to Transfer Date. Such completed services shall become a part of the property to be conveyed herein from Zebulon to Raleigh.

Any contract or agreement with third parties entered into by Zebulon between the Effective Date and the Transfer Date shall require approval by Raleigh.

A contract exists between Zebulon, Wake County and the Carolina Mudcats Organization concerning the Carolina Mudcats' use of Five County Stadium (owned jointly by Zebulon and Wake County) and the reclaimed water tank property (owned by Zebulon) (see Exhibit I). Raleigh agrees to take ownership of the reclaimed water property subject to the terms and conditions of the contract as it pertains to the maintenance of the reclaimed water tank property. Zebulon reserves the rights and responsibilities of the reclaimed water tank property as it pertains to approval of decorative paint design and signage. Zebulon and Raleigh will mutually agree to all changes made to the design placed on the ball or trunk of the reclaimed water tank,

or any changes as they relate to free-standing signage placed on the property by the Carolina Mudcats.

10.3 Existing Agreements

If it is determined that Zebulon has some existing vendor agreements relating to water, sewer and reclaimed water services, Zebulon shall provide notice to these entities regarding these agreements and Zebulon's intent to rescind its agreements as of the Transfer Date. However, Raleigh at its option may elect to continue these agreements through the current terms, subject to the consent of the contracting parties. In the event Raleigh chooses to continue the existing Zebulon Agreement, any water sold or to be consumed by Zebulon shall not count against the allocations provided to be made to Zebulon in this Agreement.

Zebulon has an existing agreement with the Town of Middlesex, in Nash County, relating to wastewater services. This Agreement, dated August 16, 1995, provides for sanitary sewer service to the Town of Middlesex by the Zebulon Little Creek WWTP at the rate of 0.19 mgd (with no peaking factor).

Following the Effective Date, Raleigh and Zebulon will proceed to work toward a formal assignment of the existing Middlesex agreement or, alternatively, assignment of a revised agreement, as may be renegotiated. Raleigh and Zebulon agree to seek the consent of Middlesex for such an assignment. In no event will any agreement by Raleigh with Middlesex, whether by assignment of the existing Zebulon-Middlesex agreement, or as may be negotiated in the future, result in an increase in wastewater treatment capacity allocation to Middlesex which exceeds its allocation under the existing agreement, so as to reduce the wastewater treatment capacities available to Zebulon under this Merger Agreement, unless consented to by Zebulon..

10.4 Zebulon Commitments to Communications Firms for Transmission Towers on Zebulon Water, Sewer and Reclaimed Water Assets

Zebulon has no existing contracts with communications firms for transmission towers located on Zebulon water, sewer and reclaimed water assets.

Zebulon has a verbal agreement with a local amateur radio club for the provision of a repeater on the Vance Street tank. Zebulon also has a repeater on the tank for use of the emergency services. Raleigh agrees to allow continued use of the water tower for the location of these repeaters, subject to any such repeaters being to Raleigh's approval. Zebulon will assume responsibility for the design and installation of any repeater for the amateur radio club.

10.5 Discriminatory Agreement

No existing special, discriminatory agreements with specific customers will be continued, honored, or assumed by Raleigh.

Zebulon represents and warrants to Raleigh that there are no discriminatory agreements, except as noted below, between Zebulon and any customer or user of Zebulon's water, sewer and reclaimed water system which will nor may survive this Agreement and be binding upon Raleigh. For purposes of this Agreement, a discriminatory agreement is any agreement, contract or other understanding between Zebulon and any customer or user of Zebulon's water, sewer and reclaimed water system that provides that:

1. Water, sewer and reclaimed water service be extended and provided in a different manner than such service is extended and provided to the remaining customers or users of

Zebulon's water, sewer and reclaimed water system as to quality, quantity, or any other aspect of extending and providing such service;

2. Water, sewer and reclaimed water service be extended and provided upon the payment of a different schedule of rates, fees, charges, or penalties than is imposed upon the remaining customers or users of Zebulon's water, sewer and reclaimed water system;

3. Water, sewer and reclaimed water service be extended and provided at a different cost or schedule for reimbursement of costs or any other aspect of paying for the extension and provision of water, sewer and reclaimed water service than is imposed upon the remaining customers or users of Zebulon's water, sewer and reclaimed water system.

In the event that an unlawful discriminatory agreement exists and survives this Agreement, and is determined to be binding upon Raleigh, Zebulon shall indemnify and hold Raleigh harmless from any and all demands, claims, or actions (including the reasonable costs, expenses and attorney fees incurred by Raleigh), of such discriminatory agreement. Further, Zebulon shall indemnify and hold Raleigh harmless from any and all demands, claims, or actions, without regard to the relief sought or awarded and without regard to whether the claim, demand or action is raised by a party to the discriminatory agreement.

Zebulon and Wake County currently have an agreement with the Carolina Mudcats Organization for water, wastewater and reclaimed water to be provided for the Five County Stadium at no cost to the Carolina Mudcats. At the Transfer Date, charges for these services will be billed by Raleigh to Zebulon.

10.6 Wake County Reimbursement Project

Zebulon has two active reimbursement agreements dated 1987 and 1995 in effect with Wake County, North Carolina for access to the Highway 64 Water Booster Station, and for the water and sewer lines extended to serve the PYA/Monarch Facility.

Pursuant to the 1987 agreement, acreage fees are to be collected by Zebulon for each property owner that connects to the booster station and is located within a designated collection area. These acreage fees are to be remitted by Zebulon to Wake County as reimbursement for construction costs in accordance with the terms of the agreement.

Pursuant to the 1995 agreement, acreage fees are to be collected by Zebulon for each property owner that connects to the above referenced sewer projects and is located within a designated collection area. These acreage fees are to be remitted by Zebulon to Wake County as reimbursement for construction costs in accordance with the terms of the agreement. The acreage fees that it is expected could be collected will be sufficient to repay approximately half of the obligation to Wake County. The balance is to be paid through the merger and will be recorded as a debt.

Zebulon has agreed a final amount due to Wake County to fulfill the 1995 obligation. Raleigh and Zebulon agree to include this amount as a part of the merger cost to be recovered during the recovery period.

11.0 Contracted Services Between Raleigh and Zebulon

Raleigh will negotiate separate agreements with Zebulon for Zebulon's operation of a Raleigh Satellite Customer Service Center, beginning on the Transfer Date. Zebulon will collect payments for Raleigh services and tax revenues, including but not limited to water, sewer and reclaimed water bills. Zebulon will negotiate a separate agreement with Raleigh for Raleigh to

collect solid waste or other mutually agreeable fees on behalf of Zebulon. Zebulon will also be accessible by telephone for Zebulon residents for billing or service-related inquiries. Obligations of Zebulon and Raleigh for the operation of the Satellite Customer Service Center shall be as specified in the referenced agreement.

Additional services that may require separate agreements between Raleigh and Zebulon include paving alternatives as shown in paragraph 3.3; Wake County fees repayment, which it is intended will be paid in the same way as a debt service; and a repeater tower for emergency services.

12.0 Conflict/ Default Resolution

In the event of conflict or default that might arise for matters associated with this Agreement, the parties involved agree to informally and formally communicate to resolve the conflict. If this communication is not successful in resolving the conflict, the matter will be presented to the City Manager of Raleigh and the Town Manager of Zebulon for resolution. If the Managers are unable to resolve the conflict, the matter will be presented to the respective governing boards for resolution.

13.0 Fire Protection Services

Raleigh shall be responsible for maintaining fire hydrants and services in a reasonable manner at a level equivalent to that maintained by Zebulon at the time of transfer of the system. This level of service shall include hydrant spacing, hydrant maintenance, hydrant specifications, and appropriate water volume and pressure available at each hydrant. Raleigh shall coordinate with the Zebulon Fire Department for necessary flow and pressure testing to be done by the Zebulon Fire Department.

14.0 Ordinances to be Adopted

As a condition of entering into this Agreement, Zebulon shall adopt such ordinances as are reasonably necessary to regulate the proper use of the subject water, sewer and reclaimed water system and any extensions thereof by the customers and users within the jurisdiction of Zebulon. Said ordinances shall be reviewed and approved by Raleigh prior to adoption by Zebulon, and will further grant to Raleigh all administrative, permitting, regulatory, and enforcement authority necessary for the regulation, operation, maintenance, and improvement of the water, sewer and reclaimed water systems serving the corporate and Urban Services Area limits of Zebulon. Zebulon shall maintain updates and enforce such ordinances. Raleigh shall reimburse Zebulon for the reasonable expenses of enforcing such ordinances. Said ordinances shall have the same or similar provisions as are included in Raleigh's use ordinance related to Raleigh's water, and sewer utility system. Adoption of necessary Ordinances and Resolutions may be adopted by reference by the Zebulon Town Board.

As a condition of entering into this Agreement, Raleigh shall adopt such ordinances as are reasonably necessary to regulate the proper use of the subject reclaimed water system and any extensions thereof.

By approval and upon execution of this Agreement, Zebulon shall be deemed to have adopted by reference any water conservation ordinance or restriction of Raleigh which may from time to time be adopted by Raleigh City Council (during drought conditions or arising from other, special circumstances) so that such measures will be fully effective in, and shall be enforceable by Zebulon, as though adopted by direct action of the Zebulon governing board.

14.1 Environmental Permit Requirements

Zebulon and Raleigh acknowledge that the merger of Zebulon's and Raleigh's utility systems, and anticipated population growth in both municipalities and surrounding utility service areas, will require Raleigh to obtain specific State regulatory permits. These permits may be expected to include requirements for adoption of environmental conditions, requirements and mitigation measures, including land use regulations and restrictions, at the municipal level. In event such conditions, restrictions and mitigation measures are imposed by State regulatory authorities as a condition of permit issuance for the operation, upgrade, or expansion of utility services contemplated hereunder, Zebulon agrees to duly adopt by ordinance or otherwise, and to make effective within its corporate limits and extraterritorial jurisdiction area, as applicable, such conditions, restrictions and mitigation measures.

15.0 Delegation of Permitting Authority

Zebulon shall adopt a resolution or ordinance as may be required to support the delegation of water and wastewater permitting authority to Raleigh from the North Carolina Department of Environment and Natural Resources, Division of Environment Health and Division of Water Quality, within the jurisdiction of Zebulon.

16.0 Amendment to Agreement

This agreement may be amended only by a document in writing, approved by the Town Board of Commissioners of Zebulon and the City Council of Raleigh and executed by the respective Mayors. In the event Raleigh, by written agreement or otherwise, makes provision for utility services or concessions to another municipality or other Raleigh utility customer which are more favorable than the terms, provisions, and concessions herein granted to Zebulon, then and in that event, the parties agree to negotiate in good faith to incorporate into this Agreement identical or equivalent provisions, terms, and concessions for the benefit of Zebulon.

17.0 Customer Notification

Zebulon agrees to use all practical means, including direct mailing, to notify customers of changes associated with this merger. Such notification shall include information on schedule and mechanics of transfer and information concerning Raleigh's policies and procedures.

18.0 Severability

It is hereby the declared intention of Zebulon and Raleigh that the paragraphs, sections, sentences, clauses, and phrases of this agreement are severable. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by Zebulon and Raleigh without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.

19.0 Notices

Whenever written notice is required under this agreement, said notice shall be sufficient when received by the Town Manager of Zebulon and the City Manager of Raleigh. Said notice may be mailed or hand-delivered but shall not be effective unless actually received.

20.0 Covenant of Good Faith and Fair Dealing

Raleigh and Zebulon shall cooperate and act in good faith to perform their obligations under this agreement and shall refrain from any action inconsistent with their contractual rights or obligations that would prejudice or injure the other party's rights to receive the benefits of this Agreement.

Approved this 2 day of August 2006

Town of Zebulon

BY: Richard D Hall

Town Manager

Attest:

TOWN OF ZEBULON INCORPORATED SEAL 1907 NORTH CAROLINA

Lisa M. Markland

Town Clerk

Approved as to form, Zebulon Town Attorney

CITY OF RALEIGH NORTH CAROLINA

City of Raleigh

BY: J. Russell Allen

City Manager

Attest:

Leslie H. Eldredge

DEPOTY City Clerk

Approved as to form, Raleigh City Attorney

EXHIBITS

Exhibit A	Fixed Assets to be Transferred
Exhibit B	List of Real Property, Easements and Encroachments Agreements
Exhibit C	Water, Sewer and Reclaimed water Utility Property and Fixed Assets to be Retained by Zebulon
Exhibit D	Schedule of Upgrades and Improvements
Exhibit E	Schedule of Estimated Revenues and Expenses
Exhibit F	WTP Property Transfer and WWTP Easement
Exhibit G	Service Area Maps
Exhibit H	Bonded Indebtedness
Exhibit I	Extract of Agreement with Carolina Mudcats
Exhibit J	Agreement with Town of Middlesex

EXHIBIT A

Fixed Assets to be Transferred

Property	Address
Wastewater Collection System	
Station #2 - Mack Todd Rd. (180 GPM @ 106' TDH)	Mack Todd Road
Station #3 - W. Gannon Ave. (200 GPM @ 85' TDH)	1301 W. Gannon Ave
Station #4 - Westside Master Station (1470 GPM @181' TDH)	700 Worth Hinton Road
Station #5 - Taryn Meadows	Taryn Meadows
Station #6 - Spruce Drive (85 GPM @ 100' TDH)	Spruce Drive
Station #7 - Southland Drive (270 GPM @ 126' TDH)	Southland Drive
Station #8 - Azalea Drive (100 GPM @ 22' TDH)	Azalea Drive
Station #9 - Water Plant Road (350 GPM @ 145' TDH)	Water Plant Road
Station #10 - Tippett Road (180 GPM @ 42' TDH)	Tippett Road
Station #11 - New Station (Shepherd's Park)	Shepherd's Park
Wastewater Treatment Plant	
Little Creek WWTP	NC Hwy 39. PIN #'s 2715525434; 2715249414; 2715343068
Water Treatment Plant	
Zebulon Water Treatment Plant (1.5 mgd)	Used as a water booster station. PIN #'s 1795255305; 1795257543; 1795252265
Water Distribution System	
Elevated Tank 1 (1 MG)	75 Green Pace Road
Elevated Tank 2 (0.5 MG)	228 W. Vance Street
Ground Storage Tank (0.5 MG at WTP Clearwell)	
Reuse System	
Elevated Tank (1.25 MG)	1545 Old US 264 Highway

Fixed Assets to be Transferred

Asset ID	Asset Description	Serial Number
	Vehicles	
1	1987 4x4 Chevy Truck	1GCEV14H5H5145399
7	1994 F-150 4X4	1FTEF14N5RNB34373
8	2000 F-250 4x4 Utility Truck	1FTNF21L5YE936320
9	2000 F-250 Truck	1FTNF20LXYED93630
15	2004 F-250	1FTNF20L34EA73205
17	1997 F-250HD Truck	3FTHF25H6VMA44973
18	2000 F-450 Utility Truck	1FDXF46FYEA70918
19	1997 F-250 HD Truck	1FTHF25H2VEA85719
	General Fund Items *(split-use items that will transfer)*	
22	1997 Wacker Jumping Jack	
26	Core Cut CC1300 Pavement Saw	
28	94 JCB Backhoe 214 w/ 4 in 1	
37	87 Hudson 9-ton Trailer	
38	98' Hudson 5-ton Trailer	
39	97' Currachee 2000 lbs Trailer (pipe)	
44	Pressure Washer	
48	Confined Entry Hoist	
49	Air Ventilator -Gas	
50	Air Ventilator -Electric	
51	Homelite Mudpumps (1)	
56	Lincoln Electric Welder	
63	Metro-tech Line Locator	
64	Pipehorn Metal Detector	
65	Honda ATV 4x4	
68	24 ft Fiberglass Ladder	
69	24 ft Fiberglass Ladder A-Frame	
70	16 ft Aluminum Ladder	
71	8 ft Folding Alum. Ladder	
76	6-5 HP Air Compressor	

Asset ID	Asset Description	Serial Number
	Enterprise Fund Items	
1	1998 MultiQuip 70 KVA Generator	
2	1998 MultiQuip 70 KVA Generator	
3	Generac GT85 Portable Generator 68 KW	
4	TCM F6ZON6 Forklift	
5	Stihl Pipe Saw	
7	Pipe Saws- Huskvara	
8	1998 Hydrant Watch Dog	
9	Neptune Hydrant Meter/RPZ Stand # 1	
11	2000 MeyersSeth 6" High Volume w/pipe	
12	Hurca Liquid Smoker	
13	Dura-lite Trench Box 6-ft Tall	
15	Ridge Tapping Machine	
16	4 Gas detector(2)	
18	MQ 2" Submersible elec. Pump	
19	Schonstedt magnetic locator	
20	2001 Woods 360Z Mower	
21	2004 Olympian 60KW Generator	
22	250 Gallon Fuel tank with trailer	
23	Stihl 036 Chain Saw	
24	12 Ton Metal Press	
25	1 HP Air Compressor	
26	Portable Band Saw	
27	W/S Misc Supplies/repair parts inv.	

Exhibit B List of Real Property, Easements and Encroachments Agreements

Property	Address
Wastewater Collection System	
Station #2 - Mack Todd Rd. (180 GPM @ 106' TDH)	Mack Todd Road
Station #3 - W. Gannon Ave. (200 GPM @ 85' TDH)	PIN 1795541713 0 W. Gannon Avenue (tax listing address, Town addresses as 1301 W. Gannon Avenue) Book 08633, Page 1008, .10 acres
Station #4 - Westside Master Station (1470 GPM @181' TDH)	PIN 1795766524 700 Worth Hinton Road Book 03591, Page 0697, .06 acres
Station #5 - Taryn Meadows	Taryn Meadows
Station #6 - Spruce Drive (85 GPM @ 100' TDH)	Spruce Drive
Station #7 - Southland Drive (270 GPM @ 126' TDH)	Southland Drive
Station #8 - Azalea Drive (100 GPM @ 22' TDH)	Azalea Drive
Station #9 - Water Plant Road (350 GPM @ 145' TDH)	Water Plant Road
Station #10 - Tippett Road (180 GPM @ 42' TDH)	Tippett Road
Station #11 - New Station (Shepherd's Park)	Shepherd's Park
Wastewater Treatment Plant	
Little Creek WWTP	PIN 2715525434 0 NC Hwy 39 Book 05038, Page 0278 30.95 acres PIN 2715525434 0 NC Hwy 39 Book 05038, Page 0278 30.95 acres (Sewer Plant property) PIN 2715249414 0 Old US 264 Highway Book 6849, Page 636 11.25 acres (up from Sewer Plant property-south of railroad track) PIN 2715343068 0 Old US 264 Highway Book 6849, Page 636 3.64 acres (up from Sewer Plant property-south of railroad track)

Water Treatment Plant	
Former Zebulon Water Treatment Plant	Used as a water booster station. PIN 1795255305 0 US 64 Highway (this is on NC Hwy 97) Book 02780, Page 888 3.13 acres (1 of 3 pieces of Water Plant property-this is the middle piece of land) PIN 1795257543 0 Water Plant Road Book 01533, Page 564 16.62 acres (1 of 3 pieces of Water Plant property-this is the eastern most piece of land) PIN 1795252265 No listed address Not in register of deeds book 2.89 acres (1 of 3 pieces of Water Plant property-this is the western most piece of land)
Water Distribution System	
Elevated Tank 1 (1 MG)	PIN 1796817484 75 Green Pace Road Book 07651, Page 348 1.0 acres
Elevated Tank 2 (0.5 MG)	PIN 2705248177 228 W. Vance Street Book 02434, Page 136, .39 acres
Ground Storage Tank (0.5 MG at WTP Clearwell)	
Reuse System	
Elevated Tank (1.25 MG)	PIN 2715640098 1545 Old US 264 Highway Book 5384, Page 882 1.78 acres

Zebulon List of Utility Easements

Book 1545, Page 560—W.W. Bullock and wife, Erdeane Bullock, dated March 25, 1963 for water line easement. (In the area of Old Mill Road and US 64 Hwy Bypass)

Book 1706, page 329—C.L. Tippett and wife, Edythe Lee Medlin Tippett, dated March 15, 1962 for water line easement. (In the area of Wakelon School, NC Hwy 96 and Bell Street) Map reference Apr 6, 1962

Book 1727, Page 320—Southern Enterprise Corporation, dated June 25, 1966 for water main easement. (In the area of US Highway 264 and Whitley and Sycamore Streets) Reference to

Avon Privett deeds Jan 14, 1954, Apr 14, 1956, and Oct 26, 1965 recorded in Wake Co. Registry

Book 1947, page 307—Southern Enterprise Corporation, date June 16, 1954 for water line easement and extension of Sycamore Street for purpose of water line extension. (In the area of Brantley Road and NC Highway 264) Deed in Book 1144, Page 326

Book 1710, Page 254—Marjan Ltd., dated March 15, 1966 for water main easement. (In the area west of NC Highway 96 and the Victor Bell land). Deed in Book 1212, Page 125

Book 1706, Page 595—Ethel Brown, widow, and James P. Brown and wife, Mary Wise Brown, and Margaret Brown Barber and husband, Milton A. Barber, Jr., date March 15, 1966 for water main easement. (In the area west of NC Hwy 96 on the G.M. Bell land) Deed in Book 289, Page 261-262

Book 2371, Page 399—Borden, Inc., dated December 24, 1975 for sewer line easement. (North of Vance on former alley between lots 12-13 of block 32) BM 1885, Page 68

Book 2589, Page 118—Southern Enterprise Corporation, dated January 16, 1978 for water main easement. Deed in Book 1947, Page 308

Book 3056, Page 849—Mary Reid, dated September 17, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 2989, Page 555—Elsie P. Oakley, dated January 12, 1982 for easement for sanitary sewer pumping station. (location uncertain)

Book 3056, Page 851—Regency Residential, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 853—Regency Residential, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 855—Beck Brothers Veneer Company, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 857—Regency Residential, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 859—Ocey T. Beck, dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 861—Ronald Wayne Perry, Theodis Strickland, John J. Kirby, and Herbert G. King, Jr., trustees in the office of the Zebulon Lion's Club, dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 2322, Page 536—Parrish Supermarket No. 2, Incorporated, date June 2, 1975 for easement to maintain a public alley. (Barbee Street?) BM 1885, Page 68 (lots #11-12, block 33)

Book 3057, Page 215—Sidney C. Eddins and wife, Virginia H. Eddins, dated October 22, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3660, Page 47—Bobby T. McGee and wife, Norma B. McGee, dated September 22, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, Page 28-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 30-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 32-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 34-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 36-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 38-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3067, Page 387—Illinois Tool Works, Inc., dated November 19, 1982 for easement for sewer main. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3101, Page 274—Grace Carpenter, dated March 11, 1983 for sewer line easement. (along Judd Street)

Book 3369, page 708—Mary F. Boyles and husband, Harlan E. Boyles, dated August 30, 1984 for water and sewer main easement. (Runs near/along NC Hwy 97 and connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522)

Book 3369, Page 711—Roy B. Perry and wife, Kaye C. Perry, dated October 17, 1984 for water and sewer main. (Runs near/along NC Hwy 97 and connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522)

Book 3369, page 713—Melvin M. Lanier and wife, Wilma Lanier, dated October 17, 1984 for water and sewer main easement. (Runs near/along NC Hwy 97 and connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522)

Book 3369, Page 717—Salie K. Raybon, dated October 17, 1984 for sewer main easement. (From P/L Sta. 4 + 83.65 to P/L Sta. 10 + 66.71 on "Sanitary Sewer Easement-Town of Zebulon" MB 1984, Pages 1521-1522)

Book 3369, Page 719—Beck Brother Veneer Company, Inc., dated October 17, 1984 for sewer main easement. (From P/L Sta. 41 + 59.34 to P/L Sta. 42 + 94.34 on "Sanitary Sewer Easement-Town of Zebulon" MB 1984, Pages 1521-1522)

Book 3369, Page 721—Jesse Daniels and wife, Lovenia Daniels, dated June 26, 1983 for sewer main easement. Deed in Book 2132, Page 165 , connects with Apr 30, 1984 map "Town of Zebulon Utility Easements-Jesse Daniels/William Toney Property"

Book 3369, Page 723—William T. Toney and wife, Helen M. Toney, dated July 6, 1983 for sewer main easement. Deed in Book 2150, Page 475 , connects with Apr 30, 1984 map "Town of Zebulon Utility Easements-Jesse Daniels/William Toney Property"

Book 3369, Page 725—Elijah Guy Eakes and wife, Mary A. Eakes, dated July 2, 1983 for sewer main easement. Deed in Book 2738, Page 75 , connects with Apr 30, 1984 map "Town of Zebulon Utility Easements-Elijah Guy Eakes Property"

Book 3369, Page 727—Robert A. Lanier and wife, Cheryl G. Lanier, dated October 17, 1984 for sewer main easement. Deed in Book 2413, Page 61 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 729—Norwood N. Smith and wife, Menda H. Smith, dated October 17, 1984 for sewer main easement. Deed in Book 2342, Page 686 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 732—W.W. Watkins and wife, Aleene M. Watkins, dated October 17, 1984 for sewer main easement. Deed in Book 3243, Page 357 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 735—Gerald Wayne Lanier and wife, Gina C. Lanier, dated October 17, 1984 for sewer main easement. Book 2630, Page 211 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 737—W.H. Green, dated October 17, 1984 for sewer main easement. Book 870, Page 504 and Book 932, Page 170 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Pages 1521-1522

Book 3369, Page 739—N.R. Gill, Jr. and wife, Mary Sue L. Gill, dated October 17, 1984 for sewer main easement. Book 1850, Page 443 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Pages 1521-1522

Book 3397, Page 165—William E. Parrish and wife, Mageline H. Parrish, dated December 17, 1984 for sewer main easement. Book 2230, Page 484 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Page 1521

Book 3413, Page 305—Elsie P. Oakley, dated January 8, 1985 for sewer main easement. Book 2716, Page 939 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Page 1521

Book 5030, Page 183—Amos C. Estes and wife, Nancy W. Estes, dated November 7, 1991 for easement for sanitary sewer lines and mains. Deed Book 2754, Page 718 and Deed Book 2780, Page 886, referenced to BM 1991, Page 1084

Book 5038, Page 275—Geraldine E. Hood, widow, dated November 21, 1991 for easement for sanitary sewer lines and mains. Deed Book 1260, Page 108, referenced to BM 1991, Pages 1083-1084

Book 5047, page 798—Bertha Pulley Alford, widow, dated December 3, 1991 for easement for sanitary sewer lines and mains. Deed Book 1542, Page 333* (also found in Deed Book 932, Page 466 and Deed Book 5668, page 296), referenced to BM 1991, Page 1079

Book 5050, Page 563—Anne H. Perry Tant, widow, dated December 6, 1991 for easement for sanitary sewer lines and mains. Deed Book 1112, Page 511, referenced to BM 1991, Page 1082

Book 5050, Page 565—Leland W. Hocutt and wife, Magdelena M. Hocutt, dated December 9, 1991 for easement for sanitary sewer lines and mains. Book 3074, Page 752, referenced to BM 1991, Page 1079

Book 5069, Page 14—Neda High Harris, dated December 11, 1991 for easement for sanitary sewer lines and mains. Deed Book 3774, Page 133, referenced to BM 1991, Page 1079

Book 5141, Page 22—William T. Toney and wife, Helen M. Toney, dated March 19, 1992 for easement for sanitary sewer lines and mains. Deed Book 2150, Page 475, referenced to BM 1991, Page 1079

Book 5141, Page 24—Jesse Daniels and wife, Luvenia B. Daniels, dated March 19, 1992 for easement for sanitary sewer lines and mains. Deed Book 2132, Page 165, referenced to BM 1991, Page 1079

Book 5200, Page 407—Beck Brothers Veneer Company, Inc., dated December 10, 1991 for easement for sanitary sewer lines and mains. Deed Book 1144, Page 205 and Deed Book 1460, Page 156* (also in Book 1623, Page 563 and Book 4355, page 609) referenced to BM 1991, Page 1080

Book 5215, Page 637—Parrish Realty Company of Zebulon, Inc., dated May 2, 1992 for easement for sanitary sewer lines and mains. Deed Book 4758, Page 583, referenced to BM 1991, Page 1081

Book 3561, Page 184—Omark Properties, Inc., dated June 12, 1985 for sewer main easement. Deed Book 1854, Page 91, Deed Book 1948, Page 345, and Deed Book 2437, Page 55 (referenced to BM 1984, Pages 1521-1522 "Sanitary Sewer Easements-Property of Omark Properties")

Book 5232, Page 65—Ulysses Ray Johnson and wife, Linda B. Johnson, dated June 4, 1992 for easement for sanitary sewer lines or mains. Deed Book 3041, Page 937 and Deed Book 1402, Page 169, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1081

Book 5293, Page 632—Elijah Guy Eakes and wife, Mary Ann Eakes, dated July 23, 1992 for easement for sanitary sewer lines or mains. Deed Book 2738, Page 75 and Deed Book 4074, Page 524, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1079

Book 5391, Page 823—F.H. Adams and wife, Bobbie T. Adams, dated November 4, 1992 for easement for sanitary sewer lines or mains. Deed Book 5391, Page 820 and Deed Book 1402, Page 169, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 5426, Page 408—Glenn A. Todd, trustee for Zebulon First Baptist Church, dated August 6, 1992 for easement for sanitary sewer lines or mains. Deed Book 316, Page 28, Book 2114, Page 247, Book 2975, Page 497, and Book 2994, Page 570, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078-1079

Book 5844, Page 538—Thomas D. Bunn and wife, Patricia H. Bunn, dated September 28, 1993 for easement for sanitary sewer lines or mains. Deed Book 1789, Page 496, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1083

Book 5844, Page 541—Bunn Farms, Inc., dated October 5, 1993 for easement for sanitary sewer lines or mains. Deed Book 5068, Page 215, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1082-1083

Book 6239, Page 442—Inez P. McNabb, widow, dated August 12, 1994 for easement for sanitary sewer lines or mains. Deed Book 568, Page 313, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Pages 1084-1085

Book 6371, Page 353—Joseph E. Jacobs and wife, Marie W. Jacobs, dated January 1, 1993 for easement for sanitary sewer lines or mains. Deed Book 4142, Page 134, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 6400, Page 703—Joseph W. Temple and wife, Jimmie F. Temple, dated January 5, 1995 for easement for sanitary sewer lines or mains. Deed Book 1857, Page 507, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 6497, Page 63—William Craige Broome and wife, Elizabeth B. Broome, dated April 13, 1995 for easement for sanitary sewer lines or mains. Deed Book 3270, Page 609, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1995, Page 580

Book 6497, Page 65—Roger Lee Woods and wife, Pamela Poole Woods, dated April 13, 1995 for easement for sanitary sewer lines or mains. Deed Book 2878, Page 940, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1995, Page 580

Book 6821, Page 686—Narvil Ruic Gill, Sue Long Gill, Avon Privette, Jr., and Debbie Privette, dated January 3, 1996 for easement for sanitary sewer lines or mains. Referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 7701, Page 243—Michael Norman J. Wright, dated October 10, 1997 for easement for sanitary sewer lines. BM 1997, Page 1491

Book 7704, Page 800—Dickie Vann Bryant and wife, Linda R. Bryant, dated October 13, 1997 for easement for sanitary sewer lines. BM 1997, Page 1491

Book 7713, Page 615—Harold O. Massey and Ruth Williams Massey, dated October 18, 1997 for easement for sanitary sewer lines. BM 1997, Page 1491

Book 7790, Page 417—Wake County Board of Education, dated December 2, 1997 for sewer easement. BM 1997, Page 1492

Book 7790, Page 419—Julia H. Ingram, dated December 5, 1997 for sewer easement. BM 1997, Page 1491 (2706.17 12 0116 000)

Book 7825, Page 338—Robert C. Hardee and Susan P. Hardee, dated December 22, 1997 for sewer easement. BM 1997, Page 1491

Book 8108, Page 1954—Michael Calvin Pate and Frances K. Pate, dated July 21, 1998 for sewer easement. BM 1997, Page 1491

Book 8113, Page 1226—County of Wake, dated April 21, 1998 for sewer easement. BM 1997, Page 1493

Book 8152, Page 2363—Farner's Way, dated September 24, 1998 for water and sewer utility line easement. Deeds in Book 3391, Page 872 and Book 5384, Page 882

Book 8181, Page 173—Marion Braswell Jenkins, Darlene Jenkins Verran, and Yvonne Jenkins Mitchell and husband, Tim Mitchell, dated November 2, 1998 for utility and sewer improvements easement. BM 1998, Page 1813 (2706.17 01 1231)

Book 8478, Page 377—Ernest L. Campbell and wife, Dorothy W. Campbell, dated November 29, 1999 for sewer easement. BM 1999, Page 2014 (parcel #1)

Book 8478, Page 381—Mary Ann Eakes and Crystal Ann Eakes, dated November 17, 1999 for sewer easement. BM 1999, Page 2015 (parcel #6)

Book 8478, Page 385—Wallace E. Jenkins and Phyllis H. Jenkins, dated November 22, 1999 for sewer easement. BM 1999, Page 2014 (parcel #0)

Book 8478, Page 389— Wallace E. Jenkins and Phyllis H. Jenkins, dated November 22, 1999 for sewer easement. BM 1999, Page 2014 (parcel #4)

Book 8478, Page 393— Blair Eddins and wife, Angela R. Eddins, dated November 24, 1999 for sewer easement. BM 1999, Page 2014 (parcel #5)

Book 8478, Page 397— Douglas Y. Perry and Skyline Development Corporation, dated November 19, 1999 for sewer easement. BM 1999, Page 2014 (parcel #2)

Book 8478, Page 401— Wallace E. Jenkins and Phyllis H. Jenkins, dated November 14, 1999 for sewer easement. BM 1999, Page 2014 (parcel #3)

Book 8537, Page 1515— Mary Ann Eakes and Crystal Ann Eakes, dated March 7, 2000 for sewer easement. BM 1999, Page 2016 (parcel #7)

Book 8602, Page 2369— Glaxo Wellcome, Inc., dated June 1, 2000 for temporary sewer easement (to expire 12/31/05 or when permanent easement is ready). Plat Book 2000, Page 896

Book 9839, Page 2626— Omark Properties, Inc., dated November 25, 2002 for sewer easement. (no description of location)

Book 10901, Page 2706— Zebulon Retail Investors, LLC, dated June 7, 2004 for water and sewer utility easement. Plat in Book 2003, Page 1929 and Deeds in Book 10525, Page 1098, Book 10525, Page 1101, and Book 10525, Page 1105

Book 11143, Page 1641— Back Porch Properties, LLC, and Aimet Properties, LLC, dated November 12, 2004 for water, sewer, reclaimed water utility easement. BM 1998, Page 1846 (2715530873), and reference to BM 2004

Book 11429, Page 386— Skyline Development Corporation, dated June 6, 2005 for water, sewer easement. BM 2004, Page 1953 (1795 1156 6719), Braemar Subdivision

Book 1445, Page 347—Judgment for the Town of Zebulon, dated February 24, 1961, against Josephine Broughton, Fannie B. Rutledge, Ruby B. Land and husband, W.C. Land, Gladys B. Dees, Swannanoa B. Lassiter, Joseph Otis Broughton and wife, Maude B. Broughton for a sewer line easement. (west of hospital property along US Highway 64)

Book 2089, Page 667—Sidney C. Eddins and wife, Virginia H. Eddins, F. Leary Davis, Jr., trustee, William E. Parrish, and Eula P. Lewis, dated May 19, 1972 for sewer line easement. (look for map "Town of Zebulon, N.C., Proposed West Side Sewage Improvements Easement Maps" dated Apr 10, 1972)

Book 1311, Page 625—R.H. Bridgers and wife, Kathryn C. Bridgers, B.A. Jones, trustee, and First Federal Savings and Loan Association of Raleigh, dated March 5, 1958, for water main and sewer line easements. Deed in Book 1230, Page 569 and Book 1233, Page 233

Book 2124, Page 629—William E. Parrish and wife, Magaline H. Parrish, dated May 30, 1972, for sewer line easement. (look for map "Town of Zebulon, N.C., Proposed West Side Sewage Improvements Easement Maps" dated Apr 10, 1972)

Book 2893, Page 887—William E. Parrish and wife, Magaline H. Parrish, dated January 9, 1981, for water and sewer line easements. Deed in Book 2595, Page 387

Book 3069, Page 748—William W. Parrish and wife, Magaline H. Parrish, dated December 6, 1982, for water line easements. Deed in Book 2959, Page 653

Book 3442, Page 366-- Judgment for the Town of Zebulon, dated March 5, 1985, against Theda P. Alford and Cecil Alford for 20' sanitary sewer easement. Deed in Book 1572, Page 2 and referenced to "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3442, Page 376-- Judgment for the Town of Zebulon, dated March 8, 1985, against Wedgwood Village of Zebulon, Inc., Ferd L. Davis, trustee, H.H. Eddins for 20' sanitary sewer easement. Deed in Book 245, Page 591 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 3404, Page 825-- Judgment for the Town of Zebulon, dated December 21, 1984 , against Theda P. Alford and Cecil Alford for 20' sanitary sewer easement. Deed in Book 1572, Page 2 and referenced to "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3442, Page 378-- Judgment for the Town of Zebulon, dated March 8, 1985, against Robert High, for a 20' x 50' easement for sanitary sewer purposes. Deed Book 2441, Page 529 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 3479, Page 423-- Judgment for the Town of Zebulon, dated March 27, 1985, against Charles D. Vick, for a 10' permanent easement. Deed in Book 2251, Page 263 and referenced to "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3479, Page 425-- Judgment for the Town of Zebulon, dated March 27, 1985, against James York, Queen York Baker, Shirley York McClean, Ella May York, and Howard York, for a 10' permanent easement (no purpose given). Nelson York Heirs property referenced in "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3575, Page 449-- Judgment for the Town of Zebulon, dated October 7, 1985, against Zebulon-Wendell Baptist Temple, Inc., for a 20' permanent easement. "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3591, Page 697-- Judgment for the Town of Zebulon, dated October 18, 1985, against Robert High, for a 20' easement for sanitary sewer purposes. Deed Book 2411, Page 529 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 3680, Page 863-- Judgment for the Town of Zebulon, dated March 12, 1986, against Wedgwood Village of Zebulon, Inc., Ferd L. Davis, trustee, H.H. Eddins for 20' sanitary sewer easement. Deed in Book 2693, Page 591 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 7319, Page 744—W. Thurston Debnam and wife, Dianne M. Debnam, dated January 30, 1997 for storm drainage easement. See "Permanent Drainage Easement Wedgwood Subdivision for the Town of Zebulon" BM 1996, Page 1610 and Deeds in Book 2929, Page 854 and Book 2950, Page 178

Book 8640, page 1326—Kevin R. and Ginger D. Broussard, dated July 6, 2000, granting easement to water line as a part of an agreement to extend water services to said customer. (location unknown)

Book 9454, Page 374—Resolution 2002-17, which closes an alley running south off of NC Highway 97, but retaining easement for utilities. SW corner of Lot 4, BM 1885, Page 68 (behind new Eckerd Drug to RBC Centura Bank)

Book 11097, Page 1560—Saintes Assisted Independent Living at Zebulon, Inc., dated June 7, 2004 for utility easement as part of an agreement to extend water and sewer services to customer's property on Pony Road.

Book 11930, Page 1027—Illinois Tool Works, Inc., dated April 19, 2006 for a temporary construction easement and a 20' permanent easement for underground sewer line. Deed Book 2000, Page 141 and plat "Sanitary Sewer Easement for Town of Zebulon, Northern Sewer Interceptor Phase I" from November 2005

Book 11951, page 1740—Maria A. Saffle, Jose A. Correa, and Abraham Jaimez, trustees of Iglesia Cristiana Resurreccion for a temporary construction easement and a 20' permanent easement for underground sewer line. Deed Book 10852, Page 1352 and plat "Sanitary Sewer Easement for Town of Zebulon, Northern Sewer Interceptor Phase I" from November 2005

Exhibit C Water, Sewer and Reclaimed Water Utility Property and Fixed Assets to be Retained by Zebulon

Property/Asset	Address
Neptune Hydrant Meter/RPZ Stand #2	Public Works Facility
Generator at PS#10 Tippett Road	Tippett Road
Public Works Facility	Horton Street
Old WTP site (PIN 2705768182)	PIN 2705768182 529 E. Horton Street Book 01417, Page 0101 8.31 acres (former Water Plant now used as yard waste recycling center facility)
Park (PIN 2705546639)	PIN 2705546639 320 E. Barbee Street Book 5911, Page 573 2.79 acres (sewer line runs across this, but is adjacent to Community Park: Zebulon to provide Raleigh an easement)
Old Water tank site behind Zebulon Council chambers (PIN 2705357125)	PIN 2705357125 0 E. Horton Street Not in Register of Deeds Books .06 acres
Old Well Site (PIN 270536077)	PIN 2705360777 113 E. Glenn Street Book 1324, Page 612 .23 acres (old well used to be on this site, now water line runs across this; Zebulon to provide Raleigh an easement)
PIN 2705262867	PIN 2705262867 106 W. Lee Street Book 05666, Page 550 .23 acres

Exhibit D Summary of System Upgrade and Improvement Projects

Project Identifier	Project Title	Estimated Fiscal Year	Total Project Cost	Project Description
	Water Distribution System			
WD01	Water Distribution System Rolling Stock/Equipment Needs	2007	$100,000	Vehicles and equipment needs for maintenance, to supplement equipment to be transferred from Zebulon. Allowance based on prior utility mergers.
WD02	AMR and Backflow Retrofit Program	2008	$200,000	Approximately 2/3 of system doesn't have backflow preventers. Based on $350 for AMR and backflow; $200 backflow only.
WD03	Water Line E. McIver 2" to 6"	2008	$95,000	Installation of approximately 1000 LF of 6-inch DIP potable water line on the 100 and 200 blocks of East McIver street, replacing an existing galvanized line and providing greater fire protection.
WD04	Valve Inserts	2008	$30,000	Installation of three 12-inch valves on the southern water transmission line in areas where the water distribution grid cannot be isolated.
WD05	Replace Galvanized Pipe with 4" PVC/Ductile Iron Pipe	2009	$200,000	Replace 3,600 ft (2% of total distribution main) of galvanized pipe with 4" PVC or ductile iron. $55/ft allowance.
WD06	Conversion of existing chemical feed station to liquid feed	2009	$0	Not required if feed station removed. Project included for reference only.
WD07	East Wake Water Transmission Improvements (Martin Pond Rd and NC 97)	2010	$1,450,000	Cost share for 24" segment from Martin Pond Road to NC97. Cost based on March 2006 East Wake Water Study report by Hazen and Sawyer.
WD08	Poole Rd 30-inch Main and Martin Pond Rd Booster PS eliminated	2010	$1,630,000	Cost share for the 30" segment from Poole Road to Martin Pond Road only. Cost based on March 2006 East Wake Water Study report by Hazen and Sawyer.
	Wastewater Collection System			
WW01	WW Collection System Rolling Stock/Equipment Needs	2007	$150,000	Vehicles and equipment needs for maintenance, to supplement equipment to be transferred from Zebulon. Allowance based on prior utility mergers.
WW02	Collection System Study	2007	$200,000	Targeted sewer system study to identify areas where projects could reduce infiltration and inflow in Zebulon system.
WW03	Collection System Rehab Projects	2008	$800,000	Allowance for manhole repairs and replacements throughout Zebulon to address deficiencies identified through inventory, field inspections and analysis conducted under project WW02.

Exhibit D Summary of System Upgrade and Improvement Projects

Project Identifier	Project Title	Estimated Fiscal Year	Total Project Cost	Project Description
WW04	WWTP and Pump Station SCADA & Telemetry Upgrade. Includes radio survey	2008	$225,000	Installation of SCADA and telemetry improvements to be consistent with Raleigh standards.
WW05	Azalea Drive Lift station Removal	2008	$80,000	Installation of approximately 500 LF of 8-inch gravity sewer to allow for the removal of the Azalea Drive Sanitary Sewer Lift Station.
	RE-SUSPEND IN "SECOND AMENDMENT"			
WW06	Phase II Northern Interceptor Improvements	2010	$1,135,000	Installation of 3,920 LF of 12 and 18-inch sanitary sewer to provide additional capacity to the Zebulon Northern Interceptor.
	Water Treatment Plant			
WT01	Demolition of basins at old Zebulon WTP	2007	$100,000	Allowance for demolition of concrete structures (assumes demolition to 2' below ground level).
WT02	New generator for booster station	2008	$75,000	Installation of new, larger generator for water booster station, sized to operate pumps 1 and 2 of the facility.
WT03	Repaint Greenpace Road Tank	2010	$200,000	Paint and repair of a 1 million gallon elevated storage tank.
WT04	Greenpace Road Tank washout	2008	$20,000	Interior cleaning and total inspection of Green Pace Road 1 million gallon elevated storage tank.
	Wastewater Treatment Plant			
WWT01	Mixers Improvements for Aeration Basin (Outer Rings Only)	2008	$100,000	Mixer improvements to improve settling in anoxic portion of oxidation ditch.
WWT03	Generator Improvements/Replacement at Pump Stations	2008	$325,000	Replacement generator, sized to serve all equipment. Price includes a 750kW generator for the WWTP and also includes for two 60kW generators at wastewater pump stations.
WWT05	WWTP Biosolids Improvements	2008	$1,600,000	Additional digester for batching the aerobically digested biosolids and then sending to the holding tank for post digestion thickening. This would allow staff to complete a 30 day VSR test prior to sending biosolids to holding tanks where it will be blended with other batches. Cost based on a 55' diameter digester, 13' deep.

Exhibit D Summary of System Upgrade and Improvement Projects

Project Identifier	Project Title	Estimated Fiscal Year	Total Project Cost	Project Description
WWT06	WWTP Odor Control PROPOSED FOR REMOVAL WITH "SECOND AMENDMENT"	2008	$340,000	Covers for the aerobic digester(s), sludge holding tank and influent structure and scrub the foul air so that equipment and processes can run as needed. Cost based on $30/sq ft for 2nr 55' diameter digester, 1nr holding tanks, assumed to be same size, plus 50sq ft for influent structure.
WWT07	WWTP Security Improvements	2008	$80,000	Camera system for facility for added security. Cost based on $5k per camera (10nr) and $10 for recording equipment.
WWT08	Lab/Office Renovations	2009	$50,000	Renovations to buildings.
WWT09	Surge Basin - 1 MG	2010	$1,000,000	Flow equalization for both diurnal equalization and high flow diversion.
WWT10	Bar Screen system Improvements	2010	$200,000	Existing ½" spaced vertical screen should be replaced with fine screen (3 – 5 mm) technology that will fit into the existing influent structure and work with existing hydraulics. Discharge into a new compactor to dry grit prior to discharge into dumpster
WWT11	Feasibility Study for Plant Future/expansion	2007	$100,000	Study to investigate alternative discharges from the Little Creek facility.
WWT12	Little Creek WWTP Expansion Design Process/permitting	2007 to 2009	$1,200,000	Design project leading to expansion of Little Creek WWWTP. Project includes permitting. Expansion project is in addition to the work required under the re-rating project.
WWT13	Little Creek WWTP Expansion (with Little River Discharge)	2009 to 2011	$7,000,000	Expand from re-rated 2.2 mgd MMADF to 3.6 mgd by 2016 (up to 5.7 mgd capacity needed by 2030). Cost based on $7/gallon for 1 MGD ADF
WWT14	Little Creek WWTP Re-rating	2007	$4,000,000	Re-rating of WWTP. Project includes addtional UV channel, effluent filters, de-nitfrification, and improvements to the headworks and clarifiers.
	Reuse System			
RE01	VFD/Generator Improvements-Reclaimed Water Pump Station	2008	$160,000	Installation of a standby generator, automatic transfer switch and variable frequency drives for the reclaimed water booster station at Little River WWTP.

Exhibit D Summary of System Upgrade and Improvement Projects

Project Identifier	Project Title	Estimated Fiscal Year	Total Project Cost	Project Description
RE02	Repaint Reclaimed Water Tank	2012	$125,000	Paint and repair of elevated reclaimed water tank because of age and use.
	General Utility Projects			
GEN01	Conversion of Zebulon CAD files to GIS	2007	$42,000	Add to Withers & Ravenel current project for Raleigh. Approx 36 miles of water pipe, 32 miles of gravity sewer and 5.3 miles force main. Cost estimated by W&R
GEN02	Billing Data Conversion	2007	$85,000	Conversion of Zebulon Utility customer account information and billing data by Contractor
GEN03	Consultant Services	2007	$127,000	Merger Implementation Assistance and Shares in East Wake Water/Sewer Plans
GEN04	Wake County Reimbursement	2007 to 2011	$70,845	Reimbursement for 1996 Water line to PYA
GEN05	IWOS Devices	2007	$25,000	Field laptop computers to be mounted in service vehicles, with Inventory and Work Order System computerized maintenance management system. Five field devices are anticipated.
GEN06	Customer Service Center Set-Up	2007	$10,000	Allowance for computer, software, T1 link and telephone for customer service station at Zebulon.
	Total Merger Project Cost		**$23,329,845**	
	Non-CIP Costs			
WT05	Additional Water treatment capacity from Raleigh	2007	$6,600,000	Purchase of 1.5 MGD capacity at $4.44 per gallon
WW08	Wastewater treatment capacity from Raleigh	2008	$3,800,000	Potential purchase of 1 MGD capacity at $3.80 per gallon. Capacity purchase will be required if Little Creek WWTP expansion is not feasible.
WW07	**Debt Service** for Phase I Northern Interceptor Improvements	2007 to 2012	$470,400	
	Total Non-CIP Cost		**$7,070,000**	Total excludes the potential wastewater capacity purchase

Zebulon-Raleigh Utility Merger
Exhibit E - Schedule of Estimated Revenues and Expenses

Table 1
Town of Zebulon Water and Wastewater
System Merger Analysis
Proforma Financial Projections
Revenue Growth Based on Water Demand
Projections
Zebulon Merges with Raleigh in FY 2008 - Close
Water Plant - WW Plant operates
Operating Expenses are at the Raleigh Unit
Rate

Net Present Value of Available Revenue at 6.0%

	Projected New Accounts															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Raleigh Proposed Rate Adjustments																
Water Rate Increase	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Sewer Rate Increase	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Raleigh Annual Residential Revenue/Account (Assumes 8 CCF or Usage/Month)																
Water	$311,974	$320,934	$330,162	$339,667	$349,457	$359,541	$369,928	$380,627	$391,647	$402,997	$414,687	$426,727	$439,127	$451,897	$465,048	$478,590
Sewer	$184,800	$190,344	$196,054	$201,936	$207,994	$214,234	$220,661	$227,281	$234,099	$241,122	$248,356	$255,807	$263,481	$271,386	$279,527	$287,913
Total	$496,774	$511,278	$526,216	$541,603	$557,451	$573,775	$590,589	$607,908	$625,746	$644,119	$663,043	$682,534	$702,608	$723,283	$744,575	$766,503
Monthly Average	$41,398	$42,607	$43,851	$45,134	$46,454	$47,815	$49,216	$50,659	$52,146	$53,677	$55,254	$56,878	$58,551	$60,274	$62,048	$63,875
WATER AND SEWER REVENUES																
Calculated Total Water Revenues	$1,203,270	$1,261,807	$1,749,225	$2,118,387	$2,338,096	$2,349,881	$2,673,837	$3,168,394	$3,436,182	$3,899,828	$3,954,046	$4,230,252	$4,635,790	$4,801,378	$5,095,782	$5,403,886
In town charge, $	$1,045,833	$1,174,781	$1,520,353	$1,834,265	$2,032,096	$2,245,291	$2,487,923	$2,738,183	$2,977,896	$3,212,346	$3,438,821	$3,676,744	$3,933,504	$4,173,185	$4,477,306	$4,696,772
Out town charge, $1	$157,437	$170,646	$229,676	$276,120	$305,907	$337,700	$376,010	$412,270	$448,318	$483,674	$517,332	$553,488	$587,130	$628,218	$646,478	$707,065
Calculated Total Sewer Revenues	$948,894	$1,026,974	$1,584,447	$1,889,927	$2,188,646	$2,420,182	$2,697,378	$2,949,924	$3,179,433	$3,536,697	$3,675,987	$3,939,168	$4,186,488	$4,487,818	$4,771,484	$5,092,360
In town charge, $	$745,692	$1,048,983	$1,355,134	$1,683,676	$1,811,005	$1,999,206	$2,226,840	$2,441,022	$2,653,643	$2,863,465	$3,065,343	$3,278,173	$3,506,685	$3,729,574	$3,948,534	$4,180,182
Out town charge, $	$112,283	$135,067	$203,866	$245,875	$272,833	$300,963	$333,224	$367,530	$399,618	$431,293	$461,448	$493,773	$528,183	$560,358	$594,551	$630,710
Matching Revenue	$90,919	$2100,925	$109,300	$109,996	$114,871	$119,973	$126,003	$130,668	$136,862	$142,739	$149,004	$155,713	$162,454	$169,858	$177,400	$185,283
Calculated Total Water and Sewer Revenues	$2,161,965	$2,990,481	$3,413,991	$4,100,329	$4,536,572	$5,001,183	$5,501,313	$6,090,417	$6,648,015	$7,135,324	$7,629,933	$8,169,399	$8,735,278	$9,264,202	$9,815,272	$10,410,246
Difference from Actuals																
Charges for Services																
Miscellaneous Revenue	$65,297	$799,199	$880,964	$1,206,943	$1,084,112	$956,182	$1,007,874	$960,466	$920,962	$742,323	$851,220	$864,694	$875,719	$849,948	$864,287	$879,308
Acreage Fees - Water/Sewer	$15,267	$113,917	$144,625	$164,708	$145,418	$125,478	$136,588	$133,745	$128,790	$107,548	$93,336	$93,953	$97,710	$76,214	$76,304	$80,053
Capacity Fees - Water/Sewer		$674,373	$716,403	$815,737	$735,413	$618,000	$775,000	$667,776	$609,376	$512,604	$447,631	$466,103	$466,103	$527,845	$390,573	$400,845
Nutrient Reduction Fees		$56,010	$59,736	$68,937	$71,360	$60,129	$70,904	$63,972	$58,786	$51,972	$43,360	$45,253	$46,950	$36,791	$37,889	$38,988
TOTAL REVENUE	$2,317,362	$3,485,978	$4,294,848	$5,339,139	$5,641,985	$5,858,326	$6,679,085	$6,894,817	$7,482,358	$7,877,754	$8,281,181	$8,914,842	$9,485,894	$9,794,241	$10,370,638	$10,990,840
WATER AND SEWER EXPENDITURES																
Water and Sewer Maintenance 15%	$400,894	$721,790														
Water Plant Operations 3%	$323,737	$87,580														
Wastewater Treatment Plant Operations 7%	$348,209	$146,230														
Reuse	$75,495	$20,720														
Existing Debt Service	$828,980	$811,895	$581,780	$573,723	$557,807	$539,511	$521,415	$503,320	$485,224	$178,700	$169,350	$167,000	$84,500			
Water Purchase From Raleigh (O&M) 40%	$400,000	$101,000														
Raleigh Utility Operations		$540,872	$690,118	$1,117,347	$1,341,250	$1,375,260	$1,371,872	$2,162,884	$2,332,302	$2,680,961	$3,082,340	$3,312,092	$3,548,312	$3,764,515	$3,821,861	$4,237,183
TOTAL EXPENDITURES	$2,448,897	$1,457,617	$1,480,917	$1,690,750	$1,899,057	$2,114,772	$2,305,048	$2,666,205	$2,817,526	$3,067,661	$3,251,690	$3,474,592	$3,642,812	$3,764,515	$3,821,861	$4,237,183
AVAILABLE REVENUES	($131,729)	$1,818,062	$2,804,922	$3,648,391	$3,842,728	$3,741,554	$4,374,037	$4,228,614	$4,444,713	$4,814,093	$4,979,491	$5,439,490	$5,791,134	$6,002,236	$6,378,844	$6,743,457
Net Present Value of Annual Available Revenues		$1,716,096	$2,646,112	$3,081,193	$3,238,382	$2,766,918	$2,973,191	$2,660,404	$2,735,888	$2,849,472	$2,781,681	$2,612,777	$2,582,189	$2,527,240	$2,520,290	$2,613,566
Cum. Net Present Value of Available Revenues		$1,716,096	$4,361,208	$7,362,381	$10,347,743	$13,643,687	$16,029,818	$18,688,208	$21,679,695	$24,514,365	$27,319,037	$29,130,013	$32,693,276	$35,651,731	$38,641,676	$41,466,358
NPV of Annual Capital Outlays		$11,388,229	$4,365,455	$3,763,336	$7,194,100	$2,111,004	$184,961	$56,530								
Cumulative NPV of Capital Outlays		$11,388,229	$15,884,648	$19,447,987	$26,642,177	$27,713,182	$27,975,142	$27,934,672	$27,934,672	$27,934,672	$27,934,672	$27,934,672	$27,934,672	$27,934,672	$27,934,672	$27,934,672

1) Source for historical operating costs is Comprehensive Annual Financial Report for respective year.

Zebulon-Raleigh Utility Merger
Exhibit E - Schedule of Estimated Revenues and Expenses

Table 1
Town of Zebulon Water and Wastewater
System Merger Analysis
Proforma Financial Projections
Revenue Growth Based on Water Demand Projections
Zebulon Merges with Raleigh in FY 2008 - Close Water Plant + WW Plant operates
Operating Expenses are at the Raleigh Unit Rate

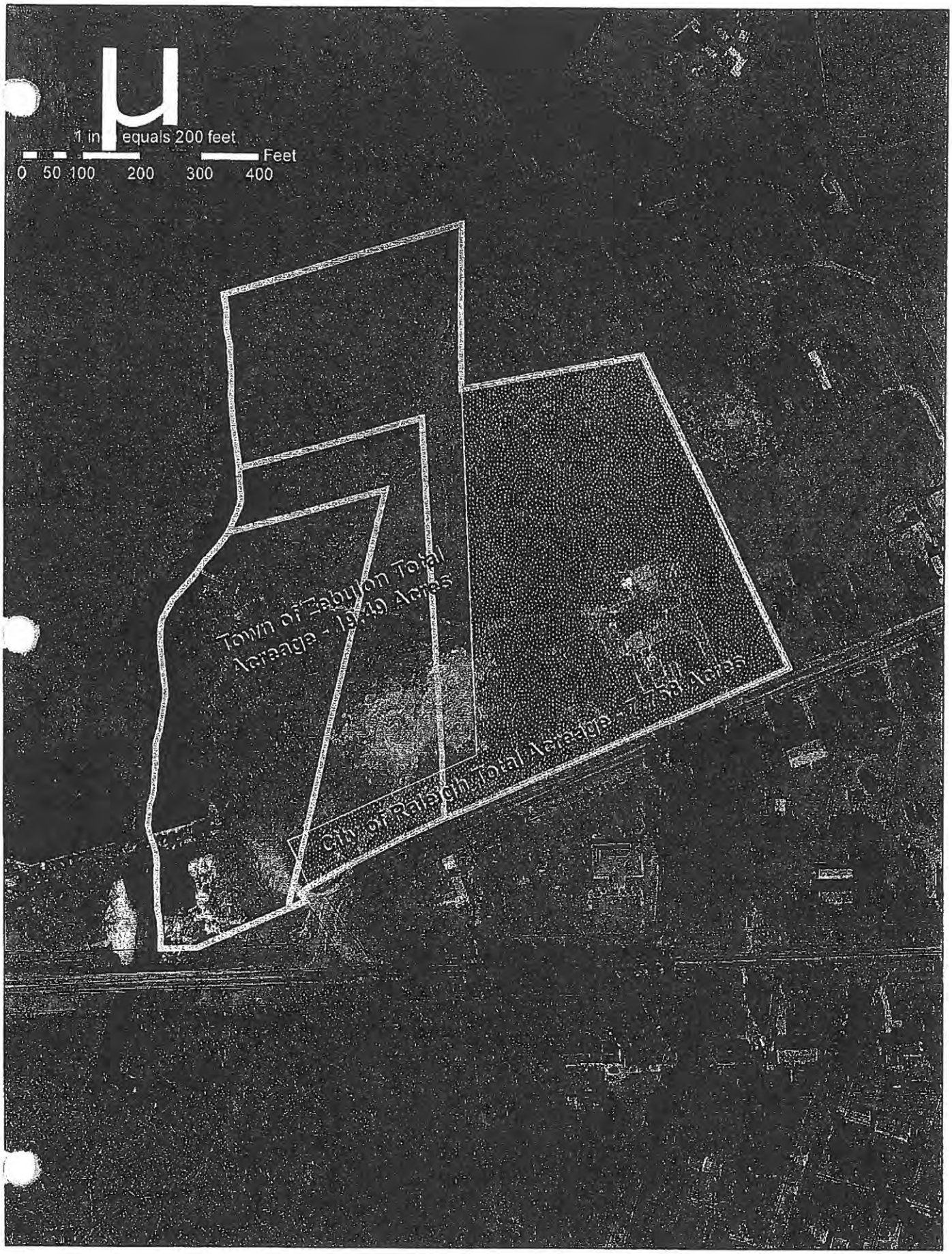
Net Present Value of Available Revenue at 8.0%

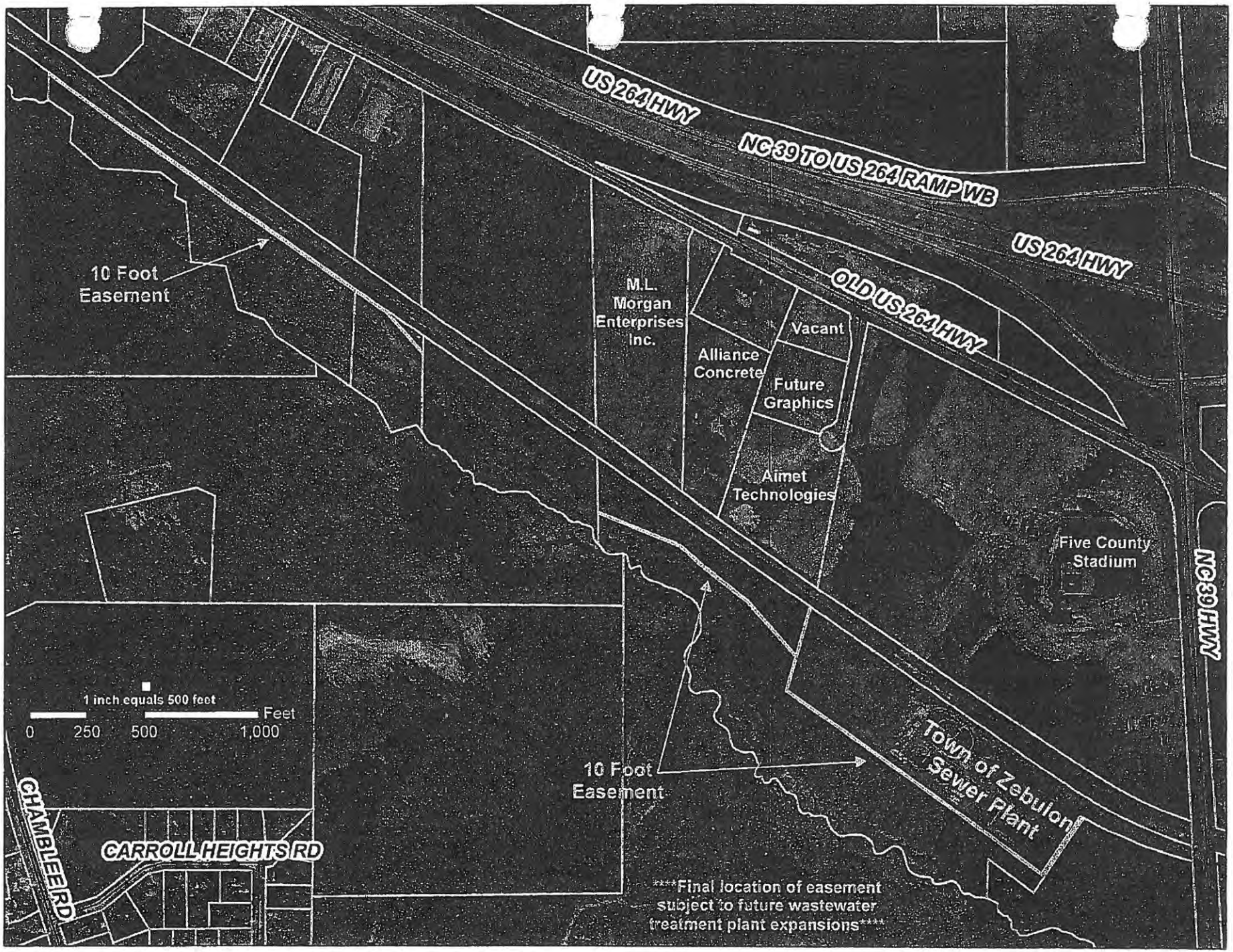
	Pre-Merger Year Assumptions		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Water Consumption																
Average Day, gallons per day	586,764	640,911	836,151	901,983	1,018,513	1,209,005	1,330,854	1,447,338	1,550,925	1,638,514	1,733,980	1,834,464	1,939,273	2,032,199	2,092,217	2,154,024
Total Annual Water Demand, gallons	214,677,000	233,677,000	305,195,000	329,717,000	407,584,000	441,787,000	485,922,000	528,453,000	566,087,000	598,130,000	632,895,000	669,641,000	707,826,000	741,876,000	763,972,000	786,452,000
Unaccounted-for water, gallons per day	159,000	193,000	171,000	200,000	221,000	275,000	246,000	265,000	284,000	293,000	297,000	313,000	335,000	328,000	354,000	343,000
Unaccounted-for water, percent	19%	18%	16%	18%	18%	17%	17%	17%	17%	16%	15%	16%	15%	15%	15%	13%
Total metered Water Usage, gallons	172,798,605	167,618777	241,006,320	265,726,750	333,005,219	356,564,434	399,751,730	372,845,707	323,380,133	411,723,061	427,451,183	451,619,448	468,980,681	474,619,373	488,063,964	508,735,073
Billed Sewer Reaction of Billed Water	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%
Total Billed Sewer (only Town of Zebulon), gallons	184,537,000	177,993,000	228,936,000	269,990,000	286,459,000	309,758,000	333,213,000	354,226,000	373,744,000	391,206,000	408,204,000	421,829,000	437,661,000	451,152,000	464,719,000	478,673,000
Total Billed Sewer (includes Town of Middlesex), gallons	214,907,031	227,626,104	279,833,813	321,187,035	340,786,026	361,780,220	386,666,677	408,782,570	428,034,808	447,300,981	463,053,980	479,485,789	496,403,000	511,675,179	524,819,000	539,015,579
Population Growth	8.0%	10.0%	29.0%	12.0%	8.0%	8.0%	8.0%	7.0%	6.0%	5.6%	4.2%	4.0%	3.8%	3.0%	3.0%	3.0%
Account Data																
No. of Water Accounts	1,855	2,069	2,368	2,757	2,961	3,213	3,351	3,746	3,971	4,168	4,318	4,319	4,600	4,871	4,976	5,125
No. of Sewer Accounts	1,730	1,964	2,249	2,572	2,822	3,061	3,329	3,539	3,773	3,962	4,120	4,285	4,456	4,720	4,729	4,870
No. of New Water Accounts	29	214	267	341	274	231	289	245	225	196	167	173	180	141	145	149
No. of New Sewer Accounts	21	204	254	334	260	216	273	233	214	189	158	165	171	134	138	142
Water Usage Per Account, gallons per month	7,480	7,479	8,446	8,734	8,488	8,433	8,348	8,284	8,293	8,229	8,218	8,205	8,191	8,191	8,191	8,191
Sewer Billed Per Account, gallons per month	7,605	7,425	8,469	8,734	8,488	8,433	8,349	8,294	8,259	8,229	8,218	8,205	8,191	8,191	8,191	8,191
Projected Water Usage																
Wet Day, gallons per day	971,000	1,056,000	1,380,000	1,490,000	1,840,000	1,995,000	2,156,000	2,380,000	2,556,000	2,706,000	2,861,000	3,029,000	3,209,000	3,356,000	3,455,000	3,561,000
Raleigh Allowable Capacity	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,704,000	2,912,180	2,824,848	3,041,892	3,183,798	3,288,829	3,471,473	3,558,260	3,760,611
Zebulon Rates																
Assumed Rate Adjustment			3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Water																
In town Base charge Included 2000 gal prior to FY '07, ref after 3/month	$ 10.00	$ 10.00	$ 10.30	$ 10.61	$ 10.93	$ 11.26	$ 11.58	$ 11.94	$ 12.30	$ 12.67	$ 13.05	$ 13.44	$ 13.84	$ 14.26	$ 14.69	$ 15.13
In town Commodity Surcharge, $/1000 gallons thereafter	$ 5.25	$ 5.41	$ 5.57	$ 5.74	$ 5.91	$ 6.09	$ 6.27	$ 6.46	$ 6.65	$ 6.85	$ 7.06	$ 7.27	$ 7.49	$ 7.71	$ 7.94	$ 8.18
Out town Base charge (>2000gal), $/month	$ 40.00	$ 30.00	$ 72.90	$ 71.39	$ 71.83	$ 22.51	$ 23.19	$ 23.88	$ 24.60	$ 25.34	$ 26.10	$ 26.88	$ 27.68	$ 28.32	$ 29.27	$ 30.29
Out town Commodity Surcharge, $/1000 gal thereafter	$ 10.50	$ 10.67	$ 11.14	$ 11.47	$ 11.82	$ 12.17	$ 12.54	$ 12.91	$ 13.29	$ 13.70	$ 14.11	$ 14.53	$ 14.97	$ 15.42	$ 15.88	$ 16.36
Sewer																
In town Base charge, $/month	$ 10.17	$ 10.48	$ 10.79	$ 11.11	$ 11.45	$ 11.79	$ 12.14	$ 12.51	$ 12.88	$ 13.27	$ 13.67	$ 14.08	$ 14.50	$ 14.83	$ 15.28	$ 15.84
In town Commodity Surcharge, $/1000 gallons thereafter	$ 4.80	$ 4.94	$ 5.09	$ 5.25	$ 5.40	$ 5.56	$ 5.73	$ 5.90	$ 6.08	$ 6.26	$ 6.45	$ 6.64	$ 6.84	$ 7.05	$ 7.26	$ 7.48
Out town Base charge, $/month	$ 20.34	$ 20.95	$ 21.58	$ 22.23	$ 22.89	$ 23.58	$ 24.29	$ 25.02	$ 25.77	$ 26.54	$ 27.34	$ 28.16	$ 29.00	$ 29.87	$ 30.77	$ 31.69
Out town Commodity Surcharge, $/1000 gal thereafter	$ 9.60	$ 9.89	$ 10.18	$ 10.48	$ 10.80	$ 11.13	$ 11.46	$ 11.81	$ 12.16	$ 12.53	$ 12.90	$ 13.29	$ 13.69	$ 14.10	$ 14.52	$ 14.96
Middlesex Rates Adjustment Percent			3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Middlesex Rates ($/1,000 gallons)	$ 1.83	$ 2.01	$ 2.07	$ 2.13	$ 2.20	$ 2.26	$ 2.33	$ 2.40	$ 2.47	$ 2.55	$ 2.62	$ 2.70	$ 2.78	$ 2.87	$ 2.95	$ 3.04
REVENUES PER ACCOUNT																
Actual Rate Revenues																
Water																
Sewer																
Total																
Actual Rate Revenues Per Account																
Water																
Sewer																
Total																
Projected Annual Inside Residential Revenues/Account @ 6,000 Gals per Month																
Water	$482.00	$509.34	$524.62	$540.36	$556.57	$573.27	$590.46	$608.18	$626.42	$645.22	$664.57	$684.51	$705.05	$726.20	$747.99	$770.43
Sewer	$457.64	$481.67	$496.12	$511.00	$526.33	$542.12	$558.39	$575.14	$592.39	$610.16	$628.47	$647.32	$666.74	$686.73	$707.33	$728.57
Total	$939.64	$991.01	$1,020.74	$1,051.36	$1,082.90	$1,115.39	$1,148.85	$1,183.32	$1,218.82	$1,255.38	$1,293.04	$1,331.83	$1,371.79	$1,412.94	$1,455.33	$1,499.00
Monthly Average Residential Bill	$78.97	$82.58	$85.06	$87.61	$90.24	$92.95	$95.74	$98.61	$101.57	$104.62	$107.73	$110.99	$114.32	$117.75	$121.28	$124.92
Raleigh Rates (Inside City)																
Water																
Bi-Monthly Service Charge																
5/8" Meter	$5.89	$6.30	$6.79	$7.37	$8.03	$8.75	$9.54	$10.40	$11.34	$12.36	$12.73	$13.11	$13.50	$13.91	$14.33	$14.76
Consumption Charge Per CCF	$1.43	$1.36	$1.70	$1.83	$1.03	$2.29	$2.40	$2.61	$2.88	$3.11	$2.70	$3.39	$3.79	$3.90	$3.95	$3.71
Sewer																
Bi-Monthly Service Charge																
Per Bill	$4.87	$4.96	$5.40	$6.02	$6.45	$7.03	$7.69	$8.39	$9.11	$9.93	$10.22	$10.53	$10.85	$11.17	$11.51	$11.85
Consumption Charge Per CCF	$1.33	$1.43	$1.36	$1.73	$1.88	$2.05	$2.23	$2.43	$2.65	$2.88	$2.96	$3.05	$3.15	$3.25	$3.35	$3.45

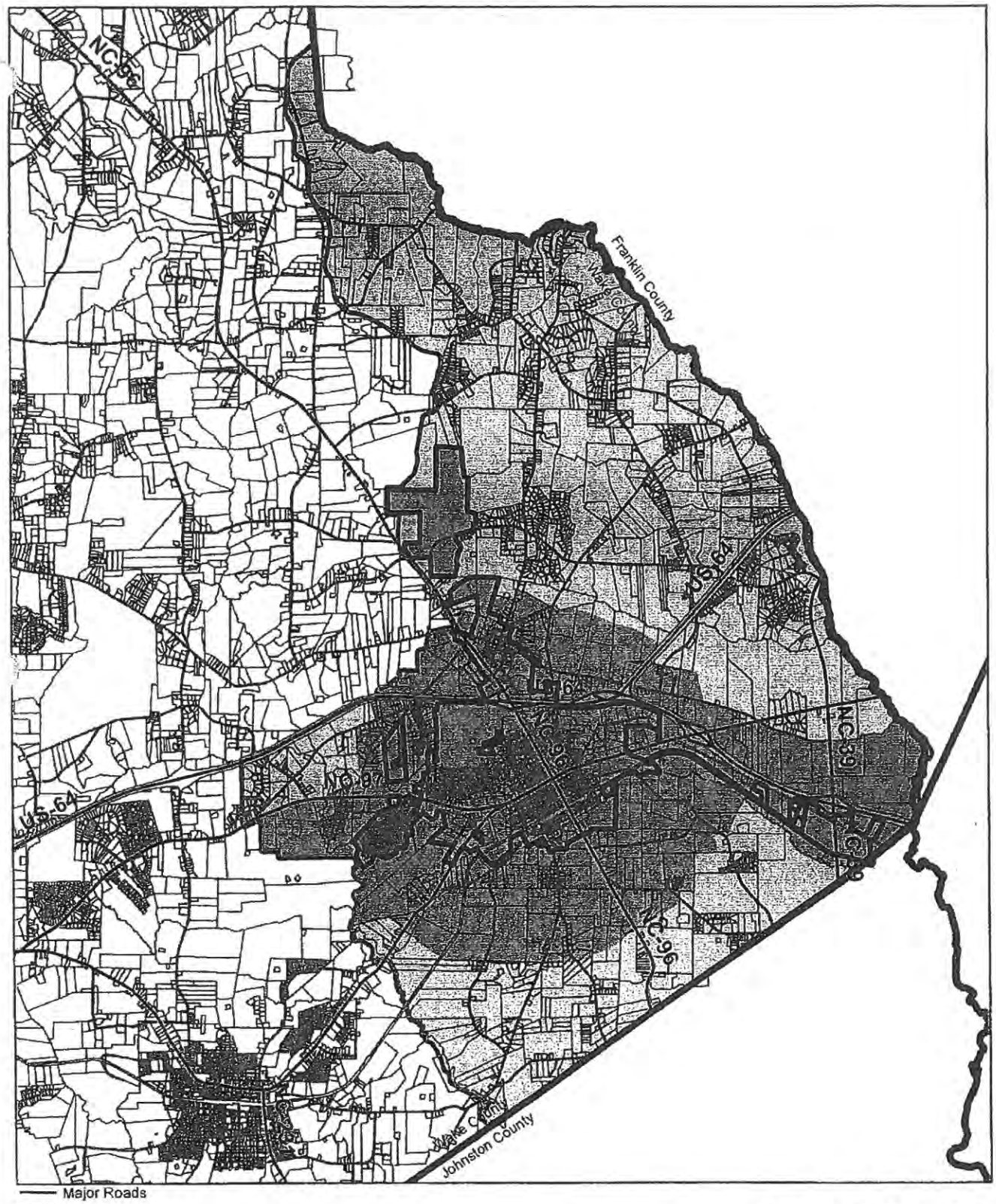
EXHIBIT E

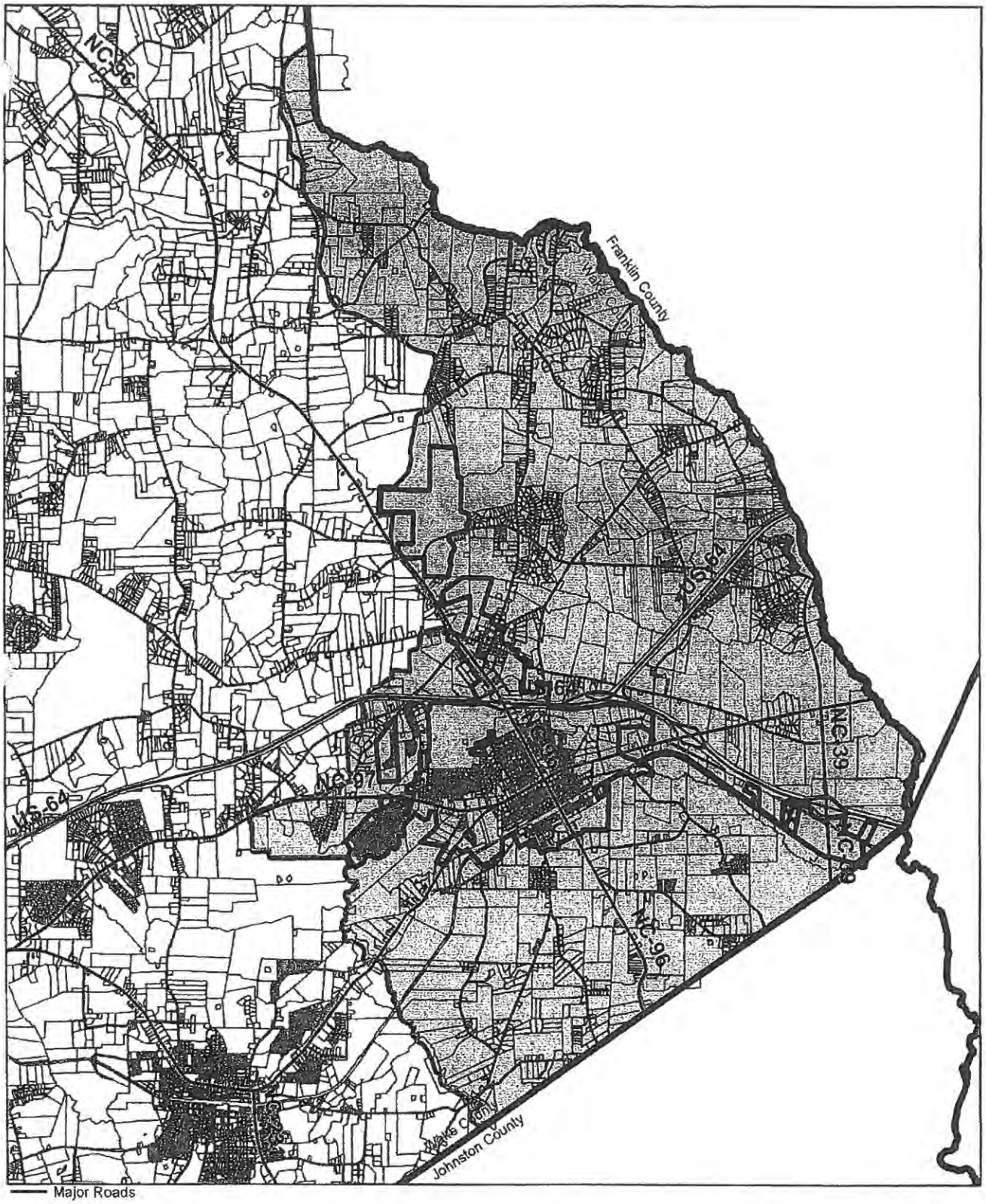
EXHIBIT E - WATER TANK PROPERTY DESCRIPTION

Being all of that parcel of land beginning at a point on the northerly right-of-way of U.S. Highway 264 Alternate, said point of beginning having North Carolina Grid Coordinates (N.A.D. 83 N(Y) = 753,732.78, E(X) = 2,216,364.03) and being N 63 deg. 07' 00" W - 97.86 feet from an existing right-of-way monument located at the intersection of the northerly right-of-way of U.S. Highway 264 Alternate and the westerly right-of-way of N.C. Highway 39, thence from said point of beginning with and along the northerly right-of-way of U.S. Highway 264 Alternate N 63 deg. 04' 08" W - 80.00 feet to a point, cornering; thence N 26 deg. 53' 00" E - 80.07 feet to a point, cornering; thence S 63 deg. 01' 16" E - 49.64 feet to a point on the southerly right-of-way of U.S. Highway 264, thence with and along the southerly right-of-way of U.S. Highway 264 S 31 deg. 05' 57" E - 35.57 feet to point, thence leaving said right-of-way S 26 deg. 53' 00" W - 61.19 feet to the point of beginning, containing 6,119.02 square feet (0.14 acres).


1 in equals 200 feet
Feet
0 50 100 200 300 400
Town of Zebulon Total Acreage - 19.49 Acres
City of Raleigh Total Acreage - 7.58 Acres


US 264 HWY
NC 39 TO US 264 RAMP WB
US 264 HWY
OLD US 264 HWY
10 Foot Easement
M.L. Morgan Enterprises Inc.
Vacant
Alliance Concrete
Future Graphics
Aimet Technologies
Five County Stadium
NC 39 HWY
1 inch equals 500 feet
Feet
0 250 500 1,000
10 Foot Easement
Town of Zebulon Sewer Plant
CHAMBLEE RD
CARROLL HEIGHTS RD
****Final location of easement subject to future wastewater treatment plant expansions****


NC 96
Franklin County
Wake County
US 64
NC 97
NC 39
NC 96
Wake County
Johnston County
Major Roads
Parcels
Corporate Limits
ETJ
Urban Service Area
0
1
2
Miles
1:75,000
Town of Zebulon
Urban Service Area
CH2MHILL



Major Roads
County Line
Parcels
Corporate Limits
Urban Service Area

0 0.5 1 2 Miles

1:75,000

Town of Zebulon
Urban Service Area

CH2MHILL

Raleigh-Zebulon Utility Merger
Exhibit H - Bonded Indebtedness

Year	1981 Installment Note		1997 General Obligation Bonds		TOTAL		
	Principal payment	Interest payments	Principal payment	Interest payments	Principal payment	Interest payments	Total
11/01/2006		$42,983.27		$42,750.00			
5/1/2007	$290,428.00	$42,983.27	$150,000.00	$42,750.00	$440,428.00	$171,466.54	$611,894.54
11/01/2007		$37,610.35		$39,075.00			
5/1/2008	$290,428.00	$37,610.35	$150,000.00	$39,075.00	$440,428.00	$153,370.70	$593,798.70
11/01/2008		$32,237.43		$35,400.00			
5/1/2009	$290,428.00	$32,237.43	$150,000.00	$35,400.00	$440,428.00	$135,274.86	$575,702.86
11/01/2009		$26,864.52		$31,725.00			
5/1/2010	$290,428.00	$26,864.52	$150,000.00	$31,725.00	$440,428.00	$117,179.04	$557,607.04
11/01/2010		$21,491.60		$28,050.00			
5/1/2011	$290,428.00	$21,491.60	$150,000.00	$28,050.00	$440,428.00	$99,083.20	$539,511.20
11/01/2011		$16,118.68		$24,375.00			
5/1/2012	$290,428.00	$16,118.68	$150,000.00	$24,375.00	$440,428.00	$80,987.36	$521,415.36
11/01/2012		$10,745.76		$20,700.00			
5/1/2013	$290,428.00	$10,745.76	$150,000.00	$20,700.00	$440,428.00	$62,891.52	$503,319.52
11/01/2013		$5,372.84		$17,025.00			
5/1/2014	$290,428.00	$5,372.84	$150,000.00	$17,025.00	$440,428.00	$44,795.68	$485,223.68
11/01/2014				$13,350.00			
5/1/2015			$150,000.00	$13,350.00	$150,000.00	$26,700.00	$176,700.00
11/01/2015				$9,675.00			
5/1/2016			$150,000.00	$9,675.00	$150,000.00	$19,350.00	$169,350.00
11/01/2016				$6,000.00			
5/1/2017			$150,000.00	$6,000.00	$150,000.00	$12,000.00	$162,000.00
11/01/2017				$2,250.00			
5/1/2018			$90,000.00	$2,250.00	$90,000.00	$4,500.00	$94,500.00

Source: Fax from the Town of Zebulon (Emily Thomas), May 29, 2003
Updated David Green March 21, 2006 from FY 2005 CAFR, pp 47-49.

13.1 Marketing Responsibilities. Pursuant to the Management Agreement, the Stadium Manager is responsible for the marketing and content of all advertising located on the Premises; the content to be consistent with other National Association member facilities. In the event that the agreement with the Stadium Manager for said marketing is terminated for any reason, the exclusive right to market and to determine content of said advertising shall be granted to Lessee on the same terms and conditions as stated in the Management Agreement.

13.2 Broadcast Rights. Lessee shall have exclusive rights to radio and television broadcasts of all Lessee events at the Premises.

13.3 Premises Signs. In addition to all previously described advertising rights, the Lessee or its related entity is specifically granted an exclusive license to construct and own signs on that part of the Premises located north of the Stadium more specifically described as the second tract in Book of Maps 1990 page 1375, Wake County Register. Such signs may be lighted, provided that any outdoor signs constructed pursuant to this license shall conform to all state and local government requirements. Lessor will provide any necessary electricity easement. Lessor shall not permit any third party to construct signs on this or any other part of the Premises. Lessee's right

to construct and own signs under this Section 13.3 is separate and distinct from the right to decorate the water tower with a sign as described in Section 13.4, and section 13.4 shall not be interpreted as a limitation on section 13.3, and section 13.3 shall not be interpreted as controlling section 13.4.

13.4. Water tower. Lessor and Lessee agree that Lessor may construct a water tower on that part of the Premises located north of the Stadium more specifically described as the second tract in Book of Maps 1990 page 1375, Wake County Register. Lessor and Lessee further agree that the water tower shall be painted a reasonable shade of white with such paint to be maintained at Lessor's expense. Lessor shall be entitled at its expense to place signs with the name "Town of Zebulon" and/or "Zebulon" at reasonable locations on the water tower so as to be visible from the adjacent highway, provided that such signs shall not interfere with Lessee's rights to place a sign as described in this Section 13.4. Lessee may decorate the water tower with a sign that may include some or all of the following elements: the words "Five County Stadium," the words "Home of the Mudcats," the Mudcats' logo, and stitches to resemble a baseball. Such sign and design if any shall be made, installed, and maintained at Lessee's expense, except in the event of vandalism or other damage to the sign to the extent

covered by Lessor's insurance. Such sign, as well as any installation or maintenance personnel and contractors used by Lessee to install, service, and/or maintain Lessee's sign on the water tower shall be subject to Lessor's prior approval, which approval shall not be unreasonably withheld or delayed. The shade of white for the water tower and the location of the "Zebulon" signs for Lessor other than "Zebulon" signs on the stem of the water tower shall be subject to Lessee's prior approval, which approval shall not be unreasonably withheld or delayed. Lessor agrees that it will not sell to any third party the right to put any other words or symbols on the water tower. Notwithstanding Section 13.3 or anything else in this Agreement to the contrary, Lessee acknowledges that it shall not have any other naming or signage rights to the water tower without the prior written consent and approval of Lessor, except as otherwise specifically provided in this Section 13.4. Attached hereto as Exhibit E is a property description and map depicting the location of the water tower property to which Lessor shall have all rights of access and use, notwithstanding Lessee's leasehold interest, provided that Lessee shall enjoy such rights on the water tower property as are expressly granted in Sections 13.3 and 13.4. Disputes regarding the signs on the water tower which cannot be resolved informally shall be submitted to

arbitration as provided in the Lease.

14.0 INDEMNIFICATION AND INSURANCE

14.1 Indemnification by Lessees. The Lessee agrees to indemnify and hold harmless the Lessor and its respective officers and directors from claims brought against it for personal injury, death, property damage and any other losses, damages, charges or expenses, including reasonable attorneys' fees and expenses, which are actually incurred in connection with, or by reason of any material act, omission or negligence of Lessee during Lessee's use of the Premises.

The Lessee indemnifies and holds harmless Lessor, its officers, directors, employees and agents with respect to any claim or liability for loss or theft of, or damage to, personal property of the Lessee, its employees and players, players for opposing teams, umpires, concessionaires, employees and agents of concessionaires, Stadium attendees and others, except to the extent that such loss, theft or damage results from the act of Lessor, or its employees, agents or sub-contractors.

14.2 Indemnification by Lessor. To the extent allowed by law, the Lessor agrees to indemnify and hold harmless the Lessee and its respective officers, directors, employees and agents from claims brought against it for personal injury, death, property damage and any other losses, damages, charges or

WASTEWATER TREATMENT CONTRACT

THIS CONTRACT for the treatment of wastewater is entered into as of the 16th day of August, 1995, between the TOWN OF ZEBULON, hereinafter referred to as the "Seller" and the TOWN OF MIDDLESEX, hereinafter referred to as the "Purchaser", both North Carolina municipal corporations.

WITNESSETH

WHEREAS, the Purchaser intends to apply for loans and grants from Rural Economic and Community Development for the purpose of constructing a wastewater system to satisfactorily serve all residents of the Purchaser and other users as described on plans now on file in the office of Purchaser, and

WHEREAS, to accomplish the purpose of providing wastewater services to the residents and other users, the Purchaser will require a means of wastewater treatment, and

WHEREAS, the Seller owns and operates a wastewater collection and treatment system with a capacity currently capable of serving the present customers of the Seller's system and the residents of Purchaser and other users as shown on the plans of the aforesaid system to be constructed, and

WHEREAS the Board of Commissioners of the TOWN OF ZEBULON on the 16th day of August, 1995, adopted the contract for the sale of wastewater treatment services to the Purchaser in accordance with the provisions of the contract and the execution of this contract by the Mayor and attested by the Town Clerk was duly authorized, and

WHEREAS the Purchaser adopted this contract on the 16th day of August, 1995, for the purchase of wastewater treatment services from the Seller in accordance with the terms set forth in the contract and the contract was approved and the execution of this contract by the Mayor and attested by the Town Clerk was duly authorized,

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

JAN 15 1997

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser, at a point of reception hereinafter specified, during the term of this contract or any renewal or extensions thereof, a means of transmitting wastewater of the Purchaser through the wastewater treatment facility of the Seller, to a final discharge point within the receiving stream, with treated effluent meeting all State and Federal regulatory requirements, in such a quantity as may be required by the Purchaser not to exceed 0.19 MGD.

2. (Point of Delivery) Wastewater of the Purchaser will be received within a proposed manhole of the Seller's wastewater collection system on N.C. Highway 39 as shown on the plans of the system now on file in the office of the Purchaser and attached as Exhibit A. Emergency failures of transmission and/or treatment due to main breaks, power failure, flood, fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. (Billing Procedure) To furnish the Purchaser, not later than the tenth day of each month, with an itemized statement of the amount of wastewater treated by the Seller and all applicable charges.

B. The Purchaser Agrees:

1. (Metering Equipment) To furnish and install, at its own expense, necessary metering equipment and other required devices of standard type for properly measuring the quantity of wastewater delivered to the Seller, meeting specifications approved by the Seller, within the final pumping station and to calibrate such metering equipment once every twelve (12) months unless such repair or calibration becomes necessary. A metering device registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the three months (3) previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any known period, the amount of wastewater pumped during such period shall be deemed to be the amount of wastewater delivered in the corresponding period immediately prior to the failure, unless the Seller and Purchaser shall agree upon a different amount.

   The metering equipment shall be read on a monthly basis. Appropriate officials of the Seller shall at all reasonable times have access to the meter for the purpose of recording its readings.

2. (Sampling Equipment) To install a suitable wastewater sampling station for the use of the Seller, said facility shall be installed at the location of the metering facility as previously described under Item 1 above and said design is subject to approval by the Seller. The wastewater sampling station shall include a flow proportional, refrigerated, sequential sampler housed in a locked compartment. The maintenance of the sampling station shall be performed by the Purchaser.

For the purpose of determining certain portions of the treatment charges, the Seller shall collect at the point noted above, flow proportional composite samples, and shall analyze these samples for the following parameters at the frequency indicated.

Parameter	Frequency
BOD, Suspended Solids, Ammonia	Monthly
Metals (10)	Quarterly

The Seller shall provide the Purchaser, upon request, equal split portions of the samples taken for analysis by the Seller. Reports on the analysis shall be submitted by the Seller in writing to the Purchaser on a monthly basis. Discovery, by the Seller, of violations of discharge limitations for toxic substances or heavy metals, by the Purchaser, shall be reported by the Seller to the Purchaser within 24 hours of the analysis identifying such violation.

The cost of all monthly testing shall be absorbed by the Seller. The cost of all quarterly testing shall be paid for by the Purchaser.

3. (Rates, Costs and Payment Date) To pay the Seller, no later than the twentieth day of the month in which the bill was received, for wastewater treated in accordance with the rates listed below. A late charge of 1.5% per month shall be added on all unpaid balances. Purchaser agrees to pay Seller in accordance with the following schedule:

(1) (Rates and Volume Loading) In accordance with the following:

Charge	Flow
$506,194.00 Initial tap-on fee	
56.00 per day	50,000 GPD minimum (1,500,000 Gal/Mo)
1.12 per 1000 gal	50,001 - 190,000 GPD (1,500,000 - 5,700,000 Gal/Mo)
1.67 per 1000 gal	Over 5,700,000 Gal/Mo

(2) (Organic Loading) In accordance with the following:

Contaminant	In Excess of	Rate of Excess
BOD	240 mg/l	$ 0.25 per lb.
TSS	240 mg/l	$ 0.50 per lb.
Ammonia	20 mg/l	$ 1.25 per lb.

4. Purchaser will construct all necessary sewer mains, pump stations and force mains in order to connect to the existing sewer system of Seller at the point of delivery set forth in paragraph (A)(2) hereinabove. Purchaser will be the sole owner of all sewer mains, pumping stations, force mains, flow meters and all other related equipment, wherever located, constructed or installed by it. Purchaser will be responsible for making repairs to all property owned by it.

In the future, should the Seller desire to connect to any portion of the Purchaser's system to accommodate development within Wake County, the Seller will pay the capital cost of any upgrade of the Purchaser's system required to accommodate the additional flow generated by the Seller.

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. (Term of Contract) That this contract shall extend for a term of forty (40) years from the date of the initial receipt of any wastewater as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms as may be agreed upon by the Seller and the Purchaser.

2. (Receipt of Wastewater) That thirty (30) days prior to the estimated date of completion of construction of the Purchaser's wastewater interceptor collection system, the Purchaser will notify the Seller in writing the date for the initial delivery of wastewater.

3. (Failure of Delivery) That the Seller will, at all times operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with the maximum capacities required by the Purchaser and stated herein. Temporary or partial failures to receive wastewater shall be remedied with all possible dispatch.

4. (Modification of Contract) That the provisions of this Contract pertaining to the schedule of rates relating to both quantity and quality to be paid by the Purchaser for wastewater received are subject to modification on July 1 of each succeeding year as determined by the Seller. Revised rates shall be based on the cost of operation and maintenance of Seller's wastewater treatment plant. Costs associated with the operation, maintenance and other budget items of Seller's sanitary sewer system shall not be included in the race.

5. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

6. (Miscellaneous) That the construction of the improvements to the wastewater system of the Purchaser is being financed by a loan made or insured by the United States of America acting through the Rural Economic and Community Development of the U. S. Department of Agriculture and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of Rural Economic and Community Development.

7. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the Purchaser hereunder.

8. (Indemnity of Seller) That it is understood and agreed by and between Seller and Purchaser that Seller shall not be liable for any failure of the wastewater system of Purchaser and that Purchaser hereby agrees to indemnify Seller against any loss, costs, expenses, causes of action and judgements in connection with said failure which may be established in favor of customers of Purchaser's system.

9. The Purchaser shall adopt and place into effect, a Sewer Use Ordinance

including an Industrial Pretreatment Program which shall be no less stringent than the Sewer Use Ordinance of the Seller. The Purchaser's Sewer Use Ordinance shall be prepared in accordance with all appropriate STATE or EPA Regulations which presently exist, or which may be in effect at the time of the adoption of said ordinance. The Purchaser's Sewer Use Ordinance shall be approved by the Seller prior to its adoption by the Purchaser. The Purchaser shall amend its Sewer Use Ordinance as required in the future to assure that it is continuously in accordance with appropriate STATE and EPA regulations, and no less stringent that the Sewer Use Ordinance of the Seller.

The Purchaser shall comply with all requirements of the Seller's Industrial Pretreatment Program. The Seller will administer the Industrial Pretreatment Program and issue all permits for the Industrial Pretreatment Program for the Purchaser. The Purchaser will reimburse the Seller its actual expense in administering this program. The administration of the Industrial Pretreatment Program will include the Purchaser receiving the industrial applications from their customers and then submitting the application material to the Seller for review and permitting. The Purchaser will approve all new and additional flow requests from its industrial customers prior to the Seller issuing any permit. The Seller will calculate the amounts for any industrial surcharges and add this to the Purchaser's monthly bill. The Purchaser will be responsible for billing and collecting the surcharges from the appropriate industries. If enforcement action is needed, the Purchaser will follow its "Enforcement Response Plan" and when necessary the Purchaser will terminate the industry's water or sewer service after notification has been given by the Seller. If the Purchaser fails to terminate the industry's water and sewer service after notification, then the Seller will have the right to terminate the industry's process discharge connection. When civil penalties are involved, the Seller shall notify the Purchaser of any penalty to be assessed, and the Seller shall then assess such civil penalty to the industrial customer.

10. Should Purchaser cause an overflow condition to occur within the Seller's sewage collection system as a result of the Purchaser's discharge of wastewater into the Seller's system, the Purchaser shall immediately take any and all necessary remedial action, including, but not limited to, a reduction in its pumping rate, in order to eliminate the overflow condition.

Furthermore, the Purchaser shall and does hereby assume, and agrees to indemnify and hold harmless the Seller, its successors and assigns, from and against all loss, costs, expenses, damage to property caused by, or in any way resulting from an overflow event caused by the Purchaser..

11. The Purchaser shall and does hereby assume to hold harmless to Seller, its successors and assigns, from and against all loss, costs, expenses, and damages caused by or in any way resulting from a biological upset of the Seller's treatment works as a result of the levels of metals or toxic contaminants contained in the wastewater being discharged by the Purchaser into the collection system of the Seller.

12. The Seller may terminate this CONTRACT and the consent for the Purchaser to discharge wastewater into the Seller's collection system, 120 days after written notification to the Purchaser by the Seller of the non-payment of fees or charges herein presented, or for breach by the Purchaser of any other condition contained herein.

13. In the future, the Purchaser will pay its proportionate share of any treatment plant upgrades which may be necessary due to new Federal or State regulations or operational requirements. In the case of treatment charges, the surcharge items may be expanded if the NPDES permit conditions are changed. The surcharge items may be modified to more equitably reflect treatment costs.

14. The Purchaser shall charge and collect sewer acreage fees not less than those charged by the Seller.

15. (Requirement of Regional System) That it is understood by the Seller and Purchaser that this contract shall be null and void should the system being constructed by the Purchaser not be completed by July 1, 1997.

16. (Pledge) This contract is hereby pledged to the United States of America, acting through the Rural Economic and Community Development as part of the security for a loan from the United States of America.

IN WITNESS WHEREOF, the parties hereto, acting under authority if their respective governing bodies, have caused this contract to be duly executed in six (6) counterparts, each of which shall constitute an original.

Seller: TOWN OF ZEBULON

BY: _____

TITLE: MAYOR

ATTEST:

_____
Town Clerk

Purchaser: TOWN OF MIDDLESEX

BY: _____

TITLE: Mayor

ATTEST:

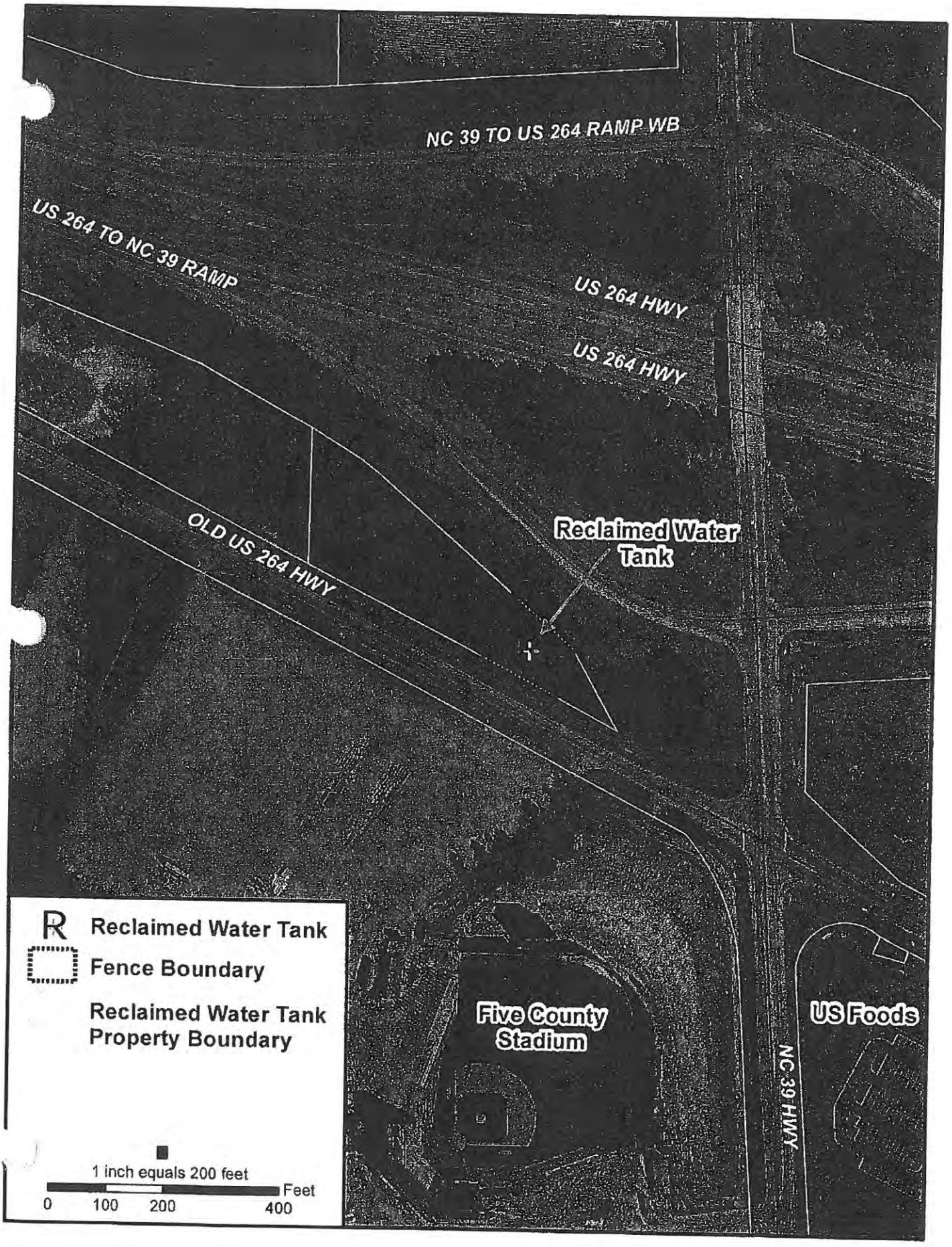
_____
Town Clerk

This contract is approved on behalf of the Rural Economic and Community Development this 12th day of March, 1996.

BY: _____
JAMES C. KEARNEY

TITLE: State Director

FE95044


NC 39 TO US 264 RAMP WB
US 264 TO NC 39 RAMP
US 264 HWY
US 264 HWY
OLD US 264 HWY
Reclaimed Water Tank
Five County Stadium
US Foods
NC 39 HWY
Reclaimed Water Tank
Fence Boundary
Reclaimed Water Tank Property Boundary
1 inch equals 200 feet
Feet
0
100
200
400

ENCUMBERED

PROVISIONS FOR THE PAYMENT OF THE MONEYS TO FALL DUE UNDER THIS AGREEMENT HAS BEEN MADE BY AN APPROPRIATION DULY MADE, OR BY BONDS OR NOTES DULY AUTHORIZED, AS REQUIRED BY THE LOCAL GOVERNMENT ACT.

Janice Copeland	08-01-06
CITY ACCOUNTANT	DATE

CODE N/A $ 0.00

STATE OF NORTH CAROLINA
COUNTY OF WAKE

FIRST AMENDMENT TO THE ZEBULON/RALEIGH UTILITY MERGER AGREEMENT

This **AMENDMENT** to the Zebulon/Raleigh Utility Merger Agreement is entered into this by and between the City of Raleigh, hereinafter referred to as "Raleigh", and the Town of Zebulon, hereinafter referred to as "Zebulon".

WITNESSETH:

WHEREAS, Raleigh and Zebulon entered into an agreement to merge utility functions of both municipalities (Merger Agreement) on August 2, 2006;

WHEREAS, Zebulon had a pre-merger water supply allocation of 1.0 MGD maximum daily demand flow and a pre-merger wastewater treatment capacity allocation of 1.85 MGD on a maximum month average flow basis; and

WHEREAS, Zebulon agreed to purchase from Raleigh a total water flow of 1.5 MGD, maximum daily demand flow of water supply allocation, and fund the costs to rerate/expand treatment capacity of the Little Creek Waste Water Treatment Plant (LCWWTP) in two phases; rerate to 2.2 MGD in phase I, and expand to 4.0 MGD in phase II, on a maximum month average flow basis; and

SOLD BACK 300,000 gal

WHEREAS, Zebulon wishes to reduce the additional water supply allocation to be purchased from 1.5 MGD to 1.2 MGD, and does not now wish to fund beyond those costs necessary to rerate the Little Creek Waste Water Treatment Plant to 2.2 MGD; and

WHEREAS, Raleigh and Zebulon agree to revise the list of properties to be transferred so as to change the status of three properties;

WHEREAS, Raleigh and Zebulon agree that each Merger Town has separate requirements which may require terms in the respective Merger Agreement for each Merger Town that are specific to the needs to that Merger Town and that those separate requirements are not a basis for invoking the provision of Paragraph 16.0 so as to require identical terms in each Merger Agreement;

NOW, THERFORE, ZEBULON and RALEIGH mutually agree to amend the identified provisions in the August 2, 2006 AGREEMENT to read as follows:

1. Paragraph 3.4 is rewritten to read:

REFER TO MERGER AGREEMENT

"3.4 System Upgrades and Improvements

"Raleigh shall undertake and complete all activities relating to the design; construction; startup; and operation of the system upgrade and improvement projects agreed upon as a part of this Agreement and listed in the attached copy of Exhibit D [which substitutes for Exhibit D attached to the Merger Agreement], including the purchase of an additional 1.2 million gallons per day of water capacity (based on the maximum day usage) to be included in Exhibit D at $4.44 per gallon, for a total water capacity cost of $5,328,000.

THIS NUMBER WILL BE DIFFERENT IN THE "SECOND AMENDMENT" TO REFLECT SELL-BACK

"Said upgrade and improvement projects will be undertaken and completed by Raleigh to upgrade and improve Zebulon's water, sewer and reclaimed water utility system in accordance with Raleigh's water, sewer and reclaimed water utility system standards for operation and performance, level of service, reliability, and redundancy. Raleigh may, at its discretion, undertake alternative upgrade and improvement projects that accomplish the same purposes as the projects agreed upon. In the event the alternative project is an enhancement and more costly than the project as defined in Exhibit D, attached to this Amendment, based upon an up to date cost estimate and quote (and which is agreed to be a design upgrade beyond the original project scope which does not provide commensurate benefits to the current Zebulon service area as it existed in 2006), then the increased cost shall be borne by Raleigh.

"Any upgrades by Raleigh beyond those outlined in Exhibit D, attached to this Amendment, will be accomplished in accordance with Raleigh's normal operations and capital program prioritization process. Raleigh will notify in writing, and confer with representatives of Zebulon's governing Board and the UAC, before final adoption of any upgrade and improvement projects beyond those outlined in Exhibit D to this Amendment, any water, sewer and reclaimed water utility system expansion program, or water, sewer and reclaimed water utility system master plan or capital improvements plan affecting the water, sewer and reclaimed water utility systems within the corporate or Urban Service Area limits of Zebulon.

"The costs for the upgrade and improvement projects will be recovered from customers located in Zebulon's municipal corporate and Urban Services Area limits through the schedule of rates, fees and charges as described elsewhere in this Agreement. Cost-sharing for projects of mutual benefit to Zebulon and other municipalities will be reviewed on a case-by-case basis."

2. Paragraph 3.7 is rewritten to read:

"3.7 Schedules of Rates, Fees, Charges, and Penalties

"Raleigh shall apply to customers located in Zebulon's corporate limits and Urban Services Area a schedule of rates, fees and charges sufficient to recover all of the costs, as determined by Raleigh, required to accomplish the water, sewer and reclaimed water utility merger between Raleigh and Zebulon. Said costs will include, but not be limited to, capital upgrades and improvements, administration and other transfer costs directly related to the water, sewer and reclaimed water utility merger.

"Capital cost estimates for system upgrade and improvement projects are listed in Exhibit D, attached to this Amendment. It is understood that the actual costs for the upgrade and improvement projects may vary from the estimated costs presented in Exhibit D attached to this

Amendment, because of changes in scope, site conditions, schedule or other factors beyond the control of Raleigh. Potential cost increases resulting from factors beyond the control of Raleigh will be recovered through the schedules of rates, fees and charges applied to customers in the Zebulon service area.

IN ADDITION TO SELLING BULK WATER, THE PAY-OUT CYCLE WAS EXTENDED

"The cost recovery program for the water, sewer and reclaimed water utility merger will be phased over an 18-year period. The schedule of estimated revenues and expenses for the Zebulon service area is presented in Exhibit E to the Merger Agreement. The sequence of rates, fees and charges to be applied to customers in the Zebulon area during this period is scheduled as follows:

HOW RALEIGH ADJUSTS RATES TO RECOVER COST TO MERGE UTILITY SYSTEMS

TRANSFER DATE TO JULY 2012 3% HIGHER THAN "RALEIGH RATES"

JULY 2012 - JULY 2021 5.5% INCREASE EVERY YEAR

1) For the period extending from the Transfer Date to July 1, 2012, the base water, sewer, and reclaimed water charge and the water, sewer, and reclaimed water consumptive retail rates for Zebulon customers will increase annually by no less than 3% above the rate in effect on the Transfer Date. For the period extending July 1, 2012 to July 1, 2021, the base water, sewer and reclaimed water charge and water, sewer and reclaimed water consumptive retail rates for Zebulon customers will increase annually by no less than 5.5% percent above the rate in effect on July 1, 2011. If the Zebulon Town Board adopts an ordinance setting an annual increase higher than 5.5%, Raleigh will apply the higher rate after notice is provided to the Zebulon area customers of the increase. For the period from July 1, 2021 to July 1, 2024, the base water, sewer and reclaimed water charge and water, sewer and reclaimed consumptive retail rates for Zebulon customers will be determined by the Zebulon Town Board, but shall be no less than the rates charged immediately prior to July 1, 2021.

YOU CAN CHARGE MORE THAN RALEIGH METRICS LISTED HERE

TO ENSURE JULY 2024 PAY OUT, THESE OPTIONS OF CHARGING 1" SUR. CHARGE" ON TOP OF THE BILL MAY BE EMPLOYED

2) For the period extending from July 1, 2012 to July 1, 2024 a surcharge may be applied to the base or consumptive retail rate of Zebulon customers if:

   a) The actual capital costs, and associated annual debt service, exceed the estimated capital costs for the upgrade and improvement projects identified in Exhibit D attached to this Amendment, or

   b) The actual revenue from the Zebulon service area is insufficient to recover all of the merger-related costs within the 18-year period.

   If a surcharge is required, then the surcharge will apply for a future period to be determined based upon the recovery period projected as of July 1, 2011.

3) After July 1, 2024, the consumptive retail rate for Zebulon customers will be same as for Raleigh customers, subject to any continuing surcharge that may be added to the rates in subparagraph 2 above.

WHEN CLOSED OUT, IF CREDIT EXISTS, YOU'LL RECEIVE IT IN RETURNED CAPACITY

4) If net revenues collected from the Zebulon service area during the approximate 18-year period exceed the merger-related costs as defined by Raleigh, and as verified by audit, then Raleigh shall offer one of two options to Zebulon, the choice being solely that of Zebulon. The first option is to apply the excess revenues toward the purchase of additional water and/or sewer capacity allocations beyond the agreed upon indexes specified in Section 5.1. The second option is to adjust the consumptive retail rate for Zebulon customers to the same as Raleigh customers prior to the date in paragraph 3.7.3, above. In the event the additional capacity allocations is chosen, the quantity of additional water and/or sewer capacity under this provision will be determined by dividing the excess revenues by Raleigh water and/or wastewater capacity fee(s) in effect at the time that the calculation is taking place.

"Zebulon's non-consumption fees and charges related to utility service, including, but not limited to such as acreage fees, capacity fees, frontage fees, nutrient reduction fees and utility connection ("tap") charges will continue to be assessed and collected by the Zebulon customer service center, and remitted to Raleigh, until all said merger costs have been fully recovered. Zebulon implemented a Neuse River nitrogen fee beginning July 1, 2006, and this fee will continue to July 1, 2024. The non-consumptive, development fees and charges for Zebulon customers relating to utility service will remain at the rate in effect on the Transfer Date. However, within this period Zebulon will review fees and may make annual adjustments to ensure recovery of merger costs. In no event will Zebulon's development fees and charges be lower than comparable charges applied in Raleigh.

"Once all said merger costs have been fully recovered, Raleigh shall apply rates and non-consumption fees and charges to customers located inside the municipal limits of Zebulon that are equivalent to those that are being charged to customers inside the municipal limits of Raleigh, and shall apply rates and non-consumption fees and charges to customers located outside the municipal limits of Zebulon that are equivalent to those that are being charged to customers outside the municipal limits of Raleigh. During the 18-year period from the Transfer Date through July 1, 2024, Raleigh shall provide Zebulon with an annual statement summarizing the status of Zebulon utility revenues and merger costs as compared to original estimates.

"Raleigh will provide at least thirty (30) days written notice to Zebulon customers prior to adopting any revisions to the schedule of rates, fees, and charges.

"Zebulon has an established policy that the cost of reclaimed water will be no more than 50% of rate for potable water. This policy will be applied to Zebulon Customers by Raleigh during the merger payback period."

3. Paragraph 4.2 Property Transfer is rewritten to read:

4.2 Property Transfer

"Upon the Effective Date of this Amendment, a Bill of Sale shall be executed by Zebulon to transfer ownership of all facilities, property, land, equipment, financial assets, information, and data subject to this Agreement to Raleigh. Zebulon and Raleigh acknowledge that pursuant to the intent of the parties and the terms of the Merger Agreement, Raleigh has lawfully exercised dominion and control of said assets since the Transfer Date and Raleigh may continue its exercise of dominion and control of said assets until the legal instruments conveying the assets are made final and effective. Except as otherwise provided herein, such documents shall be sufficient to convey to Raleigh all of Zebulon's right, title, and interest in Zebulon's water, sewer and reclaimed water system, including easements and rights-of-way, whether or not recorded. Said rights-of-way shall include the right to operate and maintain the subject water, sewer and reclaimed water system within any public streets within Zebulon. Any documents needed to memorialize this passage of title shall not be required to contain any warranties of condition or title, except as expressly set forth herein. A non-warranty deed shall be executed by Zebulon to convey all interests in real property and improvements thereto which are subject to this Agreement.

"Zebulon shall cooperate with Raleigh in establishing title to any portion of Zebulon's water, sewer and reclaimed water system where ownership may be contested.

"A detailed list of real property and easements and encroachment agreements is included as Exhibit B to this Amendment. A list of water, sewer and reclaimed water utility property and fixed assets to be retained by Zebulon is included as Exhibit C to this Amendment. If at any time in the future property transferred to Raleigh is no longer used for water, sewer and reclaimed water purposes, Raleigh shall return the land to Zebulon.

THIS IS HOW LITTLE RIVER PARK EXPANDED WILL GET ~~RETURNED~~ TO ZEBULON

"The former Water Treatment Plant site will be transferred to Raleigh in its entirety. However, a portion of this asset, as identified on the plan included as Exhibit F to this Amendment, will revert to Zebulon ownership, at no cost to Zebulon, should Raleigh determine that the site is not required for the purpose of a future Little River Water Treatment Plant. Until the time that a decision is made on the use of the site for the Little River Water Treatment Plant, Raleigh will grant an easement, for the area shown on the plan in Exhibit F to the Merger Agreement, to Zebulon for the continued use of the area as a park facility. Additional details of this use of the facility for recreation are to be addressed in a separate agreement as outlined in paragraph 11.0.

"The current Little Creek Waste Water Treatment Plant site will be transferred to Raleigh. Raleigh shall grant an easement for a walking trail at the Little Creek Wastewater Treatment Plant, as identified on the plan included in Exhibit F. The two properties owned by Zebulon which are traversed by a sewer line and identified by PIN #2715249414 & PIN # 2715343068 will be retained by Zebulon. Zebulon grants Raleigh a utility easement on these properties which easement will be described in an easement deed. These various easements are identified on the plan included as part of Exhibit F."

4. Paragraph 4.4 Existing Water and Sewer Capacity Allocations is rewritten to read:

"4.4 Existing Water and Sewer Capacity Allocations

"Prior to the merger, Zebulon had a water supply allocation from Raleigh for 1 mgd, for maximum daily demand flows, and no wastewater capacity allocation in the Neuse River Wastewater Treatment Plant, although Zebulon's Little Creek WWTP had a permitted capacity of 1.85 mgd on a maximum month average daily flow basis.

"To the extent that capacity is available under its operating permits and in light of prior commitments for capacity to other local government partners, Raleigh will construct additional wastewater and water supply capacity as necessary to accommodate new growth and development within the corporate limits and Urban Service Area of Zebulon, consistent with Paragraph 5.1 of this Amendment. See Exhibit G to the Merger Agreement for identification of corporate and urban service area limits. Said additional wastewater and water supply capacity will be financed by Raleigh using revenues generated by Raleigh's schedule of rates, fees, and charges, or other debt instruments as determined by Raleigh. During the period prior to the system being fully accepted by Raleigh, and the Zebulon customers' rates being adjusted to the same as the rates for Raleigh customers, the financing by Raleigh for the additional constructed

water and wastewater facilities will be offset by the differential in rates being paid by Zebulon customers and the rate that they would pay if inside Raleigh."

5. Section 5.1 Growth and Development Index is rewritten to read:

5.1 Growth and Development Index

"Raleigh will provide water services to customers in Zebulon within the following parameters:

1) For the period extending from the Transfer Date to September 30, 2011, the total water flow allocation for Zebulon will be 2.2 mgd maximum day water flow, which includes 1.2 mgd additional capacity which Zebulon must purchase from Raleigh on the Transfer Date.
2) For the period extending from October 1, 2011 to September 30, 2021, the annual growth rate in peak day water use will be limited to four percent per year, compounded upon the prior year's allocation.
3) For the period extending from October 1, 2021 to September 30, 2031, the annual growth in peak day water use will be limited to three percent, compounded upon the prior year's allocation.
4) For the period extending beyond September 30, 2031, the annual growth in peak day water demands will be the same as for the Raleigh service area as determined by the Raleigh City Council.

"Following the Transfer Date, Zebulon's initial allocation for wastewater treatment capacity will be the permitted capacity of the Little Creek WWTP. Raleigh will complete plant improvements which will increase the rated capacity of the Little Creek WWTP from the current 1.85 mgd to 2.2 mgd, on a maximum month average day basis.

1) For the period extending from the Transfer Date to completion of the Phase I Little Creek WWTP improvements, the total Little Creek WWTP wastewater treatment capacity will be 1.85 mgd. Upon completion of the improvements, the re-rated capacity of the Little Creek WWTP will be 2.2 mgd, on a maximum month average daily basis. For the purpose of compounding the prior year's allocation only, the re-rated capacity of 2.2 mgd will be effective on September 30, 2011.
2) For the period extending from October 1, 2011 to September 30, 2021, the annual growth rate in wastewater flow will be limited to four percent per year, compounded upon the prior year's allocation.
3) For the period extending from October 1, 2021 to September 30, 2031, the annual growth in wastewater flow will be limited to three percent, compounded upon the prior year's allocation.
4) For the period extending beyond September 30, 2031, the annual growth in wastewater flow will be the same as for Raleigh service area as determined by Raleigh City Council.

"The actual wastewater capacity available to Zebulon shall be subject to the contractual obligation for capacity to the Town of Middlesex as described in section 10.3.

"The calculation of Zebulon's water and wastewater flow allocations will be based on the summation of estimated flows for new connection permits and actual flows metered for the

Zebulon service area. An exceedance of the prescribed growth rate in any given year will be allowed, provided it is reconciled within the following two years. For example, during the period October 1, 2011 to September 30, 2021, the annual growth rate limit is four percent. Annual growth over a three consecutive year period may be six percent (year 1), two percent (year 2) and four percent (year 3), equivalent to an average four percent growth rate. Because the growth exceedance in year 1 was reconciled to the prescribed average within the following two years, the overall growth for this period would not violate this agreement.

"These growth levels would be subject to modification by Raleigh if problems are encountered with the implementation of treatment plant expansions. If such is necessary, Zebulon's water growth capacity would be no less than 1 percent of the unallocated treatment capacity of the Raleigh system for water at that time.

"Raleigh may offer Zebulon additional water capacity beyond the agreed-upon indexes, on a case-by-case basis, to accommodate major industrial or commercial projects that elect to locate within Zebulon's Urban Services Area and provide benefits to both Raleigh and Zebulon."

6. Paragraph 9.0 Indebtedness is rewritten to read:

"9.0 Indebtedness

"Raleigh agrees to pay Zebulon all amounts necessary to enable Zebulon to make all debt service payments when due and payable on all existing outstanding indebtedness, whether bonded or not bonded debt, of Zebulon for water, sewer and reclaimed water facilities covered under this Agreement. The payments required to be made in accordance with this provision of the Agreement shall be made in a timely manner, and Raleigh's obligation hereunder shall be a continuing one until all outstanding indebtedness of Zebulon borrowed for such purposes shall have been paid in full. A statement of Zebulon's outstanding indebtedness and a schedule of the debt service to be made pursuant to this provision of the Agreement shall be submitted to Raleigh prior to the Effective Date of this Amendment to the Merger Agreement (See Exhibit H to this Amendment). Zebulon agrees to cooperate with Raleigh in determining opportunities for early retirement or refinancing of any of the outstanding debt, when such adjustments are permitted by the bonding agencies, and Raleigh retains the right to exercise an option of debt refinancing or retirement if costs to the water, sewer and reclaimed water utility can be lowered as a result. Projected debt service shall be included as a part of the transfer cost calculated as a part of this agreement."

7. Paragraph 10.2 Zebulon Commitments to Private Third Parties is rewritten to read:

"10.2 Zebulon Commitments to Private Third Parties

"Zebulon has certain commitments to developers of residential and non-residential projects inside and outside the corporate boundaries of Zebulon. All agreements previously entered into between Zebulon and developers will be honored by Raleigh, provided that such contracts that require expenditure of Raleigh funds shall be considered "merger costs" recoverable by Raleigh pursuant to the terms of Paragraph 3.7 of this Agreement.

"Zebulon will install the meters, set the boxes, and collect tap fees in all of such developments to fulfill its existing commitments prior to Transfer Date. Such completed services shall become a part of the property to be conveyed herein from Zebulon to Raleigh.

"Any contract or agreement with third parties entered into by Zebulon between the Effective Date and the Transfer Date shall require approval by Raleigh.

"A contract existed at the time of the Transfer Date between Zebulon, Wake County and the Carolina Mudcats Organization concerning the Carolina Mudcats' use of Five County Stadium (owned jointly by Zebulon and Wake County) and the reclaimed water tank property (owned by Zebulon) (see Exhibit I to the Merger Agreement.). Raleigh agrees to take ownership of the reclaimed water tank property subject to the terms and conditions of the contract as it pertains to the maintenance of the reclaimed water tank property. Zebulon reserves the rights and responsibilities of the reclaimed water tank property as it pertains to approval of decorative paint design and signage. Zebulon and Raleigh will mutually agree to all changes made to the design placed on the ball or trunk of the reclaimed water tank, or any changes as they relate to free-standing signage placed on the property by the Carolina Mudcats.

"Raleigh may require that decorative art on the reclaimed water tank be repaired or repainted, without exclusion. Raleigh shall give Zebulon 180 days notice of intent to repair or repaint the reclaimed water tank that would include any proposed changes to or removal of existing decorative art. Zebulon must receive Raleigh approval of any new design for decorative art before proceeding with installation. Raleigh retains the right to specify any coatings that comprise the decorative art. Raleigh will not approve any telecommunications equipment additions to the reclaimed water tank that obscure or otherwise interfere with the clear observation of any existing decorative art."

8. Paragraph 10.4 Zebulon Commitments to Communications Firms for Transmission Towers on Zebulon Water, Sewer and Reclaimed Water Assets is rewritten to read:

"10.4 Zebulon Commitments to Communications Firms for Transmission Towers on Zebulon Water, Sewer and Reclaimed Water Assets

"Zebulon has no existing contracts with communications firms for transmission towers located on Zebulon water, sewer and reclaimed water assets.

"Zebulon has a verbal agreement with a local amateur radio club for the provision of a repeater on the Vance Street tank. Zebulon also has a repeater on the tank for use of the emergency services. Raleigh agrees to allow continued use of the water tower for the location of these repeaters, subject to any such repeaters being to Raleigh's approval. Zebulon will assume responsibility for the design and installation of any repeater for the amateur radio club, as well as the cost of removal and replacement of the repeater equipment for tank operation, maintenance, or repair."

9. Paragraph 10.6 Wake County Reimbursement Project is rewritten to read:

"**10.6 Wake County Reimbursement Project**

"Zebulon has two active reimbursement agreements dated 1987 and 1995 in effect with Wake County, North Carolina for access to the Highway 64 Water Booster Station, and for the water and sewer lines extended to serve the PYA/Monarch Facility.

"Pursuant to the 1987 agreement, acreage fees are to be collected by Zebulon for each property owner that connects to the booster station and is located within a designated collection area. "These acreage fees are to be remitted by Zebulon to Wake County as reimbursement for construction costs in accordance with the terms of the agreement.

"Pursuant to the 1995 agreement, acreage fees are to be collected by Zebulon for each property owner that connects to the above referenced sewer projects and is located within a designated collection area. These acreage fees are to be remitted by Zebulon to Wake County as reimbursement for construction costs in accordance with the terms of the agreement. The acreage fees that it is expected could be collected will be sufficient to repay approximately half of the obligation to Wake County. The balance of the obligation was paid prior to the transfer of any remaining utility funds to Wake County by Zebulon."

Except as amended according to the terms herein, the Merger Agreement shall remain in full effect.

IN WITNESS WHEREOF, Raleigh has executed the foregoing with the signature(s) of its duly authorized officer(s), under seal, and Zebulon has executed with the signature of the Town Manager, attested by its Town Clerk, with the official seal affixed, the day and year first above written.

This the 30th day of July, 2011.

Town of Zebulon

BY: _____
Richard D. Hardin—Town Manager

Attest:

_____
Lisa M. Markland—Town Clerk

_____
Approved as to Form, Zebulon Town Attorney

City of Raleigh

BY: _____

City Manager

Attest: _____

City Clerk

_____ Dennis Embo, Paralegal 08-03-12

Approved as to Form, Raleigh City Attorney

CITY OF RALEIGH NORTH CAROLINA

10. Exhibit A is rewritten to read:

"EXHIBIT A

Fixed Assets to be Transferred

Property	Address
Wastewater Collection System	
Station #2 - Mack Todd Rd. (180 GPM @ 106' TDH)	Mack Todd Road
Station #3 - W. Gannon Ave. (200 GPM @ 85' TDH)	1301 W. Gannon Ave
Station #4 - Westside Master Station (1470 GPM @181' TDH)	700 Worth Hinton Road
Station #5 - Taryn Meadows	Taryn Meadows
Station #6 - Spruce Drive (85 GPM @ 100' TDH)	Spruce Drive
Station #7 - Southland Drive (270 GPM @ 126' TDH)	Southland Drive
Station #8 - Azalea Drive (100 GPM @ 22' TDH)	Azalea Drive
Station #9 - Water Plant Road (350 GPM @ 145' TDH)	Water Plant Road
Station #10 - Tippett Road (180 GPM @ 42' TDH)	Tippett Road
Wastewater Treatment Plant	
Little Creek WWTP	NC Hwy 39.
Water Treatment Plant	
Zebulon Water Treatment Plant (1.5 mgd)	Water Plant Rd. (Used as a water booster station.)
Water Distribution System	
Elevated Tank 1 (1 MG)	75 Green Pace Road
Elevated Tank 2 (0.5 MG)	228 W. Vance Street
Ground Storage Tank (0.5 MG at WTP Clearwell)	Water Plant Road
Reuse System	
Elevated Tank (.25 MG)	1545 Old US 264 Highway

Fixed Assets to be Transferred

Asset ID	Asset Description	Serial Number
	Vehicles	
1	1987 4x4 Chevy Truck	1GCEV14H5H5145399
7	1994 F-150 4X4	1FTEF14N5RNB34373
8	2000 F-250 4x4 Utility Truck	1FTNF21L5YE936320
9	2000 F-250 Truck	1FTNF20LXYED93630
15	2004 F-250	1FTNF20L34EA73205
17	1997 F-250HD Truck	3FTHF25H6VMA44973
18	2000 F-450 Utility Truck	1FDXF46FYEA70918
19	1997 F-250 HD Truck	1FTHF25H2VEA85719
	General Fund Items *(split-use items that will transfer)*	
22	1997 Wacker Jumping Jack	
26	Core Cut CC1300 Pavement Saw	
28	94 JCB Backhoe 214 w/ 4 in 1	
37	87 Hudson 9-ton Trailer	
38	98' Hudson 5-ton Trailer	
39	97' Currachee 2000 lbs Trailer (pipe)	
44	Pressure Washer	
48	Confined Entry Hoist	
49	Air Ventilator -Gas	
50	Air Ventilator -Electric	
51	Homelite Mudpumps (1)	
56	Lincoln Electric Welder	
63	Metro-tech Line Locator	
64	Pipehorn Metal Detector	
65	Honda ATV 4x4	
68	24 ft Fiberglass Ladder	
69	24 ft Fiberglass Ladder A-Frame	
70	16 ft Aluminum Ladder	

Asset ID	Asset Description	Serial Number
71	8 ft Folding Alum. Ladder	
76	6-5 HP Air Compressor	
	Enterprise Fund Items	
1	1998 MultiQuip 70 KVA Generator	
2	1998 MultiQuip 70 KVA Generator	
3	Generac GT85 Portable Generator 68 KW	
4	TCM F6ZON6 Forklift	
5	Stihl Pipe Saw	
7	Pipe Saws- Huskvara	
8	1998 Hydrant Watch Dog	
9	Neptune Hydrant Meter/RPZ Stand # 1	
11	2000 MeyersSeth 6" High Volume w/pipe	
12	Hurca Liquid Smoker	
13	Dura-lite Trench Box 6-ft Tall	
15	Ridge Tapping Machine	
16	4 Gas detector(2)	
18	MQ 2" Submersible elec. Pump	
19	Schonstedt magnetic locator	
20	2001 Woods 360Z Mower	
21	2004 Olympian 60KW Generator	
22	250 Gallon Fuel tank with trailer	
23	Stihl 036 Chain Saw	
24	12 Ton Metal Press	
25	1 HP Air Compressor	
26	Portable Band Saw	
27	W/S Misc Supplies/repair parts inv."	

11. **Exhibit B is rewritten to read:**

"Exhibit B List of Real Property, Easements and Encroachments Agreements

Property	Address
Wastewater Collection System	
Station #2 - Mack Todd Rd. (180 GPM @ 106' TDH)	Mack Todd Road (easements Wake County Register of Deeds, Book 3413, Page 305 and Book 2989, Page 55)
Station #3 - W. Gannon Ave. (200 GPM @ 85' TDH)	PIN 1795541713 0 W. Gannon Avenue (tax listing address, Town addresses as 1301 W. Gannon Avenue) Book 08633, Page 1008, .10 acres
Station #4 - Westside Master Station (1470 GPM @181' TDH)	PIN 1795766524 700 Worth Hinton Road Book 03591, Page 0697, .06 acres
Station #5 - Taryn Meadows	Taryn Meadows (easement Wake County Register of Deeds, Book 11511, Page 385)
Station #6 - Spruce Drive (85 GPM @ 100' TDH)	Spruce Drive (easements Wake County register of deeds, Book of Maps 2011, page 473)
Station #7 - Southland Drive (270 GPM @ 126' TDH)	Southland Drive (easement reference in Wake County Register of Deeds, Book of Maps 1994, Page 1881)
Station #8 - Azalea Drive (100 GPM @ 22' TDH)	Azalea Drive (easement referenced in Wake County Register of Deeds, Book of Maps 1996, Page 891)
Station #9 - Water Plant Road (350 GPM @ 145' TDH)	Water Plant Road (included on Water Treatment Plant site)
Station #10 - Tippett Road (180 GPM @ 42' TDH)	Tippett Road (easement Wake County Register of Deeds, Book 8108, Page 1954)
Wastewater Treatment Plant	
Little Creek WWTP Site	PIN 2715525434 0 NC Hwy 39 Book 05038, Page 0278 30.95 acres PIN 2715525434 0 NC Hwy 39 Book 05038, Page 0278 30.95 acres (Sewer Plant property) Note: Raleigh to provide easement to Zebulon on this site.

Water Treatment Plant	
Former Zebulon Water Treatment Plant Site	Used as a water booster station. PIN 1795255305 0 US 64 Highway (this is on NC Hwy 97) Book 02780, Page 888 3.13 acres (1 of 3 pieces of Water Plant property-this is the middle piece of land) PIN 1795257543 0 Water Plant Road Book 01533, Page 564 16.62 acres (1 of 3 pieces of Water Plant property-this is the eastern most piece of land) PIN 1795252265 0 Water Plant Road Not in register of deeds book 2.89 acres (1 of 3 pieces of Water Plant property-this is the western most piece of land that includes the dam and the river) Note: Raleigh to provide Zebulon with easement on these sites.
Water Distribution System	
Elevated Tank 1 (1 MG) Site	PIN 1796817484 75 Green Pace Road Book 07651, Page 348 1.0 acres
Elevated Tank 2 (0.5 MG) Site	PIN 2705248177 228 W. Vance Street Book 02434, Page 136, .39 acres
Ground Storage Tank (0.5 MG) Site	Water Plant Road (included on Water Treatment Plant site)
Reuse System	
Elevated Tank (0.25 MG) Site	PIN 2715640098 1545 Old US 264 Highway Book 5384, Page 882 1.78 acres

Zebulon List of Utility Easements

Book 1545, Page 560—W.W. Bullock and wife, Erdeane Bullock, dated March 25, 1963 for water line easement. (In the area of Old Mill Road and US 64 Hwy Bypass)

Book 1706, page 329—C.L. Tippett and wife, Edythe Lee Medlin Tippett, dated March 15, 1962 for water line easement. (In the area of Wakelon School, NC Hwy 96 and Bell Street) Map reference Apr 6, 1962

Book 1727, Page 320—Southern Enterprise Corporation, dated June 25, 1966 for water main easement. (In the area of US Highway 264 and Whitley and Sycamore Streets) Reference to Avon Privett deeds Jan 14, 1954, Apr 14, 1956, and Oct 26, 1965 recorded in Wake Co. Registry

Book 1947, page 307—Southern Enterprise Corporation, date June 16, 1954 for water line easement and extension of Sycamore Street for purpose of water line extension. (In the area of Brantley Road and NC Highway 264) Deed in Book 1144, Page 326

Book 1710, Page 254—Marjan Ltd., dated March 15, 1966 for water main easement. (In the area west of NC Highway 96 and the Victor Bell land). Deed in Book 1212, Page 125

Book 1706, Page 595—Ethel Brown, widow, and James P. Brown and wife, Mary Wise Brown, and Margaret Brown Barber and husband, Milton A. Barber, Jr., date March 15, 1966 for water main easement. (In the area west of NC Hwy 96 on the G.M. Bell land) Deed in Book 289, Page 261-262

Book 2371, Page 399—Borden, Inc., dated December 24, 1975 for sewer line easement. (North of Vance on former alley between lots 12-13 of block 32) BM 1885, Page 68

Book 2589, Page 118—Southern Enterprise Corporation, dated January 16, 1978 for water main easement. Deed in Book 1947, Page 308

Book 3056, Page 849—Mary Reid, dated September 17, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 2989, Page 555—Elsie P. Oakley, dated January 12, 1982 for easement for sanitary sewer pumping station. (location uncertain)

Book 3056, Page 851—Regency Residential, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 853—Regency Residential, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 855—Beck Brothers Veneer Company, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 857—Regency Residential, Inc., dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 859—Ocey T. Beck, dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3056, Page 861—Ronald Wayne Perry, Theodis Strickland, John J. Kirby, and Herbert G. King, Jr., trustees in the office of the Zebulon Lion's Club, dated September 17, 1982 for easement for sewer mains. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3057, Page 215—Sidney C. Eddins and wife, Virginia H. Eddins, dated October 22, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book3060, Page 47—Bobby T. McGee and wife, Norma B. McGee, dated September 22, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, Page 28– Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 30– Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 32– Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 34– Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 36– Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3062, page 38-- Avon Privette and wife, Debbie D. Privette, dated November 5, 1982 for sewer main easement. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3067, Page 387—Illinois Tool Works, Inc., dated November 19, 1982 for easement for sewer main. "Sanitary Sewer Easement-Town of Zebulon" Plat Book 1982, Page 891

Book 3101, Page 274—Grace Carpenter, dated March 11, 1983 for sewer line easement. (along Judd Street)

Book 3369, page 708—Mary F. Boyles and husband, Harlan E. Boyles, dated August 30, 1984 for water and sewer main easement. (Runs near/along NC Hwy 97 and connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522)

Book 3369, Page 711—Roy B. Perry and wife, Kaye C. Perry, dated October 17, 1984 for water and sewer main. (Runs near/along NC Hwy 97 and connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522)

Book 3369, page 713—Melvin M. Lanier and wife, Wilma Lanier, dated October 17, 1984 for water and sewer main easement. (Runs near/along NC Hwy 97 and connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522)

Book 3369, Page 717—Salie K. Raybon, dated October 17, 1984 for sewer main easement. (From P/L Sta. 4 + 83.65 to P/L Sta. 10 + 66.71 on "Sanitary Sewer Easement-Town of Zebulon" MB 1984, Pages 1521-1522)

Book 3369, Page 719—Beck Brother Veneer Company, Inc., dated October 17, 1984 for sewer main easement. (From P/L Sta. 41 + 59.34 to P/L Sta. 42 + 94.34 on "Sanitary Sewer Easement-Town of Zebulon" MB 1984, Pages 1521-1522)

Book 3369, Page 721—Jesse Daniels and wife, Lovenia Daniels, dated June 26, 1983 for sewer main easement. Deed in Book 2132, Page 165 , connects with Apr 30, 1984 map "Town of Zebulon Utility Easements-Jesse Daniels/William Toney Property"

Book 3369, Page 723—William T. Toney and wife, Helen M. Toney, dated July 6, 1983 for sewer main easement. Deed in Book 2150, Page 475 , connects with Apr 30, 1984 map "Town of Zebulon Utility Easements-Jesse Daniels/William Toney Property"

Book 3369, Page 725—Elijah Guy Eakes and wife, Mary A. Eakes, dated July 2, 1983 for sewer main easement. Deed in Book 2738, Page 75 , connects with Apr 30, 1984 map "Town of Zebulon Utility Easements-Elijah Guy Eakes Property"

Book 3369, Page 727—Robert A. Lanier and wife, Cheryl G. Lanier, dated October 17, 1984 for sewer main easement. Deed in Book 2413, Page 61 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 729—Norwood N. Smith and wife, Menda H. Smith, dated October 17, 1984 for sewer main easement. Deed in Book 2342, Page 686 , connects with

"Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 732—W.W. Watkins and wife, Aleene M. Watkins, dated October 17, 1984 for sewer main easement. Deed in Book 3243, Page 357 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 735—Gerald Wayne Lanier and wife, Gina C. Lanier, dated October 17, 1984 for sewer main easement. Book 2630, Page 211 , connects with "Sanitary Sewer Easements and Right-of-Way Acquisitions" BM 1984, Pages 1521-1522

Book 3369, Page 737—W.H. Green, dated October 17, 1984 for sewer main easement. Book 870, Page 504 and Book 932, Page 170 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Pages 1521-1522

Book 3369, Page 739—N.R. Gill, Jr. and wife, Mary Sue L. Gill, dated October 17, 1984 for sewer main easement. Book 1850, Page 443 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Pages 1521-1522

Book 3397, Page 165—William E. Parrish and wife, Mageline H. Parrish, dated December 17, 1984 for sewer main easement. Book 2230, Page 484 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Page 1521

Book 3413, Page 305—Elsie P. Oakley, dated January 8, 1985 for sewer main easement. Book 2716, Page 939 , connects with "Sanitary Sewer Easements-Town of Zebulon" BM 1984, Page 1521

Book 5030, Page 183—Amos C. Estes and wife, Nancy W. Estes, dated November 7, 1991 for easement for sanitary sewer lines and mains. Deed Book 2754, Page 718 and Deed Book 2780, Page 886, referenced to BM 1991, Page 1084

Book 5038, Page 275—Geraldine E. Hood, widow, dated November 21, 1991 for easement for sanitary sewer lines and mains. Deed Book 1260, Page 108, referenced to BM 1991, Pages 1083-1084

Book 5047, page 798—Bertha Pulley Alford, widow, dated December 3, 1991 for easement for sanitary sewer lines and mains. Deed Book 1542, Page 333* (also found in Deed Book 932, Page 466 and Deed Book 5668, page 296), referenced to BM 1991, Page 1079

Book 5050, Page 563—Anne H. Perry Tant, widow, dated December 6, 1991 for easement for sanitary sewer lines and mains. Deed Book 1112, Page 511, referenced to BM 1991, Page 1082

Book 5050, Page 565—Leland W. Hocutt and wife, Magdelena M. Hocutt, dated December 9, 1991 for easement for sanitary sewer lines and mains. Book 3074, Page 752, referenced to BM 1991, Page 1079

Book 5069, Page 14—Neda High Harris, dated December 11, 1991 for easement for sanitary sewer lines and mains. Deed Book 3774, Page 133, referenced to BM 1991, Page 1079

Book 5141, Page 22—William T. Toney and wife, Helen M. Toney, dated March 19, 1992 for easement for sanitary sewer lines and mains. Deed Book 2150, Page 475, referenced to BM 1991, Page 1079

Book 5141, Page 24—Jesse Daniels and wife, Luvenia B. Daniels, dated March 19, 1992 for easement for sanitary sewer lines and mains. Deed Book 2132, Page 165, referenced to BM 1991, Page 1079

Book 5200, Page 407—Beck Brothers Veneer Company, Inc., dated December 10, 1991 for easement for sanitary sewer lines and mains. Deed Book 1144, Page 205 and Deed Book 1460, Page 156* (also in Book 1623, Page 563 and Book 4355, page 609) referenced to BM 1991, Page 1080

Book 5215, Page 637—Parrish Realty Company of Zebulon, Inc., dated May 2, 1992 for easement for sanitary sewer lines and mains. Deed Book 4758, Page 583, referenced to BM 1991, Page 1081

Book 3561, Page 184—Omark Properties, Inc., dated June 12, 1985 for sewer main easement. Deed Book 1854, Page 91, Deed Book 1948, Page 345, and Deed Book 2437, Page 55 (referenced to BM 1984, Pages 1521-1522 "Sanitary Sewer Easements-Property of Omark Properties")

Book 5232, Page 65—Ulysses Ray Johnson and wife, Linda B. Johnson, dated June 4, 1992 for easement for sanitary sewer lines or mains. Deed Book 3041, Page 937 and Deed Book 1402, Page 169, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1081

Book 5293, Page 632—Elijah Guy Eakes and wife, Mary Ann Eakes, dated July 23, 1992 for easement for sanitary sewer lines or mains. Deed Book 2738, Page 75 and Deed Book 4074, Page 524, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1079

Book 5391, Page 823—F.H. Adams and wife, Bobbie T. Adams, dated November 4, 1992 for easement for sanitary sewer lines or mains. Deed Book 5391, Page 820 and Deed Book 1402, Page 169, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 5426, Page 408—Glenn A. Todd, trustee for Zebulon First Baptist Church, dated August 6, 1992 for easement for sanitary sewer lines or mains. Deed Book 316, Page 28, Book 2114, Page 247, Book 2975, Page 497, and Book 2994, Page 570, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078-1079

Book 5844, Page 538—Thomas D. Bunn and wife, Patricia H. Bunn, dated September 28, 1993 for easement for sanitary sewer lines or mains. Deed Book 1789, Page 496, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1083

Book 5844, Page 541—Bunn Farms, Inc., dated October 5, 1993 for easement for sanitary sewer lines or mains. Deed Book 5068, Page 215, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1082-1083

Book 6239, Page 442—Inez P. McNabb, widow, dated August 12, 1994 for easement for sanitary sewer lines or mains. Deed Book 568, Page 313, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Pages 1084-1085

Book 6371, Page 353—Joseph E. Jacobs and wife, Marie W. Jacobs, dated January 1, 1993 for easement for sanitary sewer lines or mains. Deed Book 4142, Page 134, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 6400, Page 703—Joseph W. Temple and wife, Jimmie F. Temple, dated January 5, 1995 for easement for sanitary sewer lines or mains. Deed Book 1857, Page 507, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 6497, Page 63—William Craige Broome and wife, Elizabeth B. Broome, dated April 13, 1995 for easement for sanitary sewer lines or mains. Deed Book 3270, Page 609, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1995, Page 580

Book 6497, Page 65—Roger Lee Woods and wife, Pamela Poole Woods, dated April 13, 1995 for easement for sanitary sewer lines or mains. Deed Book 2878, Page 940, referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1995, Page 580

Book 6821, Page 686—Narvil Ruic Gill, Sue Long Gill, Avon Privette, Jr., and Debbie Privette, dated January 3, 1996 for easement for sanitary sewer lines or mains. Referenced to "Town of Zebulon, Sanitary Sewer Easement Plat" BM 1991, Page 1078

Book 7701, Page 243—Michael Norman J. Wright, dated October 10, 1997 for easement for sanitary sewer lines. BM 1997, Page 1491

Book 7704, Page 800—Dickie Vann Bryant and wife, Linda R. Bryant, dated October 13, 1997 for easement for sanitary sewer lines. BM 1997, Page 1491

Book 7713, Page 615—Harold O. Massey and Ruth Williams Massey, dated October 18, 1997 for easement for sanitary sewer lines. BM 1997, Page 1491

Book 7790, Page 417—Wake County Board of Education, dated December 2, 1997 for sewer easement. BM 1997, Page 1492

Book 7790, Page 419—Julia H. Ingram, dated December 5, 1997 for sewer easement. BM 1997, Page 1491 (2706.17 12 0116 000)

Book 7825, Page 338—Robert C. Hardee and Susan P. Hardee, dated December 22, 1997 for sewer easement. BM 1997, Page 1491

Book 8108, Page 1954—Michael Calvin Pate and Frances K. Pate, dated July 21, 1998 for sewer easement. BM 1997, Page 1491

Book 8113, Page 1226—County of Wake, dated April 21, 1998 for sewer easement. BM 1997, Page 1493

Book 8152, Page 2363—Farner's Way, dated September 24, 1998 for water and sewer utility line easement. Deeds in Book 3391, Page 872 and Book 5384, Page 882

Book 8181, Page 173—Marion Braswell Jenkins, Darlene Jenkins Verran, and Yvonne Jenkins Mitchell and husband, Tim Mitchell, dated November 2, 1998 for utility and sewer improvements easement. BM 1998, Page 1813 (2706.17 01 1231)

Book 8478, Page 377—Ernest L. Campbell and wife, Dorothy W. Campbell, dated November 29, 1999 for sewer easement. BM 1999, Page 2014 (parcel #1)

Book 8478, Page 381—Mary Ann Eakes and Crystal Ann Eakes, dated November 17, 1999 for sewer easement. BM 1999, Page 2015 (parcel #6)

Book 8478, Page 385—Wallace E. Jenkins and Phyllis H. Jenkins, dated November 22, 1999 for sewer easement. BM 1999, Page 2014 (parcel #0)

Book 8478, Page 389— Wallace E. Jenkins and Phyllis H. Jenkins, dated November 22, 1999 for sewer easement. BM 1999, Page 2014 (parcel #4)

Book 8478, Page 393— Blair Eddins and wife, Angela R. Eddins, dated November 24, 1999 for sewer easement. BM 1999, Page 2014 (parcel #5)

Book 8478, Page 397— Douglas Y. Perry and Skyline Development Corporation, dated November 19, 1999 for sewer easement. BM 1999, Page 2014 (parcel #2)

Book 8478, Page 401— Wallace E. Jenkins and Phyllis H. Jenkins, dated November 14, 1999 for sewer easement. BM 1999, Page 2014 (parcel #3)

Book 8537, Page 1515— Mary Ann Eakes and Crystal Ann Eakes, dated March 7, 2000 for sewer easement. BM 1999, Page 2016 (parcel #7)

Book 8602, Page 2369— Glaxo Wellcome, Inc., dated June 1, 2000 for temporary sewer easement (to expire 12/31/05 or when permanent easement is ready). Plat Book 2000, Page 896

Book 9839, Page 2626— Omark Properties, Inc., dated November 25, 2002 for sewer easement. (no description of location)

Book 10901, Page 2706— Zebulon Retail Investors, LLC, dated June 7, 2004 for water and sewer utility easement. Plat in Book 2003, Page 1929 and Deeds in Book 10525, Page 1098, Book 10525, Page 1101, and Book 10525, Page 1105

Book 11143, Page 1641— Back Porch Properties, LLC, and Aimet Properties, LLC, dated November 12, 2004 for water, sewer, reclaimed water utility easement. BM 1998, Page 1846 (2715530873), and reference to BM 2004

Book 11429, Page 386— Skyline Development Corporation, dated June 6, 2005 for water, sewer easement. BM 2004, Page 1953 (1795 1156 6719), Braemar Subdivision

Book 1445, Page 347—Judgment for the Town of Zebulon, dated February 24, 1961, against Josephine Broughton, Fannie B. Rutledge, Ruby B. Land and husband, W.C. Land, Gladys B. Dees, Swannanoa B. Lassiter, Joseph Otis Broughton and wife, Maude B. Broughton for a sewer line easement. (west of hospital property along US Highway 64)

Book 2089, Page 667—Sidney C. Eddins and wife, Virginia H. Eddins, F. Leary Davis, Jr., trustee, William E. Parrish, and Eula P. Lewis, dated May 19, 1972 for sewer line easement. (look for map "Town of Zebulon, N.C., Proposed West Side Sewage Improvements Easement Maps" dated Apr 10, 1972)

Book 1311, Page 625—R.H. Bridgers and wife, Kathryn C. Bridgers, B.A. Jones, trustee, and First Federal Savings and Loan Association of Raleigh, dated March 5, 1958, for water main and sewer line easements. Deed in Book 1230, Page 569 and Book 1233, Page 233

Book 2124, Page 629—William E. Parrish and wife, Magaline H. Parrish, dated May 30, 1972, for sewer line easement. (look for map "Town of Zebulon, N.C., Proposed West Side Sewage Improvements Easement Maps" dated Apr 10, 1972)

Book 2893, Page 887—William E. Parrish and wife, Magaline H. Parrish, dated January 9, 1981, for water and sewer line easements. Deed in Book 2595, Page 387

Book 3069, Page 748—William W. Parrish and wife, Magaline H. Parrish, dated December 6, 1982, for water line easements. Deed in Book 2959, Page 653

Book 3442, Page 336– Judgment for the Town of Zebulon, dated March 5, 1985, against Theda P. Alford and Cecil Alford for 20' sanitary sewer easement. Deed in Book 1572, Page 2 and referenced to "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3442, Page 376– Judgment for the Town of Zebulon, dated March 8, 1985, against Wedgwood Village of Zebulon, Inc., Ferd L. Davis, trustee, H.H. Eddins for 20' sanitary sewer easement. Deed in Book 245, Page 591 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 3404, Page 825– Judgment for the Town of Zebulon, dated December 21, 1984 , against Theda P. Alford and Cecil Alford for 20' sanitary sewer easement. Deed in Book 1572, Page 2 and referenced to "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3442, Page 378– Judgment for the Town of Zebulon, dated March 8, 1985, against Robert High, for a 20' x 50' easement for sanitary sewer purposes. Deed Book 2441, Page 529 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 3479, Page 423– Judgment for the Town of Zebulon, dated March 27, 1985, against Charles D. Vick, for a 10' permanent easement. Deed in Book 2251, Page 263 and referenced to "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3479, Page 425– Judgment for the Town of Zebulon, dated March 27, 1985, against James York, Queen York Baker, Shirley York McClean, Ella May York, and Howard York, for a 10' permanent easement (no purpose given). Nelson York Heirs property referenced in "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3575, Page 449-- Judgment for the Town of Zebulon, dated October 7, 1985, against Zebulon-Wendell Baptist Temple, Inc., for a 20' permanent easement. "Sanitary Sewer Easements-Town of Zebulon" in BM 1984, Page 1521

Book 3591, Page 697– Judgment for the Town of Zebulon, dated October 18, 1985, against Robert High, for a 20' easement for sanitary sewer purposes. Deed Book 2411, Page 529 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 3680, Page 863– Judgment for the Town of Zebulon, dated March 12, 1986, against Wedgwood Village of Zebulon, Inc., Ferd L. Davis, trustee, H.H. Eddins for 20' sanitary sewer easement. Deed in Book 2693, Page 591 and referenced to "Sanitary Sewer Easements and Right-of-Way Acquisitions-Town of Zebulon" in BM 1984, Page 1522

Book 7319, Page 744—W. Thurston Debnam and wife, Dianne M. Debnam, dated January 30, 1997 for storm drainage easement. See "Permanent Drainage Easement Wedgwood Subdivision for the Town of Zebulon" BM 1996, Page 1610 and Deeds in Book 2929, Page 854 and Book 2950, Page 178

Book 8640, page 1326—Kevin R. and Ginger D. Broussard, dated July 6, 2000, granting easement to water line as a part of an agreement to extend water services to said customer. (location unknown)

Book 9454, Page 374—Resolution 2002-17, which closes an alley running south off of NC Highway 97, but retaining easement for utilities. SW corner of Lot 4, BM 1885, Page 68 (behind new Eckerd Drug to RBC Centura Bank)

Book 11097, Page 1560—Saintes Assisted Independent Living at Zebulon, Inc., dated June 7, 2004 for utility easement as part of an agreement to extend water and sewer services to customer's property on Pony Road.

Book 11930, Page 1027—Illinois Tool Works, Inc., dated April 19, 2006 for a temporary construction easement and a 20' permanent easement for underground sewer line. Deed Book 2000, Page 141 and plat "Sanitary Sewer Easement for Town of Zebulon, Northern Sewer Interceptor Phase I" from November 2005

Book 11951, page 1740—Maria A. Saffle, Jose A. Correa, and Abraham Jaimez, trustees of Iglesia Cristiana Resurreccion for a temporary construction easement and a 20' permanent easement for underground sewer line. Deed Book 10852, Page 1352 and plat "Sanitary Sewer Easement for Town of Zebulon, Northern Sewer Interceptor Phase I" from November 2005

Book 2058, Page 632—Wakelon Nursing Homes, Incoroporated, for a sewer line easement (related to easement recorded in Book 1445, Page 347) from March 1972.

Book 11511, Page 384—Johnny Watson Builders, Inc. for water and sewer lines installed in Taryn Meadows subdivision, referenced via map recorded in Book of Maps 2005, Pages 1559 and 1560, from August 2005.

Book 3716, Page 544—Restrictive Covenants for Phase I, Section IV for Pineview Subdivision, which includes utility easements and references Book of Maps 1994, Page 1881, from March 1995.

Book 7057, Page 684—Restrictive Covenants for Phase II, Section III for Pineview Subdivision, which includes utility easements and references Book of Maps 1996, Page 891, from June 1996."

12. **Exhibit C is rewritten to read:**

"Exhibit C Water, Sewer and Reclaimed Water Utility Property and Fixed Assets to be Retained by Zebulon

Property/Asset	Address
Neptune Hydrant Meter/RPZ Stand #2	Public Works Facility
Generator at PS#10 Tippett Road	Tippett Road
Public Works Facility	Horton Street
Old WTP site (PIN 2705768182)	PIN 2705768182 529 E. Horton Street Book 01417, Page 0101 8.31 acres (former Water Plant now used as yard waste recycling center facility)
Park (PIN 2705546639)	PIN 2705546639 320 E. Barbee Street Book 5911, Page 573 2.79 acres (sewer line runs across this, but is adjacent to Community Park: Zebulon to provide Raleigh an easement)
Old Water tank site behind Zebulon Council chambers (PIN 2705357125)	PIN 2705357125 0 E. Horton Street Not in Register of Deeds Books .06 acres
Old Well Site (PIN 270536077)	PIN 2705360777 113 E. Glenn Street Book 1324, Page 612 .23 acres (old well used to be on this site, now water line runs across this; Zebulon to provide Raleigh an easement)
Old Well Site (PIN 2705262867)	PIN 2705262867 106 W. Lee Street Book 05666, Page 550 .23 acres
Sewer Line/Greenway Site (PIN 2715249414)	PIN 2715249414 0 Old US 264 Highway Book 6849, Page 636 11.25 acres (sewer line runs through site; Zebulon to provide Raleigh an easement)
Sewer Line/Greenway Site (PIN 2715343068)	PIN 2715343068 0 Old US 264 Highway

acres (sewer line runs through site; Zebulon to provide Raleigh an easement)"

Exhibit D to be rewritten to read:

ıIbit D Summary of System Upgrade and Improvement Projects

·oject ıntifier	Project Title	Estimated Fiscal Year	Total Project Cost	Project Description
	Water Distribution System			
01	Water Distribution System Rolling Stock/Equipment Needs	2007	$82,204 (actual)	Vehicles and equipment needs for maintenance, to supplement equipment to be transferred from Zebulon.
02	AMR and Backflow Retrofit Program	2008	$175,940 (actual)	Approximately 2/3 of system doesn't have backflow preventers.
03	Water Line E. McIver 2" to 6"	2012	$95,000 (estimated)	Installation of approximately 1000 LF of 6-inch DIP potable water line on the 100 and 200 blocks of East McIver street, replacing an existing galvanized line and providing greater fire protection.
04	Valve Inserts	2012	$30,000 (estimated)	Installation of three 12-inch valves on the southern water transmission line in areas where the water distribution grid cannot be isolated.
05	Replace Galvanized Pipe with 4" PVC/Ductile Iron Pipe	2012	$200,000 (estimated)	Replace 3,600 ft (2% of total distribution main) of galvanized pipe with 4" PVC or ductile iron. $55/ft allowance.
)6	Conversion of existing Chemical Feed station to liquid feed		$0	Not required if feed station removed. Project included for Reference Only.
07	East Wake Water Transmission Improvements (Martin Pond Rd and NC 97)	2014	$2,636,722 (estimated)	Cost share for 24" segment from Martin Pond Road to NC97(A802), and 16" from NC 97 to Riverview Dr (B903) Cost based on Hazen and Sawyer 2008 Water Quality Study and Master Plan. 36% of estimated $3,274,450 ($215/LFx15,230) and 67% of estimated $2,176,000.
08	Poole Rd 30-inch Main and Martin Pond Rd Booster PS	2010-2012	$1,729,830 (estimated)	Cost share for the 30" segment from Poole Road to Martin Pond Road only. Cost based on the most current actual project costs for the Poole Rd 30" water main, and estimated booster pump station cost (B102) from H&S 2008 water Quality Study and Master Plan.
	Wastewater Collection System			
/01	WW Collection System Rolling Stock/Equipment Needs	2007	$150,000 (actual)	Vehicles and equipment needs for maintenance, to supplement equipment to be transferred from Zebulon.

/02	Collection System Study	2007	$264,348 (actual)	Targeted sewer system study to identify areas where projects could reduce infiltration and inflow in Zebulon system. Cost based on actual Hydrostructures Study costs.
/03	Collection System Rehab Projects	2010-2012	$2,082,827 (estimated)	Estimated cost for manhole repairs and replacements throughout Zebulon to address deficiencies identified through inventory, field inspections and analysis conducted under project WW02.
/04	WWTP and Pump Station SCADA & Telemetry Upgrade. Includes radio survey	2008-2013	$638,989 (estimated)	Installation of SCADA and telemetry improvements to be consistent with Raleigh standards. Cost based on CITI estimates.
/05	Azalea Drive Lift station Removal	2012	$ 115,000 (estimated)	Installation of approximately 500 LF of 8-inh gravity sewer to allow for removal of Azalea Drive San Sewer Lift Station.
06	Phase II Northern Interceptor Improvements	$0		This project was replaced with WW06A that provided greater overall benefits
/06A	Beaverdam Creek Interceptor and PS	2013	$5,208,000 Total $4,708,000 (Zebulon's share, estimated)	A new Beaverdam Creek Pump Station, Force Main, and Interceptor to serve the Beaverdam Creek basin, including main extensions to abandon 2 existing pump stations (PS#153, Spiderlilly PS and PS#158, Tippett Rd PS. Raleigh's cost share is $500,000 for abandonment of 2 PS's.
	Water Treatment Plant			
)1	Demolition of basins at old Zebulon WTP	2007	$0	Allowance for demolition of concrete structures (assumes demolition to 2' below ground level). Project removed from list.
)2	New generator for booster station	2008	$17,525 (actual)	Installation of new, larger generator for water booster station, sized to operate pumps 1 and 2 of the facility. Cost based on actual construction cost; KAD.
)3	Repaint Greenpace Road Tank	2010	$195,000 (actual)	Paint and repair of a 1 million gallon elevated storage tank. Costs based on actual costs: Utility services.
)4	Greenpace Road Tank washout	2008	$4,500 (actual)	Interior cleaning and total inspection of Green Pace Road 1 million gallon elevated storage tank. Costs based on actual costs: Utility Services.
	Wastewater Treatment Plant			
/T01, /T05, /T07 ugh /T11	Various LCWWTP Improvements	N/A	$0	These project have been incorporated into WWT14

/T03	Generator Improvements	2012	$125,000 (estimated)	Generators at pump stations.
/T06	LCWWTP Odor Control	On Hold (2014?)	$340,000 (estimated)	Covers for the aerobic digester(s), sludge holding tank and influent structure and scrubber equipment. Project on hold
/T12	Little Creek WWTP Expansion Design Process/permitting	2010-12	$2,955,763 (actual)	Design project leading to expansion of Little Creek WWWTP to 2.2mgd. Project includes Feasibility Study, PER, Design and permitting.
/T13	Little Creek WWTP Expansion from 2.2 mgd to 4.0 mgd (with Little River Discharge)		$0	This project was deferred beyond merger payback period.
/T14	Little Creek WWTP re-rating to 2.2 mgd	2011-2012	$4,901,000 (estimated)	Expand WWTP from 1.85 mgd to 2.2 mgd. Cost based on H&S estimate dated March 2011including 30% contingency.
	Reuse System			
/1	VFD/Generator Improvements-Reclaimed Water Pump Station	2008	$0	Installation of a standby generator, automatic transfer switch and variable frequency drives for the reclaimed water booster station at Little River WWTP. VFD installed utilizing grant funding. Generator, ATS added to WWT14.
/2	Repaint Reclaimed Water Tank	2012	$125,000 (estimated)	Paint and repair of elevated reclaimed water tank because of age and use.
	General Utility Projects			
/01	Conversion of Zebulon CAD files to GIS	2007	$39,927 (actual)	Add to Withers & Ravenel current project for Raleigh. Approx 36 miles of water pipe, 32 miles of gravity sewer and 5.3 miles force main. Cost based on W&R costs.
/02	Billing Data Conversion	2007	$85,000 (actual)	Conversion of Zebulon Utility customer account information and billing data by Contractor
/03	Consultant Services	2007	$126,967 (actual)	Merger Implementation Assistance and Shares in East Wake Water/Sewer Plans. Costs based on CH2MHill costs.
/05	IWOS Devices	2007	$25,000 (actual)	Field laptop computers to be mounted in service vehicles, with Inventory and Work Order System computerized maintenance management system. Includes five field devices.
/06	Customer Service Center Set-Up	2007	$1,415 (actual)	Actual costs for computer, software, T1 link and telephone for customer service station at Zebulon.
	Contingency – 10%		$539,655 (estimated)	10% contingency on WD03, WD04, WD05, WD07, WD08, WW05, WWT03, WWT06 & RE02.

	Total Merger Project Cost		$22,390,612	
	Non-CIP Costs			
)5	Additional Water treatment capacity from Raleigh	2007	$5,328,000	Purchase of 1.2MGD capacity at $4.44 per gallon
/08	Wastewater Treatment capacity from Raleigh		$0	1.0 mgd at $3.80/gallon. This purchase is not needed since LCWWTP expansion is feasible.
/07	Debt Service for Phase I Northern Interceptor Improvements		$0	Paid off prior to transfer date
	Total Non-CIP Cost		$5,328,000	Total excludes the potential wastewater capacity purchase

ENCUMBERED

PROVISIONS FOR THE PAYMENT OF THE MONEYS TO FALL DUE UNDER THIS AGREEMENT HAVE BEEN MADE BY AN APPROPRIATION DULY MADE, OR BY BONDS OR NOTES DULY AUTHORIZED, AS REQUIRED BY THE LOCAL GOVERNMENT ACT

RSmith _____ 7/27/12 _____

CITY ACCOUNTANT **DATE**

CODE N/A - agreement only **$** -0- encumbered

STATE OF NORTH CAROLINA
COUNTY OF WAKE

SECOND AMENDMENT TO THE ZEBULON/RALEIGH UTILITY MERGER AGREEMENT

This SECOND AMENDMENT to the Zebulon/Raleigh Utility Merger Agreement (the "Second Amendment") is entered into this ___ day of _____, 2021 by and between the City of Raleigh, hereinafter referred to as "Raleigh", and the Town of Zebulon, hereinafter referred to as "Zebulon".

WITHNESSETH,

WHEREAS, Raleigh and Zebulon entered into an agreement to merge the utility functions of both municipalities on August 2, 2006 (the "Original Merger Agreement"), as amended by that First Amendment to the Zebulon/Raleigh Utility Merger Agreement on July 30, 2011 (the "First Amendment") as amended by this Second Amendment (collectively, as amended, the "Merger Agreement"); and

WHEREAS, Zebulon and Raleigh have agreed that in consideration of Zebulon's payment of $500,000 and agreement to certain reductions in water capacity allocation and wastewater treatment capacity allocation, Raleigh will change customers in the Zebulon service area from the rates, fees and charges specific to customers in the Zebulon service area to the rates, fees and charges for customers in the Raleigh service area no later than 60 days after execution of this Merger Agreement which, if it occurs in Fiscal Year 2021, will be nearly four years sooner than contemplated under the Original Agreement, as amended by the First Amendment; and

WHEREAS, specifically, Zebulon's initial water supply allocation as set in the Original Merger Agreement and modified by the First Amendment will be reduced from 1.2 MGD to 1.1 MGD, before being subject to compounding as described in the Merger Agreement; and

WHEREAS, Zebulon's cumulative wastewater treatment capacity allocation will be reduced by 250,000 gallons per day by changing the start date of calculations for compounding from October 1, 2011 to August 1, 2014; and

WHEREAS, at the final change of rates, if net revenues collected from the Zebulon service area exceed the merger-related costs as defined in the Merger Agreement, then any excess funds will be applied in the form of returned water and wastewater capacity to the benefit of Zebulon; and

WHEREAS, as requested by Zebulon, Raleigh has agreed to return to Zebulon the property containing the former Water Treatment Plant site and accept from Zebulon easement(s) for certain water and sewer utility improvements to that property, consisting of the former Water Treatment Plant, the wastewater equalization tank and pump station and certain underground infrastructure; and

WHEREAS, Zebulon has agreed to grant Raleigh rights to use portions of the former Water Treatment Plant site as a temporary water supply in emergency circumstances; and

WHEREAS, Raleigh and Zebulon have agreed to modify the location of Zebulon's planned walking trail easement (for purposes of this Second Amendment, referred to hereinafter as a "greenway easement" or "Greenway Easement") on the Little Creek Wastewater Treatment Plant site from what was contemplated in Exhibit F to the First Amendment; and

WHEREAS, that greenway easement will be structured to allow design flexibility and placement of the final greenway infrastructure;

NOW, THEREFORE, Zebulon and Raleigh mutually agree to amend the Merger Agreement, as amended by the First Amendment, as follows:

1. Section 3.4 of the Original Merger Agreement, as amended by Paragraph 1 of the First Amendment, is hereby amended as follows:
    a. "1.2 million gallons per day" in the first sentence of Section 3.4 is hereby deleted and changed to "1.1 MGD"; and
    b. "$5,328,000" in the first sentence of Section 3.4 is hereby deleted and changed to $4,884,000".
    c. Exhibit D is amended to delete the project identified as WWT06 (LCWWTP Odor Control) that Raleigh will no longer be required to construct. <{Project eliminated}
    d. Exhibit D is further amended to delete projects WW05 and WD07 and replace them with the following WW05 and WD07:

Project Identifier: WW05
Project Title: Azalea Drive Lift Station Removal Study
Estimated Fiscal Year: 2008 {reduced scope reflects service provision through private development}
Total Project Cost: $12,495
Project Description: Study the removal of the Azalea Drive Lift Station

Project Identifier: WD07
Project Title: Eastern Wake Water Transmission Improvements (Martin Pond Road to Wendell Boulevard);
Estimated Fiscal Year: 2010-2020 {dramatically reduced scope to reflect not constructing another line to serve increasing population}
Total Project Cost: $930,307 <
Project Description: Cost share for 24-inch transmission main along Martin's Pond Road to Wendell Falls Boulevard to close a gap with the Poole Road Transmission main and provide Wendell/Zebulon with redundancy and resiliency in service.

2. Section 3.7 of the Original Merger Agreement, as amended by Paragraph 2 of the First Amendment, is hereby deleted and replaced with the following Section 3.7:

3.7 Schedules of Rates, Fees, Charges, and Penalties

As of effective date of this Second Amendment, the base water, sewer and reclaimed water charge and water, sewer and reclaimed water consumptive retail rates have been adjusted for customers in the Zebulon service area per the Original Merger Agreement, as amended by the First Amendment, to facilitate the recovery of merger related costs. The rates for customers in the Zebulon service area that are in effect upon the effective date of this Second Amendment shall apply until the rates are changed pursuant to the terms of this Second Amendment. Within **ten (10)** days following the execution of this

Second Amendment, the Town of Zebulon will remit the sum of $500,000 to Raleigh to accelerate the recovery of merger related costs. Subject to the receipt of the $500,000 payment, Raleigh agrees that, no later than 60 days after execution of this Second Amendment, Raleigh will apply all rates and non-consumption fees and charges to customers located inside the municipal limits of Zebulon that are equivalent to those that are being charged to customers inside the municipal limits of Raleigh, and will apply rates and non-consumption fees and charges to customers located outside the municipal limits of Zebulon that are equivalent to those that are being charged to customers outside the municipal limits of Raleigh.

Zebulon and Raleigh acknowledge and agree that net revenues collected from the Zebulon service area during the approximate 14-year cost recovery period will slightly exceed the merger-related costs as defined by Raleigh, and as verified by audit, in an amount that cannot be determined until the performance of the audit. Raleigh shall apply any excess revenues toward the purchase of additional sewer capacity allocation beyond the agreed upon indexes specified in Section 5.1 of the Merger Agreement. The quantity of additional sewer capacity allocated to Zebulon under this provision will be determined by dividing the excess revenues by $8.62 per gallon per day for sewer capacity.

Raleigh will provide at least thirty (30) days' notice to Zebulon customers prior to adopting any revisions to the schedule of rates, fees, and charges. This notice may be electronic, written or through social and public media venues.

3. Section 4.2 of the Original Merger Agreement, as amended by Paragraph 3 of the First Amendment, and Exhibit F attached to the First Amendment are hereby deleted and replaced with the following Section 4.2, except that (i) Exhibits B and C attached to the First Amendment shall remain in effect, and (ii) Exhibit F attached to the First Amendment shall be replaced with the Exhibit F attached to this Second Amendment:

4.2 Property Transfer

Upon the Effective Date of this Second Amendment, a Bill of Sale shall be executed by Zebulon to transfer ownership of all facilities, property, land, equipment, financial assets, information, and data subject to the Merger Agreement to Raleigh. Zebulon and Raleigh further acknowledge and agree that pursuant to the intent of the parties and the terms of the Merger Agreement, Raleigh has lawfully exercised dominion and control of said assets since the Transfer Date, and Raleigh may continue its exercise of dominion and control of said assets until the legal instruments conveying the assets are made final and effective. Except as otherwise provided herein, such documents shall be sufficient to convey to Raleigh all of Zebulon's right, title, and interest in the water, sewer, and reclaimed water system in Zebulon's service area, including easements and rights-of-way, whether or not recorded. Said rights-of-way shall include the right to operate and maintain the subject water, sewer, and reclaimed water system within any public streets within Zebulon. Any documents needed to memorialize this passage of title shall not be required to contain any warranties of condition or title, except as expressly set forth herein. A non-warranty deed shall be executed by Zebulon to convey all interests in real property and improvements thereto which are subject to the Merger Agreement.

Zebulon shall cooperate with Raleigh in establishing title to any portion of the water, sewer and reclaimed water system in the Zebulon service area where ownership may be contested.

A detailed list of real property and easements and encroachment agreements is included as Exhibit B to the First Amendment. A list of water, sewer and reclaimed water utility property and fixed assets to be retained by Zebulon is included as Exhibit C to the First Amendment. If at any time in the future property transferred to Raleigh is no longer used for water, sewer and reclaimed water purposes, Raleigh shall return the land to Zebulon.

Zebulon shall grant permanent water and sanitary sewer easements on the former Water Treatment Plant site, over, upon, and below the areas identified and described as "City of Raleigh Sanitary Sewer Easement" and "City of Raleigh Permanent Utility Easement" on the plan in Exhibit F attached to this Second Amendment to Raleigh for the construction, installation, operation, maintenance, replacement and repair of water and wastewater utility infrastructure on that property. In addition, Zebulon hereby grants Raleigh a right of entry for access and use of the former Water Treatment Plant site when Raleigh provides to Zebulon reasonable prior notice by any means of an emergency condition requiring the use of the lake on the former Water Treatment Plant site as a temporary water supply. Following notice by Raleigh, Raleigh and Zebulon agree to cooperate in identifying a suitable location and access route for the operation of a temporary water treatment plant.

The current Little Creek Wastewater Treatment Plant site shall be transferred to Raleigh. Raleigh shall grant a permanent easement for greenway use over those portions of the Little Creek Wastewater Treatment Plant site identified and described as "Zebulon 30' PGE & 20' TCE" on the plan included in Exhibit F attached to this Second Amendment (the "Greenway Easement with 20' TCE"). Raleigh and Zebulon will jointly work together on the final greenway design on the Wastewater Treatment Plant site resulting in a final design that protects access to and the integrity of Raleigh utility infrastructure. The permanent greenway easement (PGE) will be 30' wide with a 10' temporary construction easement (TCE) on each side of the greenway easement (for a combined TCE of 20'). The intent is to set aside an easement for the Town of Zebulon to be able to construct a future greenway, though the exact greenway alignment is unknown at this time due to a need to assess existing site conditions at the time of greenway design and construction. Raleigh shall further grant a permanent slope easement to support greenway use over those portions of the Little Creek Wastewater Treatment Plant site identified and described as "Slope Easement" on the plan included in Exhibit F attached to this Second Amendment (the "Slope Easement").

Zebulon shall not permit any third party to enter the Greenway Easement with 20' TCE or Slope Easement areas to construct, repair, replace, or maintain any portion of the Greenway Easement with 20' TCE or Slope Easement areas unless such third party executes a written agreement with Zebulon, consented to by Raleigh, which, among other things, insures and indemnifies Raleigh for such third party's acts and omissions in the Greenway Easement with 20' TCE area or Slope Easement area, as the case may be. Such written agreement must be in a form and manner acceptable to Raleigh. The

two properties owned by Zebulon which are traversed by a sewer line and identified by PIN #2715249414 and PIN #2715343068 will be retained by Zebulon. Zebulon shall grant to Raleigh permanent sanitary sewer easements over, upon, and below portions of these properties which sanitary sewer easement areas shall be described in easement deeds using Raleigh's standard form deed of easement. Before conveying these permanent sewer easements to Raleigh, Zebulon shall correct any and all title deficiencies regarding the parcels described as PIN #2715249414 and PIN #2715343068 which title deficiencies are identified by Raleigh.

4. Section 5.1 of the Original Merger Agreement, as amended by Paragraph 5 of the First Amendment, is hereby deleted and replaced with the following Section 5.1:

5.1 Growth and Development Index

Water

Raleigh agrees to provide water services to customers in Zebulon within the following parameters:

1.) For the period extending from the Transfer Date to September 30, 2011, Zebulon's initial water flow allocation was 2.1 MGD maximum day water flow, which includes 1.1 MGD additional capacity which Zebulon purchased from Raleigh on the Transfer Date.
2.) For the period extending from October 1, 2011 to September 30, 2021, the annual growth rate in peak day water use will be limited to four percent per year, compounded upon the prior year's allocation.
3.) For the period extending from October 1, 2021 to September 30, 2031, the annual growth in peak day water use will be limited to three percent, compounded upon the prior year's allocation.
4.) For the period extending beyond September 30, 2031, the annual growth in peak day water demands will be the same as for the Raleigh service area as determined by the Raleigh City Council.

Sewer

Raleigh agrees to provide wastewater treatment services to customers in the Zebulon service area within the following parameters:

1.) For the period extending from the Transfer Date to completion of the Phase I Little Creek WWTP improvements, the total Little Creek WWTP wastewater treatment capacity will be 1.85 MGD, on a maximum month average day basis.
2.) Upon completion of the improvements through August 1, 2014, Zebulon's allocation of wastewater treatment capacity was the re-rated capacity of the Little Creek WWTP of 2.2 MGD on a maximum month average daily basis.
3.) For the period extending from October 1, 2014 to September 30, 2021, the annual growth rate in wastewater flow will be limited to four percent per year, compounded upon the prior year's allocation.

How Forecasted Capacity is determined

4.) For the period extending from October 1, 2021 to September 30, 2031, the annual growth in wastewater flow will be limited to three percent, compounded upon the prior year's allocation.
5.) For the period extending beyond September 30, 2031, the annual growth in wastewater flow will be the same as for Raleigh service area as determined by Raleigh City Council.

The actual wastewater capacity available to Zebulon shall be subject to the contractual obligation for capacity to the Town of Middlesex as described in Section 10.3.

The calculation of Zebulon's water and wastewater flow allocations will be based on the summation of estimated flows for new connection permits and actual flows metered for the Zebulon service area. An exceedance of the prescribed growth rate in any given year will be allowed, provided it is reconciled within the following two years. For example, during the period from October 1, 2014 to September 30, 2021, the annual growth rate limit is four percent. Annually growth over a three consecutive year period may be six percent (year 1), two percent (year 2), and four percent (year 3), equivalent to an average four percent growth rate. Because the growth exceedance in year 1 was reconciled to the prescribed average with the following two years, the overall growth for this period would not violate this Merger Agreement.

These growth levels would be subject to modification by Raleigh if problems are encountered with the implementation of treatment plant expansions. If such is necessary, Zebulon's water growth capacity would be no less than one percent of the unallocated treatment capacity of the Raleigh system for water at that time.

Raleigh may offer Zebulon additional water capacity beyond the agreed-upon indexes, on a case-by-case basis, to accommodate industrial or commercial projects that elect to locate with Zebulon's Urban Services Area and provide benefits to both Raleigh and Zebulon.

4. Section 11.0 of the Original Merger Agreement is hereby amended by deleting the second sentence as follows: "Zebulon will collect payments for Raleigh services and tax revenues, including but not limited to water, sewer and reclaimed water bills."

5. Rules of Construction: Except as amended by this Second Amendment, the Original Merger Agreement, as amended by the First Amendment, shall remain unchanged and in full force and effect. In the event of a conflict between the Second Amendment, the First Amendment, and the Original Merger Agreement, this Second Amendment shall control. All capitalized terms used but not defined in this Second Amendment shall have the definitions that have been subscribed to them under the Original Merger Agreement as amended by the First Amendment.

[Signature Page Follows]

Approved this _____day of _____2021

Town of Zebulon

By:_____
Town Manager

Attest:

_____
Town Clerk

_____
Approved as to form, Zebulon Town Attorney

City of Raleigh

By:_____
City Manager

Attest:

_____
City Clerk

_____
Approved as to form, Raleigh City Attorney

Exhibit F Former WTP and WWTP Easements

Exhibit F Section 1

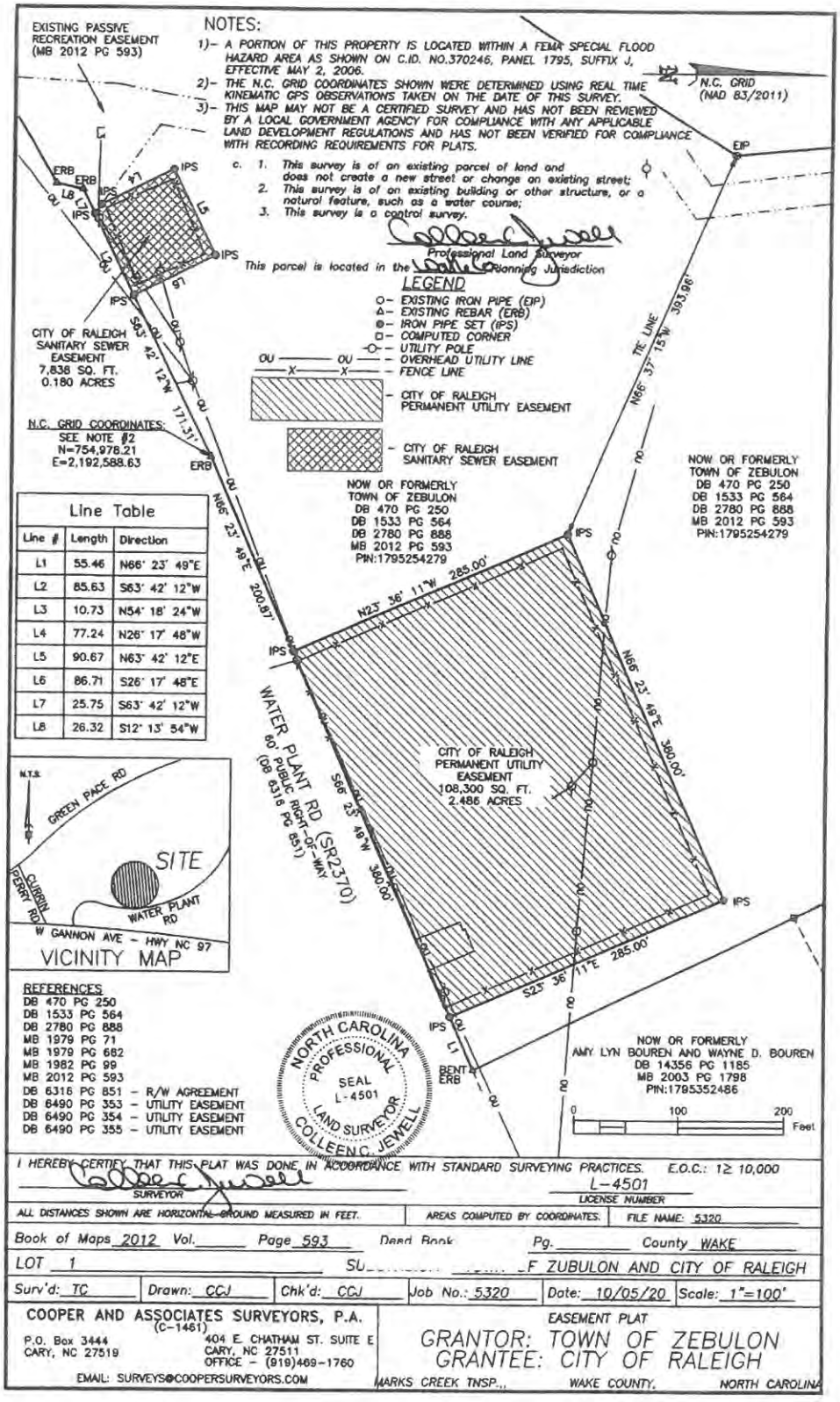
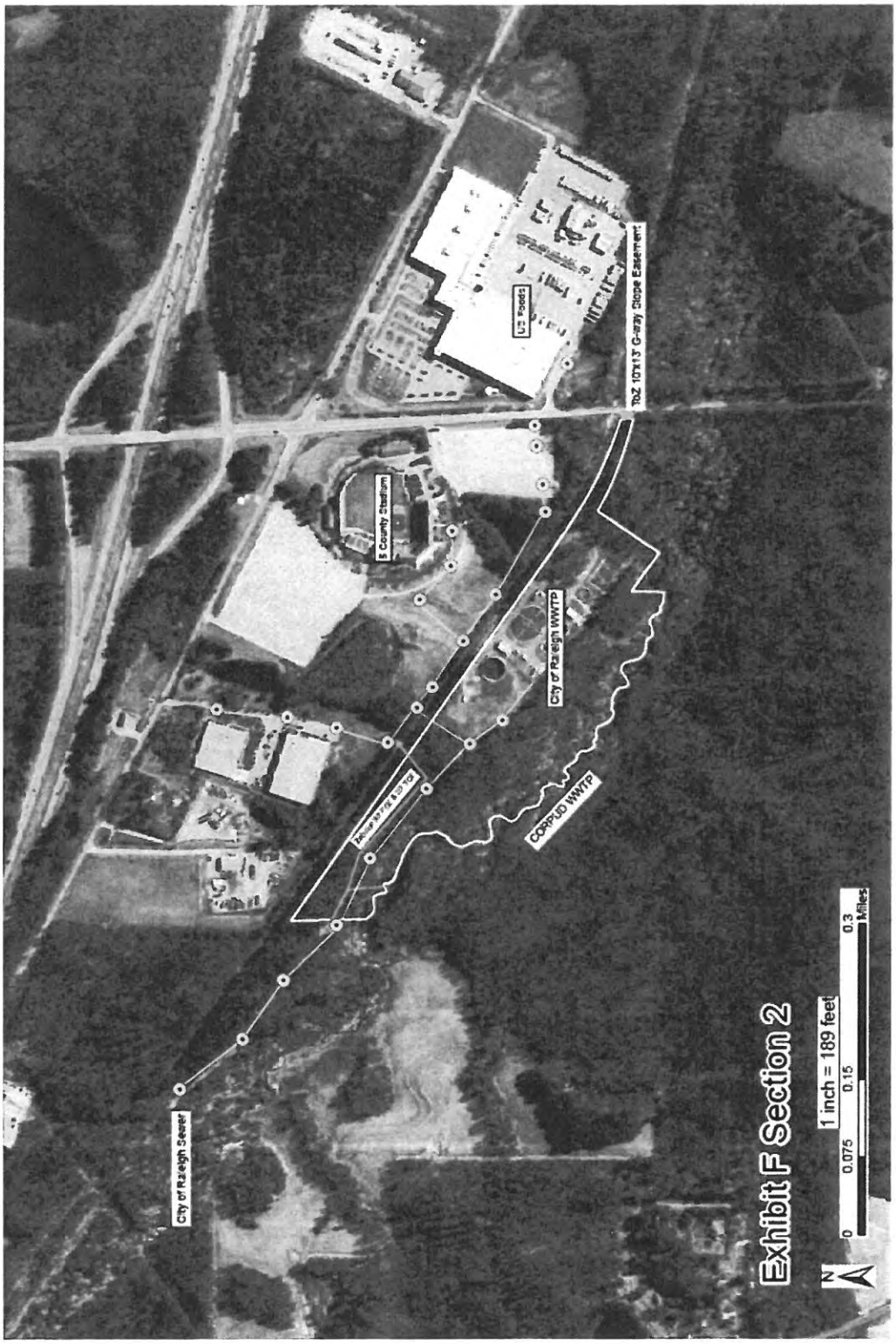


Exhibit F Section 2



	3 CCF/2244 Gallons	4 CCF/2992 Gallons	5 CCF/3740 Gallons
Zebulon Current FY21	$ 95.92	$ 111.74	$ 127.56
Raleigh Current FY21	$ 41.57	$ 49.80	$ 57.76
Current Difference	$ 54.35	$ 61.94	$ 69.80
Raleigh Proposed FY22	$ 42.10	$ 49.44	$ 58.53
Proposed Difference	**$ 53.82**	**$ 62.30**	**$ 69.03**

UTILITY MERGER AMENDMENT - CLOSEOUT

March 2021 Worksession

OUTLINE

- Merger History
- Second Amendment Proposal

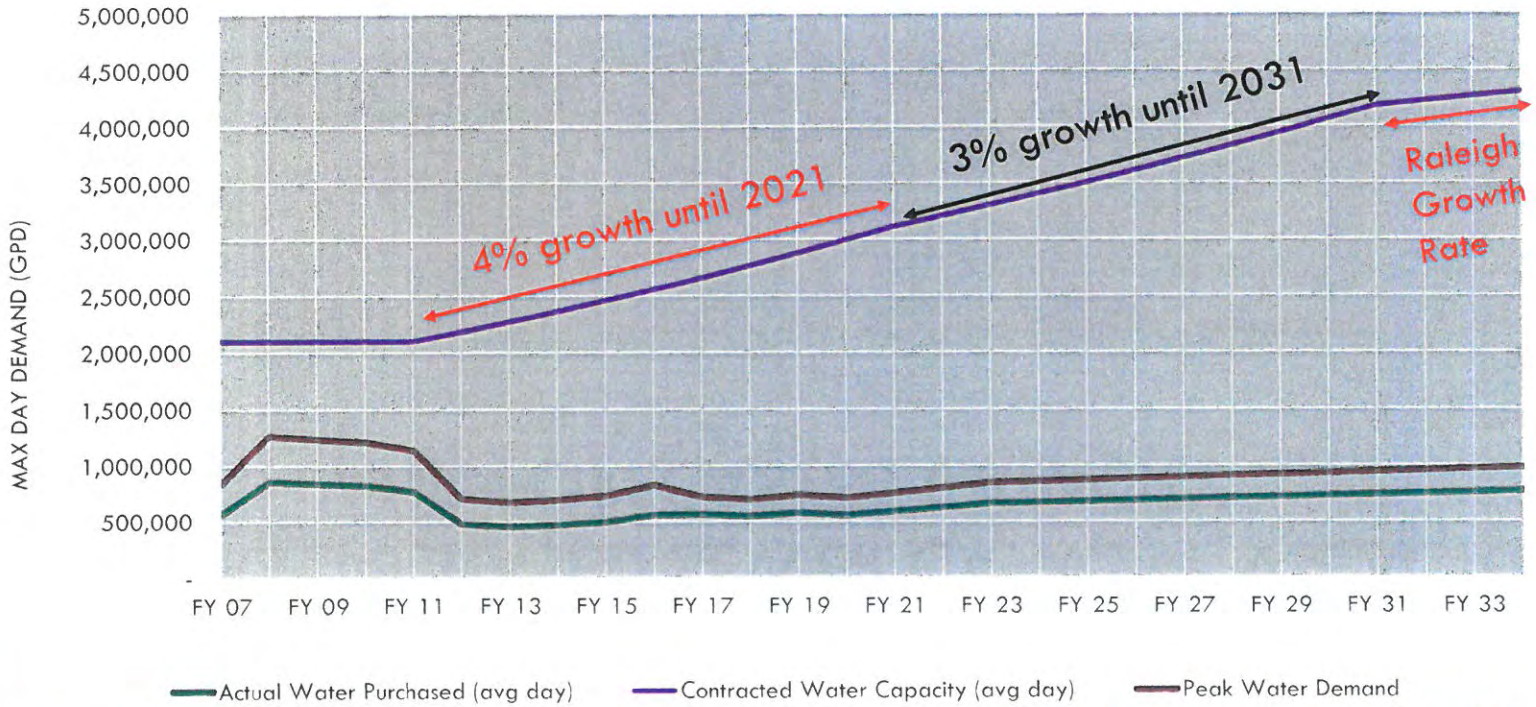
MERGER HISTORY

- Merger Agreement
- First Amendment
- Second Amendment

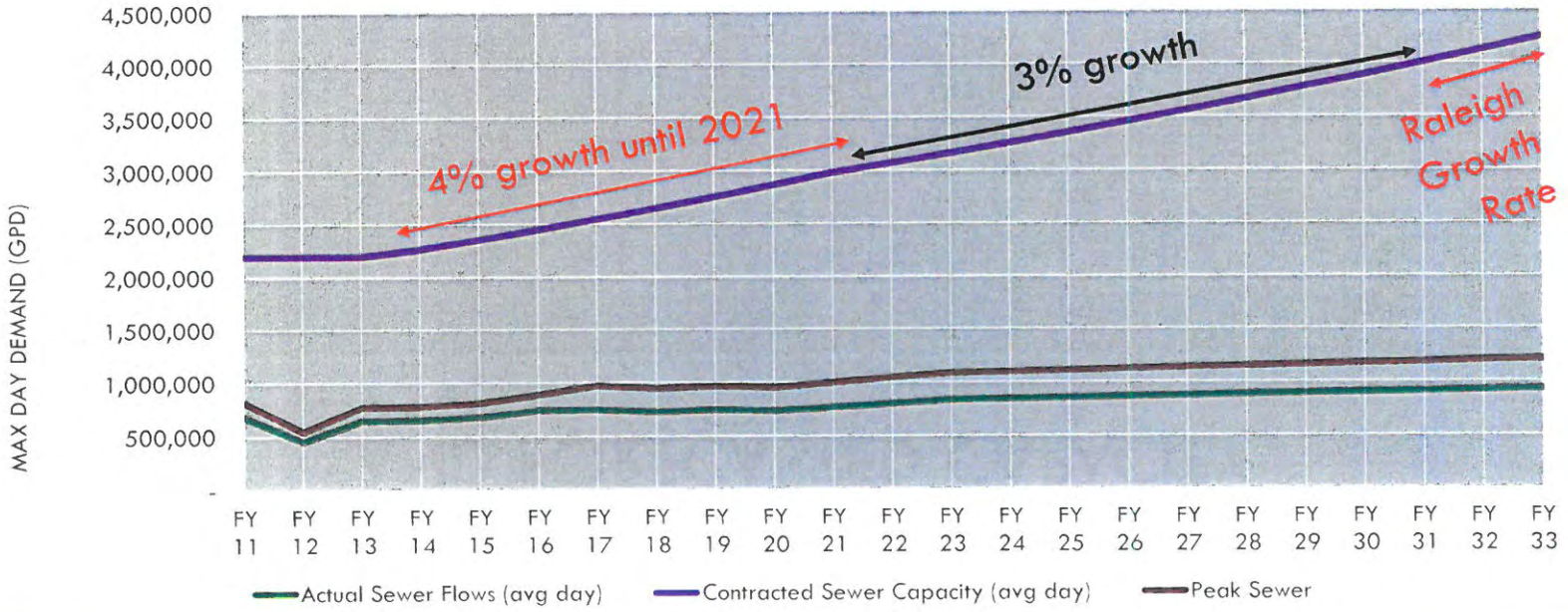
SECOND AMENDMENT

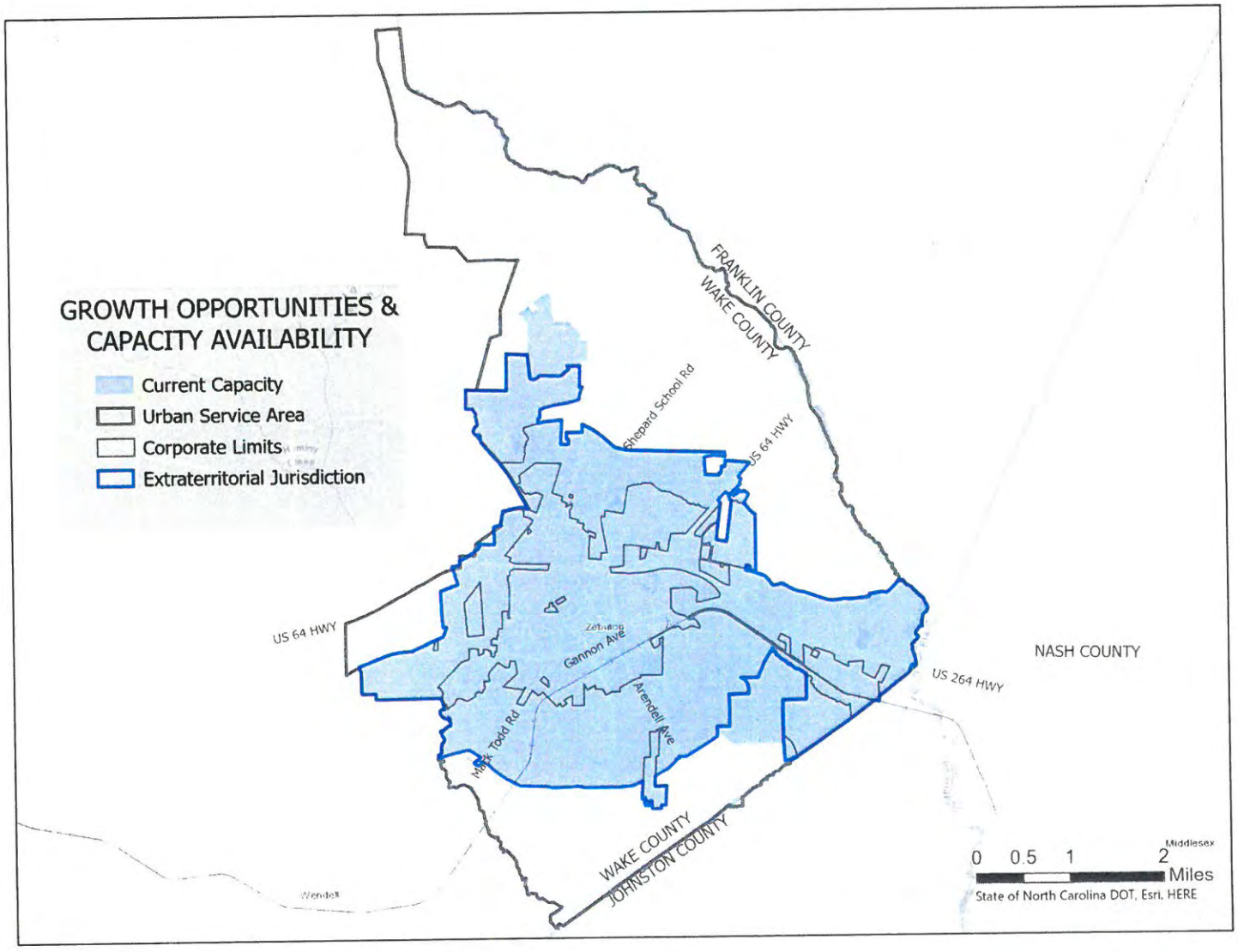
- Sell back water
- Sell back sewer
- Transfer cash
- "Scrubbed" projects

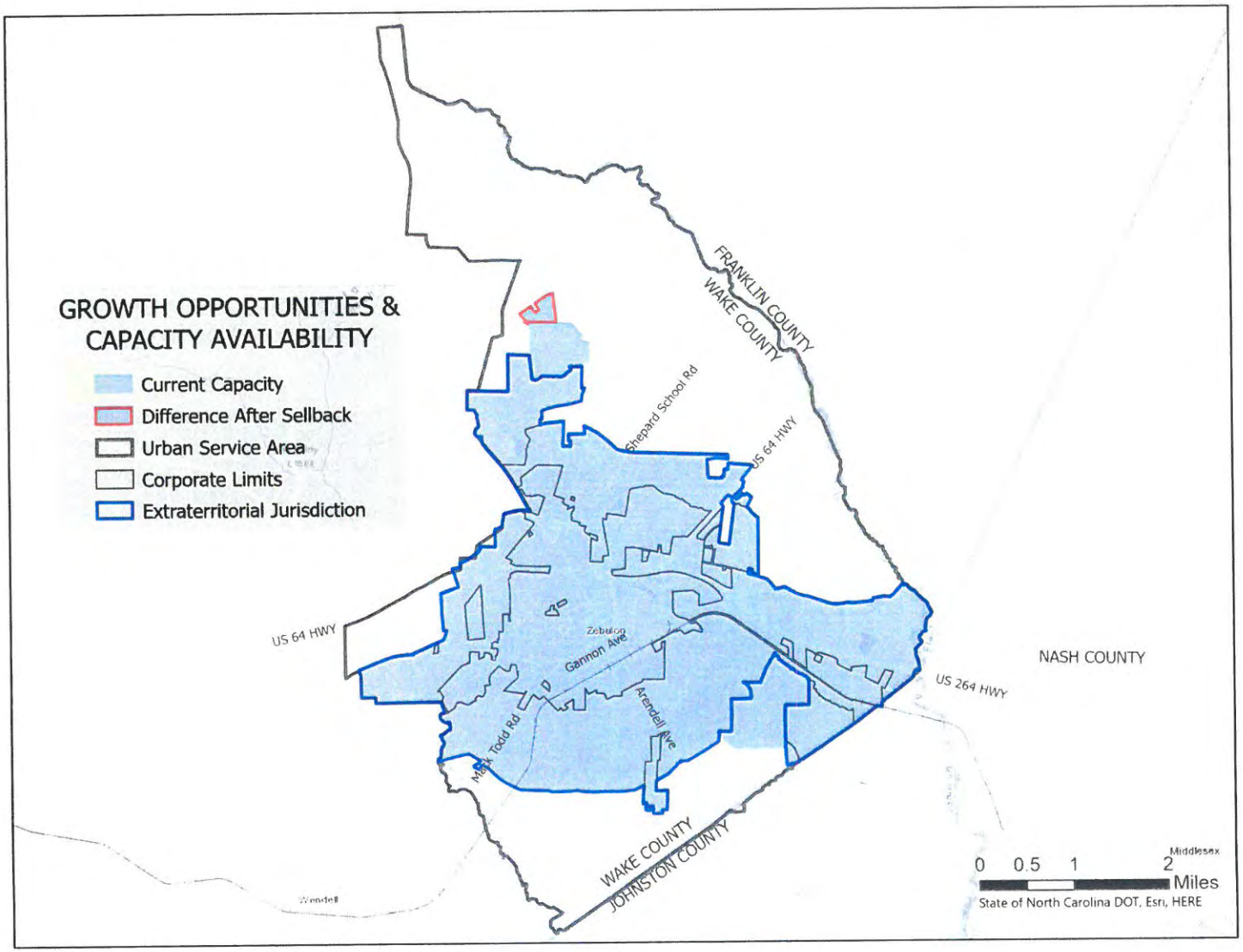
CURRENT PURCHASED WATER CAPACITY VS. ACTUAL AND FORECASTED CAPACITY



CURRENT PURCHASED SEWER CAPACITY VS. ACTUAL AND FORECASTED CAPACITY




GROWTH OPPORTUNITIES &
CAPACITY AVAILABILITY
Current Capacity
Urban Service Area
Corporate Limits
Extraterritorial Jurisdiction
FRANKLIN COUNTY
WAKE COUNTY
Shepard School Rd
US 64 HWY
US 64 HWY
Gannon Ave
Arendell Ave
Mark Todd Rd
US 264 HWY
NASH COUNTY
WAKE COUNTY
JOHNSTON COUNTY
Wendell
Middlesex
0 0.5 1 2
Miles
State of North Carolina DOT, Esri, HERE


GROWTH OPPORTUNITIES &
CAPACITY AVAILABILITY
Current Capacity
Difference After Sellback
Urban Service Area
Corporate Limits
Extraterritorial Jurisdiction
FRANKLIN COUNTY
WAKE COUNTY
Shepard School Rd
US 64 HWY
US 64 HWY
Zebulon
Gannon Ave
Arendell Ave
Mack Todd Rd
US 264 HWY
NASH COUNTY
WAKE COUNTY
JOHNSTON COUNTY
Middlesex
0 0.5 1 2
Miles
State of North Carolina DOT, Esri, HERE

CLOSE-OUT SCENARIOS

- Sell capacity & transfer cash = April 2021
- Keep capacity & cash = April 2022 (No "Capacity" project)
- Keep capacity, cash, and finance project = January 2023

PROJECT

- **Highway 97 water transmission improvements - $3.06 million project**

Project ID	CIP Project List	Fiscal Year	Updated CIP - Jan. 2021	
	Water Distribution System			
WD07	East Wake Water Transmission Improvements (Martin Pond Rd and NC 97)	FY 2014	$3,061,900	H&S estimate (2008 Master Plan) Martin Pond Rd (36% x $2.4M) & Hwy 97 (67% x $4.5M)

NEXT STEPS

- **April 12, 2021: Merger Agreement – Second Amendment**

QUESTIONS?

COMMENTS?

(i.e., what needs to be looked into before this comes back on April 12, 2021?)

ZEBULON
NORTH CAROLINA

STAFF REPORT
TEXT AMENDMENT 2021-2 – 160D
APRIL 12, 2021

Topic: TA 2021 –2 160D
Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider text amendments to the Unified Development Ordinance and the Zebulon Code of Ordinances necessitated by adoption of North Carolina General Statue 160D.

Background:
The State of North Carolina formerly regulated land use and planning through chapters 153 and 160A of the General Statutes. Chapter 153 regulated land under county jurisdiction and Chapter 160A regulated land under municipal jurisdiction. Session Law 2020-25 established a new chapter (160D) unifying regulations overseeing land use and planning. All jurisdictions must modify their applicable land use and planning ordinances to reference Chapter 160D no later than July 1, 2021. The Board of Commissioners will have an opportunity to modify their applicable ordinances at either of their Regular Meetings on May 3 or June 7.

Staff will request the Board adopt these changes at their Regular Meeting on May 3, 2021 for the following reasons. First, the modifications are not significant given the Unified Development Ordinance had anticipated most of Chapter 160D updates built into its development. Secondly, the Town of Zebulon is currently developing updates to the Land Use and Transportation chapters of the Zebulon Comprehensive Plan. Modifying the ordinances to reference Chapter 160D, in advance of adopting updates to the Comprehensive Plan (Land Use and Transportation chapters), will provide for a smoother transition and easier implementation with development projects and code cases.

Given the insignificant scale of the modifications needed to match 160D, and the full agenda scheduled for the Work Session on April 21, 2021 (to discuss the first draft of the updates to the Land Use and Transportation chapters of the Zebulon Comprehensive Plan). Staff requests moving this text amendment directly to the Joint Public Hearing on April 19, 2021.

Discussion:
The discussion before the Board of Commissioners is whether they consent to place the proposed text amendments, reflecting changes to the Unified Development Ordinance and the Town of Zebulon Code of Ordinance consistent with NCGS 160D, on their Joint Public Hearing scheduled for April 19, 2021.

ZEBULON
NORTH CAROLINA

STAFF REPORT
TEXT AMENDMENT 2021-2 – 160D
APRIL 12, 2021

Policy Analysis:
Failure to adopt amendments reflecting GS 160D will result in land use decisions without statutory backing. If challenged, any land use and planning decisions made after July 1, 2021 may be reversed in court. Staff is providing this information in advance to assist the Board and the Planning Board in their individual policy analysis.

Financial Analysis:
The challenge, and potential reversal, has financial impacts related to development projects and code cases. Notably in lost property tax value from unregulated development projects and code cases. Staff is providing this information in advance to assist the Board and the Planning Board in their individual financial analysis.

Staff Recommendation:
Staff Recommends the Board of Commissioners place the proposed text amendments, reflecting changes to the Unified Development Ordinance and the Town of Zebulon Code of Ordinance consistent with NCGS 160D, on their Joint Public Hearing scheduled for April 19, 2021.

Attachments:
1. Proposed text amendments
2. NCGS 160D

Town of Zebulon Code of Ordinances:

§ 95.01 DEFINITIONS.

PUBLIC NUISANCE TO HEALTH AND SAFETY. The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits of the town which is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(10) The Planning Department shall make inspections as are necessary to determine whether the noxious weeds and tall grass constitute a public nuisance. If a violation is found to exist on the property, the enforcement rules and procedures as listed within ~~Title XV, Land Use, Chapter 152, Zoning Code, Article VI, Enforcement~~the Town of Zebulon Unified Development Ordinance ~~and Review~~, of the Town of Zebulon Code of Ordinances shall be adhered to.

§ 151.02 AUTHORITY.

The Town Board is authorized to adopt tins ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; the Charter of the Town of Zebulon; G.S. § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter ~~160A~~160D, §§ 174, and 185.

(Ord. 2010-27, passed 1-6-2010)

§ 153.02 PURPOSE AND SCOPE.

(A) In order to protect the health, safety and welfare of the residents of the town and its extraterritorial area as authorized by G.S. Ch. ~~160A, Art. 19 Part 6,~~160D, Art 12 it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § ~~160A-444.~~160D-1205

(B) The provisions of this chapter shall apply to all existing housing and to all housing hereafter constructed within the Town of Zebulon and its extraterritorial jurisdiction as shown on the official extraterritorial boundary map recorded with the Register of Deeds of Wake County. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings and structures used for human habitation, and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this chapter.

(1985 Code, § 153.02)

§ 153.31 COSTS, A LIEN ON PREMISES.

As provided by G.S. § ~~160A-432~~160D-1125, the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Building Inspector pursuant to § 153.30 of this chapter shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by ~~G.S. Ch. 160A, Art 10.~~G.S. 160D-1125.

UNIFIED DEVELOPMENT ORDINANCE:

1.3.2 North Carolina General Statutes:

The North Carolina General Statutes, including:
Chapter 160A, Article 8 (Police Powers);
Chapter 160A, Article 15 (Streets, Traffic, and Parking);
Chapter ~~160A, Article 19~~160D ~~-~~(Planning and Regulation of Development);
Chapter 143, Article 21 (Water and Air Resources); and
Chapter 113A, Article 4 (Sedimentation and Pollution Control).

1.6.2 CONFORMANCE

ADVISORY

Adopted policy guidance is advisory in nature and does not carry the effect of law. Except as provided in Section ~~160A-382~~160D-605 ~~and Section 160A-383~~ of the North Carolina General Statutes, consistency with adopted policy guidance shall not be a requirement for the continuing validity of any provision of this Ordinance.

CONSISTENCY

This Ordinance is intended to promote development that is consistent with the goals, objectives, policies, strategies, and actions contained in the Town's adopted policy guidance.
Consistency between a decision made under this Ordinance and the Town's adopted policy guidance is desirable, but is not a legal requirement.
Decisions on applications for amendments to the text of this Ordinance or to the Official Zoning Map shall be accompanied by a statement of consistency recognizing if the proposed decision is or is not consistent with the Town's adopted policy guidance in accordance with Section ~~160A-383~~160D-605 of the North Carolina General Statutes.

2.2.2 Annexation:

D. APPLICATION SUBMITTAL
1. The annexation petition shall be signed by all the owners of land proposed for annexation.
2. An annexation petition shall include a signed statement declaring whether or not any vested right with respect to the land subject to the petition has been established under Section ~~160A-385.1~~160D-108 of the North

Carolina General Statutes.
G. ANNEXATION REVIEW STANDARDS
Approval of an annexation is a matter committed to the legislative discretion of the Town Board of Commissioners. The voluntary annexation petition may be approved upon a finding the petition complies with all the standards in Section 160A-31 or Section 160A-58 in the North Carolina General Statutes, as appropriate, and:

2.2.3 Appeal

J. APPEAL
1. Any decision by the BOA shall be subject to review by the Superior Court of Wake County by proceedings in the nature of certiorari and in accordance with Section ~~160A-393~~160D-1402 of the North Carolina General Statutes.

2.2.4 Building Permit

F. BUILDING PERMIT REVIEW STANDARDS

A building permit shall be issued if the application complies with:

1. The applicable sections of the State Building Code(s);
2. The standards in Section ~~160A-417~~160D-403 of the North Carolina General Statutes;
3. Any applicable requirements of the Wake County Environmental Services Department;
4. The site plan, if applicable;
5. The zoning compliance permit;
6. All other standards or conditions of any prior, applicable permits, and development approvals; and
7. All other applicable requirements of this Ordinance, the Town Code of Ordinances, state law, and federal law.

H. APPEAL

1. An appeal of a decision on a building permit may be filed with the North Carolina Commissioner of Insurance, in accordance with Section ~~160A-434~~160D-1127 of the North Carolina General Statutes.
2. Appeal of decisions on building inspections shall be made to the Wake County Permits and Inspections Department in accordance with their procedures and requirements.

2.2.5 Certificate of Occupancy

J. APPEAL

1. Appeal of decisions on certificates of occupancy shall be made to the Wake County Permits and Inspections Department in accordance with their procedures and requirements.
2. An appeal pertaining to a State Building Code(s) issue shall be filed with to the North Carolina Commissioner of Insurance in accordance with Section ~~160A-434~~160D-1127 of the North Carolina General Statutes.

2.2.6 Conditional Rezoning

B. APPLICABILITY

This procedure sets out the requirements for amendments to the zoning district designation of land within the Town's planning jurisdiction as well as for land coming into the Town's planning jurisdiction via annexation in accordance with the ~~standards in Sections 160A-382 through 160A-385~~Section 160D-703 of the North Carolina General Statutes.

2.2.7 Development Agreement

B. APPLICABILITY

1. At the request of an applicant, the Board of Commissioners may enter into a development agreement with a developer for a development of any size and for any duration, provided the duration is specified in the agreement.
2. All development agreements shall be subject to Sections ~~160A-400.22 through 400.32~~160D-1001-160D-1012 of the North Carolina General Statutes, and the provisions of this section.

2.2.8 Exempt Subdivision

A. PURPOSE AND INTENT

The purpose for this exempt subdivision procedure is to establish a clear and predictable procedure for a landowner to determine and document that a proposed division of land is exempted from the subdivision requirements of this Ordinance in accordance with Section ~~160A-376~~ 160D-802of the North Carolina General Statutes. Exempt subdivision reviews are provided as a courtesy, and may not be mandated by the Town.

E. EXEMPT SUBDIVISION REVIEW STANDARDS

A division of land shall be certified as an exempt subdivision if it:

1. Is excluded from the definition of a subdivision in accordance with Section ~~160A-376~~160D-802 of the North Carolina General Statutes;
2. Complies with all applicable standards in Article 3: Districts;
3. Complies with all standards or conditions of any applicable permits and development approvals; and
4. Complies with all other applicable requirements in the Town Code of Ordinances.

2.2.18 Special Use Permit

K. APPEAL

1. A decision by the BOC on a special use permit shall be subject to review by the Superior Court of Wake

County by proceedings in the nature of certiorari and in accordance with Section ~~160A-393~~160D-1402 of the North

Carolina General Statutes.

2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed

in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or

first-class mail to the applicant, landowner, and to any person who has submitted a written request for a

copy, prior to the date the decision becomes effective.

2.2.21 Variance

M. APPEAL

1. Any decision by the BOA shall be subject to review by the Superior Court of Wake County by proceedings in the nature of certiorari and in accordance with Section ~~160A-393~~160D-1402 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

2.2.22 Vested Rights Determination

B. APPLICABILITY

1. A vested right may be established, in accordance with Section ~~160A-385.1~~160D-108 of the North Carolina General Statutes, and this section.
2. A vested rights determination shall be limited to development included in a site specific development plan. For the purposes of this section, a site specific development plan shall be limited to any one of the following development approvals:

a. Special use permits;
b. Preliminary plats;
c. Planned developments; or
d. Site plans.

3. An application for a vested rights determination shall be processed concurrently or after the approval of a special use permit, preliminary plat, planned development, or site plan.

F. EFFECT

1. A vested rights certificate shall be approved prior to issuance of a building permit.
2. Each document used to establish a site specific development plan shall bear the following notation:

"Approval of this plan establishes a zoning vested right under Section ~~160A-385.1~~160D-108 of the North Carolina General Statutes. Unless terminated at an earlier date, the vested right shall be valid until _____(date)."

3. The establishment of a vested right shall not preclude the application of overlay zoning district provisions that impose additional requirements but do not affect the allowable type and intensity of use, or through ordinances that are general in nature and are applicable to all property subject to land use regulation

by the Town, including building, fire, plumbing, electrical, and mechanical codes.

2.2.24 Zoning Map Amendment

B. APPLICABILITY

This procedure sets out the requirements for amendments to the zoning district designation of land within the Town's planning jurisdiction as well as for land coming into the Town's planning jurisdiction via annexation in accordance with the standards in Sections ~~160A-382 through 160A-385~~160D-602 through 160D-605 of the North Carolina General Statutes.

2.3.6 Public Notice

C. PUBLIC NOTIFICATION REQUIREMENTS

1. All development applications subject to public notification shall comply with the appropriate standards in the North Carolina General Statutes. More specifically, Section ~~160A-364~~160D-601(a) for published notice, Section ~~160A-384(a)~~160D-602(a) for mailed notice, and Section ~~160A-384(c)~~160D-602(c) for posted notice.

D. PUBLISHED NOTICE REQUIREMENTS

1. When the provisions of Section ~~160A-364~~160D-601 of the North Carolina General Statutes require that public notice be published, the designated review authority shall publish a notice in a newspaper that is regularly published at least one time per week and that has general circulation in the Town.

2. The content and form of the notice shall comply with the applicable requirements in the North Carolina General Statutes.

E. MAILED NOTICE REQUIREMENTS

When the provisions of Section ~~160A-384(a)~~160D-602(a) of the North Carolina General Statutes require that public notice be mailed, the designated review authority shall provide the required mailed public notice in accordance with the following:

1. Mailed notice specified in Table 2.3.6.C, Public Notification Requirements, shall be mailed to:

a. The applicant, if different from the landowner; and

b. All landowners entitled to receive notice in accordance with Section ~~160A-384(a)~~160D-602(a) of the North Carolina General Statutes, as well as Town policy, whose address is known by reference to the latest county tax listing.

2. Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section 2.3.6.G, Notice Content, and Section ~~160A-384(a)~~160D-602(a) of the North Carolina General Statutes.

3. A copy of the mailed notice shall be maintained in the offices of the designated review authority for public inspection during normal business hours.

4. Mailed notice shall not be required when a zoning map amendment includes more than 50 lots or tracts owned by at least 50 different landowners, provided the Town publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section 2.3.6.E, Mailed Notice Requirements.

F. POSTED NOTICE REQUIREMENTS

When the provisions of Section ~~160A-384(c)~~160D-602(c) of the North Carolina General Statutes require that public notice be posted, the Planning Director shall provide the required posted public notice in accordance with the following:

1. A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.

2. The content and form of the notice shall comply with Section 2.3.6.G, Notice Content, and Section ~~160A-384(c)~~ 160D-602(c) of the North Carolina General Statutes.

2.3.7 Public Hearings and Meetings

B. LEGISLATIVE PUBLIC HEARINGS

Table 2.2, Application Review Procedures, identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with the following requirements:

1. PROCEDURE

a. Legislative public hearings shall not be conducted until

2. VOTING

a. The Board of Commissioners shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section 2.2, Application Review Procedures.

b. A Board of Commissioners member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance with Section ~~160A-381(d)~~ 160D-109 of the North Carolina General Statutes.

c. A decision of the Board of Commissioners on an application shall be decided by a simple majority of the Board of Commissioners, excluding any members who are recused from voting due to a conflict of interest.

3.3.7.C QUASI-JUDICIAL PUBLIC HEARINGS:

Table 2.2, Application Review Procedures, identifies the kinds of development applications decided following a quasi-judicial public hearing, which shall be conducted in accordance with ~~state law~~G.S.160D-406, the review authority's rules of procedure, and the following requirements:

1. NOTICE REQUIRED

   Quasi-judicial public hearings shall not be conducted until after provision of required public notification in accordance with Section 2.3.6, Public Notice.

2. OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE

   a. Parties with standing may participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments;

   b. Non-parties may present competent, material, and substantial evidence that is not repetitive subject to the approval of the chairperson. ~~Any party in attendance shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, Town staff, and the Town staff's representatives.~~

3. LIMITATION ON EVIDENCE

   a. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.

   b. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.

3.8.2. FLOOD HAZARD OVERLAY (FHO) DISTRICT

A. STATUTORY AUTHORIZATION, FINDINGS OF FACTS, PURPOSE AND OBJECTIVES

1. STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry in Sections 143.215.54, 143-215.54(a), 143-215.54A, 143-215.56, 143-215.56(c), 143.215.57A, and ~~160A-458.1~~160D-923 of the North Carolina General Statutes.

3.8.5 Manufactured Home Overlay (MHO) District

B. ESTABLISHMENT

1. Manufactured Housing Overlay (MHO) districts shall only be established in accordance with Section ~~160A-383.1~~160D-910 of the North Carolina General Statutes and Section 2.2.24, Zoning Map Amendment.
2. In requesting the establishment of an MHO district, an applicant shall present factual information to ensure, in the discretion of the Board of Commissioners, that property values of surrounding lands are protected, that the character and integrity of the neighborhood are adequately safeguarded, and the proposed MHO district is consistent with these standards.
3. To assure acceptable similarity in exterior appearance between proposed manufactured dwellings and dwellings that are constructed on adjacent or nearby land, an applicant may, for illustrative purposes only, present examples of the types and design of such proposed dwellings.

4.3.4 Institutional Uses

S. Wireless Telecommunication Facilities

3. GENERAL STANDARDS APPLICABLE TO ALL TYPES OF WIRELESS TELECOMMUNICATIONS FACILITIES

The following requirements shall apply to all new wireless telecommunications facilities and any modifications to an existing wireless telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.

a. BUILDING PERMIT REQUIRED

Prior to installation or modification exceeding the scope of routine maintenance, all wireless telecommunications facilities shall receive a building permit in accordance with the requirements in this Ordinance.

b. COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

i. All wireless telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities.

ii. In addition to federal requirements, all wireless telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities in Sections ~~160A-400.50~~160D-930 through ~~160A-400.57~~160D-938 in the North Carolina General Statutes.

Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the standards in Table 4.2.3, Principal Use Table, Section 4.3.4.S.3, General Standards Applicable to All Types of Wireless Telecommunications Facilities, and the following standards:

All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section ~~152.1465.B~~ 9.4, Definitions, and the following:

a. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following:
i. A building's roof;
ii. A building's wall;
iii. A vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless telecommunications services; or
iv. An existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.
b. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and Section ~~160A-400.51~~160D-931 in the North Carolina General Statutes, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.
c. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof.
d. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation

4.3.4 Institutional Uses:
S...
5. NONCONFORMING WIRELESS TELECOMMUNICATIONS FACILITIES
a. Lawfully established wireless telecommunications facilities in operation prior to January 1, 2020 that do not comply with these standards may remain and operate as nonconforming uses.
b. In the event of conflict between these standards and the standards for nonconforming situations in Article 7 of this Ordinance, the standards in this section shall control with respect to wireless telecommunications facilities.
c. Ordinary and routine maintenance may be performed on a nonconforming wireless telecommunications facility.
d. Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed in accordance with the requirements in Section ~~152.1465.F.3~~4.3.4.S.4, Collocation, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.
e. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes, be permitted on a nonconforming wireless telecommunications facility.

f. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.

4.4.7 Standards for Specific Accessory Uses:
K. FAMILY HEALTH CARE STRUCTURE
One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in Section ~~160A-383.5~~160D-915 of the North Carolina General Statutes, and the following standards:

5.11.4. EXCLUSIONS
The following forms of signage shall not be subject to these signage standards, but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a building permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:
A. Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in Section ~~160A-381.J~~160D-908 of the North Carolina General Statutes;
B. Legal notices required by governmental bodies, public utilities, or civic associations;
C. Governmental signage, including flags, street signs, traffic warning signs, and other signage provided solely for public health and safety;
D. Building cornerstones, historical plaques, or grave markers;
E. Signage associated with public transit stops;
F. Holiday displays on lots within all zoning districts;
G. Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and
H. Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

6.1.4. EXEMPTIONS
The following divisions of land shall be exempt from these subdivision standards:
A. Expedited subdivisions configured in accordance with Section 2.2.9, Expedited Subdivision;
B. Subdivisions exempted in accordance with Section ~~160A-376~~160D-802 of the North Carolina General Statutes; and
C. Court-ordered subdivisions that comply with Chapter 29 of the North Carolina General Statutes.

6.1.9. SUBDIVIDING IN VIOLATION
A. Any owner of land (or their agent) who subdivides land in the Town's jurisdiction, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the Register of Deeds for Wake County shall be guilty of a Class I misdemeanor in accordance with Section ~~160A-375~~ 160D-807of the north Carolina General Statutes.
B. The selling or transferring of land subject to these subdivision standards by any document other than a plat prepared subject to this Ordinance is a Class I misdemeanor in accordance with Section ~~160A-375~~160D-807 of the North Carolina General Statutes.

C. The Town may enjoin any illegal subdivision, transfer, or sale of land by action for injunction in accordance with Article 8: Enforcement.

8.8.5. REVOCATION OF PERMITS

A. The Planning Director may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.

B. Permits or certificates may be revoked, in accordance with Section ~~160A-422~~160D-403(f) of the North Carolina General Statutes, for any of the following:

1. Any substantial departure from the approved application, plans, or specifications;
2. Refusal or failure to comply with the requirements of State or local laws; or
3. For making false statements or misrepresentations in securing the permit, certificate, or approval.
4. Any permit or certificate mistakenly issued in violation of an applicable State or Town law may also be revoked.

9.4:

ANTENNA COLLOCATION, MAJOR

The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on a building's roof, on a building's wall, on a vertical projection not constructed for the provision of wireless telecommunications services, or on a telecommunications tower where the collocation requires "substantial modifications" to the telecommunications tower, as defined in this Ordinance and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.

ANTENNA COLLOCATION, MINOR

The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on a telecommunications tower that does not require "substantial modifications" and that meets the definition of an "eligible facility request" as defined in this Ordinance and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.

BUILDING PERMIT

Authorization granted by the town for an applicant to begin construction of a building or structure.

For the purposes of the standards in Section 4.3.4.S, Wireless Telecommunication Facilities, Building Permit means an official administrative authorization issued by the Town prior to beginning construction consistent with the provisions of Section ~~160A-417~~160D-1110 of the North Carolina General Statutes and this Ordinance.

COLLOCATION, MAJOR

The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on a building's roof, on a building's wall, on a vertical projection not constructed for the provision of wireless telecommunications services, or on a telecommunications tower where the collocation requires "substantial modifications" to the telecommunications tower, as defined in this Ordinance and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.

COLLOCATION, MINOR
The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on a telecommunications tower that does not require "substantial modifications" and that meets the definition of an "eligible facility request" as defined in this Ordinance and Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.

COMPREHENSIVE PLAN:
A document, adopted by the Board of Commissioners, which dictates the town's policy in terms of transportation, utilities, land use, recreation, and housing and has been officially adopted by the governing board pursuant to G.S. 160D-501.

DEVELOPER:
~~A person engaging in land, site, or building development.~~ A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT:
Any man-made change to improved or unimproved real estate, including: Any of the following:
a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
b. The excavation, grading, filling, clearing, or alteration of land.
c. The subdivision of land as defined in G.S. 160D-802.
d. The initiation or substantial change in the use of land or the intensity of use of land.
~~buildings or other structures; mining; dredging; filling; grading; paving; excavation; drilling operations; or storage of equipment or materials. "Development" also includes any land-disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or that otherwise decreases the infiltration of precipitation into the soil.~~

For the purposes of Section 3.8.2, Flood Hazard Overlay (FHO) District:
(a) Any manmade change to improved or unimproved real estate, including, but not limited to, the construction, erection, structural alteration, enlargement, or rehabilitation of any buildings or other structures, including farm buildings, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, clearing of vegetation; and any use or change in use of any structures or land.
(b) Development shall also include any land disturbing activity on improved or unimproved real estate that changes the amount of impervious or partially impervious surfaces on a parcel, or that otherwise decreases the natural infiltration of precipitation into the soil.

DEVELOPMENT APPROVAL. - An administrative or quasi-judicial approval made pursuant to gs 160D and UDO Article 2 that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits,

variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this G.S. 160D and any Town Ordinance including plat approvals, permits issued, development agreements entered into, and building permits issued.

DWELLING

~~A building designed for or used by one or more families for residential purposes, but not including a hotel, motel, or mobile home.~~ Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Dwelling shall not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

ELIGIBLE FACILITY REQUEST

An application for the installation of new or replacement antennas and related wireless telecommunications equipment on an existing telecommunications tower. An eligible facilities request may include increasing the height and/or replacement of an existing telecommunications tower but shall not include any activities that constitute a "substantial modification" as defined in this Ordinance and Section ~~160A-400.51~~190D-931 of the North Carolina General Statutes. Eligible facility requests are reviewed and decided in accordance with the procedures for a minor collocation.

EXPEDITED SUBDIVISION

A subdivision of three or fewer lots comprised of more than five acres in accordance with Section ~~160A-376~~160D-802 of the North Carolina General Statutes.

PROPERTY. - All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

SMALL WIRELESS FACILITY

A wireless telecommunications facility consisting of an antenna and associated wireless telecommunications equipment installed on a utility pole, public utility pole, building, or other vertical projection not specifically intended for the accommodation of wireless telecommunications facilities (e.g., a traffic signal mast arm, a light standard, sign pole, etc.) that does not exceed the maximum size requirements for such facilities as listed in Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes.

SUBSTANTIAL MODIFICATION

For the purposes of the standards in Section 4.3.4.S, Wireless Telecommunication Facilities, Substantial Modification means the collocation of antenna and related wireless telecommunications equipment on an existing telecommunications tower that necessitates replacement of the existing tower, structural additions to the existing tower that increase its height or the length of protrusions from the tower, or increases in the size of the equipment

compound by an amount specified in Section ~~160A-400.51~~160D-931 of the North Carolina General Statutes. Collocations requiring structural modifications are reviewed and decided in accordance with the procedures for a major collocation. Collocations involving changes to an existing telecommunications tower or equipment compound beyond those identified as "substantial modifications" in Section ~~160A-400.51~~160D-931 in the North Carolina General Statutes are reviewed and decided in accordance with the procedures for a major telecommunications tower.

VESTED RIGHT
A right pursuant to North Carolina General Statutes Section ~~160A-385.1~~160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

10.2. BOARD OF ADJUSTMENT (BOA)
The Board of Adjustment is hereby established in accordance with Section ~~160A-388~~160D-302 of the North Carolina General Statutes. The BOA shall have the following powers and duties, composition, and rules of procedure under this Ordinance:

10.3.2 Conflict of Interest:
In accordance with NCGS 160D-109(a) A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

10.4. PLANNING BOARD
The Planning Board is hereby established in accordance with Section ~~160A-361~~ 160D-301of the North Carolina General Statutes. The Planning Board shall have the following powers and duties, composition, and rules of procedure under this Ordinance:
10.5. TECHNICAL REVIEW COMMITTEE (TRC)
The Technical Review Committee (TRC) is hereby established in accordance with Section ~~160A-361~~160D-306 and Section ~~160A-373~~160D-803 of the North Carolina General Statutes. The TRC shall have the following powers, duties, composition, and rules of procedure under this Ordinance:

10.5.3 RULES OF PROCEDURE
A. MEETINGS
1. The TRC shall establish a regular meeting schedule, and shall meet frequently enough to discuss any plats, plans or related issues submitted to it for review.
2. The Planning Director may invite applicants to attend TRC meetings.

B. CONFLICT OF INTEREST

1. No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
2. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

Chapter 160D.

Local Planning and Development Regulation.

Article 1.

General Provisions.

§ 160D-101. Application.

(a) The provisions of this Article shall apply to all development regulations and programs adopted pursuant to this Chapter or applicable or related local acts. To the extent there are contrary provisions in local charters or acts, G.S. 160D-111 is applicable unless this Chapter expressly provides otherwise. The provisions of this Article also apply to any other local ordinance that substantially affects land use and development.

(b) The provisions of this Article are supplemental to specific provisions included in other Articles of this Chapter. To the extent there are conflicts between the provisions of this Article and the provisions of other Articles of this Chapter, the more specific provisions shall control.

(c) Local governments may also apply any of the definitions and procedures authorized by this Chapter to any ordinance that does not substantially affect land use and development adopted under the general police power of cities and counties, Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes respectively, and may employ any organizational structure, board, commission, or staffing arrangement authorized by this Chapter to any or all aspects of those ordinances.

(d) This Chapter does not expand, diminish, or alter the scope of authority for planning and development regulation authorized by other Chapters of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-102. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the following meanings indicated when used in this Chapter:

(1) Administrative decision. - Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

(2) Administrative hearing. - A proceeding to gather facts needed to make an administrative decision.

(3) Bona fide farm purposes. - Agricultural activities as set forth in G.S. 160D-903.

(4) Charter. - As defined in G.S. 160A-1(2).

(5) City. - As defined in G.S. 160A-1(2).

(6) Comprehensive plan. - A comprehensive plan that has been officially adopted by the governing board pursuant to G.S. 160D-501.

(7) Conditional zoning. - A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

(8) County. - Any one of the counties listed in G.S. 153A-10.

(9) Decision-making board. - A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this Chapter.

(10) Determination. - A written, final, and binding order, requirement, or determination regarding an administrative decision.

(11) Developer. - A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

(12) Development. - Any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b. The excavation, grading, filling, clearing, or alteration of land.

c. The subdivision of land as defined in G.S. 160D-802.

d. The initiation or substantial change in the use of land or the intensity of use of land.

This definition does not alter the scope of regulatory authority granted by this Chapter.

(13) Development approval. - An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

(14) Development regulation. - A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.

(15) Dwelling. - Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

(16) Evidentiary hearing. - A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.

(17) Governing board. - The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard

to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

(18) Landowner or owner. - The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

(19) Legislative decision. - The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.

(20) Legislative hearing. - A hearing to solicit public comment on a proposed legislative decision.

(21) Local act. - As defined in G.S. 160A-1(5).

(22) Local government. - A city or county.

(23) Manufactured home or mobile home. - A structure as defined in G.S. 143-145(7).

(24) Person. - An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(25) Planning and development regulation jurisdiction. - The geographic area defined in Part 2 of this Chapter within which a city or county may undertake planning and apply the development regulations authorized by this Chapter.

(26) Planning board. - Any board or commission established pursuant to G.S. 160D-301.

(27) Property. - All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

(28) Quasi-judicial decision. - A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

(29) Site plan. - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking,

access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

(30) Special use permit. - A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

(31) Subdivision. - The division of land for the purpose of sale or development as specified in G.S. 160D-802.

(32) Subdivision regulation. - A subdivision regulation authorized by Article 8 of this Chapter.

(33) Repealed by Session Laws 2020-25, s. 3, effective June 19, 2020.

(34) Zoning map amendment or rezoning. - An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

(35) Zoning regulation. - A zoning regulation authorized by Article 7 of this Chapter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 3, 51(a), (b), (d).)

§ 160D-103. Unified development ordinance.

A local government may elect to combine any of the regulations authorized by this Chapter into a unified ordinance. Unless expressly provided otherwise, a local government may apply any of the definitions and procedures authorized by law to any or all aspects of the unified ordinance and may employ any organizational structure, board, commission, or staffing arrangement authorized by law to any or all aspects of the ordinance. Inclusion of a regulation authorized by this Chapter or local act in a unified development ordinance does not expand, diminish, or alter the scope of authority for those regulations. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-104. Development approvals run with the land.

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Chapter attach to and run with the

land. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-105. Maps.

(a) Zoning Map. - Zoning district boundaries adopted pursuant to this Chapter shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government.

(b) Incorporation by Reference. - Development regulations adopted pursuant to this Chapter may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies. For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection (a) of this section.

(c) Copies. - Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the local government clerk in accordance with G.S. 160A-79 or G.S. 153A-50, shall be admissible into evidence and shall have the same force and effect as would the original map. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-106. Refund of illegal fees.

If a local government is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the local government shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-107. Moratoria.

(a) Authority. - As provided in this section, local governments may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

(b) Hearing Required. - Except in cases of imminent and substantial threat to public health or safety, before adopting a development regulation imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a

moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-601.

(c) Exempt Projects. - Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section does not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1108 is outstanding, to any project for which a special use permit application has been accepted as complete, to development set forth in a site-specific vesting plan approved pursuant to G.S. 160D-108.1, to development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval, or to preliminary or final subdivision plats that have been accepted for review by the local government prior to the call for a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the local government prior to the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.

(d) Required Statements. - Any development regulation establishing a development moratorium must include, at the time of adoption, each of the following:

(1) A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.

(2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(e) Limit on Renewal or Extension. - No moratorium may be subsequently renewed or extended for any additional period unless the local government has taken all reasonable and feasible steps proposed to be taken in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of subsection (d) of this section, including what new facts or conditions warrant the extension.

(f) Expedited Judicial Review. - Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the General Court of Justice for an order enjoining the enforcement of the moratorium. Actions brought pursuant to this section shall be scheduled for expedited hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In such actions, the local government has the burden of showing compliance with the procedural requirements of this subsection. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 4, 51(a), (b), (d).)

§ 160D-108. Permit choice and vested rights.

(a) Findings. - The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section and G.S. 160D-108.1 strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. - If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(c) Vested Rights. - Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. - Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is

intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

(e) Multiple Permits for Development Project. - Subject to subsection (d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. - A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. - Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

(h) Process to Claim Vested Right. - A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. - The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) [Definitions. -] As used in this section, the following definitions apply:

(1) Development. - As defined in G.S. 143-755(e)(1).

(2) Development permit. - As defined in G.S. 143-755(e)(2).

(3) Land development regulation. - As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. - A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 5(a), 50(b), 51(a), (b), (d).)

§ 160D-108.1. Vested rights - site-specific vesting plans.

(a) Site-Specific Vesting Plan. - A site-specific vesting plan consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by a local government. Unless otherwise expressly provided by the local government, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the local government pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

(b) Establishment of Vested Right. - A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

(c) Approval and Amendment of Plans. - If a site-specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.

A local government may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. A local government shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the local government's decision approving the plan or another date determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original

approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(d) Continuing Review. - Following approval or conditional approval of a site-specific vesting plan, a local government may make subsequent reviews and require subsequent approvals by the local government to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The local government may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(e) Duration and Termination of Vested Right. -

(1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a local government may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.

(3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(f) Subsequent Changes Prohibited; Exceptions. -

(1) A vested right, once established as provided for in this section, precludes any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

a. With the written consent of the affected landowner.

b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.

c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government,

together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the site-specific vesting plan or the phased development plan.

e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.

(g) Miscellaneous Provisions. -

(1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(3) In the event a local government fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice. (2020-25, ss. 5(b), 50(b).)

§ 160D-109. Conflicts of interest.

(a) Governing Board. - A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(b) Appointed Boards. - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(c) Administrative Staff. - No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(d) Quasi-Judicial Decisions. - A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(e) Resolution of Objection. - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(f) Familial Relationship. - For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-110. Chapter construction.

(a) G.S. 153A-4 and G.S. 160A-4 are applicable to this Chapter.

(b) "Written" or "in writing" is deemed to include electronic documentation.

(c) Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-111. Effect on prior laws.

(a) The enactment of this Chapter does not require the readoption of any local government ordinance enacted pursuant to laws that were in effect before January 1, 2020 and are restated or revised herein. The provisions of this Chapter do not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued as of January 1, 2020. The enactment of this Chapter does not amend the geographic area within which local government development regulations adopted prior to January 1, 2020, are effective.

(b) G.S. 153A-3 and G.S. 160A-3 are applicable to this Chapter. Nothing in this Chapter repeals or amends a charter or local act in effect as of June 19, 2020 unless this Chapter or a subsequent enactment of the General Assembly clearly shows a legislative intent to repeal or supersede that charter or local act.

(c) Whenever a reference is made in another section of the General Statutes or any local act, or any local government ordinance, resolution, or order, to a portion of Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes that is repealed or superseded by this Chapter, the reference is deemed amended to refer to that portion of this Chapter that most nearly corresponds to the repealed or superseded portion of Article 19 of Chapter 160A or Article 18 of Chapter 153A of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 6, 51(a)-(d).)

Article 2.

Planning and Development Regulation Jurisdiction.

§ 160D-201. Planning and development regulation jurisdiction.

(a) Cities. - All of the powers granted by this Chapter may be exercised by any city within its corporate limits and within any extraterritorial area established pursuant to G.S. 160D-202.

(b) Counties. - All of the powers granted by this Chapter may be exercised by any county throughout the county except in areas subject to municipal planning and development regulation jurisdiction.

(c) Partial Jurisdiction Regulation in Cities and Counties. - If a city elects to adopt zoning or subdivision regulations, each must be applied to the city's entire planning and development regulation jurisdiction. If a county elects to adopt zoning or subdivision regulations, each may be applied to all or part of the county's planning and development regulation jurisdiction. A local government's planning and development regulation jurisdiction does not include an area in which it has ceded jurisdiction pursuant to an agreement under G.S. 160D-203. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 7, 51(a), (b), (d).)

§ 160D-202. Municipal extraterritorial jurisdiction.

(a) Geographic Scope. - Any city may exercise the powers granted to cities under this Chapter within a defined area extending not more than one mile beyond its contiguous corporate limits. In addition, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. In determining the population of a city for the purposes of this Chapter, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration. Pursuant to G.S. 160A-58.4, extraterritorial municipal planning and development regulation may be extended only from the primary corporate boundary of a city and not from the boundary of satellite areas of the city.

(b) Authority in the Extraterritorial Area. - A city may not exercise any power conferred by this Chapter in its extraterritorial jurisdiction that it is not exercising within its corporate limits. A city may exercise in its extraterritorial area all powers conferred by this Chapter that it is exercising within its corporate limits. If a city fails to extend a particular type of development regulation to the extraterritorial area, the county may elect to exercise that particular type of regulation in the extraterritorial area.

(c) County Approval of City Jurisdiction. - Notwithstanding subsection (a) of this section, no city may extend its extraterritorial powers into any area for which the county has adopted and is enforcing county zoning and subdivision regulations. However, the city may do so where the county is not exercising both of these powers, or when the city and the county have agreed upon the area within which each will exercise the powers conferred by this Chapter. No city may extend its extraterritorial powers beyond one mile from its corporate limits without the approval of the board or boards of county commissioners with jurisdiction over the area.

(d) Notice of Proposed Jurisdiction Change. - Any municipality proposing to exercise extraterritorial jurisdiction under this Chapter shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160D-601, and of the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the planning board and the board of adjustment, as provided in G.S. 160D-303. The notice shall be mailed at least 30 days prior to the date of the hearing. The person or persons mailing the notices shall certify to the city council that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

(e) Boundaries. - Any council exercising extraterritorial jurisdiction under this Chapter shall adopt an ordinance specifying the areas to be included based upon existing or projected urban development and areas of critical concern to the city, as evidenced by officially adopted plans for its development. A single jurisdictional boundary shall be applicable for all powers conferred in this Chapter. Boundaries shall be defined, to the extent feasible, in terms of geographical features identifiable on the ground. Boundaries may follow parcel ownership boundaries. A council may, in its discretion, exclude from its extraterritorial jurisdiction areas lying in another county, areas separated from the city by barriers to urban growth, or areas whose projected development will have minimal impact on the city. The boundaries specified in the ordinance shall at all times be drawn on a map, set forth in a written description, or

shown by a combination of these techniques. This delineation shall be maintained in the manner provided in G.S. 160A-22 for the delineation of the corporate limits and shall be recorded in the office of the register of deeds of each county in which any portion of the area lies.

Where the extraterritorial jurisdiction of two or more cities overlaps, the jurisdictional boundary between them shall be a line connecting the midway points of the overlapping area unless the city councils agree to another boundary line within the overlapping area based upon existing or projected patterns of development.

(f) County Authority Within City Jurisdiction. - The county may, on request of the city council, exercise any or all of these powers in any or all areas lying within the city's corporate limits or within the city's specified area of extraterritorial jurisdiction.

(g) Transfer of Jurisdiction. - When a city annexes, or a new city is incorporated in, or a city extends its jurisdiction to include, an area that is currently being regulated by the county, the county development regulations and powers of enforcement shall remain in effect until (i) the city has adopted such development regulations or (ii) a period of 60 days has elapsed following the annexation, extension, or incorporation, whichever is sooner. Prior to the transfer of jurisdiction, the city may hold hearings and take any other measures consistent with G.S. 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

(h) Relinquishment of Jurisdiction. - When a city relinquishes jurisdiction over an area that it is regulating under this Chapter to a county, the city development regulations and powers of enforcement shall remain in effect until (i) the county has adopted such development regulation or (ii) a period of 60 days has elapsed following the action by which the city relinquished jurisdiction, whichever is sooner. Prior to the transfer of jurisdiction, the county may hold hearings and take other measures consistent with G.S. 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

(i) Process for Local Government Approval. - When a local government is granted powers by this section subject to the request, approval, or agreement of another local government, the request, approval, or agreement shall be evidenced by a formally adopted resolution of the governing board of the local government. Any such request, approval, or agreement can be rescinded upon two years' written notice to the other governing boards concerned by repealing the resolution. The resolution may be modified at any time by mutual agreement of the governing boards concerned.

(j) Local Acts. - Nothing in this section shall repeal, modify, or amend any local act that defines the boundaries of a city's extraterritorial jurisdiction by metes and bounds or courses and distances.

(k) Effect on Vested Rights. - Whenever a city or county, pursuant to this section, acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights in the surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The city or county acquiring jurisdiction may take any action regarding such a development approval, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its development regulations. Except as provided in this subsection, any building, structure, or other land use in a territory over which a city or county has acquired jurisdiction is subject to the development regulations of the city or county. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-203. Split jurisdiction.

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-204. Pending jurisdiction.

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 3.

Boards and Organizational Arrangements.

§ 160D-301. Planning boards.

(a) Composition. - A local government may by ordinance provide for the appointment and compensation of a planning board or may designate one or more boards or commissions to perform the duties of a planning board. A planning board established pursuant to this section may include, but shall not be limited to, one or more of the following:

(1) A planning board of any size or composition deemed appropriate, organized in any manner deemed appropriate; provided, however, the board shall have at least three members.

(2) A joint planning board created by two or more local governments pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.

(b) Duties. - A planning board may be assigned the following powers and duties:

(1) To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.

(2) To facilitate and coordinate citizen engagement and participation in the planning process.

(3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

(4) To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

(5) To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.

(6) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.

(7) To perform any other related duties that the governing board may direct. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-302. Boards of adjustment.

(a) Composition. - A local government may by ordinance provide for the appointment and compensation of a board of adjustment consisting of five or more members, each to be appointed for three-year terms. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the governing board may appoint certain members for less than three years so that the terms of all members shall not expire at the same time. The governing board may appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

(b) Duties. - The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation adopted under this Chapter. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals. If any board other than the board of adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a board of adjustment in making quasi-judicial decisions. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-303. Historic preservation commission.

(a) Composition. - Before it may designate one or more landmarks or historic districts pursuant to Part 4 of Article 9 of this Chapter, the governing board shall establish a historic preservation commission. The governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside within the planning and development regulation jurisdiction of the local government as established pursuant to this Chapter. The commission may appoint advisory bodies and committees as appropriate. Members of the commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the commission but shall serve without pay unless otherwise provided in the ordinance establishing the commission.

(b) Alternative Forms. - In lieu of establishing a historic preservation commission, a local government may designate as its historic preservation commission (i) a separate historic

districts commission or a separate historic landmarks commission established pursuant to this Chapter to deal only with historic districts or landmarks respectively, (ii) a planning board established pursuant to this Chapter, or (iii) a community appearance commission established pursuant to this Chapter. In order for a commission or board other than the historic preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of a local government, the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning board or a community appearance commission.

(c) Joint Commissions. - Local governments may establish or designate a joint preservation commission. If a joint commission is established or designated, it shall have the same composition as specified by this section, and the local governments involved shall determine the residence requirements of members of the joint preservation commission.

(d) Duties. - The historic preservation commission shall have the duties specified in G.S. 160D-942. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-304. Appearance commission.

(a) Composition. - Each local government may create a special commission, to be known as the appearance commission. The commission shall consist of not less than seven nor more than 15 members, to be appointed by the governing board for terms not to exceed four years, as the governing board may by ordinance provide. All members shall be residents of the local government's area of planning and development regulation jurisdiction at the time of appointment. Where possible, appointments shall be made in such a manner as to maintain on the commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a related field. Members of the commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the commission but shall serve without pay unless otherwise provided in the ordinance establishing the commission. Membership of the commission is an office that may be held concurrently with any other elective or appointive office pursuant to Section 9 of Article VI of the North Carolina Constitution.

(b) Joint Commissions. - Local governments may establish a joint appearance commission. If a joint commission is established, it shall have the same composition as specified by this section, and the local governments involved shall determine the residence requirements for members of the joint commission.

(c) Duties. - The community appearance commission shall have the duties specified in G.S. 160D-960. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-305. Housing appeals board.

(a) Composition. - The governing board may by ordinance provide for the creation and organization of a housing appeals board. Instead of establishing a housing appeals board, a local government may designate the board of adjustment as its housing appeals board. The housing appeals board, if created, shall consist of five members to serve for three-year staggered terms.

(b) Duties. - The housing appeals board shall have the duties specified in G.S. 160D-1208. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-306. Other advisory boards.

A local government may by ordinance establish additional advisory boards as deemed appropriate. The ordinance establishing such boards shall specify the composition and duties of such boards. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-307. Extraterritorial representation on boards.

(a) Proportional Representation. - When a city elects to exercise extraterritorial powers under this Chapter, it shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census. Representation shall be provided by appointing at least one resident of the entire extraterritorial planning and development regulation area to the planning board, board of adjustment, appearance commission, and the historic preservation commission if there are historic districts or designated landmarks in the extraterritorial area.

(b) Appointment. - Membership of joint municipal-county planning agencies or boards of adjustment may be appointed as agreed by counties and cities. The extraterritorial representatives on a city advisory board authorized by this Article shall be appointed by the board of county commissioners with jurisdiction over the area. The county shall make the appointments within 90 days following the receipt of a request from the city that the appointments be made. Once a city provides proportional representation, no power available to a city under this Chapter is ineffective in its extraterritorial area solely because county appointments have not yet been made. If there is an insufficient number of qualified residents of the extraterritorial area to meet membership requirements, the board of county commissioners may appoint as many other residents of the county as necessary to make up the requisite number. When the extraterritorial area extends into two or more counties, each board of county commissioners concerned shall appoint representatives from its portion of the area, as specified in the ordinance. If a board of county commissioners fails to make these appointments within 90 days after receiving a resolution from the city council requesting that they be made, the city council may make them.

(c) Voting Rights. - If the ordinance so provides, the outside representatives may have equal rights, privileges, and duties with the other members of the board to which they are appointed, regardless of whether the matters at issue arise within the city or within the extraterritorial area; otherwise, they shall function only with respect to matters within the extraterritorial area. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 8, 51(a), (b), (d).)

§ 160D-308. Rules of procedure.

Rules of procedure that are consistent with the provisions of this Chapter may be adopted by the governing board for any or all boards created under this Article. In the absence of action by the governing board, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the local government clerk or such other official as designated by ordinance and posted on the local government Web site if one exists. Each board shall keep minutes of its proceedings. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-309. Oath of office.

All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-310. Appointments to boards.

Unless specified otherwise by statute or local ordinance, all appointments to boards authorized by this Chapter shall be made by the governing board of the local government. The governing board may establish reasonable procedures to solicit, review, and make appointments. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 4.

Administration, Enforcement, and Appeals.

§ 160D-401. Application.

(a) The provisions of this Article shall apply to all development regulations adopted pursuant to this Chapter. Local governments may apply any of the definitions and procedures authorized by this Article to any ordinance adopted under the general police power of cities and counties, Article 8 of Chapter 160A of the General Statutes, and Article 6 of Chapter 153A of the General Statutes, respectively, and may employ any organizational structure, board, commission, or staffing arrangement authorized by this Article to any or all aspects of those ordinances. The provisions of this Article also apply to any other local ordinance that substantially affects land use and development.

(b) The provisions of this Article are supplemental to specific provisions included in other Articles of this Chapter. To the extent there is a conflict between the provisions of this Article and other Articles, the more specific provision shall control. This Article does not expand, diminish, or alter the scope of authority for development regulations authorized by this Chapter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-402. Administrative staff.

(a) Authorization. - Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter.

(b) Duties. - Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact

ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Staff Arrangements. - A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose.

In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-202.

A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government.

(d) Financial Support. - The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter, and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-403. Administrative development approvals and determinations.

(a) Development Approvals. - To the extent consistent with the scope of regulatory authority granted by this Chapter, no person shall commence or proceed with development without first securing any required development approval from the local government with jurisdiction over the site of the development. A development approval shall be in writing and may contain a provision requiring the development to comply with all applicable State and local laws. A local government may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an

authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(b) Determinations and Notice of Determinations. - A development regulation enacted under the authority of this Chapter may designate the staff member or members charged with making determinations under the development regulation.

The officer making the determination shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

It is conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least 10 days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least 6 inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting is the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(c) Duration of Development Approval. - Unless a different period is specified by this Chapter or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Chapter expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Local development regulations may also provide for development approvals of longer duration for specified types of development approvals. Nothing in this subsection limits any vested rights secured under G.S. 160D-108 or G.S. 160D-108.1.

(d) Changes. - After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. A local government may define by ordinance minor modifications to development approvals that can be exempted or administratively approved. The local government shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

(e) Inspections. - Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(f) Revocation of Development Approvals. - In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays apply.

(g) Certificate of Occupancy. - A local government may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of this Chapter shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1114 has been issued.

(h) Optional Communication Requirements. - A regulation adopted pursuant to this Chapter may require notice and/or informational meetings as part of the administrative decision-making process. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 9, 51(a), (b), (d).)

§ 160D-404. Enforcement.

(a) Notices of Violation. - When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

(b) Stop Work Orders. - Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the

conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(c) Remedies. -

(1) Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by this Chapter may be enforced by any remedy provided by G.S. 160A-175 or G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Chapter or of any development regulation or other regulation made under authority of this Chapter, the local government, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(2) When a development regulation adopted pursuant to authority conferred by this Chapter is to be applied or enforced in any area outside the planning and development regulation jurisdiction of a city as set forth in Article 2 of this Chapter, the city and the property owner shall certify that the application or enforcement of the city development regulation is not under coercion or otherwise based on representation by the city that the city's development approval would be withheld without the application or enforcement of the city development regulation outside the jurisdiction of the city. The certification may be evidenced by a signed statement of the parties on any development approval.

(3) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated pursuant to this Chapter is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulation or other provisions of this Chapter, the local government, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this Chapter for violation of an ordinance. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-405. Appeals of administrative decisions.

(a) Appeals. - Except as provided in G.S. 160D-1403.1, appeals of administrative decisions made by the staff under this Chapter shall be made to the board of adjustment unless a different board is provided or authorized otherwise by statute or an ordinance adopted pursuant to this Chapter. If this function of the board of adjustment is assigned to any other board pursuant to G.S. 160D-302(b), that board shall comply with all of the procedures and processes applicable to a board of adjustment hearing appeals. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the board of adjustment unless required by a local government ordinance or code provision.

(b) Standing. - Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the local government clerk or such other local government official as designated by ordinance. The notice of appeal shall state the grounds for the appeal.

(c) Repealed by Session Laws 2020-25, s. 10, effective June 19, 2020.

(d) Time to Appeal. - The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(e) Record of Decision. - The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(f) Stays. - An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after the request is filed.

Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

(g) Alternative Dispute Resolution. - The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

(h) No Estoppel. - G.S. 160D-1403.2, limiting a local government's use of the defense of estoppel, applies to proceedings under this section. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 10, 50(b), 51(a), (b), (d).)

§ 160D-406. Quasi-judicial procedure.

(a) Process Required. - Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(b) Notice of Hearing. - Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(c) Administrative Materials. - The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(d) Presentation of Evidence. - The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) Appearance of Official New Issues. - The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) Oaths. - The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) Subpoenas. - The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(h) Appeals in Nature of Certiorari. - When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

(i) Voting. - The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(j) Decisions. - The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(k) Judicial Review. - Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d). (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 5.

Planning.

§ 160D-501. Plans.

(a) Requirements for Zoning. - As a condition of adopting and applying zoning regulations under this Chapter, a local government shall adopt and reasonably maintain a comprehensive plan or land-use plan.

(a1) Plans. - A comprehensive plan sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. A land-use plan uses text and maps to designate the future use or reuse of land. A comprehensive or land-use plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs.

Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption.

A local government may prepare and adopt other plans as deemed appropriate. This may include, but is not limited to, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans.

(b) Comprehensive Plan Contents. - A comprehensive plan may, among other topics, address any of the following as determined by the local government:

(1) Issues and opportunities facing the local government, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.

(2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.

(3) Employment opportunities, economic development, and community development.

(4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.

(5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.

(6) Recreation and open spaces.

(7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.

(8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.

(9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.

(10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(c) Adoption and Effect of Plans. - Plans shall be adopted by the governing board with the advice and consultation of the planning board. Adoption and amendment of a comprehensive or land-use plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601. Plans adopted under this Chapter may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under this Chapter shall be advisory in nature without independent regulatory effect. Plans adopted under this Chapter do not expand, diminish, or alter the scope of authority for development regulations adopted under this Chapter. Plans adopted under this Chapter shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations as required by G.S. 160D-604 and G.S. 160D-605.

If a plan is deemed amended by G.S. 160D-605 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 11, 51(a), (b), (d).)

§ 160D-502. Grants, contracts, and technical assistance.

(a) Grants and Services. - A local government may accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the State government and its agencies, any local government and its agencies, and any private and civic sources. A local government may enter into and carry out contracts with the State and federal governments or any agencies thereof under which financial or other planning assistance is made available to the local government and may agree to and comply with any reasonable conditions that are imposed upon such assistance.

(b) Contracts. - Any local government may enter into and carry out contracts with any other city, county, or regional council, planning agency, or private consultant under which it agrees to furnish technical planning assistance to the other local government or planning agency. Any local government may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to pay the other local government for technical planning assistance.

(c) Appropriations, Compensation, and Financing. - A local government is authorized to make appropriations that may be necessary to carry out activities or contracts authorized by this Article or to support and compensate members of a planning board that it may create pursuant to this Chapter and to levy taxes for these purposes as a necessary expense. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-503. Coordination of planning.

A local government may undertake any of the planning activities authorized by this Article in coordination with other local governments, State agencies, or regional agencies created under Article 19 of Chapter 153A of the General Statutes or Article 20 of Chapter 160A of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 6.

Development Regulation.

§ 160D-601. Procedure for adopting, amending, or repealing development regulations.

(a) Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) Notice to Military Bases. - If the adoption or modification would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the hearing. If the commander of the military base provides comments or analysis regarding the compatibility of the proposed development regulation or amendment with military operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance.

(c) Ordinance Required. - A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.

(d) Down-Zoning. - No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 12, 50(a), 51(a), (b), (d).)

§ 160D-602. Notice of hearing on proposed zoning map amendments.

(a) Mailed Notice. - Subject to the limitations of this Chapter, an ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts are to be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be

combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(b) Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under subsection (a) of this section is not required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in subsection (a) of this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

(c) Posted Notice. - When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

(d) Repealed by Session Laws 2020-25, s. 13, effective June 19, 2020.

(e) Optional Communication Requirements. - When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 13, 50(a), 51(a), (b), (d).)

§ 160D-603. Citizen comments.

Subject to the limitations of this Chapter, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the local government submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the governing board. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 14, 50(b), 51(a), (b), (d).)

§ 160D-604. Planning board review and comment.

(a) Initial Zoning. - In order to exercise zoning powers conferred by this Chapter for the first time, a local government shall create or designate a planning board under the provisions of this Article or of a special act of the General Assembly. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full

text of such regulation and maps showing proposed district boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board. The governing board shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the governing board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation.

(b) Zoning Amendments. - Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

(c) Review of Other Ordinances and Actions. - Any development regulation other than a zoning regulation that is proposed to be adopted pursuant to this Chapter may be referred to the planning board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the planning board for review and comment. Any other action proposed to be taken pursuant to this Chapter may be referred to the planning board for review and comment.

(d) Plan Consistency. - When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(e) Separate Board Required. - Notwithstanding the authority to assign duties of the planning board to the governing board as provided by this Chapter, the review and comment required by this section shall not be assigned to the governing board and must be performed by a separate board. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-605. Governing board statement.

(a) Plan Consistency. - When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also

amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(b) Additional Reasonableness Statement for Rezonings. - When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(c) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 7.

Zoning Regulation.

§ 160D-701. Purposes.

Zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-702. Grant of power.

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be

occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

(1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.

(2) The structures are located in an area designated as a historic district on the National Register of Historic Places.

(3) The structures are individually designated as local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

(5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.

(6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 15, 51(a), (b), (d).)

§ 160D-703. Zoning districts.

(a) Types of Zoning Districts. - A local government may divide its territorial jurisdiction into zoning districts of any number, shape, and area deemed best suited to carry out the purposes of this Article. Within those districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may include, but are not be limited to, the following:

(1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.

(2) Conditional districts, in which site plans or individualized development conditions are imposed.

(3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.

(4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.

(5) Districts allowed by charter.

(b) Conditional Districts. - Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(c) Uniformity Within Districts. - Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

(d) Standards Applicable Regardless of District. - A zoning regulation or unified development ordinance may also include development standards that apply uniformly

jurisdiction-wide rather than being applicable only in particular zoning districts. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 16, 50(b), 51(a), (b), (d).)

§ 160D-704. Incentives.

(a) For the purpose of reducing the amount of energy consumption by new development, a local government may adopt ordinances to grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives within its planning and development regulation jurisdiction, if the person receiving the incentives agrees to construct new development or reconstruct existing development in a manner that the local government determines, based on generally recognized standards established for such purposes, makes a significant contribution to the reduction of energy consumption and increased use of sustainable design principles.

(b) In order to encourage construction that uses sustainable design principles and to improve energy efficiency in buildings, a local government may charge reduced building permit fees or provide partial rebates of building permit fees for buildings that are constructed or renovated using design principles that conform to or exceed one or more of the following certifications or ratings:

(1) Leadership in Energy and Environmental Design (LEED) certification or higher rating under certification standards adopted by the U.S. Green Building Council.

(2) A One Globe or higher rating under the Green Globes program standards adopted by the Green Building Initiative.

(3) A certification or rating by another nationally recognized certification or rating system that is equivalent or greater than those listed in subdivisions (1) and (2) of this subsection. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-705. Quasi-judicial zoning decisions.

(a) Provisions of Ordinance. - The zoning or unified development ordinance may provide that the board of adjustment, planning board, or governing board hear and decide quasi-judicial zoning decisions. The board shall follow quasi-judicial procedures as specified in G.S. 160D-406 when making any quasi-judicial decision.

(b) Appeals. - Except as otherwise provided by this Chapter, the board of adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. The provisions of G.S. 160D-405 and G.S. 160D-406 are applicable to these appeals.

(c) Special Use Permits. - The regulations may provide that the board of adjustment, planning board, or governing board hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within

the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds.

(d) Variances. - When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 17, 50(b), 51(a), (b), (d).)

§ 160D-706. Zoning conflicts with other development standards.

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be

left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation govern.

(b) When adopting regulations under this Article, a local government may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with any definition of those terms in another statute or in a rule adopted by a State agency, including the State Building Code Council. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 18, 50(b), 51(a), (b), (d).)

Article 8.

Subdivision Regulation.

§ 160D-801. Authority.

A local government may by ordinance regulate the subdivision of land within its planning and development regulation jurisdiction. In addition to final plat approval, the regulation may include provisions for review and approval of sketch plans and preliminary plats. The regulation may provide for different review procedures for different classes of subdivisions. Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or unified development ordinance. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-802. Applicability.

(a) For the purpose of this Article, subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(b) A local government may provide for expedited review of specified classes of subdivisions.

(c) A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.

(2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.

(3) The entire area of the tract or parcel to be divided is greater than 5 acres.

(4) After division, no more than three lots result from the division.

(5) After division, all resultant lots comply with all of the following:

a. All lot dimension size requirements of the applicable land-use regulations, if any.

b. The use of the lots is in conformity with the applicable zoning requirements, if any.

c. A permanent means of ingress and egress is recorded for each lot. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-803. Review process, filing, and recording of subdivision plats.

(a) Any subdivision regulation adopted pursuant to this Article shall contain provisions setting forth the procedures and standards to be followed in granting or denying approval of a subdivision plat prior to its registration.

(b) A subdivision regulation shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

(1) The district highway engineer as to proposed State streets, State highways, and related drainage systems.

(2) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems.

(3) Any other agency or official designated by the governing board.

(c) The subdivision regulation may provide that final decisions on preliminary plats and final plats are to be made by any of the following:

(1) The governing board.

(2) The governing board on recommendation of a designated body.

(3) A designated planning board, technical review committee of local government staff members, or other designated body or staff person.

If the final decision on a subdivision plat is administrative, the decision may be assigned to a staff person or committee comprised entirely of staff persons, and notice of the decision shall be as provided by G.S. 160D-403(b). If the final decision on a subdivision plat is quasi-judicial, the decision shall be assigned to the governing board, the planning board, the board of adjustment, or other board appointed pursuant to this Chapter, and the procedures set forth in G.S. 160D-406 shall apply.

(d) After the effective date that a subdivision regulation is adopted, no subdivision within a local government's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the governing board or appropriate body, as specified in the subdivision regulation, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local

government. The review officer, pursuant to G.S. 47-30.2, shall not certify a subdivision plat that has not been approved in accordance with these provisions nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-804. Contents and requirements of regulation.

(a) Purposes. - A subdivision regulation may provide for the orderly growth and development of the local government; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

(b) Plats. - The regulation may require a plat be prepared, approved, and recorded pursuant to the provisions of the regulation whenever any subdivision of land takes place. The regulation may include requirements that plats show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

(c) Transportation and Utilities. -

(1) The regulation may provide for the dedication of rights-of-way or easements for street and utility purposes, including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

(2) A regulation adopted by a city may provide that in lieu of required street construction, a developer be required to provide funds for city use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this subdivision shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation.

(3) A regulation adopted by a county may provide that in lieu of required street construction, a developer may provide funds to a county to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this subdivision shall be transferred to a city to be used solely for the development of roads, including design, land acquisition, and construction. Any city receiving funds from a county under this subdivision is authorized to expend the funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county.

(4) Any formula adopted by a local government to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The regulation may require a combination of partial payment of funds and partial dedication of constructed streets when the governing board

determines that a combination is in the best interests of the citizens of the area to be served.

(d) Recreation Areas and Open Space. - The regulation may provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received by cities pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. All funds received by counties pursuant to this subsection shall be used only for the acquisition of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The regulation may allow a combination or partial payment of funds and partial dedication of land when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

(e) Community Service Facilities. - The regulation may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with local government plans, policies, and standards.

(f) School Sites. - The regulation may provide for the reservation of school sites in accordance with plans approved by the governing board. In order for this authorization to become effective, before approving such plans, the governing board and the board of education with jurisdiction over the area shall jointly determine the location and size of any school sites to be reserved. Whenever a subdivision is submitted for approval that includes part or all of a school site to be reserved under the plan, the governing board shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the governing board and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision or site plan shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision or site plan within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the landowner may treat the land as freed of the reservation.

(g) Recodified as G.S. 160D-804.1 by Session Laws 2020-25, s. 20(b), effective June 19, 2020, and applicable to performance guarantees issued on or after that date.

(h) Power Lines Exemption. - The regulation shall not require a developer or builder to bury power lines meeting all of the following criteria:

(1) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.

(2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(i) Minimum Square Footage Exemption. - The regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 20(a), (b), (d), 51(a), (b), (d).)

§ 160D-804.1. Performance guarantees.

To assure compliance with G.S. 160D-804 and other development regulation requirements, a subdivision regulation may provide for performance guarantees to assure successful completion of required improvements.

For purposes of this section, all of the following apply with respect to performance guarantees:

(1) Type. - The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:

a. Surety bond issued by any company authorized to do business in this State.

b. Letter of credit issued by any financial institution licensed to do business in this State.

c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(1a) Duration. - The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

(1b) Extension. - A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

(2) Release. - The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. The local government shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the local government, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the local government shall timely provide written acknowledgement that the required improvements have been completed.

(3) Amount. - The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The local government may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(3a) Timing. - A local government, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(4) Coverage. - The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(5) Legal responsibilities. - No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

a. The local government to whom the performance guarantee is provided.

b. The developer at whose request or for whose benefit the performance guarantee is given.

c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

(6) Multiple guarantees. - The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

(7) Exclusion. - Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section. (2020-25, s. 20(b).)

§ 160D-805. Notice of new subdivision fees and fee increases; public comment period.

(a) A local government shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this Article at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The local government shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the local government.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the planning and development regulation jurisdiction of the local government.

(3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the local government for the purpose of notification as required by this section.

If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of this subsection by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing board of the local government shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-806. Effect of plat approval on dedications.

The approval of a plat shall not be deemed to constitute the acceptance by the local government or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, any governing board may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-807. Penalties for transferring lots in unapproved subdivisions.

(a) If a local government adopts a subdivision regulation, any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of that local government, thereafter subdivides the land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the subdivision regulation and recorded in the office of the appropriate register of deeds, is guilty

of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The local government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

(b) The provisions of this section do not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the register of deeds, provided the contract does all of the following:

(1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

(c) The provisions of this section do not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the register of deeds. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 21, 51(a), (b), (d).)

§ 160D-808. Appeals of decisions on subdivision plats.

Appeals of subdivision decisions may be made pursuant to G.S. 160D-1403. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 9.

Regulation of Particular Uses and Areas.

Part 1. Particular Land Uses.

§ 160D-901. Regulation of particular uses and areas.

A local government may regulate the uses and areas set forth in this Article in zoning regulations pursuant to Article 7 of this Chapter, a unified development ordinance, or in separate development regulations adopted under this Article. This shall not be deemed to expand, diminish, or alter the scope of authority granted pursuant to those Articles. In all instances, the substance of the local government regulation shall be consistent with the provisions in this Article. The provisions of this Chapter apply to any regulation adopted pursuant to this Article that substantially affects land use and development. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-902. Adult businesses.

(a) The General Assembly finds and determines that sexually oriented businesses can and do cause adverse secondary impacts on neighboring properties. Numerous studies relevant to North Carolina have found increases in crime rates and decreases in neighboring property values as a result of the location of sexually oriented businesses in inappropriate locations or from the operation of such businesses in an inappropriate manner. Reasonable local government regulation of sexually oriented businesses in order to prevent or ameliorate adverse secondary impacts is consistent with the federal constitutional protection afforded to nonobscene but sexually explicit speech.

(b) In addition to State laws on obscenity, indecent exposure, and adult establishments, local government regulation of the location and operation of sexually oriented businesses is necessary to prevent undue adverse secondary impacts that would otherwise result from these businesses.

(c) A local government may regulate sexually oriented businesses through zoning regulations, licensing requirements, or other appropriate local ordinances. The local government may require a fee for the initial license and any annual renewal. Such local regulations may include, but are not limited to, the following:

(1) Restrictions on location of sexually oriented businesses, such as limitation to specified zoning districts and minimum separation from sensitive land uses and other sexually oriented businesses.

(2) Regulations on operation of sexually oriented businesses, such as limits on hours of operation, open booth requirements, limitations on exterior advertising and noise, age of patrons and employees, required separation of patrons and performers, clothing restrictions for masseuses, and clothing restrictions for servers of alcoholic beverages.

(3) Clothing restrictions for entertainers.

(4) Registration and disclosure requirements for owners and employees with a criminal record other than minor traffic offenses and restrictions on

ownership by or employment of a person with a criminal record that includes offenses reasonably related to the legal operation of sexually oriented businesses.

(d) In order to preserve the status quo while appropriate studies are conducted and the scope of potential regulations is deliberated, local governments may enact moratoria of reasonable duration on either the opening of any new businesses authorized to be regulated under this section or the expansion of any such existing business. Businesses existing at the time of the effective date of regulations adopted under this section may be required to come into compliance with newly adopted regulations within an appropriate and reasonable period of time.

(e) Local governments may enter into cooperative agreements regarding coordinated regulation of sexually oriented businesses, including provision of adequate alternative sites for the location of constitutionally protected speech within an interrelated geographic area.

(f) For the purpose of this section, "sexually oriented business" means any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. Local governments may adopt detailed definitions of these and similar businesses in order to precisely define the scope of any local regulations. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-903. Agricultural uses.

(a) Bona Fide Farming Exempt From County Zoning. - County zoning regulations may not affect property used for bona fide farm purposes; provided, however, that this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) includes the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following is sufficient evidence that the property is being used for bona fide farm purposes:

(1) A farm sales tax exemption certificate issued by the Department of Revenue.

(2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.

(3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(4) A forest management plan.

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this subsection subjects the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to G.S. 160D-702 in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

(b) County Zoning of Residential Uses on Large Lots in Agricultural Districts. - A county zoning regulation shall not prohibit single-family detached residential uses constructed in accordance with the North Carolina State Building Code on lots greater than 10 acres in size and in zoning districts where more than fifty percent (50%) of the land is in use for agricultural or silvicultural purposes, except that this restriction does not apply to commercial or industrial districts where a broad variety of commercial or industrial uses are permissible. A zoning regulation shall not require that a lot greater than 10 acres in size have frontage on a public road or county-approved private road or be served by public water or sewer lines in order to be developed for single-family residential purposes.

(c) Agricultural Areas in Municipal Extraterritorial Jurisdiction. - Property that is located in a city's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the city's zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to this section. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes becomes subject to exercise of the city's extraterritorial planning and development regulation jurisdiction under this Chapter. For purposes of complying with State or federal law, property that is exempt from municipal zoning pursuant to this subsection is subject to the county's floodplain regulation or all floodplain regulation provisions of the county's unified development ordinance.

(d) Accessory Farm Buildings. - A city may provide in its zoning regulation that an accessory building of a "bona fide farm" has the same exemption from the building code as it would have under county zoning.

(e) City Regulations in Voluntary Agricultural Districts. - A city may amend the development regulations applicable within its planning and development regulation jurisdiction to provide flexibility to farming operations that are located within a city or county, voluntary agricultural district, or enhanced voluntary agricultural district adopted under Article 61 of Chapter 106 of the General Statutes. Amendments to applicable development regulations may include provisions regarding on-farm sales, pick-your-own operations, road signs, agritourism, and other activities incident to farming. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 22, 51(a), (b), (d); 2020-74, s. 20.)

§ 160D-904. Airport zoning.

Any local government may enact and enforce airport zoning regulations pursuant to this Chapter or as authorized by Article 4 of Chapter 63 of the General Statutes. Airport zoning regulations for real property within 6 miles of any cargo airport complex site subject to regulation by the North Carolina Global TransPark Authority are governed by G.S. 63A-18. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-905. Amateur radio antennas.

A local government ordinance based on health, safety, or aesthetic considerations that regulates the placement, screening, or height of the antennas or support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the local government. A local government may not restrict antennas or antenna support structures of amateur radio operators to heights of 90 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety, or aesthetic objective of the local government. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-906. Bee hives.

Restrictions on bee hives in local development regulations shall be consistent with the limitations of G.S. 106-645. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-907. Family care homes.

(a) The General Assembly finds it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment.

(b) As used in this section, the following definitions apply:

(1) Family care home. - A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

(2) Person with disabilities. - A person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

(c) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. No local government may require that a family care home, its owner, or operator obtain, because of the use, a special use permit or variance from any such zoning regulation; provided, however, that a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(d) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-908. Fence wraps.

Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the local government may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-909. Fraternities and sororities.

A zoning regulation or unified development ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities between those fraternities or sororities that are approved or recognized by a college or university and those that are not. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-910. Manufactured homes.

(a) The General Assembly finds that manufactured housing offers affordable housing opportunities for low- and moderate-income residents of this State who could not otherwise afford to own their own home. The General Assembly further finds that some local governments have adopted zoning regulations that severely restrict the placement of manufactured homes. It is the intent of the General Assembly in enacting this section that local governments reexamine their land-use practices to assure compliance with applicable statutes and case law and consider allocating more residential land area for manufactured homes based upon local housing needs.

(b) For purposes of this section, the term "manufactured home" is defined as provided in G.S. 143-145(7).

(c) A local government may not adopt or enforce zoning regulations or other provisions that have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based on the age of the home.

(d) A local government may adopt and enforce appearance and dimensional criteria for manufactured homes. Such criteria shall be designed to protect property values, to preserve the character and integrity of the community or individual neighborhoods within the community, and to promote the health, safety, and welfare of area residents. The criteria shall be adopted by ordinance.

(e) In accordance with the local government's comprehensive plan and based on local housing needs, a local government may designate a manufactured home overlay district within a residential district. Such overlay district may not consist of an individual lot or scattered lots but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes.

(f) Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land. The terms "mobile home" and "trailer" in any valid

restrictive covenants running with the land shall include the term "manufactured home" as defined in this section. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-911. Modular homes.

Modular homes, as defined in G.S. 105-164.3(143), shall comply with the design and construction standards set forth in G.S. 143-139.1. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-912. Outdoor advertising.

(a) As used in this section, the term "off-premises outdoor advertising" includes off-premises outdoor advertising visible from the main-traveled way of any road.

(b) A local government may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising within its planning and development regulation jurisdiction in accordance with the applicable provisions of this Chapter and subject to G.S. 136-131.1 and G.S. 136-131.2.

(c) A local government shall give written notice of its intent to require removal of off-premises outdoor advertising by sending a letter by certified mail to the last known address of the owner of the outdoor advertising and the owner of the property on which the outdoor advertising is located.

(d) No local government may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

(1) The local government and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.

(2) The local government and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.

(3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.

(4) The removal is required for opening, widening, extending, or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311, and the local government allows the off-premises outdoor advertising to be relocated to a comparable location.

(5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

This subsection shall be construed subject to and without any reduction in the rights afforded to owners of outdoor advertising signs along interstate and federal-aid primary highways in this State as provided in Article 13 of Chapter 136 of the General Statutes.

(e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of

the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on the following:

(1) The factors listed in G.S. 105-317.1(a).

(2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

(f) If the parties are unable to reach an agreement under subsection (e) of this section on monetary compensation to be paid by the local government to the owner of the nonconforming off-premises outdoor advertising sign for its removal and the local government elects to proceed with the removal of the sign, the local government may bring an action in superior court for a determination of the monetary compensation to be paid. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the local government shall own the sign.

(g) In lieu of paying monetary compensation, a local government may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the sign. The agreement shall include the following:

(1) Provision for relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:

a. The size and format of the sign.

b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site.

c. The timing of the relocation.

(2) Provision for payment by the local government of the reasonable costs of relocating and reconstructing the sign, including the following:

a. The actual cost of removing the sign.

b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the sign.

c. The actual cost of installing the sign at the new location.

d. An amount of money equivalent to the income received from the lease of the sign for a period of up to 30 days if income is lost during the relocation of the sign.

(h) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, a local government, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a local government has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section and within 120 days after the initial notice by the local government the parties have not been able to agree that the site or sites offered by the local government for relocation of the sign are reasonably comparable to or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each

party shall select one arbitrator, and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the local government for relocation of the nonconforming sign are not comparable to or better than the existing site, and the local government elects to proceed with the removal of the sign, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the sign. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination and the local government elects to proceed with the removal of the sign, then the local government may bring an action in superior court for a determination of the monetary compensation to be paid by the local government to the owner for the removal of the sign. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the local government shall own the sign.

(k) Notwithstanding the provisions of this section, a local government and an off-premises outdoor advertising sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time in lieu of monetary compensation. A local government may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(*l*) A local government has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises outdoor advertising provided the affected property remains in place until the compensation is paid.

(m) This section does not apply to any ordinance in effect on July 1, 2004. A local government may amend an ordinance in effect on July 1, 2004, to extend application of the ordinance to off-premises outdoor advertising located in territory acquired by annexation or located in the extraterritorial jurisdiction of the city. A local government may repeal or amend an ordinance in effect on July 1, 2004, so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on June 19, 2020.

(n) The provisions of this section shall not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

(o) Nothing in this section shall limit a local government's authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a)-(d).)

§ 160D-913. Public buildings.

All local government zoning regulations are applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, except as provided in Part 4 of Article 9 of this Chapter, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegate. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

(1) On the facade of a structure that faces areas open to common or public access.

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.

(3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-915. Temporary health care structures.

(a) The following definitions apply in this section:

(1) Activities of daily living. - Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(2) Caregiver. - An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.

(3) First- or second-degree relative. - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

(4) Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

(5) Temporary family health care structure. - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable

provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A local government shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(c) A local government shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the local government. The local government may charge a fee of up to one hundred dollars ($100.00) for the initial permit and an annual renewal fee of up to fifty dollars ($50.00). The local government may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The local government may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the local government of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.

(f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of this Chapter, as if the temporary family health care structure were permanent real property.

(g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.

(i) The local government may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The local government may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-916. Streets and transportation.

(a) Street Setbacks and Curb Cut Regulations. - Local governments may establish street setback and driveway connection regulations pursuant to G.S. 160A-306 and G.S. 160A-307 or as a part of development regulations adopted pursuant to this Chapter. If adopted pursuant to this Chapter, the regulations are also subject to the provisions of G.S. 160A-306 and G.S. 160A-307.

(b) Repealed by Session Laws 2020-25, s. 23, effective June 19, 2020. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 23, 51(a), (b), (d).)

§ 160D-917. Reserved for future codification purposes.

§ 160D-918. Reserved for future codification purposes.

§ 160D-919. Reserved for future codification purposes.

Part 2. Environmental Regulation.

§ 160D-920. Local environmental regulations.

(a) Local governments are authorized to exercise the powers conferred by Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes to adopt and enforce local ordinances pursuant to this Part to the extent necessary to comply with State and federal law, rules, and regulations or permits consistent with the interpretations and directions of the State or federal agency issuing the permit.

(b) Local environmental regulations adopted pursuant to this Part are not subject to the variance provisions of G.S. 160D-705 unless that is specifically authorized by the local ordinance. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-921. Forestry activities.

(a) The following definitions apply to this section:

(1) Development. - Any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest use.

(2) Forest management plan. - A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.

(3) Forestland. - Land that is devoted to growing trees for the production of timber, wood, and other forest products.

(4) Forestry. - The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

(5) Forestry activity. - Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

(b) A local government shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either of the following:

(1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.

(2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

(c) This section shall not be construed to limit, expand, or otherwise alter the authority of a local government to:

(1) Regulate activity associated with development. A local government may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:

a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought.

b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the local government regulations.

(2) Regulate trees pursuant to any local act of the General Assembly.

(3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.

(4) Exercise its planning or zoning authority under this Chapter.

(5) Regulate and protect streets. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-922. Erosion and sedimentation control.

Any local government may enact and enforce erosion and sedimentation control regulations as authorized by Article 4 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-923. Floodplain regulations.

Any local government may enact and enforce floodplain regulation or flood damage prevention regulations as authorized by Part 6 of Article 21 of Chapter 143 of the General Statutes and shall comply with all applicable provisions of that Part and, to the extent not inconsistent with that Article, with this Chapter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-924. Mountain ridge protection.

Any local government may enact and enforce a mountain ridge protection regulation pursuant to Article 14 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter, unless the local government has removed itself from the coverage of Article 14 of Chapter 113A of the General Statutes through the procedure provided by law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-925. Stormwater control.

(a) A local government may adopt and enforce a stormwater control regulation to protect water quality and control water quantity. A local government may adopt a stormwater management regulation pursuant to this Chapter, its charter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a local government stormwater control regulation unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A local government may take enforcement action to compel a State or local government agency to comply with a stormwater control regulation that implements the NPDES stormwater permit issued to the local government. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a local government may take enforcement action to compel a federal government agency to comply with a stormwater control regulation.

(c) A local government may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.

(e) Unless the local government requests the permit condition in its permit application, the Environmental Management Commission may not require as a condition of an NPDES stormwater permit issued pursuant to G.S. 143-214.7 that a city implement the measure required by 40 Code of Federal Regulations § 122.34(b)(3)(1 July 2003 Edition) in its extraterritorial jurisdiction. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-926. Water supply watershed management.

A local government may enact and enforce a water supply watershed management and protection regulation pursuant to G.S. 143-214.5 and shall comply with all applicable provisions of that statute and, to the extent not inconsistent with that statute, with this Chapter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-927. Reserved for future codification purposes.

§ 160D-928. Reserved for future codification purposes.

§ 160D-929. Reserved for future codification purposes.

Part 3. Wireless Telecommunication Facilities.

§ 160D-930. Purpose and compliance with federal law.

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(b) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(c) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(d) Nothing in this Part shall be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-931. Definitions.

The following definitions apply in this Part:

(1) Antenna. - Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Applicable codes. - The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted

by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(3) Application. - A request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or a wireless support structure.

(4) Base station. - A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

(5) Building permit. - An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-1110.

(6) City right-of-way. - A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.

(7) City utility pole. - A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.

(8) Collocation. - The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.

(9) Communications facility. - The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

(10) Communications service. - Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

(11) Communications service provider. - A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

(12) Eligible facilities request. - A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

(13) Equipment compound. - An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

(14) Fall zone. - The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(15) Land development regulation. - Any ordinance enacted pursuant to this Chapter.

(16) Micro wireless facility. - A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in

height and that has an exterior antenna, if any, no longer than 11 inches.

(17) Search ring. - The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(18) Small wireless facility. - A wireless facility that meets the following qualifications:

a. Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.

b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

(19) Substantial modification. - The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(20) Utility pole. - A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

(21) Water tower. - A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(22) Wireless facility. - Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and

backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following:

a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
b. Wireline backhaul facilities.
c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(23) Wireless infrastructure provider. - Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

(24) Wireless provider. - A wireless infrastructure provider or a wireless services provider.

(25) Wireless services. - Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

(26) Wireless services provider. - A person who provides wireless services.

(27) Wireless support structure. - A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-932. Local authority.

A local government may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a local government from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160D-930. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-933. Construction of new wireless support structures or substantial modifications of wireless support structures.

(a) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and development regulation jurisdiction of a local government must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(b) A local government's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the local government may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A local government may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A local government may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the local government may review the following:

(1) Applicable public safety, land-use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure that residential, historic, and designated scenic areas cannot be served from outside the area or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure or replacement wireless support structure is necessary to provide the applicant's designed service.

(3) A local government may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Local governments may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(c) The local government shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other development approvals in the case of other applications, each as measured from the time the application is deemed complete.

(d) A local government may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a local government on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the local government in connection with the regulatory review authorized under this section. The

foregoing does not prohibit a local government from imposing additional reasonable and cost-based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a local government for review of the application may not be used for either of the following:

(1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(e) The local government may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A local government shall not deny an initial development approval based on such documentation. A local government may condition a development approval on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(f) The local government may not require the placement of wireless support structures or wireless facilities on local government owned or leased property but may develop a process to encourage the placement of wireless support structures or facilities on local government owned or leased property, including an expedited approval process.

(g) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to this Article. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-934. Collocation and eligible facilities requests of wireless support structures.

(a) Pursuant to section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a local government may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A local government may require an application for collocation or an eligible facilities request.

(b) A collocation or eligible facilities request application is deemed complete unless the local government provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A local government may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A local government may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(c) The local government shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a

collocation application that is not an eligible facilities request, the local government shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(d) A local government may impose a fee not to exceed one thousand dollars ($1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A local government may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a local government for the review of the application may not be used for either of the following:

(1) Travel expenses incurred in a third-party review of a collocation application.

(2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-935. Collocation of small wireless facilities.

(a) Except as expressly provided in this Part, a city shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

(b) A city may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.

(c) Small wireless facilities that meet the height requirements of G.S. 160D-936(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.

(d) A city may require an applicant to obtain a permit to collocate a small wireless facility. A city shall receive applications for, process, and issue such permits subject to the following requirements:

(1) A city may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the city such as the reservation of fiber, conduit, or pole space for the city.

(2) The wireless provider shall complete an application as specified in form and content by the city. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

(3) A permit application shall be deemed complete unless the city provides notice otherwise in writing to the applicant within 30 days of submission or within some other mutually agreed-upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(4) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the city fails to approve or deny the application

within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the city and the applicant.

(5) A city may deny an application only on the basis that it does not meet any of the following: (i) the city's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment, (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, or (iv) the historic preservation requirements in G.S. 160D-936(i). The city must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

(6) An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities must be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of a city shall be allowed, at the applicant's discretion, to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. A city may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The city may issue a separate permit for each collocation that is approved.

(8) The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(e) Subject to the limitations provided in G.S. 160A-296(a)(6), a city may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities, (ii) the amount charged by the city for permitting of any similar activity, or (iii) one hundred dollars ($100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars ($50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(f) Subject to the limitations provided in G.S. 160A-296(a)(6), a city may impose a technical consulting fee for each application, not to exceed five hundred dollars ($500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. A city may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a city for the review of the application shall not be used for either of the following:

(1) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.

(2) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(g) A city may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the city may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the city reasonable evidence that it is diligently working to place such wireless facility back in service.

(h) A city shall not require an application or permit or charge fees for (i) routine maintenance, (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller, or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).

(i) Nothing in this section shall prevent a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-936. Use of public right-of-way.

(a) A city shall not enter into an exclusive arrangement with any person for use of city rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of G.S. 160D-935, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under G.S. 160D-935(d) if the wireless provider meets all of the following requirements:

(1) Each new utility pole and each modified or replacement utility pole or city utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

(2) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.

(c) Nothing in this section shall be construed to prohibit a city from allowing utility poles, city utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection (b) of this section.

(d) Applicants for use of a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures existing at the time of adoption of the requirements, and (iii) have a waiver process.

(e) Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed 40 feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.

(f) Except as provided in this Part, a city may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:

(1) The right-of-way charge shall not exceed the direct and actual cost of managing the city rights-of-way and shall not be based on the wireless provider's revenue or customer counts.

(2) The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.

(3) The right-of-way charge shall be reasonable and nondiscriminatory.

Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.

(g) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(h) A city may require a wireless provider to repair all damage to a city right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, city utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the city within a reasonable time after written notice, the city may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The city may maintain an action to recover the costs of the repairs.

(i) This section shall not be construed to limit local government authority to enforce historic preservation zoning regulations consistent with Part 4 of Article 9 of this Chapter, the

preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and city charter provisions adopted to implement those laws.

(j) A wireless provider may apply to a city to place utility poles in the city rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of-way, to support the collocation of small wireless facilities. A city shall accept and process the application in accordance with the provisions of G.S. 160D-935(d), applicable codes, and other local codes governing the placement of utility poles or city utility poles in the city rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-937. Access to city utility poles to install small wireless facilities.

(a) A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars ($50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) If a city that operates a public enterprise as permitted by Article 16 of Chapter 160A of the General Statutes has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.

(d) Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(e) In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(f) The city shall provide a good-faith estimate for any make-ready work necessary to enable the city utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-

faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a city utility pole necessary for the city utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(g) The city shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(h) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.

(i) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, city utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, "excluded entity" means (i) a city that owns or operates a public enterprise pursuant to Article 16 of Chapter 160A of the General Statutes consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-938. Applicability.

(a) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the city. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Part shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in this Part or otherwise specifically authorized by the General Statutes, a city may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.

(d) Except as provided in this Part or specifically authorized by the General Statutes, a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Part does not authorize the provision of any communications

services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-939. Reserved for future codification purposes.

Part 4. Historic Preservation.

§ 160D-940. Legislative findings.

The heritage of our State is one of our most valued and important assets. The conservation and preservation of historic districts and landmarks stabilize and increase property values and strengthen the overall economy of the State. This Part authorizes local governments within their respective planning and development regulation jurisdictions and by means of listing, regulation, and acquisition to do the following:

(1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory.

(2) To promote the use and conservation of such district or landmark for the education, pleasure, and enrichment of the residents of the city or county and the State as a whole. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-941. Historic preservation commission.

Before it may designate one or more landmarks or historic districts, a local government shall establish or designate a historic preservation commission in accordance with G.S. 160D-303. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-942. Powers of the historic preservation commission.

A preservation commission established pursuant to this Chapter may, within the planning and development regulation jurisdiction of the local government, do any of the following:

(1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.

(2) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."

(3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.

(4) Restore, preserve, and operate historic properties.

(5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.

(6) Conduct an educational program regarding historic properties and districts within its jurisdiction.

(7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.

(8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(9) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.

(10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part.

(11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-943. Appropriations.

A governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Chapter in any amount determined necessary for the expenses of the operation of the commission and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks, or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-944. Designation of historic districts.

(a) Any local government may, as part of a zoning regulation adopted pursuant to Article 7 of this Chapter or as a development regulation enacted or amended pursuant to Article 6 of this Chapter, designate and from time to time amend one or more historic districts within the area subject to the regulation. Historic districts established pursuant to this Part shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, or culture and to possess integrity of design, setting, materials, feeling, and association.

Such development regulation may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning regulation may include as uses by right or as special uses those uses found by the preservation commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until all of the following occur:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district and a description of the boundaries of such district has been prepared.

(2) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the governing board of any responsibility for awaiting such analysis, and the governing board may at any time thereafter take any necessary action to adopt or amend its zoning regulation.

(c) The governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning regulation. With respect to any changes in the boundaries of such district, subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the preservation commission and shall be referred to the planning board for its review and comment according to procedures set forth in the zoning regulation. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the local government may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning regulation.

(d) The provisions of G.S. 160D-910 apply to zoning or other development regulations pertaining to historic districts, and the authority under G.S. 160D-910(b) for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-945. Designation of landmarks.

Upon complying with G.S. 160D-946, the governing board may adopt and amend or repeal a regulation designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

The regulation shall describe each property designated in the regulation, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each

building, structure, site, area, or object so designated as a historic landmark, the regulation shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the regulation may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-946. Required landmark designation procedures.

As a guide for the identification and evaluation of landmarks, the preservation commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No regulation designating a historic building, structure, site, area, or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board, until all of the following procedural steps have been taken:

(1) The preservation commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving, or demolishing properties designated as landmarks.

(2) The preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources.

(3) The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall, upon request of the department or at the initiative of the preservation commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the preservation commission, the commission and any governing board shall be relieved of any responsibility to consider such comments.

(4) The preservation commission and the governing board shall hold a joint legislative hearing or separate legislative hearings on the proposed regulation. Notice of the hearing shall be made as provided by G.S. 160D-601.

(5) Following the hearings, the governing board may adopt the regulation as proposed, adopt the regulation with any amendments it deems necessary, or reject the proposed regulation.

(6) Upon adoption of the regulation, the owners and occupants of each designated landmark shall be given written notice of such designation within a reasonable time. One copy of the regulation and all amendments

thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. In the case of any landmark property lying within the planning and development regulation jurisdiction of a city, a second copy of the regulation and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the regulation and any amendments shall be given to the local government building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the local government for such period as the designation remains in effect.

(7) Upon the adoption of the landmark regulation or any amendment thereto, it shall be the duty of the preservation commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-947. Certificate of appropriateness required.

(a) Certificate Required. - After the designation of a landmark or a historic district, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on the landmark or within the district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The local government shall require such a certificate to be issued by the commission prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness is required whether or not a building or other permit is required.

For purposes of this Part, "exterior features" include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Except as provided in subsection (b) of this section, the commission has no jurisdiction over interior arrangement. The commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district that would be incongruous with the special character of the landmark or district. In making decisions on certificates of appropriateness, the commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.

(b) Interior Spaces. - Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces is limited to specific interior features of architectural, artistic,

or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review binds future owners and/or successors in if the consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(c) Rules and Standards. - Prior to any action to enforce a landmark or historic district regulation, the commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and standards not inconsistent with this Part to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition. The landmark or historic district regulation may provide, subject to prior adoption by the preservation commission of detailed standards, for staff review and approval as an administrative decision of applications for a certificate of appropriateness for minor work or activity as defined by the regulation; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission. Other than these administrative decisions on minor works, decisions on certificates of appropriateness are quasi-judicial and shall follow the procedures of G.S. 160D-406.

(d) Time for Review. - All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the regulation or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

(e) Appeals. -

(1) Appeals of administrative decisions allowed by regulation may be made to the commission.

(2) All decisions of the commission in granting or denying a certificate of appropriateness may, if so provided in the regulation, be appealed to the board of adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in G.S. 160D-405(d). To the extent applicable, the provisions of G.S. 160D-1402 apply to appeals in the nature of certiorari to the board of adjustment.

(3) Appeals from the board of adjustment may be made pursuant to G.S. 160D-1402.

(4) If the regulation does not provide for an appeal to the board of adjustment, appeals of decisions on certificates of appropriateness may be made to the superior court as provided in G.S. 160D-1402.

(5) Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in G.S. 160D-1405. Appeals in any such case shall be heard by the superior court of the county in which the local government is located.

(f) Public Buildings. - All of the provisions of this Part are hereby made applicable to construction, alteration, moving, and demolition by the State of North Carolina, its political subdivisions, agencies, and instrumentalities, provided, however, they do not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies may appeal to the North Carolina Historical Commission or any successor agency assuming

its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The North Carolina Historical Commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the North Carolina Historical Commission is final and binding upon both the State and the preservation commission. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 24, 51(a), (b), (d).)

§ 160D-948. Certain changes not prohibited.

Nothing in this Part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark that does not involve a change in design, material, or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this Part shall be construed to prevent a property owner from making any use of his or her property that is not prohibited by other law. Nothing in this Part shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the preservation commission. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-949. Delay in demolition of landmarks and buildings within historic district.

(a) An application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure, or site within the district may not be denied, except as provided in subsection (c) of this section. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the preservation commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the preservation commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the preservation commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

If the preservation commission or planning board has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the governing board, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the preservation commission or planning board for a period of up to 180 days or until the governing board takes final action on the designation, whichever occurs first.

(b) The governing board may enact a regulation to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such regulation shall provide appropriate safeguards to protect property owners from undue economic hardship.

(c) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of

Historic Places may be denied except where the preservation commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-950. Demolition by neglect to contributing structures outside local historic districts.

Notwithstanding G.S. 160D-949 or any other provision of law, the governing board may apply its demolition-by-neglect regulations to contributing structures located outside the local historic district within an adjacent central business district. The governing board may modify and revise its demolition-by-neglect regulations as necessary to implement this section and to further its intent. This section is applicable to any local government provided such local government (i) has designated portions of the central business district and its adjacent historic district as an Urban Progress Zone as defined in G.S. 143B-437.09 and (ii) is recognized by the State Historic Preservation Office and the U.S. Department of the Interior as a Certified Local Government in accordance with the National Historic Preservation Act of 1966, as amended by 16 U.S.C. § 470, et seq., and the applicable federal regulations 36 C.F.R. Part 61, but is located in a county that has not received the same certification. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-951. Conflict with other laws.

Whenever any regulation adopted pursuant to this Part requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, or regulation, this Part shall govern. Whenever the provisions of any other statute, charter provision, ordinance, or regulation require a longer waiting period or impose other higher standards than are established under this Part, such other statute, charter provision, ordinance, or regulation shall govern. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-952. Reserved for future codification purposes.

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§ 160D-959. Reserved for future codification purposes.

Part 5. Community Appearance Commissions.

§ 160D-960. Powers and duties of commission.

A community appearance commission shall make careful study of the visual problems and needs of the local government within its planning and development regulation jurisdiction and shall make any plans and carry out any programs that will, in accordance with the provisions of this Part, enhance and improve the visual quality and aesthetic characteristics of the local government. To this end, the governing board may confer upon the appearance commission the following powers and duties:

(1) To initiate, promote, and assist in the implementation of programs of general community beautification in the local government.

(2) To coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the local government.

(3) To provide leadership and guidance in matters of area or community design and appearance to individuals, to public and private organizations, and to agencies.

(4) To make studies of the visual characteristics and problems of the local government, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.

(5) To prepare both general and specific plans for the improved appearance of the local government. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the local government or any part thereof within its area of planning and development regulation jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.

(6) To participate, in any way deemed appropriate by the governing board of the local government and specified in the ordinance establishing the commission, in the implementation of its plans. To this end, the governing board may include in the ordinance the following powers:

a. To request from the proper officials of any public agency or body, including agencies of the State and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the local government's planning and development regulation jurisdiction.

b. To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the planning or governing board. All plans shall be reviewed by the commission in a prompt and expeditious manner, and all recommendations of the commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the planning or governing board and to the appropriate agency.

c. To formulate and recommend to the appropriate planning or governing board the adoption or amendment of ordinances,

including zoning regulations, subdivision regulations, and other local development regulations, that will, in the opinion of the commission, serve to enhance the appearance of the city or county and surrounding areas.

d. To direct the attention of local government officials to needed enforcement of any ordinance that may in any way affect the appearance of the city or county.

e. To seek voluntary adherence to the standards and policies of its plans.

f. To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.

g. To promote public interest in and an understanding of its recommendations, studies, and plans, and, to that end, prepare, publish, and distribute to the public such studies and reports that will, in the opinion of the commission, advance the cause of improved appearance.

h. To conduct public meetings and hearings, giving reasonable notice to the public thereof. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-961. Staff services; advisory council.

The commission may recommend to the governing board suitable arrangements for the procurement or provision of staff or technical services for the commission, and the governing board may appropriate such amount as it deems necessary to carry out the purposes for which it was created. The commission may establish an advisory council or other committees. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-962. Annual report.

The commission shall, no later than April 15 of each year, submit to the governing board a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act or the County Fiscal Control Act. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-963. Receipt and expenditure of funds.

The commission may receive contributions from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, in addition to any sums appropriated for its use by the governing board. It may accept and disburse these funds for any purpose within the scope of its authority as herein specified. All sums appropriated by the local government to further the work and purposes of the commission are deemed to be for a public purpose. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-964. Reserved for future codification purposes.

§ 160D-965. Reserved for future codification purposes.

§ 160D-966. Reserved for future codification purposes.

§ 160D-967. Reserved for future codification purposes.

§ 160D-968. Reserved for future codification purposes.

§ 160D-969. Reserved for future codification purposes.

Article 10.

Development Agreements.

§ 160D-1001. Authorization.

(a) The General Assembly finds the following:

(1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.

(2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

(3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.

(4) Such projects involve substantial commitments of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.

(6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, local governments need flexibility to negotiate such developments.

(b) Local governments may enter into development agreements with developers, subject to the procedures of this Article. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(c) This Article is supplemental to the powers conferred upon local governments and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations. When the governing board approves the rezoning of

any property associated with a development agreement executed and recorded pursuant to this Article, the provisions of G.S. 160D-605(a) apply.

(d) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1002. Definitions.

The following definitions apply in this Article:

(1) Development. - The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(2) Public facilities. - Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1003. Approval of governing board required.

(a) A local government may establish procedures and requirements, as provided in this Article, to consider and enter into development agreements with developers. A development agreement must be approved by the governing board of a local government following the procedures specified in G.S. 160D-1005.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the local government. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1004. Size and duration.

A local government may enter into a development agreement with a developer for the development of property as provided in this Article for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1005. Hearing.

Before entering into a development agreement, a local government shall conduct a legislative hearing on the proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 25, 51(a), (b), (d).)

§ 160D-1006. Content and modification.

(a) A development agreement shall, at a minimum, include all of the following:

(1) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(3) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

(6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(b) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date does not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

(c) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

(d) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Chapter. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(e) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to G.S. 160D-1003 or as provided for in the development agreement.

(f) Any performance guarantees under the development agreement shall comply with G.S. 160D-804.1. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 26, 51(a), (b), (d).)

§ 160D-1007. Vesting.

(a) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

(b) Except for grounds specified in G.S. 160D-108(c) or G.S. 160D-108.1(f), a local government may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(c) In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

(d) This section does not abrogate any vested rights otherwise preserved by law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 27, 51(a), (b), (d).)

§ 160D-1008. Breach and cure.

(a) Procedures established pursuant to G.S. 160D-1003 may include a provision requiring periodic review by the zoning administrator or other appropriate officer of the local government, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

(b) If the local government finds and determines that the developer has committed a material breach of the agreement, the local government shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by G.S. 160D-405.

(d) An ordinance adopted pursuant to G.S. 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the local government to enforce applicable law.

(e) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1009. Amendment or termination.

Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1010. Change of jurisdiction.

(a) Except as otherwise provided by this Article, any development agreement entered into by a local government before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(b) A local government assuming jurisdiction may modify or suspend the provisions of the development agreement if the local government determines that the failure of the local government to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1011. Recordation.

The developer shall record the agreement with the register of deeds in the county where the property is located within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1012. Applicability of procedures to approve debt.

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the local government, with any applicable constitutional and statutory procedures for the approval of this debt. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 11.

Building Code Enforcement.

§ 160D-1101. Definitions.

As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

(1) Building or buildings. - Includes other structures.

(2) Governing board or board of commissioners. - Includes the Tribal Council of a federally recognized Indian tribe.

(3) Local government. - Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.

(4) Public officer. - Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1102. Building code administration.

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1105 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160D-1105 or Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1105 and G.S. 160D-202.

In the event that any local government fails to provide inspection services or ceases to provide such services, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that such earlier assumption will not unduly interfere with arrangements made for the provision of those services. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1103. Qualifications of inspectors.

No local government shall employ an inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully

complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1104. Duties and responsibilities.

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:

(1) The construction of buildings and other structures.

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.

(4) Other matters that may be specified by the governing board.

(b) The duties and responsibilities set forth in subsection (a) of this section include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The governing board has the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(c) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(d) Except as provided in G.S. 160D-1117 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(e) Each inspection department shall implement a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall

include, at a minimum, the following:

(1) Initial review by the supervisor of the inspector.

(2) The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.

(3) Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection limits or abrogates any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

(f) **(Expires October 1, 2021 - see note)** If a specific building framing inspection as required by the North Carolina Residential Code for One- and Two-Family Dwellings results in 15 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 28(a), (b), 51(a), (b), (d).)

§ 160D-1105. Other arrangements for inspections.

A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-1103 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-1103. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1106. Alternate inspection method for component or element.

(a) Notwithstanding the requirements of this Article, a local government shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

(1) When required by the North Carolina State Building Code, the submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.

(2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

(3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the local government with a signed written document certifying that the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The certification required under this subdivision shall be provided by electronic or physical delivery, [and] its receipt shall be promptly acknowledged by the local government through reciprocal means. The certification shall be made on a form created by the North Carolina Building Code Council which shall include at least the following:

a. Permit number.

b. Date of inspection.

c. Type of inspection.
d. Contractor's name and license number.
e. Street address of the job location.
f. Name, address, and telephone number of the person responsible for the inspection.

(a1) In accepting certifications of inspections under subsection (a) of this section, a local government shall not require information other than that specified in this section.

(b) Upon the acceptance and approval receipt of a signed written document by the local government as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the local government, its inspection department, and the inspectors are discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

(c) With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer is required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) As used in this section, the following definitions apply:

(1) Component. - Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete, a foundation, and a prepared underslab with slab-related materials without concrete. The term does not include a system.

(2) Element. - A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 29, 51(a), (b), (d); 2020-74, s. 31.)

§ 160D-1107. Mutual aid contracts.

(a) Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.

(c) Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer

in any civil or criminal action for declining to send aid whether or not obligated by contract to do so. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1108. Conflicts of interest.

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-109(c). No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

(1) If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1109. Failure to perform duties.

(a) If any member of an inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d). (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1110. Building permits.

(a) Except as provided in subsection (c) of this section, no person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit is not required for the connection of a water heater that is being replaced if (i) the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and (ii) the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit is not required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced if all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.

(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the North Carolina State Building Code and all other applicable State and local laws. Nothing in this section requires a local government to review and approve

residential building plans submitted to the local government pursuant to the North Carolina Residential Code, provided that the local government may review and approve the residential building plans as it deems necessary. If a local government chooses to review residential building plans for any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, all initial reviews for the building permit must be performed within 15 business days of submission of the plans. A local government shall not require residential building plans for one- and two-family dwellings to be sealed by a licensed engineer or licensed architect unless required by the North Carolina State Building Code. No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance or development or zoning regulation requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes is required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work involves any of the following:

(1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.

(2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.

(4) The use of materials not permitted by the North Carolina Residential Code for One- and Two-Family Dwellings.

(5) The addition (excluding replacement) of roofing.

(d) A local government shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.

(e) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity, as defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act.

(f) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-71.

(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars ($30,000) or more.

(h) No local government may withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

(i) Violation of this section constitutes a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 30, 51(a), (b), (d).)

§ 160D-1111. Expiration of building permits.

A building permit issued pursuant to this Article shall expire by limitation six months, or any lesser time fixed by ordinance of the city council, after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1112. Changes in work.

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1113. Inspections of work in progress.

Subject to the limitation imposed by G.S. 160D-1104(d), as the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department have a right to enter on any premises within the

jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 31, 51(a), (b), (d).)

§ 160D-1114. Appeals of stop orders.

(a) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

(1) Appealing to the Building Code Council.

(2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1115. Revocation of building permits.

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1116. Certificates of compliance; temporary certificates of occupancy.

(a) At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. Except as provided by subsection (b) of this section, no new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance.

(b) A temporary certificate of occupancy may be issued permitting occupancy for a stated period of time of either the entire building or of specified portions of the building if the inspector finds that the building may safely be occupied prior to its final completion. A permit

holder may request and be issued a temporary certificate of occupancy if the conditions and requirements of the North Carolina State Building Code are met.

(c) Any person who owns, leases, or controls a building and occupies or allows the occupancy of the building or a part of the building before a certificate of compliance or temporary certificate of occupancy has been issued pursuant to subsection (a) or (b) of this section is guilty of a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 32, 51(a), (b), (d).)

§ 160D-1117. Periodic inspections.

The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1118. Defects in buildings to be corrected.

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1119. Unsafe buildings condemned.

(a) Designation of Unsafe Buildings. - Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. - In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets all of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) Notice Posted on Structure. - If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of

the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the governing board as being in special need of revitalization for the benefit and welfare of its citizens.

(d) Applicability to Residential Structures. - A local government may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a local government shall hold a legislative hearing with published notice as provided by G.S. 160D-601. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1120. Removing notice from condemned building.

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any local government and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1121. Action in event of failure to take corrective action.

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160D-1119 fails to take prompt corrective action, the local inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:
   a. Constitutes a fire or safety hazard.
   b. Is dangerous to life, health, or other property.
   c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
   d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(2) That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner will be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 33, 51(a), (b), (d).)

§ 160D-1122. Order to take corrective action.

If, upon a hearing held pursuant to the notice prescribed in G.S. 160D-1119, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1123. Appeal; finality of order if not appealed.

Any owner who has received an order under G.S. 160D-1122 may appeal from the order to the governing board by giving notice of appeal in writing to the inspector and to the local government clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector is final. The governing board shall hear an appeal in accordance with G.S. 160D-406 and render a decision within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 34, 51(a), (b), (d).)

§ 160D-1124. Failure to comply with order.

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1122 from which no appeal has been taken or fails to comply with an order of the governing board following an appeal, the owner is guilty of a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 35, 51(a), (b), (d).)

§ 160D-1125. Enforcement.

(a) Action Authorized. - Whenever any violation is denominated a misdemeanor under the provisions of this Article, the local government, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Removal of Building. - In the case of a building or structure declared unsafe under G.S. 160D-1119 or an ordinance adopted pursuant to G.S. 160D-1119, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the local government in connection with the removal or demolition are a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Additional Lien. - The amounts incurred by a local government in connection with the removal or demolition are also a lien against any other real property owned by the owner

of the building or structure and located within the local government's planning and development regulation jurisdiction, and for cities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d) Nonexclusive Remedy. - Nothing in this section shall be construed to impair or limit the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 36, 51(a), (b), (d).)

§ 160D-1126. Records and reports.

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1127. Appeals.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1128. Fire limits.

(a) County Fire Limits. - A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved, either into the fire limits or from one place to another within the limits, except upon the permit of the inspection department and approval of the Commissioner of Insurance. The governing board may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

(b) Municipal Fire Limits. - The governing board of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the governing board may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

(c) Restrictions Within Municipal Primary Fire Limits. - Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved, either into the limits or from one place to another within the limits, except upon the permit of the local inspection department approved by the governing board and by the Commissioner of Insurance or the

Commissioner's designee. The governing board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.

(d) Restrictions Within Municipal Secondary Fire Limits. - Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved, except in accordance with any rules and regulations established by ordinance of the areas.

(e) Failure to Establish Municipal Primary Fire Limits. - If the governing board of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1129. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.

(a) Authority. - The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulations shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Regulations adopted under this section shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts, municipal service districts, or defined geographical areas designated for improvement and investment in an adopted comprehensive plan.

(b) Investigation. - Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. - If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity are not controlling in hearings before the public officer.

(d) Order. - If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or

health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders. -

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after an administrative hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) Action by Governing Board Upon Failure to Comply With Order. -

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this

building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted is guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Board Upon Abandonment of Intent to Repair. - If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Service of Complaints and Orders. - Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve

actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. -

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer are a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. - If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate is in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary

ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) Civil Penalty. - The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties does not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

(*l*) Supplemental Powers. - The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

(1) To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. - The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer has the remedies provided in G.S. 160D-1208.

(n) Funding. - The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

(o) No Effect on Just Compensation for Taking by Eminent Domain. - Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(p) Definitions. - As used in this section, the following definitions apply:

(1) Parties in interest. - All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any

who are in possession thereof.

(2) Vacant industrial warehouse. - Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

(3) Vacant manufacturing facility. - Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 37, 51(a), (b), (d).)

§ 160D-1130. Vacant building receivership.

(a) Petition to Appoint a Receiver. - The governing board of a city or its delegated commission may petition the superior court for the appointment of a receiver to rehabilitate, demolish, or sell a vacant building, structure, or dwelling upon the occurrence of any of the following, each of which is deemed a nuisance per se:

(1) The owner fails to comply with an order issued pursuant to G.S. 160D-1122, related to building or structural conditions that constitute a fire or safety hazard or render the building or structure dangerous to life, health, or other property, from which no appeal has been taken.

(2) The owner fails to comply with an order of the city following an appeal of an inspector's order issued pursuant to G.S. 160D-1122.

(3) The governing board of the city adopts any ordinance pursuant to subdivision (f)(1) of G.S. 160D-1129, related to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety, and orders a public officer to continue enforcement actions prescribed by the ordinance with respect to the named nonresidential building or structure. The public officer may submit a petition on behalf of the governing board to the superior court for the appointment of a receiver, and if granted by the superior court, the petition shall be considered an appropriate means of complying with the ordinance. In the event the superior court does not grant the petition, the public officer and the governing board may take action pursuant to the ordinance in any manner authorized in G.S. 160D-1129.

(4) The owner fails to comply with an order to repair, alter, or improve, remove, or demolish a dwelling issued under G.S. 160D-1203, related to dwellings that are unfit for human habitation.

(5) Any owner or partial owner of a vacant building, structure, or dwelling, with or without the consent of other owners of the property, submits a request to the governing board in the form of a sworn affidavit requesting the governing board to petition the superior court for appointment of a receiver for the property pursuant to this section.

(b) Petition for Appointment of Receiver. - The petition for the appointment of a receiver shall include all of the following: (i) a copy of the original violation notice or order issued by the city or, in the case of an owner request to the governing board for a petition for appointment of a receiver, a verified pleading that avers that at least one owner consents to the petition; (ii) a verified pleading that avers that the required rehabilitation or demolition has not

been completed; and (iii) the names of the respondents, which shall include the owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2). If the petition fails to name a respondent as required by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien of that respondent.

(c) Notice of Proceeding. - Within 10 days after filing the petition, the city shall give notice of the pendency and nature of the proceeding by regular and certified mail to the last known address of all owners of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2). Within 30 days of the date on which the notice was mailed, an owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2), may apply to intervene in the proceeding and to be appointed as receiver. If the city fails to give notice to any owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2), as required by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien of that owner, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2).

(d) Appointment of Receiver. - The court shall appoint a qualified receiver if the provisions of subsections (b) and (c) of this section have been satisfied. If the court does not appoint a person to rehabilitate or demolish the property pursuant to subsection (e) of this section, or if the court dismisses such an appointee, the court shall appoint a qualified receiver for the purpose of rehabilitating and managing the property, demolishing the property, or selling the property to a buyer. To be considered qualified, a receiver must demonstrate to the court (i) the financial ability to complete the purchase or rehabilitation of the property, (ii) the knowledge of, or experience in, the rehabilitation of vacant real property, (iii) the ability to obtain any necessary insurance, and (iv) the absence of any building code violations issued by the city on other real property owned by the person or any member, principal, officer, major stockholder, parent, subsidiary, predecessor, or others affiliated with the person or the person's business. No member of the petitioning city's governing board or a public officer of the petitioning city is qualified to be appointed as a receiver in that action. If, at any time, the court determines that the receiver is no longer qualified, the court may appoint another qualified receiver.

(e) Rehabilitation Not by Receiver. - The court may, instead of appointing a qualified receiver to rehabilitate or sell a vacant building, structure, or dwelling, appoint an owner or other party in interest in the property, as defined in G.S. 160D-1202, to rehabilitate or demolish the property if that person (i) demonstrates the ability to complete the rehabilitation or demolition within a reasonable time, (ii) agrees to comply with a specified schedule for rehabilitation or demolition, and (iii) posts a bond in an amount determined by the court as security for the performance of the required work in compliance with the specified schedule. After the appointment, the court shall require the person to report to the court on the progress of the rehabilitation or demolition, according to a schedule determined by the court. If, at any time, it appears to the city or its delegated commission that the owner, mortgagee, or other person appointed under this subsection is not proceeding with due diligence or in compliance

with the court-ordered schedule, the city or its delegated commission may apply to the court for immediate revocation of that person's appointment and for the appointment of a qualified receiver. If the court revokes the appointment and appoints a qualified receiver, the bond posted by the owner, mortgagee, or other person shall be applied to the receiver's expenses in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling.

(f) Receiver Authority Exclusive. - Upon the appointment of a receiver under subsection (d) of this section and after the receiver records a notice of receivership in the county in which the property is located that identifies the property, all other parties are divested of any authority to collect rents or other income from or to rehabilitate, demolish, or sell the building, structure, or dwelling subject to the receivership. Any party other than the appointed receiver who actively attempts to collect rents or other income from or to rehabilitate, demolish, or sell the property may be held in contempt of court and is subject to the penalties authorized by law for that offense. Any costs or fees incurred by a receiver appointed under this section and set by the court constitute a lien against the property, and the receiver's lien has priority over all other liens and encumbrances, except taxes or other government assessments.

(g) Receiver's Authority to Rehabilitate or Demolish. - In addition to all necessary and customary powers, a receiver appointed to rehabilitate or demolish a vacant building, structure, or dwelling has the right of possession with authority to do all of the following:

(1) Contract for necessary labor and supplies for rehabilitation or demolition.

(2) Borrow money for rehabilitation or demolition from an approved lending institution or through a governmental agency or program, using the receiver's lien against the property as security.

(3) Manage the property prior to rehabilitation or demolition and pay operational expenses of the property, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the property.

(4) Collect all rents and income from the property, which shall be used to pay for current operating expenses and repayment of outstanding rehabilitation or demolition expenses.

(5) Manage the property after rehabilitation, with all the powers of a landlord, for a period of up to two years and apply the rent received to current operating expenses and repayment of outstanding rehabilitation or demolition expenses.

(6) Foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

(h) Receiver's Authority to Sell. - In addition to all necessary and customary powers, a receiver appointed to sell a vacant building, structure, or dwelling may do all of the following: (i) sell the property to the highest bidder at public sale, following the same presale notice provisions that apply to a mortgage foreclosure under Article 2A of Chapter 45 of the General Statutes, and (ii) sell the property privately for fair market value if no party to the receivership objects to the amount and procedure. In the notice of public sale authorized under this subsection, it is sufficient to describe the property by a street address and reference to the book and page or other location where the property deed is registered. Prior to any sale under this subsection, the applicants to bid in the public sale or the proposed buyer in the private sale shall demonstrate the ability and experience needed to rehabilitate the property within a reasonable time. After deducting the expenses of the sale, the amount of outstanding taxes and other government assessments, and the amount of the receiver's lien, the receiver shall apply any remaining proceeds of the sale first to the city's costs and expenses, including reasonable

attorneys' fees, and then to the liens against the property in order of priority. Any remaining proceeds shall be remitted to the property owner.

(i) Receiver Forecloses on Lien. - A receiver may foreclose on the lien authorized by subsection (f) of this section by selling the property subject to the lien at a public sale, following public notice and notice to interested parties in the manner as a mortgage foreclosure under Article 2A of Chapter 45 of the General Statutes. After deducting the expenses of the sale and the amount of any outstanding taxes and other government assessments, the receiver shall apply the proceeds of the sale to the liens against the property, in order of priority. In lieu of foreclosure, and only if the receiver has rehabilitated the property, an owner may pay the receiver's costs, fees, including reasonable attorneys' fees, and expenses or may transfer ownership in the property to either the receiver or an agreed upon third party for an amount agreed to by all parties to the receivership as being the property's fair market value.

(j) Deed After Sale. - Following the court's ratification of the sale of the property under this section, the receiver shall sign a deed conveying title to the property to the buyer, free and clear of all encumbrances, other than restrictions that run with the land. Upon the sale of the property, the receiver shall at the same time file with the court a final accounting and a motion to dismiss the action.

(k) Receiver's Tenure. - The tenure of a receiver appointed to rehabilitate, demolish, or sell a vacant building, structure, or dwelling shall extend no longer than two years after the rehabilitation, demolition, or sale of the property. Any time after the rehabilitation, demolition, or sale of the property, any party to the receivership may file a motion to dismiss the receiver upon the payment of the receiver's outstanding costs, fees, and expenses. Upon the expiration of the receiver's tenure, the receiver shall file a final accounting with the court that appointed the receiver.

(l) Administrative Fee Charged. - The city may charge the owner of the building, structure, or dwelling subject to the receivership an administrative fee that is equal to five percent (5%) of the profits from the sale of the building, structure, or dwelling or one hundred dollars ($100.00), whichever is less. (2020-25, s. 38(a).)

Article 12.

Minimum Housing Codes.

§ 160D-1201. Authorization.

(a) Dwellings. - The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of this State. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever any local government finds that there exists in the planning and development regulation jurisdiction dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon the local government to exercise its police powers to repair, close, or demolish the dwellings consistent with the provisions of this Article.

(b) Abandoned Structures. - Any local government may by ordinance provide for the repair, closing, or demolition of any abandoned structure that the governing board finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Article for the repair, closing, or demolition of dwellings found to be unfit for human habitation. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 39, 51(a), (b), (d).)

§ 160D-1202. Definitions.

The following terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:

(1) Owner. - The holder of the title in fee simple and every mortgagee of record.

(2) Parties in interest. - All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

(3) Public authority. - Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

(4) Public officer. - The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this Article. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1203. Ordinance authorized as to repair, closing, and demolition; order of public officer.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160D-1201 exist, the governing board is authorized to adopt and enforce ordinances relating to dwellings within the planning and development regulation jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

(1) Designation of enforcement officer. - One or more public officers shall be designated to exercise the powers prescribed by the ordinance.

(2) Investigation, complaint, hearing. - Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the

complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.

(3) Orders. - If, after notice and an administrative hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

a. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (4) of this section.

b. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

(4) Repair, closing, and posting. - If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall

have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(5) Demolition. - If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(6) Abandonment of Intent to Repair. - If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (4) of this section or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Liens. -

a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.

c. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(8) Civil action. - If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the local government to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subdivision (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and

the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

(9) Additional notices to affordable housing organizations. - Whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 40, 51(a), (b), (d).)

§ 160D-1204. Heat source required.

(a) A local government shall, by ordinance, require that every dwelling unit leased as rental property within the city shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured 3 feet above the floor with an outside temperature of 20 degrees Fahrenheit.

(b) If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (a) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (a) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section but may be used as a supplementary source in single-family dwellings and duplex units. An owner who has complied with subsection (a) of this section shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to local governments with a population of 200,000 or over within their planning and development regulation jurisdiction, according to the most recent

decennial federal census.

(e) Nothing in this section shall be construed to diminish the rights or remedies available to a tenant under a lease agreement, statute, or at common law or to prohibit a city from adopting an ordinance with more stringent heating requirements than provided for by this section. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1205. Standards.

An ordinance adopted under this Article shall provide that the public officer may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. The ordinances may provide additional standards to guide the public officers in determining the fitness of a dwelling for human habitation. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1206. Service of complaints and orders.

(a) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1207. Periodic inspections.

(a) Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following: (i) the

landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period, (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected, (iii) the inspection department has actual knowledge of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A local government may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area designated by the local government shall reflect the local government's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The local government shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a legislative hearing regarding the plan, (ii) hold a legislative hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars ($500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:

(1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

(2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

(d) If a property is identified by the local government as being in the top ten percent (10%) of properties with crime or disorder problems, the local government shall notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, the local government and the county sheriff's office or city's police department shall assist the landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If the local government or the county sheriff's office or city's police department does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.

(e) If the local government takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the housing appeals board or the zoning board of adjustment, if operating, or the planning board if created under G.S. 160D-301, or if neither is created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 41, 51(a), (b), (d).)

§ 160D-1208. Remedies.

(a) An ordinance adopted pursuant to this Article may provide for a housing appeals board as provided by G.S. 160D-305. An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the local government. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the public officer and with the housing appeals board a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision remains in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal has the effect of suspending the requirement until the hearing by the board, unless the public officer certifies to the board, after

the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished to the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement is not suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the board, or by a court of record upon petition made pursuant to subsection (f) of this section.

(b) The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the public officer, but the concurring vote of four members of the board is necessary to reverse or modify any decision or order of the public officer. The board also has power in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the housing appeals board is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(d) Any person aggrieved by an order issued by the public officer or a decision rendered by the housing appeals board may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It is not necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

(e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 42, 51(a), (b), (d).)

§ 160D-1209. Compensation to owners of condemned property.

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1210. Additional powers of public officer.

An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the local government's planning and development regulation jurisdiction in order to determine which dwellings therein are unfit for human habitation.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and other agents. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1211. Administration of ordinance.

A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1212. Supplemental nature of Article.

Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 13.

Additional Authority.

Part 1. Open Space Acquisition.

§ 160D-1301. Legislative intent.

It is the intent of the General Assembly to provide a means whereby any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, and through the expenditure of public funds, the fee or any lesser interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1302. Finding of necessity.

The General Assembly finds that the rapid growth and spread of urban development in the State is encroaching upon, or eliminating, many open areas and spaces of varied size and character, including many having significant scenic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic, or economic assets to existing and impending urban development. The General Assembly declares that it is necessary for sound and proper urban development and in the public interest of the people of this State for any local government to expend or advance public funds for, or to accept by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest or right in real property so as to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve open spaces and areas within their respective jurisdictions as defined by this Article.

The General Assembly declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1303. Local governments authorized to acquire and reconvey real property.

Any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right of or to real property within its respective jurisdiction, when it finds that the acquisition is necessary to achieve the purposes of this Part. Any local government may also acquire the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements that will limit the future use of the property in accordance with the purposes of this Part, but when this is done, the property may be conveyed back to its original owner but to no other person by private sale. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1304. Joint action by governing bodies.

A local government may enter into any agreement with any other local government for the purpose of jointly exercising the authority granted by this Part. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1305. Powers of governing bodies.

A local government, in order to exercise the authority granted by this Part, may:

(1) Enter into and carry out contracts with the State or federal government or any agencies thereof under which grants or other assistance are made to the local government.

(2) Accept any assistance or funds that may be granted by the State or federal government with or without a contract.

(3) Agree to and comply with any reasonable conditions imposed upon grants.

(4) Make expenditures from any funds so granted. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1306. Appropriations authorized.

For the purposes set forth in this Part, a local government may appropriate funds not otherwise limited as to use by law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1307. Definitions.

As used in this Part, the following definitions apply:

(1) Open space or open area. - Any space or area characterized by great natural scenic beauty or where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. The terms also include interests or rights in real property and open space land or uses.

(2) Open space land or open space uses. - Any undeveloped or predominantly undeveloped land in an urban area that has value for or is used for one or more of the following purposes:

a. Park and recreational purposes.

b. Conservation of land and other natural resources.

c. Historic or scenic purposes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1308. Reserved for future codification purposes. (2019-111, s. 2.4.)

§ 160D-1309. Reserved for future codification purposes. (2019-111, s. 2.4.)

§ 160D-1310. Reserved for future codification purposes. (2019-111, s. 2.4.)

Part 2. Community Development and Redevelopment.

§ 160D-1311. Community development programs and activities.

(a) A local government is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a local government may engage in the following activities:

(1) Programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low- and moderate-income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans.

(2) Programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) A governing board may exercise directly those powers granted by law to local government redevelopment commissions and those powers granted by law to local government housing authorities and may do so whether or not a redevelopment commission or housing authority is in existence in such local government. Any governing board desiring to do so may delegate to any redevelopment commission, created under Article 22 of Chapter

160A of the General Statutes, or to any housing authority, created under Article 1 of Chapter 157 of the General Statutes, the responsibility of undertaking or carrying out any specified community development activities. Any governing board may by agreement undertake or carry out for another any specified community development activities. Any governing board may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education may by agreement undertake or carry out for any other governing board any specified community development activities.

(c) A local government undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) A governing board proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such local government. No State or local taxes shall be appropriated or expended by a county pursuant to this section for any purpose not expressly authorized by G.S. 153A-149, unless the same is first submitted to a vote of the people as therein provided.

(e) A government may receive and dispense funds from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee program, Subpart M, 24 C.F.R. § 570.700, et seq., either through application to the North Carolina Department of Commerce or directly from the federal government, in accordance with State and federal laws governing these funds. Any local government that receives these funds directly from the federal government may pledge current and future CDBG funds for use as loan guarantees in accordance with State and federal laws governing these funds. A local government may implement the receipt, dispensing, and pledging of CDBG funds under this subsection by borrowing CDBG funds and lending all or a portion of those funds to a third party in accordance with applicable laws governing the CDBG program.

A government that has pledged current or future CDBG funds for use as loan guarantees prior to the enactment of this subsection is authorized to have taken such action. A pledge of future CDBG funds under this subsection is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subsection does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes.

(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities and counties in "economically distressed counties," as defined in G.S. 143B-437.01, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes, but is not limited to, (i) payment of principal and interest on loans made by the county using CDBG funds, (ii) proceeds from the lease or disposition of real property acquired with CDBG funds, and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of

economically distressed counties made prior to its expiration. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1312. Acquisition and disposition of property for redevelopment.

Any local government is authorized, either as a part of a community development program or independently thereof, and without the necessity of compliance with the Urban Redevelopment Law, to exercise the following powers:

(1) To acquire, by voluntary purchase from the owner or owners, real property that meets any of the following criteria:
   a. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
   b. Appropriate for rehabilitation or conservation activities.
   c. Appropriate for housing construction or the economic development of the community.
   d. Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open space, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development.

(2) To clear, demolish, remove, or rehabilitate buildings and improvements on land so acquired.

(3) To retain property so acquired for public purposes, or to dispose, through sale, lease, or otherwise, of any property so acquired to any person, firm, corporation, or governmental unit, provided the disposition of such property shall be undertaken in accordance with the procedures of Article 12 of Chapter 160A of the General Statutes, or the procedures of G.S. 160A-514, or any applicable local act or charter provision modifying such procedures, or subdivision (4) of this section.

(4) To sell, exchange, or otherwise transfer real property or any interest therein in a community development project area to any redeveloper at private sale for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the community development plan, subject to such covenants, conditions, and restrictions as may be deemed to be in the public interest or to carry out the purposes of this Article, provided that the sale, exchange, or other transfer, and any agreement relating thereto, may be made only after approval of the governing board and after a legislative hearing. A notice of the hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the local government's planning and development jurisdiction area, the notice shall be published the first time not less than 10 days nor more than 25 days preceding the hearing, and the notice shall disclose the terms of the sale, exchange, or transfer. At the hearing, the appraised value of the property to be sold, exchanged, or transferred shall be disclosed, and the consideration for the conveyance shall not be less than the appraised value. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 43, 51(a), (b), (d).)

§ 160D-1313. Urban Development Action Grants.

Any local government is authorized, either as a part of a community development program or independently thereof, to enter into contracts or agreements with any person, association, or corporation to undertake and carry out specified activities in furtherance of the purposes of Urban Development Action Grants authorized by the Housing and Community Development Act of 1977, P.L. 95-128, or any amendment thereto, that is a continuation of such grant programs by whatever designation, including the authority to enter into and carry out contracts or agreements to extend loans, loan subsidies, or grants to persons, associations, or corporations and to dispose of real or personal property by private sale in furtherance of such contracts or agreements.

Any enabling legislation contained in local acts that refers to "Urban Development Action Grants" or the Housing and Community Development Act of 1977, P.L. 95-128, shall be construed also to refer to any continuation of such grant programs by whatever designation. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1314. Urban homesteading programs.

A local government may establish a program of urban homesteading, in which residential property of little or no value is conveyed to persons who agree to rehabilitate the property and use it, for a minimum number of years, as their principal place of residence. Residential property is considered of little or no value if the cost of bringing the property into compliance with the local government's housing code exceeds sixty percent (60%) of the property's appraised value on the county tax records. In undertaking such a program, a local government may:

(1) Acquire by purchase, gift, or otherwise, but not eminent domain, residential property specifically for the purpose of reconveyance in the urban homesteading program or may transfer to the program residential property acquired for other purposes, including property purchased at a tax foreclosure sale.

(2) Under procedures and standards established by the local government, convey residential property by private sale under G.S. 160A-267 and for nominal monetary consideration to persons who qualify as grantees.

(3) Convey property subject to the following conditions:

a. A requirement that the grantee shall use the property as the grantee's principal place of residence for a minimum number of years.

b. A requirement that the grantee rehabilitate the property so that it meets or exceeds minimum housing code standards.

c. A requirement that the grantee maintain insurance on the property.

d. Any other specific conditions, including, but not limited to, design standards, or actions that the local government may require.

e. A provision for the termination of the grantee's interest in the property and its reversion to the local government upon the grantee's failure to meet any condition so established.

(4) Subordinate the local government's interest in the property to any security interest granted by the grantee to a lender of funds to purchase or rehabilitate the property. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1315. Downtown development projects.

(a) Definition. - As used in this section, "downtown development project" or "joint development project" means a capital project, in a central business district, as that district is defined by the governing board, comprising one or more buildings and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. - If the governing board finds that it is likely to have a significant effect on the revitalization of the jurisdiction, the local government may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of a joint development project or of specific facilities within such a project. The local government may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract may, among other provisions, specify the following:

(1) The property interests of both the local government and the developer or developers in the project, provided that the property interests of the local government shall be limited to facilities for a public purpose.

(2) The responsibilities of the local government and the developer or developers for construction of the project.

(3) The responsibilities of the local government and the developer or developers with respect to financing the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Eligible Property. - A joint development project may be constructed on property acquired by the developer or developers, on property directly acquired by the local government, or on property acquired by the local government while exercising the powers, duties, and responsibilities of a redevelopment commission pursuant to G.S. 160A-505 or G.S. 160D-1311.

(d) Conveyance of Property Rights. - In connection with a joint development project, the local government may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired while the local government was exercising the powers, duties, and responsibilities of a redevelopment commission, the local government may convey property interests pursuant to the "Urban Redevelopment Law" or any local modification thereof.

(2) If the property was acquired by the local government directly, the local government may convey property interests pursuant to G.S. 160D-1312, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(3) In lieu of conveying the fee interest in air rights, the local government may convey a leasehold interest for a period not to exceed 99 years, using the procedures of subdivision (1) or (2) of this subsection, as applicable.

(e) Construction. - The contract between the local government and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire joint development project. If so, the contract shall include such provisions as the governing board deems sufficient to assure that the public facility or facilities included in the project meet the needs of the local government and are constructed at a reasonable price. A project constructed pursuant to this subsection is not subject to Article 8 of Chapter 143 of the General Statutes, provided that local government funds constitute no more than fifty percent

(50%) of the total costs of the joint development project. Federal funds available for loan to private developers in connection with a joint development project shall not be considered local government funds for purposes of this subsection.

(f) Operation. - The local government may contract for the operation of any public facility or facilities included in a joint redevelopment project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the local government.

(g) Grant Funds. - To assist in the financing of its share of a joint development project, the local government may apply for, accept, and expend grant funds from the federal or state governments. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1316. Low- and moderate-income housing programs.

Any local government is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any governing board may contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the local government or to be used by the local government to provide affordable housing to persons of low and moderate income.

(3) To convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income under procedures and standards established by the local government, The local government shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) To convey residential property by private sale to persons of low or moderate income, in accordance with procedures and standards established by the local government, with G.S. 160A-267, and with any terms and conditions that the governing board may determine. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1317. Reserved for future codification purposes.

§ 160D-1318. Reserved for future codification purposes.

§ 160D-1319. Reserved for future codification purposes.

Part 3. Miscellaneous.

§ 160D-1320. Program to finance energy improvements.

(a) Purpose. - The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand

employment in the State. The General Assembly also finds that a local government has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the local government's territorial jurisdiction. In furtherance of this purpose, a local government may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) Financing Assistance. - A local government may establish a revolving loan fund and a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A local government may establish other local government energy efficiency and distributed generation renewable energy source finance programs funded through federal grants. A local government may use State and federal grants and loans and its general revenue for this financing. The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

(c) Definition. - As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 14.

Judicial Review.

§ 160D-1401. Declaratory judgments.

Challenges of legislative decisions of governing boards, including the validity or constitutionality of development regulations adopted pursuant to this Chapter, and actions authorized by G.S. 160D-108(h) or (i) and G.S. 160D-1403.1 may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The governmental unit making the challenged decision shall be named a party to the action. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 44, 51(a), (b), (d).)

§ 160D-1402. Appeals in the nature of certiorari.

(a) Applicability. - This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. - An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in

G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(c) Standing. - A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed.

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. - The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. - Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair

of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. - The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. - Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.

(3) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

(h) The Record. - The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(i) Hearing on the Record. - The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court shall allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the petition raises any of the

following issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure apply to the supplementation of the record of these issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-109 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

(j) Scope of Review. -

(1) When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the local government, including preemption, or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by competent, material, and substantial evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions a. through d. of subdivision (1) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate. Whether the record contains competent, material, and substantial evidence is a conclusion of law, reviewable de novo.

(3) The term "competent evidence," as used in this subsection, does not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-subdivisions a., b., and c. of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way affects the value of other property.

b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety.

c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(j1) Action Not Rendered Moot by Loss of Property. - Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160D-1403.1.

(k) Decision of the Court. - Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

(*l*) Effect of Appeal and Ancillary Injunctive Relief. -

(1) If a development approval is appealed, the applicant shall have the right to commence work while the appeal is pending. However, if the development

approval is reversed by a final decision of any court of competent jurisdiction, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

(m) Joinder. - A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

(n) Stays. - An appeal under this section is stayed as provided in G.S. 160D-405. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 45, 50(b), 51(a), (b), (d).)

§ 160D-1403. Appeals of decisions on subdivision plats.

(a) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160D-406 and this section shall apply to those appeals.

(b) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, then that decision of the board shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).

(c) For purposes of this section, a subdivision regulation shall be deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1403.1. Civil action for declaratory relief, injunctive relief, other remedies; joinder of complaint and petition for writ of certiorari in certain cases.

(a) Civil Action. - Except as otherwise provided in this section for claims involving questions of interpretation, in lieu of any remedies available under G.S. 160D-405 or G.S. 160D-108(h), a person with standing, as defined in subsection (b) of this section, may bring an original civil action seeking declaratory relief, injunctive relief, damages, or any other remedies provided by law or equity, in superior court or federal court to challenge the enforceability, validity, or effect of a local land development regulation for any of the following claims:

(1) The ordinance, either on its face or as applied, is unconstitutional.

(2) The ordinance, either on its face or as applied, is ultra vires, preempted, or otherwise in excess of statutory authority.

(3) The ordinance, either on its face or as applied, constitutes a taking of property.

If the decision being challenged is from an administrative official charged with enforcement of a local land development regulation, the party with standing must first bring any claim that the ordinance was erroneously interpreted to the applicable board of adjustment pursuant to G.S. 160D-405. An adverse ruling from the board of adjustment may then be challenged in an action brought pursuant to this subsection with the court hearing the matter de novo together with any of the claims listed in this subsection.

(b) Standing. - Any of the following criteria provide standing to bring an action under this section:

(1) The person has an ownership, leasehold, or easement interest in, or possesses an option or contract to purchase the property that is the subject matter of a final and binding decision made by an administrative official charged with applying or enforcing a land development regulation.

(2) The person was a development permit applicant before the decision-making board whose decision is being challenged.

(3) The person was a development permit applicant who is aggrieved by a final and binding decision of an administrative official charged with applying or enforcing a land development regulation.

(c) Time for Commencement of Action. - Any action brought pursuant to this section shall be commenced within one year after the date on which written notice of the final decision is delivered to the aggrieved party by personal delivery, electronic mail, or by first-class mail.

(d) Joinder. - An original civil action authorized by this section may, for convenience and economy, be joined with a petition for writ of certiorari and decided in the same proceedings. The Rules of Civil Procedure govern the parties for the claims raised in the original civil action. The record of proceedings in the appeal pursuant to G.S. 160D-1402 shall not be supplemented by discovery from the civil action unless supplementation is otherwise allowed under G.S. 160D-1402(i). The standard of review in the original civil action for the cause or causes of action pled as authorized by subsection (a) of this section is de novo. The standard of review of the petition for writ of certiorari is the standard established in G.S. 160D-1402(j).

(e) Action Not Rendered Moot by Loss of Property. - Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under this section.

(f) Stays. - An appeal under this section is stayed as provided in G.S. 160D-405.

(g) Definitions. - The definitions in G.S. 143-755 apply in this section. (2020-25, ss. 46, 50(b).)

§ 160D-1403.2. No estoppel effect when challenging development conditions.

A local government may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were imposed and not consented to in writing by a landowner or permit applicant. (2020-25, ss. 47, 50(b).)

§ 160D-1404. Other civil actions.

Except as expressly stated, this Article does not limit the availability of civil actions otherwise authorized by law or alter the times in which they may be brought. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1405. Statutes of limitation.

(a) Zoning Map Adoption or Amendments. - A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Chapter or other applicable law or a development agreement adopted under Article 10 of this Chapter accrues upon adoption of the ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

(b) Text Adoption or Amendment. - Except as otherwise provided in subsection (a) of this section, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

(c) Enforcement Defense. - Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party in an action involving the enforcement of a development regulation or in an action under G.S. 160D-1403.1 from raising as a claim or defense in the proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that the party is in violation of a development regulation from raising in the judicial appeal the invalidity of the ordinance as a defense to the order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

(c1) Termination of Grandfathered Status. - When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a local government shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

(d) Quasi-Judicial Decisions. - Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(e) Others. - Except as provided by this section, the statutes of limitations are as provided in Subchapter II of Chapter 1 of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 48, 50(b), 51(a), (b), (d).)

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-59
COMMUNITY AND ECONOMIC DEVELOPMENT
CIP TRANSFER
APRIL 12, 2021

Topic: Ordinance 2021-59 - FY 2021 CIP Budget Transfer Request

Speaker: Sheila Long, Parks & Recreation Director
From: Michael J. Clark, AICP, CZO, Planning Director
Sheila Long, Parks & Recreation Director
Prepared by: Sheila Long, Parks & Recreation Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:

The Board of Commissioners will consider a budget transfer from the Alley Connectivity project to the Alley Activation project.

Background:

The Board of Commissioners allocated $30,000 to the Alley Connectivity project with adoption of the FY '21 Budget. The project scope connects the activated alleys east and west of the 100 block of N. Arendell Avenue via a mid-block crosswalk and bulb outs at the adjacent intersections. The project's goals are to create pedestrian connectivity throughout downtown to facilitate commercial activity, and to reduce the speed of traffic, and the volume of truck traffic, travelling through downtown.

Given concern raised by NCDOT regarding the proximity of the mid-block crosswalk to the existing stop lights, the scope of the Alley Connectivity project may change. As Staff continues to work with NCDOT to resolve these concerns, other opportunities have emerged regarding the Alley Activation project. Specifically, opportunities for a public-private partnership. Past partnerships have proven beneficial in accelerating the execution and expanding the scope of other Alley Activations.

Currently, the scope of the Alley Activation located west of Arendell is limited to the installation of electrical infrastructure to support food trucks, vendors, performers. Work to install concrete and brick accents is scheduled for a later phase.

Staff recommends accelerating the next phase of activation in this alley to take advantage of a public-private partnership opportunity. By accelerating this phase, the Town can coordinate electrical infrastructure around the drainage from the Creative Cup's roof and the installation of a handicap ramp, removal asphalt, and installation of concrete and brick accents to match alley work across the street.

Discussion:

The discussion before the Board of Commissioners is whether to transfer funds from the Alley Connectivity project to the Alley Activation project through adoption of the attached Ordinance.

ZEBULON
NORTH CAROLINA

STAFF REPORT
ORDINANCE 2021-59
COMMUNITY AND ECONOMIC DEVELOPMENT
CIP TRANSFER
APRIL 12, 2021

Policy Analysis:
The Alley Activation projects support all three Focus Areas of the Town of Zebulon's 2030 Strategic Plan.

Grow Smart:

- Municipal investment in downtown can encourage private investment in downtown and yield new commerce opportunity.
- Attracting new businesses will bring new job opportunities to our current residents facing a poverty rate of 15%, nearly double that of Wake County.
- Public-Private partnerships yield bigger returns on Town investments.

Vibrant Downtown:

- The commercial activity, and the residential customer base both within, and in walking distance to, downtown create an economic vibrancy. The Alleys support the commercial activity by facilitating the pedestrian access.
- The commercial activity in-turn creates job opportunities in the Downtown district.

Small-Town Life:

- The pedestrian scale and accessibility create opportunities for citizens to interact.
- Creates opportunities for visitors to experience the distinct oasis of "small-town" quickly disappearing in a growing and homogenized region.
- Public spaces offer opportunities for communities to gather around, and participate in, visual and performing arts.

Fiscal Analysis:
Accelerating work on this phase of the Alley Activation is more cost effective than waiting. The cost of labor and materials will likely be higher in the future. Working with Creative Cup while the handicap ramp and drainage is installed is also less costly and less challenging than maneuvering equipment, removing asphalt, and applying new concrete after their work is completed.

Staff Recommendation:
Staff recommends approval of the attached Ordinances. Transferring $29,700 from Alley Connectivity to Alley Activation.

Attachments:

1. Ordinance 2021-59

ORDINANCE 2021-59

BE IT ORDAINED by the Board of Commissioners of the Town of Zebulon, that pursuant to North Carolina General Statutes 159-15, the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2021.

Section 1. To amend the General Fund budget as follows:

	INCREASE	DECREASE
REVENUES		
EXPENDITURES		
Community & Economic Development – Alley Activation	$29,700.00	
Community & Economic Development – Alley Connectivity		$29,700.00

Section 2. Copies of this amendment shall be furnished to the Town Clerk, and to the Budget Officer, and to the Finance Officer for their direction.

Adopted: April 12, 2021

Effective: April 12, 2021

_____
Robert S. Matheny - Mayor

ATTEST:

_____
Lisa M. Markland, CMC - Town Clerk

ZEBULON
NORTH CAROLINA

STAFF REPORT
AUDITOR RECOMMENDATION
APRIL 12, 2021

Topic: Auditor Recommendation
Speaker: Bobby Fitts, Finance Director
Prepared by: Bobby Fitts, Finance Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board will consider proposals to conduct the Town's statutorily required annual financial audit.

Background:
The Town first engaged Joyce & Company, CPA for auditing services in 2003, and renewed these services every three years. The latest contract concluded with the completion of the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2020.

While Zebulon has practiced retaining auditors for long tenures, a practice of soliciting competitive proposals on a more frequent basis promotes a culture and expectation of fresh perspectives and independent oversight of the audit process.

On February 19, 2021, the Town posted a Request For Proposals of audit services on the Town's website and listed on the NC Finance Connect listserv. Proposals were due March 12, 2021. The Town received seven proposals:

- Joyce & Company, CPA
- S. Preston Douglas & Associates, LLP
- Sharpe Patel CPA
- Mauldin & Jenkins, LLC
- Martin Starnes & Associates, CPA's
- Cherry Bekaert
- Winston, Williams, Creech, Evans and Co, LLP

Discussion:
The discussion before the Board is which firm they wish to engage to conduct the FY '21 Audit.

Policy Analysis:
The proposals were scored based on the following criteria as referenced on the attached scoring sheet: R*esponsiveness to the proposal, Understanding of the audit to be conducted, Technical Experience, Cost,* and *other items of consideration*. Several firms met these criteria. Five of the seven firms were scored at 94 (out of 100) or better. They also scored 28 to 29 (out of 30) for the "Understanding of the audit to be conducted" criterion, including items such as understanding the resources and manpower needed to complete the audit, their ability to complete the audit by the specified deadline and describing their work plan to conduct the engagement and knowledge and understanding of the North Carolina Local Government Commission.

Finally, the five firms also scored highly on the "Technical Experience" criterion, including items such as having experience auditing similar sized North Carolina municipalities, experience with federal grants and the Single Audit, and the number of key audit team members with CPAs and professional affiliations demonstrating a dedication to governmental accounting and auditing.

Financial Analysis:
The cost of the seven proposals ranged from $19,156 - $42,000 with the average being $30,272. The proposed contract of the recommended firm is not to exceed $25,000 in year 1 with small increases in the subsequent years. This includes financial statement preparation and single audit of one program if necessary. An additional $2,500 would be charged should there be more than one single audit needed.

Staff Recommendation:
Staff recommends ***Mauldin & Jenkins, LLC*** as the auditors for a three-year contract beginning with the fiscal year ending June 30, 2021. Based on their high score and below average bid amount, we determined this firm would be the best fit for us at this time. They also perform audits for the local municipalities of Garner and Selma, and reference checks revealed high satisfaction of the service and professionalism in their working relationship.

Attachments:
1. Audit Proposal Score Sheet Summary

AUDIT PROPOSAL SCORE SHEET SUMMARY

RFP Number								
		SECTION 1				SECTION 2		
Audit Year Ending:	6/30/2021							
Proposal Due Date	3/12/2021	Responsiveness to the Proposal	Understanding of the Audit to be Performed	Technical Experience	Entity Preference	Cost Criteria Average divided by Cost X 10	Total Points	Average (Bobby & Reuben)
Top Number of Bids Received:	7							
ACCOUNTING FIRMS	**Bid Amount**	0-20	0-30	0-25	0-15	0-10	Maximum of 100	
Joyce & Company, CPA	$ 30,500.00	19.00	30.00	25.00	11.00	10.00	95.00	**94.5**
S. Preston Douglas & Associates, LLP	$ 26,750.00	18.00	29.00	23.00	12.00	10.00	92.00	**94**
Sharpe Patel CPA	$ 19,156.00	19.00	28.00	19.00	12.00	10.00	88.00	**87.5**
Mauldin & Jenkins, LLC	$ 25,000.00	20.00	28.00	23.00	13.00	10.00	94.00	**94**
Martin Starnes & Associates, CPA's	$ 33,000.00	19.00	29.00	24.00	14.00	9.00	95.00	**95.5**
Cherry Bekaert	$ 35,500.00	19.00	29.00	25.00	14.00	9.00	96.00	**96**
Winston, Williams, Creech, Evans and Co, LLP	$ 42,000.00	18.00	28.00	22.00	11.00	7.00	86.00	**88**
Scored by:	Date:							
Bobby Fitts & Reuben Carden	3/26/2021							

ZEBULON
NORTH CAROLINA

STAFF REPORT
BOARD APPOINTMENTS
APRIL 12, 2021

Topic: Board Appointments
Speaker: Stacie Paratore, CMC, Deputy Town Clerk
From: Stacie Paratore, CMC, Deputy Town Clerk
Prepared by: Stacie Paratore, CMC, Deputy Town Clerk
Approved by: Joseph M. Moore, II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider persons interested in serving on the Planning Board.

Background:
The Board of Commissioners appoints members to Boards (Planning Board, Board of Adjustment, Parks and Recreation Advisory Board) who make recommendations or decisions in their respective areas. Persons interested in serving on these appointed Boards present applications to the Board of Commissioners for consideration.

Discussion:
The discussion before the Board is whether to appoint those interested in serving on the Planning Board. Currently, there is **one** in-Town vacancy with a three year term expiring on June 30, 2024. The following have submitted an application for appointment:

- Joshua Robinson
- Arika Shelest
- Mark Cronk

Staff Recommendation:
No recommendations on Board appointments.

Attachments:
1. Applications

TOWN OF ZEBULON
Application for Board Appointments

Please indicate which board you are interested in serving on. If you are interested in more than one board please list them by preference by using numbers (1,2,3). Please attach a copy of your driver's license for proof of eligibility to serve.

____ Board of Adjustment ✓ Planning Board ✓ Parks & Recreation Advisory

Name Rev. Joshua Robinson

Address 376 Rustling Way Zebulon, NC 27597

E-mail joshuaRobinson919@gmail.com Date of Birth (month & Day) 01/20

Phone (Home) ____ (Work) ____ (Cell) (252) 363-9684

Employer Durham Public Schools Occupation Teacher

Do you live in the Zebulon Corporate Limits yes ETJ ____ Years in Zebulon 1

Do you currently, or have you previously, served on any Town of Zebulon, or other municipal board, commission or committee? Yes ____ No ✓ If you answered yes, please list them below (use the back if necessary).

Board/Commission/Committee	From	To

Have you taken the opportunity to attend any previous board meetings prior to the notice of this vacancy? Yes ✓ No ____

Describe extent and meetings attended I am highly knowledgeable of town business.

Why do you want to serve on this board or commission? I love this town & feel obligated to ensure its growth is smart & equitable

Why would you be an asset to this board or commission? My experience with community partnerships & executive leadership trainings

What are your qualifications? Education: NC STATE, Harvard Bus Certificate, Public Service

What areas of concern would you like to see the Board or Commission address? Whatever the needs & concerns residents have.

I certify that the above information is correct. I understand that this is an application to be considered for appointment to a Town of Zebulon board, commission or committee and that final appointment is made by the Zebulon Board of Commissioners. I also understand that any service, if appointed, would be without compensation. This application will remain on file for a period of 6-months from the date of application.

Date 1/19/2021 Signature [signature]

Please fill out the form completely and return it to Stacie Paratore at Town Hall. If you have any question call 919-823-1802.

TOWN OF ZEBULON
Application for Board Appointments

Please indicate which board you are interested in serving on. If you are interested in more than one board please list them by preference by using numbers (1,2,3). Please attach a copy of your driver's license for proof of eligibility to serve.

3 Board of Adjustment 1 Planning Board 2 Parks & Recreation Advisory

Name Ariha Shelest

Address 303 W gannon ave zebulon, nc 27597

E-mail ariha calhain@gmail.com Date of Birth (month & Day) 10/04

Phone (Home) _____ (Work) _____ (Cell) 9199031866

Employer self Occupation photographer

Do you live in the Zebulon Corporate Limits yes ETJ _____ Years in Zebulon 2

Do you currently, or have you previously, served on any Town of Zebulon, or other municipal board, commission or committee? Yes _____ No X If you answered yes, please list them below (use the back if necessary).

Board/Commission/Committee	From	To

Have you taken the opportunity to attend any previous board meetings prior to the notice of this vacancy? Yes ___ No X

Describe extent and meetings attended _____

Why do you want to serve on this board or commission? I want to help give the perspective of young families moving to the area.

Why would you be an asset to this board or commission? I am a small business owner, as well as a mom of 3 year with great prespectiv

What are your qualifications? _____

What areas of concern would you like to see the Board or Commission address? new baiisnes, expanding of the area.

I certify that the above information is correct. I understand that this is an application to be considered for appointment to a Town of Zebulon board, commission or committee and that final appointment is made by the Zebulon Board of Commissioners. I also understand that any service, if appointed, would be without compensation. This application will remain on file for a period of 6-months from the date of application.

Date 2/28/21 Signature Ariha A. Shelest

Please fill out the form completely and return it to Stacie Paratore at Town Hall. If you have any question call 919-823-1802.

TOWN OF ZEBULON
Application for Board Appointments

Please indicate which board you are interested in serving on. If you are interested in more than one board please list them by preference by using numbers (1,2,3). Please attach a copy of your driver's license for proof of eligibility to serve.

_____ Board of Adjustment ✓ Planning Board _____ Parks & Recreation Advisory

Name MARK CRONK

Address _____

E-mail mark@glennlewisinsurance.com Date of Birth (month & Day) 12/02

Phone (Home) 919-889-6753 (Work) 919-269-7773 (Cell) _____

Employer GLENN LEWIS INS. AGCY Occupation INSURANCE AGENCY

Do you live in the Zebulon Corporate Limits ✓ ETJ _____ Years in Zebulon _____

Do you currently, or have you previously, served on any Town of Zebulon, or other municipal board, commission or committee? Yes ✓ No _____ If you answered yes, please list them below (use the back if necessary).

Board/Commission/Committee	From	To
B.O. ADJUSTMENT	2004	2006

Have you taken the opportunity to attend any previous board meetings prior to the notice of this vacancy? Yes ___ No ✓

Describe extent and meetings attended _____

Why do you want to serve on this board or commission? I BELIEVE I CAN SERVE IN A CAPACITY THAT WILL ALLOW ZEBULON TO GROW POSITIVELY

Why would you be an asset to this board or commission? 20 year ~~town~~ RESIDENT OF ZEBULON WITH KNOWLEDGE OF COMMERCIAL BUSINESS AND POSITIVE GROWTH OPPORTUNITIES

What are your qualifications? COLLEGE GRADUATE, PROFFESIONAL, INTERESTED RESIDENT

What areas of concern would you like to see the Board or Commission address? _____

COMMERCIAL GROWTH AND ~~WITH~~ IMPROVED RESIDENTIAL CAPACITY

I certify that the above information is correct. I understand that this is an application to be considered for appointment to a Town of Zebulon board, commission or committee and that final appointment is made by the Zebulon Board of Commissioners. I also understand that any service, if appointed, would be without compensation. This application will remain on file for a period of 6-months from the date of application.

Date 04/01/2021 Signature _____

Please fill out the form completely and return it to Stacie Paratore at Town Hall. If you have any question call 919-823-1802.

ZEBULON
NORTH CAROLINA

STAFF REPORT
RESOLUTION 2021-07
WEAVERS POND ROADWAY AND
STORM DRAINAGE ACCEPTANCE
APRIL 12, 2021

Topic: Resolution 2021-07 – Weavers Pond - Phase 6 Infrastructure Acceptance
Speaker: Chris D. Ray, Public Works Director
From: Chris D. Ray, Public Works Director
Prepared by: Chris D. Ray, Public Works Director
Approved by: Joseph M. Moore II, PE, Town Manager

Executive Summary:
The Board of Commissioners will consider acceptance of roadway and storm-drain infrastructure within Weavers Pond Phase 6 for ownership and maintenance per the executed Special Use Agreement.

Background:
The Town of Zebulon follows a practice where the Board of Commissioners consider acceptance (i.e., maintenance) of roadway and storm-drain infrastructure installed in new subdivisions. In advance of this consideration, Staff determines whether the infrastructure complies and meets the conditions of permits and standards.

Weavers Pond Development has completed the construction of Phase 6 in accordance with the Special Use Permit 2013-03 (April 3rd, 2014), the latest version of Town of Zebulon Street and Storm Drainage Standards, and the City of Raleigh Utility Standards. Phase 6 includes 15 lots.

Staff and third-party inspectors and engineers have certified all completed work meets or exceeds Town standards and requirements.

Recording the Subdivision Plat at the Registrar of Deeds occurred on February 17th, 2021 (BM2021, page 00354).

Discussion:
The discussion before the Board is whether to accept the dedication of streets, sidewalks, curb and gutter and storm drainage in Weavers Pond 6 by Resolution 2021-07.

Policy Analysis:
The infrastructure was installed per approved Special Use Permit 2013-03. The infrastructure complies with the latest version of the "Town of Zebulon Street & Storm Drainage Standards and Specifications."

Fiscal Analysis:
Weavers Pond Phase 6 development will dedicate one sections of Blue Iris Way totaling 574 linear feet or .11 miles of streets, 1,354 LF or .26 miles and 598 linear foot of storm drainage, plus other roadway infrastructure valued at $205,799.48. The infrastructure will be added to the Town's Capital assets (re. Comprehensive Annual Report).

The Town has received a one-year warranty on all the dedicated assets for the Town's protection in the event of a failure. Staff will conduct a 11-month warranty inspection prior

to the final overlay to ensure any issues or failures are repaired prior to the final asphalt overlay by the developer.

The Town has received a Letter of Credit # 159670 from North State Bank to ensure the final completion of outstanding items (final overlay, striping, 5' sidewalks with handicap ramps, greenway amenities, mail kiosks, and stormwater pond conversion) estimated at $125,176.60.

The Letter of Credit is automatically renewed or revised annually to reflect items completed. Letter of Credit will remain active until all items have been completed. All inspection and development fees have been collected from the developer.

Staff Recommendation:
Staff recommends approval of Resolution 2021-07 for acceptance of Weavers Pond 6 roadway and storm drainage infrastructure and associated bonds with an effective date of the adoption of this Resolution.

Attachments:
1. Engineer Certification of Roadway and Stormwater – Piedmont Land Design
2. Engineer Certification of Roadway lengths – Piedmont Land Designs
   Engineer Dedicated Infrastructure Cost Estimate – Piedmont Land Designs
3. Weavers Pond – Developers Guaranty and Warranty- street/storm water
4. Weavers Pond – Developer Guaranty and Warranty – water and sewer
5. Engineer Estimate for completion of outstanding work
6. Letter of Credit – North State Bank # 159670
7. Third Party Engineering Report – Geotechnologies, Inc – sub-grade, stone, and asphalt (thickness/density)
8. Engineering Certification – Sanitary Sewer
9. Engineering Certification – Potable Water
10. Engineers Statement of Utilities Installed – CORPUD
11. Developer Lien Waiver
12. Contractor Lien Waiver
13. Proof of Payment – Street Lights - $4,459.76
14. Construction Inspection and Planning Fees $4,182.00
15. City of Raleigh – Conditional Acceptance
16. As-builts Drawings
17. Resolution 2021-07

PLD Piedmont Land Design, LLP
8522-204 Six Forks Road • Raleigh, NC 27615 • (919) 845-7600 • Fax: (919) 845-7703

3/4/21
APPROVED
AS
Submitted

Engineer's Certification

I, MIKE SCHNEIDER, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe periodically the construction of the project segments as listed below:

Weavers Pond Phase 6

for the Weavers Pond Development Co., LLC, hereby state that, to the best of my abilities; due care and diligence was used in the observation of the project construction such that the Roadway System and Stormwater Infrastructure was observed to be built within substantial compliance and general intent of the Town of Zebulon Standards and Specifications with the following incomplete exceptions:

1. 5' Concrete Sidewalks and Handicap Ramps
2. Final Asphalt Lift
3. Pavement Striping
4. SCM Conversion
5. Mail kiosk
6. Greenway amenities

Signature _____ Registration No. 030856

Date: 01/19/2021

NORTH CAROLINA PROFESSIONAL SEAL 030856 ENGINEER MICHAEL L SCHNEIDER

PLD Piedmont Land Design, LLP
8522-204 Six Forks Road • Raleigh, NC 27615 • (919) 845-7600 • Fax: (919) 845-7703

Weavers Pond Phase 6
Roadway and Storm Drainage

Dedicated Infrastructure Cost Estimate

Description	Quantity	Unit	Price	Total
Roadway:				
8" ABC/2" SF9.5C	2644	SY	$ 31.02	$ 82,016.88
6" ABC under curb	1379	LF	$ 1.90	$ 2,620.10
30" Curb and Gutter	1379	LF	$ 13.50	$ 18,616.50
Utility Adjustments	8	EA	$ 369.00	$ 2,952.00
			Total	**$ 106,205.48**
Greenway:				
Ph 3B	241	LF	$ 38.00	$ 9,158.00
Ph 6	1,113	LF	$ 38.00	$ 42,294.00
			Total	**$ 51,452.00**
Storm Drainage:				
15" RCP	167	LF	$ 24.00	$ 4,008.00
18" RCP	127	LF	$ 26.00	$ 3,302.00
24" RCP	271	LF	$ 34.00	$ 9,214.00
18" FES	1	EA	$ 1,100.00	$ 1,100.00
24" FES	1	EA	$ 1,250.00	$ 1,250.00
Drainage Structures	9	EA	$ 3,252.00	$ 29,268.00
			Total	**$ 48,142.00**
			Grand Total	$ 205,799.48

Approved As Submitted 3/4/21

Roadway Lengths:

Roadway	Length
Blue Iris Way	574

Greenway Lengths:

Greenway	Length
Ph 3B	241 LF
Ph 6	1,113 LF

NORTH CAROLINA PROFESSIONAL SEAL 030856 ENGINEER MICHAEL L. SCHNEIDER
01/19/2021

Weavers Pond Development Company, LLC
9407 Bartons Creek Road
Raleigh, NC 27615
(919) 604-1928

Approved As Submitted 3/4/21

January 8, 2021

DEVELOPER'S GUARANTY

Re: Town of Zebulon, N.C. (the "Town")
Weaver's Pond Phase 6

Weavers Pond Development Company LLC (the "Developer") provides the following Statement of Guaranty and Warranty on the referenced project: Weaver's Pond Phase 6.

Developer guarantees and warrants that all material and equipment furnished and all work performed on the storm water system and street construction in Phase 6 (the "Work") conforms with the Town's requirements, and that this guaranty and warranty will remain in full force and effect for a period of one year from the date of the acceptance of the Work. Developer hereby agrees to indemnify, defend and hold harmless the Town from and against all costs, loss and damages, including attorney's fees, arising from the failure of the Work to conform to the Town's standards.

Developer has executed this Developer's Guarantee this 4th day of February 2021.

Weavers Pond Development Company, LLC

By: _____
Name: Glenn Futrell
Title: Manager

Sworn to and subscribed before me this
4th day of February, 2021.

Shannon Howell
NOTARY PUBLIC

Commission Expires: 8/23/2025
SEAL

SHANNON HOWELL
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires 8/23/2025

21848.81-904402 v2

Weavers Pond Development Company, LLC
9407 Bartons Creek Road
Raleigh, NC 27615
(919) 604-1928

Approved as Submitted 3/4/21

January 8, 2021

DEVELOPER'S GUARANTY

Re: Town of Zebulon, N.C.
Weaver's Pond Phase 6

Weavers Pond Development Company LLC provides the following Statement of Warranty on the referenced project: Weaver's Pond Phase 6.

Weavers Pond Development Company LLC guarantees and warrants that all material and equipment furnished and all work performed on the water system and sanitary sewer system installed in Weaver's Pond Phase 6 conforms with the City of Raleigh's requirements, and that this warranty will remain in full force and effect for a period of one year from the date of the acceptance of the work.

Weavers Pond Development Company, LLC has executed this guarantee this 4th day of February 2021.

Glenn Futrell, member manager
Weavers Pond Development Company, LLC

Sworn to and subscribed before me this
4th day of February, 2021.

Shannon Howell
NOTARY PUBLIC

Commission Expires: 8/23/2025

SEAL
SHANNON HOWELL
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires 8/23/2025

Attachment "A"

3/9/21

Approved As Submitted

PLD

Piedmont Land Design, LLP

8522-204 Six Forks Road • Raleigh, NC 27615 • (919) 845-7600 • Fax: (919) 845-7703

January 19, 2021

Chris Ray
Town of Zebulon – Public Works Dept.
100 N. Arendell Avenue
Zebulon, NC 27597

Re: Weavers Pond Subdivision Phase 6 – Completion Bond

Dear Mr. Ray,
Please find below estimated quantities and cost for the completion of the Phase 6 infrastructure:

Type of Improvement	Est. Quantity	Unit	Unit Price	Total Cost
5-Foot Wide Sidewalk	845	SF	$3.25	$2,746.25
Final Asphalt Layer	2,644	SY	$7.60	$20,094.40
Handicap Ramps	2	EA	$1,100.00	$2,200.00
Striping	1	LS	$1,500.00	$1,500.00
Street signs	1	LS	$3,600.00	$3,600.00
Mail kiosk	1	LS	$6,700.00	$6,700.00
Sub-Total				$36,840.65
10% Contingency				$3,684.07
Construction CPI @ 10%				$3,684.07
Geotechnical Services Allowance				$1,300.00
Construction Inspection – 6 days @ $720/day				$4,320.00
SCM conversion				$32,000.00
Earthwork / Grading				$3,500.00
Traffic control				$2,500.00
Mobilization				$4,000.00
Greenway bollards/signage/amenities				$3,000.00
Roadway repair allowance				$10,000.00
Construction Staking Allowance				$1,600.00
Design/Construction Administration - 20% of sub-total				$7,368.13
Construction Total:				$113,796.91
Bond Amount @ 110%				$125,176.60

I would estimate the completion costs of these outstanding items to be a total of $ 125,176.60and would anticipate that this estimate would be valid for one year from this date. This amount will be covered by a Letter of Credit.

Sincerely,

Mike Schneider

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 030... MICHAEL L. SCHNEIDER 01/19/2021

NORTH STATE BANK

IRREVOCABLE STANDBY LETTER OF CREDIT

Letter of Credit Number 159670

Amount: U.S. $ 125,176.60 (one hundred and twenty five thousand one hundred and seventy six dollars and sixty cents U.S. DOLLARS)

This Letter of Credit is issued on February 10, 2021 by Issuer in favor of the Beneficiary for the account of Applicant. The parties' names and their addresses are as follows:

APPLICANT:
WEAVERS POND DEVELOPMENT COMPANY, LLC
Entity Type: Limited Liability Company
9407 BARTONS CREEK ROAD
RALEIGH, NC 276150000

APPROVED AS Submitted 3/9/21

BENEFICIARY:
TOWN OF ZEBULON
Entity Type: Corporation
100 N Arendell Avenue
Zebulon, NC 27597

ISSUER:
NORTH STATE BANK
6204 Falls of Neuse Rd.
Raleigh, NC 27609

1. LETTER OF CREDIT. Issuer establishes this Irrevocable Standby Letter of Credit (Letter of Credit) in favor of Beneficiary in the amount indicated above. Beneficiary may draw on this Letter of Credit with a Draft (or Drafts, if the maximum number of drawings is greater than one). Each Draft shall be signed on behalf of Beneficiary and be marked "Drawn under North State Bank Letter of Credit No. 159670 dated February 10, 2021." Drafts must be presented at Issuer's address shown above on or before the Expiration Date. The presentation of any Draft shall reduce the Amount available under this Letter of Credit by the amount of the draft.

This Letter of Credit sets forth in full the terms of Issuer's obligation to Beneficiary. This obligation cannot be modified by any reference in this Letter of Credit, or any document to which this Letter of Credit may be related.

This Letter of Credit expires on the Expiration Date.

2. DRAWINGS. Beneficiary shall be permitted to make multiple drawings on this Letter of Credit. The maximum number of drawings that may be made on this Letter of Credit is 999. "Draft" means a draft drawn at sight.

3. DOCUMENTS. Each Draft must be accompanied by the following, in original and two copies except as stated:

A. The original Letter of Credit, together with any amendments.

B. A signed statement by Beneficiary including the following statement: We hereby certify that Weavers Pond Development Company, LLC has not completed the installation of final asphalt layer, sidewalks, handicap ramps, striping, street signs and mail kiosk, as more particularly set forth in Attachment A to letter of Credit Number 159670, and the Phase 6 plans as approved by the Town of Zebulon for Weavers Pond Subdivision. .

Issuer shall be entitled to accept a draft and the documentation described above, as required by the terms of this Letter of Credit, from any person purporting to be an authorized officer or representative of Beneficiary without any obligation or duty on the part of Issuer to verify the identity or authority of the person presenting the draft and such documentation.

4. SPECIAL INSTRUCTIONS. It is a condition of this Letter of Credit that it shall expire on the Expiry Date listed below, provided it will be deemed automatically extended without amendment for (1 year from the present or any future expiration date of this Letter of Credit unless at least sixty (60) days prior to the then expiration date we notify the Beneficiary by registered letter or other receipted means of postal delivery that we elect not to consider this Letter of Credit renewed for such additional period. If such notice is given, then during such notice period (i.e. the sixty (60) day period commencing on the date of such notice and ending with the then applicable expiration date of this Letter of Credit), this Letter of Credit shall remain in full force and effect and Beneficiary may draw up to the full amount of the sum when accompanied by the statement above.

5. EXPIRATION DATE. This Letter of Credit expires at the close of business at Issuer's address at 5:00 PM Eastern (Time) on February 10, 2022 (Date). Issuer agrees to honor all Drafts presented in strict compliance with the provisions of this Letter of Credit on or before the Expiration Date.

6. NON-TRANSFERABLE. This Letter of Credit is not transferable.

7. APPLICABLE LAW. This Letter of Credit is governed by the International Standby Practices 1998 (ISP98). This Letter of Credit is also governed by the laws of North Carolina, except as those laws conflict with the International Standby Practices 1998 (ISP98).

ISSUER:

North State Bank

By _____ Date 2/10/21
BRET W BURGESS, SENIOR VICE PRESIDENT

GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

APPROVED AS SUBM. HED. 3/4/21

February 5, 2021

Weavers Pond Development, LLC
4020 Wake Forest Road, Suite 306
Raleigh, NC 27609

Reference: Roadway, Greenway Trail
Weavers Pond, Phase 6
Zebulon, North Carolina
GeoTechnologies Project No. 1-20-0284-CA

GeoTechnologies, Inc. has been providing the construction testing services for the Weavers Pond Subdivision-Phase 6 project (see attached diagram) located in Zebulon, North Carolina. Our services included inspections and testing for the roadway and greenway trail within the subdivision.

Subgrade conditions for both the roadway, Blue Iris Way, and greenway trail were evaluated by proofrolling with a tandem axle dump truck and probing with a one-half inch steel probe rod. During the proofroll our representative noted movement. Geo Technologies observed recommended repairs on a full time basis, and in-place density testing was performed on the sub grade soils. Based upon the results of our testing the sub grade soils were compacted to a minimum of 100 percent compaction (ASTM D-698).

The aggregate base course was tested for both Blue Iris Way and the greenway trail by our field representatives and was found to conform to the specified density requirements with compaction exceeding the density of 100 percent compaction (ASTM D-1557). The CABC stone thickness exceeded 10" plus at all test locations on the sub divisions road, and 8" plus on the greenway trail. The CABC was also proof rolled with a tandem axle dump truck. No movement was noted.

Geo Technologies representatives returned to the site to obtain three 6" asphalt core samples on Blue Iris Way 5 additional cores for the greenway within the phase. Asphalt cores were cut every 300 linear feet for verification of pavement thickness and density. RS9.5C was placed in 1 lift. Thickness of the core samples on Blue Iris Way ranged from 2.13 inches to 2.25 inches with an average thickness of 2.17 inches. Thickness of the core samples on the greenway ranged from 2.0 to 4.5 inches with an average thickness of 2.6 inches. Density of the RS 9.5C core samples ranged from 94.2 to 95.9 percent with an average density of 94.8 percent on Blue Iris Way, and from 92.2 to 95.2 percent with an average of 93.8 percent on the greenway. The required average compaction of RS9.5C is 92 percent. The Rice was provided by the paving contractor but the JMF was not. The summary of the asphalt core results is attached to this letter.

It should be noted that our testing and observation services were performed on an as-requested basis, and only when requested by the above listed client or their designated representative. We offer no opinion regarding materials not tested or observed by our representatives.

GeoTechnologies appreciates the opportunity to be of service to Weavers Pond Development on this project. Please do not hesitate to contact us if you have any questions regarding this submittal.

Sincerely,
GeoTechnologies, Inc.

NORTH CAROLINA PROFESSIONAL SEAL 39768 ENGINEER CONRAD E. HARRIS 2-5-21

Allen K. Henry
Asst. Manager of Construction Services

Conrad E. Harris, P.E
NC Reg. No. 39768

Table 1

Asphalt Thickness And Density Measurements

Weavers Pond Phase 6

Zebulon, NC

Geotechnologies Project No.: 1-20-0284-CA

Road

Core #	Mix Type	Dry Weight	Weight In Water	SSD Weight	Volume	Specific Gravity	Rice	Percent Compaction	Thickness (in.)
1	Surface	2030.0	1148.0	2033.1	885.1	2.294	2.391	95.9	2.13
2	Surface	1926.0	1073.1	1928.6	855.5	2.251	2.391	94.2	2.13
3	Surface	2007.3	1121.9	2013.0	891.1	2.253	2.391	94.2	2.25
							Average	**94.8**	**2.17**

Greenway

Core #	Mix Type	Dry Weight	Weight In Water	SSD Weight	Volume	Specific Gravity	Rice	Percent Compaction	Thickness (in.)
1	Surface	2105.3	1181.2	2110.4	929.2	2.266	2.391	94.8	2.25
2	Surface	2098.1	1178.5	2100.3	921.8	2.276	2.391	95.2	2.25
3	Surface	1728.0	968.4	1731.0	762.6	2.266	2.391	94.8	2.00
4	Surface	1830.8	1007.2	1838.0	830.8	2.204	2.391	92.2	2.00
5	Surface	4202.7	2301.7	4208.0	1906.3	2.205	2.391	92.2	4.50
							Average	**93.8**	**2.60**

Note: The Rice was provided by the contractor. The JMF was not provided

GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weavers Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
1	05/15/2020	D-2937	128.6	110.6	16.3	D-698	112.5	16.5	98	**98.3**	Lot 561 on west side of lot	SG
2	05/15/2020	D-2937	127.4	109.5	16.3	D-698	112.5	16.5	95	**97.3**	Lot 562 (562-563)	-4
3	05/15/2020	D-2937	126.0	108.7	16.7	D-698	112.5	16.5	95	**97.5**	Lot 563	-3
4	05/18/2020	D-2937	124.1	106.7	16.3	D-698	110.8	15.0	95	**96.3**	Lot 563 (562-563)	-2.5
5	05/18/2020	D-2937	128.3	110.5	16.1	D-698	110.8	15.0	95	**99.7**	Lot 562 (562-563)	-2
6	05/18/2020	D-2937	127.4	109.7	16.1	D-698	110.8	15.5	95	**99.0**	Lot 562 (562-563)	-1
7	05/26/2020	D-4959			15.7	D-698	116.0	13.3			Stockpile for fill on lot 562-563	
8	05/26/2020	D-2937	128.9	110.5	**16.7***	D-698	116.0	13.3	98	**95.3***	Lot 562 (562-563)	SG
8a	06/01/2020	D-2937	129.2	114.6	12.7	D-698	116.3	13.5	98	**98.5**	Lot 562 (562-563)	SG

* = Failed Specified Compaction and/or Moisture Content

All Test Locations and Elevations are approximate

† Note: A field technician was not present during the actual fill placement; therefore, field tests are only indicative of location and elevation.

References: D-8167 Standard Test Method for In-Place Density of Soil-Aggregates by a Low-Activity Nuclear Method, D-6938 Test Method for Density of Soil and Soil Aggregate in Place by Nuclear Method, D-1556 Test Method for Density and Unit Weight of Soil In Place by Sand Cone Method, D-2937 Test Method for Density of Soil In Place by Drive Cylinder Method, D-558 Moisture - Density Relations of Soil-Cement Mixtures, D-698 Laboratory Compaction Characteristics of Soil Using Standard Effort, D-1557 Laboratory Compaction Characteristics of Soil Using Modified Effort, D-2167 08 Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber, D-4959 Test Method for Determination of Soil by Direct Heating

Distribution: David Berry

Michael K. Morton

Name (Technical Responsibility)

Signature

GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
9	05/26/2020	D-2937	127.7	109.1	**17.1***	D-698	116.0	13.3	95	**94.1***	Lot 564	-2
9a	05/26/2020	D-2937	130.1	119.2	9.1	D-698	125.2	10.3	95	**95.2**	Lot 564	-2
10	05/27/2020	D-2937	134.8	121.9	10.6	D-698	124.7	10.5	95	**97.8**	Mass fill on lot 564	-1
11	05/27/2020	D-2937	133.5	122.4	9.4	D-698	124.7	10.5	98	**98.2**	Mass fill lot z564	SG
12	06/01/2020	D-2937	130.4	113.3	15.1	D-698	116.3	13.5	95	**97.4**	Lot 560	-2.5
13	06/01/2020	D-2937	127.1	107.7	**18.0***	D-698	116.3	13.5	95	**92.6***	Lot 560	-1.5
13a	06/02/2020	D-2937	129.1	111.3	16.0	D-698	113.0	16.0	95	**98.5**	Lot 560	-1.5
14	06/02/2020	D-2937	131.5	121.9	7.9	D-698	124.2	10.8	95	**98.1**	Lot 546	-4
15	06/02/2020	D-2937	132.7	122.1	8.7	D-698	124.2	10.8	95	**98.3**	Lot 546	-3

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Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
16	06/02/2020	D-2937	129.4	113.6	13.9	D-698	113.0	16.0	95	100+	Lot 560	-0.75'
17	06/02/2020	D-2937	133.0	119.6	11.2	D-698	124.2	10.6	95	96.3	Lot 546	-2'
18	06/03/2020	D-2937	134.5	122.1	10.2	D-698	121.5	12.0	95	100+	Lot 546	-1'
19	06/03/2020	D-2937	127.7	117.2	9.0	D-698	121.5	12.0	95	96.5	Lot 553	-1.5'
20	06/03/2020	D-2937	127.7	111.8	14.2	D-698	115.0	14.5	95	97.2	Lot 553	-.5'
21	06/03/2020	D-2937	127.4	112.8	12.9	D-698	115.0	14.5	95	98.1	Lot 552	-2'
22	06/03/2020	D-2937	128.6	112.9	13.9	D-698	115.0	14.5	98	98.2	Lot 560	SG
23	06/04/2020	D-2937	129.2	111.4	16.0	D-698	113.5	15.9	98	98.1	Lot 553	SG
24	06/04/2020	D-2937	125.6	116.0	6.4*	D-698	127.0	9.5	95	92.9*	Lot 552	-1'

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In-Place Density Test Results

Project Info: Weavers Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
24a	06/05/2020	D-2937	132.8	119.4	11.2	D-698	120.5	12.5	95	**99.1**	Lot 552	-1
25	06/04/2020	D-2937	133.6	122.6	9.0	D-698	127.0	9.5	95	**96.5**	Mass fill on lot 551 (551-550)	-2
26	06/04/2020	D-2937	135.8	124.5	9.1	D-698	127.0	9.5	95	**98.0**	Lot 551	-1
27	06/05/2020	D-2937	137.0	123.6	10.8	D-698	120.5	12.5	98	**100+**	Lot 551	SG
28	06/05/2020	D-2937	135.6	121.8	11.5	D-698	120.5	12.5	98	**100+**	Lot 552	SG
29	06/05/2020	D-2937	134.3	119.4	12.5	D-698	120.5	12.5	95	**99.1**	Lot 550 (550-549)	-1
30	06/08/2020	D-2937	128.9	115.8	11.3	D-698	116.0	12.3	98	**98.1**	Lot 550	SG
31	06/09/2020	D-2937	119.0	109.2	9.0	D-698	118.3	12.0	98	**92.3***	Lot 549	Sub grade
31a	06/09/2020	D-2937	127.4	113.0	12.7	D-698	114.0	15.0	98	**99.1**	Lot 549	SG

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Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
32	06/09/2020	D-4959			16.1	D-698	116.5	14.0			Trench backfill between existing manhole and new man hole 1	-9
33	06/10/2020	D-2937	117.2	98.2	19.4	D-698	101.8	21.8	95	**96.5**	Partial fil on lot 547	-2
34	06/10/2020	D-2937	118.7	99.7	19.0	D-698	101.8	21.5	95	**97.9**	Lot 547	-1'
35	06/10/2020	D-4959			16.5	D-698	116.5	14.0			Fill between MH1 and MH2	- -9
36	06/10/2020	D-2937	120.6	103.2	**17.1***	D-698	116.5	14.0	95	**88.6***	22' from MH1 towards MH2	-6
36a	07/06/2020	D-2937	128.0	111.4	14.9	D-698	112.8	15.8	95	**98.8**	20' from MH1 to MH2. Retest from 6-4 test 4. Fill was placed from MH1 to 60' south of MH3 towards MH2	-6
37	06/10/2020	D-2937	119.6	100.8	18.7	D-698	101.8	21.5	95	**99.0**	Lot 548	-2
38	06/10/2020	D-2937	118.7	95.3	**24.6***	D-698	107.3	19.0	95	**88.8***	5' from MH2 towards MH1	-2
38a	07/06/2020	D-2937	128.3	108.9	17.8	D-698	112.8	15.8	95	**96.5**	20' from MH2 towards MH3. Restest of test 6 on 6-10. Fill was from MH1 to 60' south of MH3	-4'

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All Test Locations and Elevations are approximate

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Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
38b	07/06/2020	D-2937	130.7	113.9	14.8	D-698	112.8	15.8	95	**100+**	25' from MH1 to MH2. Retest for test 6 on 6-10	-2
39	06/22/2020	D-2937	114.2	92.9	**22.9***	D-698	107.0	19.5	95	**86.8***	30' from manhole 2 towards manhole 3	-5
40	06/22/2020	D-2937	121.1	97.9	23.7	D-698	101.8	21.8	95	**96.2**	Lot 548	-1
41	06/22/2020	D-2937	120.8	98.5	**22.7***	D-698	107.0	19.5	95	**92.1***	15' from MH2 towards MH3	-1
42	06/22/2020	D-2937	122.6	103.5	18.5	D-698	107.0	19.5	95	**96.7**	74' from MH2 towards MH3	-6
43	06/22/2020	D-2937	122.3	100.4	21.8	D-698	101.8	21.8	98	**98.6**	Lot 548	Subgrade
44	06/23/2020	D-2937	134.2	122.1	9.9	D-698	123.0	11.0	98	**99.3**	Lot 557	Subgrade
45	06/23/2020	D-4959			24.6	D-698	106.9	19.6			Fill placed around Manhole 3 and service lines for lots 553&554	-10
46	06/23/2020	D-2937	116.9	92.8	**26.0***	D-698	106.9	19.6	95	**86.8***	8' from MH3 towards service lines on lots 553&554	-8

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GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weavers Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
46a	07/06/2020	D-2937	128.9	109.2	18.0	D-698	112.8	15.8	95	**96.8**	30' from MH3 towards MH2. Total lift is 60' from MH3 towards MH2, is a retest of test 2 from 6-23	-8
47	06/24/2020	D-2937	131.5	117.3	12.1	D-698	116.2	12.9	98	**100+**	Lot 546	SG
48	06/24/2020	D-2937	130.6	115.8	12.8	D-698	116.2	12.9	95	**99.7**	Lot 547 where drainage trench was	-4
49	06/24/2020	D-2937	128.5	112.0	14.7	D-698	116.2	12.9	95	**96.4**	Lot 547	-2
50	06/25/2020	D-2937	110.6	82.6	**33.9***	D-698	95.8	24.2	95	**86.2***	18' from MH3 to MH4	-6
50a	07/06/2020	D-2937	129.2	109.4	18.1	D-698	112.8	15.8	95	**97.0**	20' from MH3 towards MH4. Is a retest of Test 1 on 6-25	-8
51	06/25/2020	D-2937	118.6	93.5	**26.9***	D-698	106.5	19.8	95	**87.8***	50' from MH4 towards MH3	-4
51a	07/07/2020	D-2937	127.4	110.9	14.9	D-698	115.0	13.5	95	**96.4**	40' from MH4 towards MH3. Retest of test 2 on 6-25	-4
52	06/25/2020	D-2937	111.8	86.2	**29.7***	D-698	95.8	24.2	95	**90.0***	32' from MH3 towards MH4	-2

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Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weavers Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
52a	07/07/2020	D-2937	127.1	111.4	14.1	D-698	115.0	13.5	95	**96.9**	25' from MH3 to MH4. Retest of test 3 on 6-25	-2'
52b	07/06/2020	D-2937	122.9	105.6	16.4	D-698	107.8	19.0	95	**98.0**	40' from MH3 to MH4	-6'
53	06/29/2020	D-2937	127.9	113.3	12.9	D-698	114.8	15.5	95	**98.7**	Water line - 12' from MH1 to MH2 which line runs parallel to sanitary sewer	-3
54	06/29/2020	D-2937	125.5	109.9	14.2	D-698	114.8	15.5	95	**95.7**	Water line - Runs parallel to sanitary sewer. 44' from MH1 towards MH2	-3
55	06/30/2020	D-2937	124.1	105.9	17.2	D-698	108.3	18.5	95	**97.8**	58' North of fire hydrant	-3'
56	06/30/2020	D-2937	122.6	102.9	19.1	D-698	108.3	18.5	95	**95.0**	10' south of corner joint	-3
57	06/30/2020	D-2937	127.1	107.5	18.2	D-698	108.3	18.5	95	**99.3**	50' from fire hydrant	-1
58	06/30/2020	D-2937	122.3	103.0	18.7	D-698	108.3	18.5	95	**95.1**	20' south of corner joint	-1'
59	06/30/2020	D-2937	124.1	103.0	20.5	D-698	108.3	18.5	95	**95.1**	40' west of corner joint	-1'

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Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weavers Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
60	07/01/2020	D-2937	129.5	111.4	16.2	D-698	115.0	13.5	95	**96.9**	45' east going away from fire hydrant	-2
61	07/01/2020	D-2937	126.5	110.4	14.6	D-698	115.0	13.5	95	**96.0**	5' east of Fire hydrant	-1
62	07/09/2020	D-2937	125.6	106.8	17.6	D-698	112.2	16.5	95	**95.2**	15' from CB3 to CB4	-4
63	07/09/2020	D-2937	126.5	110.6	14.4	D-698	112.2	16.5	95	**98.6**	30' from CB3 to CB4	-2
64	07/10/2020	D-2937	131.8	116.1	13.5	D-698	117.8	13.0	95	**98.6**	20' from CB2 towards CB5	-3
65	07/10/2020	D-2937	127.7	113.7	12.3	D-698	117.8	13.0	95	**96.5**	30' from CB5 towards YI-6	-1
66	07/11/2020	D-2937	125.3	110.7	13.2	D-698	115.3	14.2	95	**96.0**	20' from YI-6 towards YI-7	-3
67	07/17/2020	D-2937	133.1	116.3	14.4	D-698	115.0	15.0	95	**100+**	Hwy NC-96 Road Widing Right side at intersection of Pippin & hwy-96	-1.5
68	07/17/2020	D-2937	133.4	118.1	13.0	D-698	115.0	15.0	95	**100+**	Hwy NC-96 Road Widing Right side, at intersection of Pippin & hwy-96	SG

* = Failed Specified Compaction and/or Moisture Content

All Test Locations and Elevations are approximate

† Note: A field technician was not present during the actual fill placement; therefore, field tests are only indicative of location and elevation.

References: D-8167 Standard Test Method for In-Place Density of Soil-Aggregates by a Low-Activity Nuclear Method. D-6938 Test Method for Density of Soil and Soil Aggregate in Place by Nuclear Method. D-1556 Test Method for Density and Unit Weight of Soil in Place by Sand Cone Method. D-2937 Test Method for Density of Soil In Place by Drive Cylinder Method. D-558 Moisture - Density Relations of Soil-Cement Mixtures. D-698 Laboratory Compaction Characteristics of Soil Using Standard Effort. D-1557 Laboratory Compaction Characteristics of Soil Using Modified Effort. D-2167 08 Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber. D-4959 Test Method for Determination of Soil by Direct Heating

Distribution: David Berry

Michael K. Morton

Name (Technical Responsibility)

Signature

GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weavers Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
69	07/17/2020	D-2937	129.5	113.8	13.8	D-698	115.0	15.0	95	**99.0**	Hwy NC-96 Road Widing Right side, at intersection of Pippin & hwy-96	SG
70	07/18/2020	D-2937	132.2	115.6	14.4	D-698	114.0	15.0	95	**100+**	Trench for Water Service at Building #564	-2'
71	07/18/2020	D-2937	132.5	113.7	16.5	D-698	114.0	15.0	95	**99.7**	Trench for Water Service at Building #545	-1'
72	07/20/2020	D-2937	132.4	117.4	12.8	D-698	121.0	12.2	100	**97.0***	96 westbound	Subgrade
72a	07/20/2020	D-2937	134.5	121.3	10.9	D-698	121.0	12.2	100	**100+**	96 expansion westbound side	Subgrade
73	07/20/2020	D-2937	132.7	118.1	12.4	D-698	121.0	12.2	95	**97.6**	96 eastbound side	-1'
74	07/20/2020	D-2937	135.7	121.1	12.1	D-698	121.0	12.2	100	**100+**	Eastbound side of Hwy 96	Subgrade
75	07/20/2020	D-2937	134.8	119.6	12.7	D-698	121.0	12.2	95	**98.8**	Eastbound side of Hwy 96	-1'
76	08/26/2020	D-4959			20.0	D-698	114.5	16.0			Utility trench	SG

* = Failed Specified Compaction and/or Moisture Content

All Test Locations and Elevations are approximate

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References: D-8167 Standard Test Method for In-Place Density of Soil-Aggregates by a Low-Activity Nuclear Method, D-6938 Test Method for Density of Soil and Soil Aggregate in Place by Nuclear Method, D-1556 Test Method for Density and Unit Weight of Soil In Place by Sand Cone Method, D-2937 Test Method for Density of Soil In Place by Drive Cylinder Method, D-558 Moisture - Density Relations of Soil-Cement Mixtures, D-698 Laboratory Compaction Characteristics of Soil Using Standard Effort, D-1557 Laboratory Compaction Characteristics of Soil Using Modified Effort, D-2167 08 Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber, D-4959 Test Method for Determination of Soil by Direct Heating

Distribution: David Berry

Michael K. Morton

Name (Technical Responsibility)

Signature

GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
77	08/31/2020	D-2937	128.9	110.2	17.0	D-698	109.1	18.6	95	**100+**	Roadway repair utilities	-1
78	08/31/2020	D-2937	126.5	108.6	16.5	D-698	109.1	18.6	98	**99.5**	Roadway repair utilities	SG
79	09/04/2020	D-4959			**9.7***	D-698	105.0	13.0				
80	09/04/2020	D-4959			12.5	D-698	105.0	13.0				
81	09/04/2020	D-4959			12.0	D-698	105.0	13.0				
82†	09/08/2020	D-4959			12.3	D-698	110.0	17.3			Roadway	-1
83†	09/08/2020	D-4959			13.3	D-698	110.0	17.3			Roadway	-1
84†	09/08/2020	D-4959			10.7	D-698	110.0	17.3			Roadway	-1
85†	09/08/2020	D-2937	110.7	102.3	**8.2***	D-698	110.0	17.3	98	**93.0***	Roadway	SG

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Distribution: David Berry

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GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
85a	09/09/2020	D-2937	118.7	108.0	**9.9***	D-698	113.0	16.0	98	**95.6***	Roadway	SG
85b	09/09/2020	D-2937	130.4	112.5	15.9	D-558	113.0	16.0	98	**99.6**	Roadway	SG
86†	09/08/2020	D-2937	108.0	94.9	**13.8***	D-698	110.0	17.3	98	**86.3***	Roadway	SG
86a	09/09/2020	D-2937	133.4	116.3	14.7	D-698	113.0	16.0	98	**100+**	Roadway	SG
87†	09/08/2020	D-2937	106.2	97.0	**9.5***	D-698	110.0	17.3	98	**88.2***	Roadway	SG
87a	09/09/2020	D-2937	129.2	117.0	10.4	D-698	116.5	14.0	98	**100+**	Roadway cul de sac	SG
88†	09/15/2020	D-2937	127.6	117.3	8.8	D-698	119.5	11.5	98	**98.2**	Greenway adjacent to lot 546	Subgrade
89†	09/15/2020	D-2937	128.5	117.4	9.5	D-698	119.5	11.5	98	**98.2**	Greenway adjacent to lot 551	Subgrade
90†	09/15/2020	D-2937	130.6	118.0	10.7	D-698	119.5	11.5	98	**98.7**	Greenway north adjacent to lot 554	Subgrade

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All Test Locations and Elevations are approximate

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References: D-8167, Standard Test Method for In-Place Density of Soil-Aggregates by a Low-Activity Nuclear Method; D-6938, Test Method for Density of Soil and Soil Aggregate in Place by Nuclear Method; D-1556, Test Method for Density and Unit Weight of Soil In Place by Sand Cone Method; D-2937, Test Method for Density of Soil In Place by Drive Cylinder Method; D-558, Moisture - Density Relations of Soil-Cement Mixtures; D-698, Laboratory Compaction Characteristics of Soil Using Standard Effort; D-1557, Laboratory Compaction Characteristics of Soil Using Modified Effort; D-2167, 08 Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber; D-4959, Test Method for Determination of Soil by Direct Heating

Distribution: David Berry

Michael K. Morton

Name (Technical Responsibility)

Signature

GeoTechnologies, Inc.

Geotechnical and Construction Materials Testing Services

In-Place Density Test Results

Project Info: Weaver's Pond - Phase 6 / Zebulon, NC
Client: Weavers Pond Development Company, LLC

Report Date: February 05, 2021
Project No: 1200284CA
Client Job No:

Test		In-Place Density Test				Reference Standard			Compaction		Location	Elevation or Stone Depth
#	Date	Type	Wet Density	Dry Density	Moisture Content	Type	MDD	Optimum Moisture Content	Percent Specified	Percent In-Place		
91	10/02/2020	D-1556	150.6	144.1	4.5	D-1557	138.1	6.7	100	**100+**	38' north of edge of asphalt on blue iris way. Correlation	10"
92	10/02/2020	D-6938	149.2	145.7	2.6	D-1557	136.5	6.7	100	**100+**	338' north of edge of asphalt on blue iris way	10.5"
93	10/02/2020	D-6938	152.7	148.7	2.7	D-1557	138.1	6.7	100	**100+**	435' north of edge of asphalt on blue iris way. Culdesac #1	10.5
94	10/02/2020	D-6938	151.3	147.4	2.6	D-1557	138.1	6.7	100	**100+**	587' north of edge of asphalt on blue iris way. Culdesac #2	6.5
95	10/02/2020	D-6938	145.9	142.2	2.6	D-1557	136.1	6.7	100	**100+**	Nature trail off golden plum lane. 75' north of sidewalk edge	9.75
96	10/02/2020	D-6938	146.6	142.8	2.7	D-1557	138.1	6.7	100	**100+**	Nature trail off golden plum lane. 375' north of sidewalk edge	8"
97	10/02/2020	D-6938	150.6	146.1	3.1	D-1557	138.1	6.7	100	**100+**	Nature trail off golden plum lane. 675' north of sidewalk edge	7.75"
98	10/02/2020	D-6938	149.1	145.1	2.7	D-1557	138.1	6.7	100	**100+**	Nature trail off golden plum lane. 975' north of sidewalk edge	9.25"
99	10/02/2020	D-6938	146.9	142.4	3.2	D-1557	138.1	6.7	100	**100+**	Nature trail off golden plum lane. 1275' north of sidewalk edge	8.5"

* = Failed Specified Compaction and/or Moisture Content

All Test Locations and Elevations are approximate

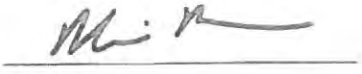
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References: D-8167: Standard Test Method for In-Place Density of Soil-Aggregates by a Low-Activity Nuclear Method. D-6938: Test Method for Density of Soil and Soil Aggregate in Place by Nuclear Method. D-1556: Test Method for Density and Unit Weight of Soil In Place by Sand Cone Method. D-2937: Test Method for Density of Soil In Place by Drive Cylinder Method. D-558: Moisture - Density Relations of Soil-Cement Mixtures. D-698: Laboratory Compaction Characteristics of Soil Using Standard Effort. D-1557: Laboratory Compaction Characteristics of Soil Using Modified Effort. D-2167: 08 Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber. D-4959: Test Method for Determination of Soil by Direct Heating

Distribution: David Berry

Michael K. Morton

Name (Technical Responsibility)



Signature

Approved as Submitted 3/4/24

ENGINEER CERTIFICATION STATEMENT
PUBLIC SANITARY SEWER

Project: Weavers Pond Phase 6
City of Raleigh Public Utilities Department Permit # S-4541

I, MIKE SCHNEIDER, AS A DULY REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF NORTH CAROLINA, HAVING BEEN AUTHORIZED TO OBSERVE (X PERIODICALLY, ___ WEEKLY, ___ FULL TIME) THE CONSTRUCTION OF THE PROJECT, Weavers Pond Phase 6, HEREBY STATE THAT, TO THE BEST OF MY ABILITIES, DUE CARE AND DILIGENCE WAS USED IN THE OBSERVATION OF THE CONSTRUCTION SUCH THAT BY MY INSPECTION OF THE CONSTRUCTED IMPROVEMENTS AND MY REVIEW OF THE AS-BUILT SURVEY DATA, I HEREBY CERTIFY THAT THE (1)PUBLIC IMPROVEMENTS, (2) PRIVATE IMPROVEMENTS, AND (3) PUBLIC SAFETY OF THE ABOVE REFERENCED PROJECT AS CONSTRUCTED ARE IN COMPLIANCE WITH THE REQUIREMENTS OF THE IMPROVEMENTS AS PRESCRIBED IN THE APPROVED CONSTRUCTION DRAWINGS, APPROVED DESIGN DOCUMENTS, AND/OR ANY APPROVED MODIFICATIONS, EXCEPT AS NOTED IN RED ON THE "AS-BUILT" DRAWINGS. FURTHERMORE, I CERTIFY THAT THE RED-NOTED EXCEPTIONS DO NOT ADVERSELY AFFECT THE REQUIRED PERFORMANCE OR PUBLIC SAFETY ASPECTS OF THE IMPROVEMENTS.

NAME: Mike Schneider DATE: 01/19/2024



Approved
As
Submitted
3/4/21

ENGINEER CERTIFICATION STATEMENT
PUBLIC WATER

Project: Weavers Pond Phase 6
City of Raleigh Public Utilities Department Permit #: W-3626

I, MIKE SCHNEIDER, AS A DULY REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF NORTH CAROLINA, HAVING BEEN AUTHORIZED TO OBSERVE (X PERIODICALLY, ___ WEEKLY, ___ FULL TIME) THE CONSTRUCTION OF THE PROJECT, Weavers Pond Phase 6, HEREBY STATE THAT, TO THE BEST OF MY ABILITIES, DUE CARE AND DILIGENCE WAS USED IN THE OBSERVATION OF THE CONSTRUCTION SUCH THAT BY MY INSPECTION OF THE CONSTRUCTED IMPROVEMENTS AND MY REVIEW OF THE AS-BUILT SURVEY DATA, I HEREBY CERTIFY THAT THE (1)PUBLIC IMPROVEMENTS, (2) PRIVATE IMPROVEMENTS, AND (3) PUBLIC SAFETY OF THE ABOVE REFERENCED PROJECT AS CONSTRUCTED ARE IN COMPLIANCE WITH THE REQUIREMENTS OF THE IMPROVEMENTS AS PRESCRIBED IN THE APPROVED CONSTRUCTION DRAWINGS, APPROVED DESIGN DOCUMENTS, AND/OR ANY APPROVED MODIFICATIONS, EXCEPT AS NOTED IN RED ON THE "AS-BUILT" DRAWINGS. FURTHERMORE, I CERTIFY THAT THE RED-NOTED EXCEPTIONS DO NOT ADVERSELY AFFECT THE REQUIRED PERFORMANCE OR PUBLIC SAFETY ASPECTS OF THE IMPROVEMENTS.

NAME: Mike Schneider DATE: 01/19/21

NORTH CAROLINA PROFESSIONAL SEAL 030856 ENGINEER MICHAEL L. SCHNEIDER
01/19/21

PLD Piedmont Land Design, LLP
8522-204 Six Forks Road • Raleigh, NC 27615 • (919) 845-7600 • Fax: (919) 845-7703

3/4/21

Engineer's Certified Statement of Cost of Utilities Installed

The City of Raleigh has asked for a certified statement as to the quantities and cost of public utilities that have been installed for;

Weavers Pond Phase 6

Public Sewer

395 lf 8" PVC @ $25.00/lf = $ 7,375

161 lf 8" DIP @ $32.00/lf = $ 5,152

Public Water

610 lf 8" DIP @ $30.00/lf = $ 18,300

21 lf 6" DIP @ $26.00/lf = $ 546

Grand total

$12,527 Public water

$18,846 Public sewer

$31,373 Total

Signature _____ Registration No. 030856

Date: 1/21/2021

NORTH CAROLINA PROFESSIONAL SEAL 030856 ENGINEER MICHAEL L. SCHNEIDER

Approved As Submitted 3/4/21

LIEN WAIVER AND RELEASE

I, the undersigned, am a general contractor, subcontractor, materialman, or other person furnishing services or labor or materials pursuant to any and all contract(s) with **Weavers Pond Development Co., LLC,** as indicated by my respective signature below, in the construction or repair of improvements upon real estate owned by **Weavers Pond Development Co. LLC,** and described as follows:

All work related to the installation of water and sewer infrastructure located within Weavers Pond Subdivision Phase 6 as shown on construction plans prepared by Piedmont Land Design, LLP dated Revised July 10, 2019.

In consideration of the sum of $1.00 to me in hand paid, receipt whereof is hereby acknowledged, and other benefits accruing to me, and acknowledging that I have been fully paid under said contract(s) with respect to any work done on, or materials furnished to, the above described land and improvements and intending to be legally bound hereby, I do hereby waive, release and quit-claim all right that I may now or hereafter have to a lien upon the land and improvements above described; and I do further warrant that I have not and will not assign my claims for payment, nor my right to perfect a lien against said property, and that I have the right to execute this waiver and release thereof.

I respectively warrant that all laborers employed by me upon the aforesaid premises have been fully paid and that none of such laborers have any claim, demand, or lien against said premises.

It is understood and agreed that my signature hereto is for all services rendered, work done and material furnished heretofore by the signer in any and all capacities.

Witness the following signature and seal this 4th day of February, 2021.

Contractor/Subcontractor/~~Materialman~~

(Signature)

Name:

Title:

Company: **Weavers Pond Development Company, LLC**

State of NC; County/City of Wake;

Subscribed and sworn to before me this 4th day of February, 2021.

Notary Public

My Commission Expires: 8/23/2025

SHANNON HOWELL
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires 8/23/2025

Subdivision: Weavers Pond Phase 6

Approved As Submitted 3/4/21

LIEN WAIVER AND RELEASE

I, the undersigned, am a general contractor, subcontractor, materialman, or other person furnishing services or labor or materials pursuant to any and all contract(s) with **Weavers Pond Development Co., LLC,** as indicated by my respective signature below, in the construction or repair of improvements upon real estate owned by **Weavers Pond Development Co. LLC,** and described as follows:

All work related to the installation of roadway and stormwater infrastructure located within Weavers Pond Subdivision Phase 6 as shown on construction plans prepared by Piedmont Land Design, LLP dated Revised July 10, 2019.

In consideration of the sum of $1.00 to me in hand paid, receipt whereof is hereby acknowledged, and other benefits accruing to me, and acknowledging that I have been fully paid under said contract(s) with respect to any work done on, or materials furnished to, the above described land and improvements and intending to be legally bound hereby, I do hereby waive, release and quit-claim all right that I may now or hereafter have to a lien upon the land and improvements above described; and I do further warrant that I have not and will not assign my claims for payment, nor my right to perfect a lien against said property, and that I have the right to execute this waiver and release thereof.

I respectively warrant that all laborers employed by me upon the aforesaid premises have been fully paid and that none of such laborers have any claim, demand, or lien against said premises.

It is understood and agreed that my signature hereto is for all services rendered, work done and material furnished heretofore by the signer in any and all capacities.

Witness the following signature and seal this 19TH day of January, 2021.

Contractor/Subcontractor/Materialman

_____ (Signature)

Name: Erik West

Title: Manager

Company: **Cardinal Civil Contractors**

State of NC ; County/City of Wake ;

Subscribed and sworn to before me this 19 day of Jan, 2021.

Annalee Richardson
Notary Public

My Commission Expires: 9/7/21

ANNALEE RICHARDSON
Notary Public
North Carolina
Wake County

Subdivision: Weavers Pond Phase 6

DUKE ENERGY. PROGRESS

INVOICE

Email sent to customer on 12/14/2020

Invoice:	N3880481402
Invoice Date:	12/12/2020
Page:	1 of 1

Bill to: WEAVERS POND DEVELOPMENT
WEAVERS POND DEVELOPMENT
4020 WAKE FOREST RD SUITE 102F
DAVID BERRY
RALEIGH NC 27609

Customer ID:	000177360
PO / Contract No:	
Payment Terms:	Net 30
Due Date:	1/11/2021
Amount Due:	**$4,459.76**

Invoice for work or services performed at: BLUE IRIS WAY ZEBULON NC
WEAVERS POND

For questions about your invoice, please contact Rob Richard at 919/278-2534

Line	Date of Charge	Description	Net Amount
1	12/11/2020		$291.76
		NC SALES TAX	
2	12/11/2020	UL UG for Lighting	$4,168.00
		UNDERGROUND CHARGE FOR (8) POLES	
		Amount Due:	**$4,459.76**

3/4/21

To pay electronically, please allow 24 hours from the time this invoice is received and use website https://www.e-billexpress.com/ebpp/DukeEnergy. Enter your customer ID and billing zip code from above.

TO AVOID SERVICE INTERRUPTION, PLEASE DO NOT SEND MONTHLY UTILITY ACCOUNT PAYMENTS TO THIS ADDRESS

i Please detach and return with your payment. Please indicate invoice number on check. i

Payment Coupon

Please make check payable to:

Duke Energy Progress
PO Box 602874
Charlotte NC 28260-2874

ACH Instructions:

Wells Fargo - Progress
121000248
Duke Energy Progress
002062660000020

Invoice Number:	N3880481402
Corporation Code:	50126
Please Pay By:	1/11/2021
Customer ID:	000177360
Total Amount Due:	**$4,459.76**

Fed Tax ID # 56-2155481

WEAVERS POND DEVELOPMENT
WEAVERS POND DEVELOPMENT
4020 WAKE FOREST RD SUITE 102F
DAVID BERRY
RALEIGH NC 27609

Amount Enclosed

DUKE ENERGY. PROGRESS

1814333838303438313430320000900004459768

WEAVERS POND DEVELOPMENT CO LLC
9407 BARTONS CREEK ROAD
RALEIGH, NC 27615

NORTH STATE BANK
RALEIGH NC 27609

5399

DATE 12/16/2020

PAY TO THE ORDER OF Duke Progress Energy

$ **4,459.76

Four Thousand Four Hundred Fifty-Nine and 76/100********** DOLLARS

Duke Progress Energy

MEMO N3880481402 - Ph 6 streetlights

WEAVERS POND DEVELOPMENT CO LLC

5399

Duke Progress Energy		12/16/2020	
Phase 6 Lots:Street Improvements	N3880481402 - Ph 6 streetlights		4,459.76

Checking	N3880481402 - Ph 6 streetlights	4,459.76

TOWN OF ZEBULON PLANNING DEPARTMENT

1003 N. Arendell Avenue
Zebulon, NC 27597
(919) 269-7455
(919) 269-6200 (fax)
www.townofzebulon.org

Date: 2/15/2020
Prepared by: MB3
Invoice No. : 2021-0542

INVOICE

Qty	Description	Unit Price	Total
	Zoning Fees		
	Code 40		$ -
	Case Fees		
	Code 40 Planning		$ 510.00
	Inspection Fees		
	Code 46 Roadway		$ 1,604.00
	Code 77 Storm		$ 598.00
	Code 99 Greenway		$ 1,470.00
			$3672

PAID

FEB 15 2021

RC -> Chk# 5476

Make Check Payable to: Town of Zebulon

Detailed Fee Calculations Available Upon Request

Building Permit: N/A
Applicant/Owner: Weavers Pond, LLC
Contact Number: 0
Development/Subdivision: Weavers Pond
Lot Number: Phase 6
Physical Address: 0
PIN: 0

SubTotal	$	4,182.00
Shipping & Handling		
Taxes		
TOTAL	$	4,182.00

City Of Raleigh
NORTH CAROLINA

Public Utilities Department

Notification of Conditional Acceptance

for Water and Wastewater Infrastructure

Project Name: WEAVERS POND

Project Phase: 6

Permit Number(s): W- 3626

S - 4541

The City of Raleigh Public Utilities Department has completed field inspections and testing on the water and/or wastewater infrastructure associated with the development project/phase referenced above. Installation meets CORPUD specifications and the infrastructure is available for use. This preliminary acceptance is conditional on a final review of digital as-built data, project records and other submitted documentation. Formal notification of acceptance is pending and will be provided on successful completion of the conditional review.

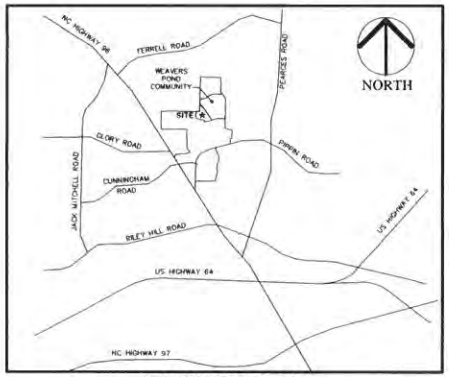
Inspector Name: MICHAEL R. FOWLER

Date: 2 - 05 = 2021

Notes:

FINAL ACCEPTANCE LETTER TO FOLLOW

General Acceptance Notes: City of Raleigh Public Utility Department (CORPUD) acceptance occurs after water and sewer infrastructure in an approved phase is installed, inspected/tested and the required supporting documentation has been received. Phases of construction must extend from and/or connect to existing (or concurrently accepted) infrastructure to be considered for acceptance. Acceptance boundaries are defined by the limits identified in the CORPUD approved utility phasing plan(s). Acceptance of unapproved sub-phases and/or partially complete phases will not be considered. Additional information can be found in the CORPUD Handbook at



VICINITY MAP NTS

AS-BUILT POINT TABLE

DESCRIPTION	NORTHING	EASTING	ELEVATION
WV1	769044.11	2197823.14	353.75
WV2	769217.85	2197304.32	353.24
MV546	768851.06	2197869.48	351.42
MV547	768902.43	2197876.64	352.75
MV548	768956.16	2197871.73	352.97
MV549	769009.85	2197856.37	353.89
MV550	769086.55	2197804.46	354.68
MV551	769144.95	2197770.04	355.05
MV552	769187.70	2197743.87	354.89
MV553	769248.75	2197732.19	355.21
MV554	769326.62	2197717.89	353.40
MV555	769238.48	2197631.65	353.71
MV556	769242.86	2197573.70	353.04
MV557	769251.64	2197527.03	352.84
MV558	769223.41	2197498.19	353.40
MV559	769182.25	2197491.83	353.93
MV560	769149.84	2197537.69	353.06
MV561	769150.74	2197705.67	354.50
MV562	769120.87	2197725.59	355.03
MV563	769077.80	2197782.30	354.80
MV564	768969.65	2197818.34	353.52
WM548	768850.64	2197871.21	351.44
WM547	768902.50	2197878.20	352.82
WM548	768956.36	2197873.75	352.98
WM549	769010.34	2197858.44	353.70
WM550	769097.48	2197800.95	354.78
WM551	769146.02	2197771.54	355.11
WM552	769188.19	2197745.75	354.88
WM553	769249.55	2197733.63	355.38
WM554	769285.40	2197719.10	355.35
WM555	769240.82	2197830.79	353.81
WM556	769244.41	2197573.91	353.09
WM557	769253.10	2197526.84	352.69
WM558	769222.90	2197494.15	353.04
WM559	769181.19	2197490.77	353.91
WM560	769147.80	2197537.39	353.02
WM561	769149.90	2197704.25	354.67
WM562	769120.19	2197725.26	354.99
WM563	769071.42	2197760.68	354.76
WM564	768969.83	2197818.69	353.52
SSCO548	768948.60	2197869.19	351.47
SSCO547	768896.91	2197878.63	353.17
SSCO546	768852.45	2197873.14	353.05
SSCO549	769007.16	2197858.37	353.85
SSCO550	769094.00	2197807.02	354.73
SSCO551	769142.80	2197772.58	355.13
SSCO552	769185.41	2197744.86	355.38
SSCO553	769246.98	2197735.07	355.59
SSCO554	769283.71	2197720.48	355.64
SSCO555	769242.17	2197633.91	354.47
SSCO556	769242.35	2197577.21	353.59
SSCO557	769253.09	2197531.75	353.25
SSCO558	769228.55	2197495.37	353.85
SSCO559	769178.52	2197493.50	354.20
SSCO560	769149.04	2197533.38	353.32
SSCO561	769149.08	2197708.32	354.73
SSCO562	769118.89	2197730.01	355.50
SSCO563	769069.92	2197784.61	354.87
SSCO564	768967.17	2197818.77	353.39
WFH1	769048.43	2197827.98	356.53
WFH2	769219.72	2197494.15	355.89
EX. SSMH	768843.96	2197835.60	350.54
SSMH1	768938.16	2197849.26	352.61
SSMH2	769030.19	2197814.18	353.96
SSMH3	769208.89	2197691.46	355.01
SSMH4	769192.48	2197526.49	353.37
SSMHTV1	768841.74	2197535.85	350.54
SSMHTV1	768935.91	2197849.59	352.61
SSMHTV2	769028.16	2197814.09	353.86
SSMHTV4	769192.89	2197528.68	353.31
SSMHTV3	769207.94	2197683.05	355.10

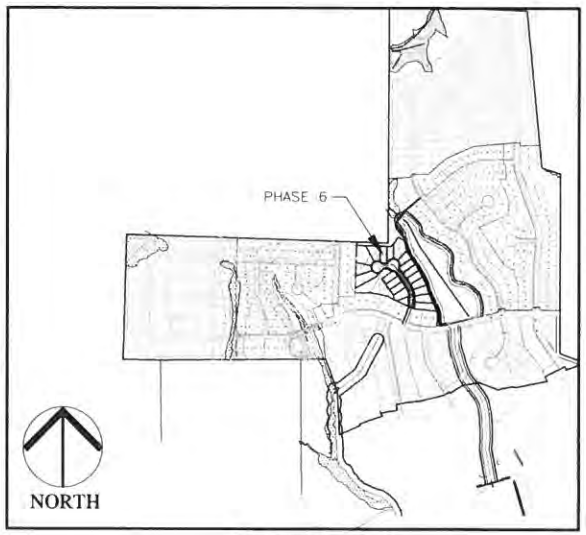
NOTES:
1. THESE PLANS HAVE BEEN PREPARED FROM "AS-BUILT" SURVEY INFORMATION PROVIDED TO PIEDMONT LAND DESIGN, LLP BY NEWCOMB LAND SURVEYORS, PLLC AND IS TIED TO THE NC GRID COORDINATE SYSTEM (NAD1983 STATE PLANE) AND VERTICAL DATUM NAVD88.
2. SANITARY SEWER AND WATER LINE DEPICTED IN THIS AS-BUILT PLAN ARE PUBLIC.
3. SEWER AND WATER INSTALL DATE: NOVEMBER 2020
4. CLOSEST GEODETIC MONUMENT: N.C.G.S. "HOPKINS" N.C. GRID COORDS: NAD 83 (1986)–NAVD 88 N=769,149.84 E=2,194,518.08

ABBREVIATIONS:
BOA = BLOW OFF ASSEMBLY
SSCO = SANITARY SEWER CLEANOUT
SSMH = SANITARY SEWER MANHOLE
WFH = WATER FIRE HYDRANT
WM = WATER METER
WV = WATER VALVE
MV = METER VALVE (CURB STOP)
SSMHTV = TRACER WIRE TEST STATION

WEAVERS POND PHASE 6

AS-BUILT PLANS

ZEBULON, NORTH CAROLINA
WAKE COUNTY



VICINITY MAP
SCALE: 1" = 500'

SUBDIVISION PLAN INFORMATION

1.	DEVELOPMENT NAME:	WEAVERS POND PHASE 6
2.	WAKE COUNTY P.I.N.#:	1797801332
3.	TOTAL NUMBER OF LOTS:	18 SINGLE FAMILY LOTS; 2 OPEN SPACE LOTS
4.	TRACT AREA:	10.78 AC
5.	ZONING:	R-13 CONSERVATION SUBDIVISION SPECIAL USE PERMIT GRANTED (SU 2013-13)
6.	INSIDE TOWN LIMITS:	YES
7.	WATERSHED:	NEUSE RIVER BASIN
8.	LENGTH OF SIDEWALK:	450 LF
9.	LENGTH OF STREETS:	620 LF
10.	FEMA INFORMATION:	THE SITE IS NOT WITHIN A FEMA FLOOD ZONE PER MAP # 3720179600J, PANEL 1798, EFFECTIVE DATE 05/02/06
11.	OWNER/DEVELOPER:	WEAVERS POND DEVELOPMENT CO., LLC 8007 CADENCES DRIVE RALEIGH, NC 27615 (919)504-1928 (PHONE) ATTN: DAVID BERRY
12.	CONTACT PERSON:	PIEDMONT LAND DESIGN, LLP c/o MIKE SCHNEIDER 8522-204 SIX FORKS ROAD RALEIGH, NORTH CAROLINA 27615 (919) 845-7600 (PHONE) (919) 845-7703 (FAX) MikeS@piedmontlanddesign.com (E-MAIL)

BUILDING SETBACKS

FRONT YARD: 20'
SIDE YARD: 5'
CORNER: 15'
REAR YARD: 20'

DRAWING INDEX

AB 1	COVER SHEET
AB 4	GRADING AND DRAINAGE PLAN
AB 5	UTILITY PLAN
AB 7	BLUE IRIS WAY PLAN AND PROFILE
AB 8	GREENWAY PLAN & PROFILE

PUBLIC WATER QUANTITIES

SIZE	LENGTH
8" DIP	618 LF
6" DIP	21 LF

PUBLIC STREET QUANTITIES

STREET	LENGTH
BLUE IRIS WAY	620 LF

PUBLIC SEWER QUANTITIES

SIZE	LENGTH
8" DIP	151 LF
8" PVC	395 LF
TOTAL	556 LF

Public
Water Distribution / Extension System

The City of Raleigh consents to the connection and extension of the City's public water system as shown on this plan. The material and construction methods used for this project shall conform to the standards and specifications of the City's Public Utilities Handbook.

City of Raleigh
Public Utilities Department Permit # A1-Mains

Authorization to Construct: A1

Date: 7/27/19

Public
Sewer Collection / Extension System

The City of Raleigh consents to the connection and extension of the City's public sewer system as shown on this plan. The material and Construction methods used for this project shall conform to the standards and specifications of the City's Public Utilities Handbook.

City of Raleigh
Public Utilities Department Permit # S-5454

Authorization to Construct: A1

Date: 7/27/19

AS BUILT

NOTE: THESE PLANS HAVE BEEN PREPARED FROM "AS-BUILT" SURVEY INFORMATION PROVIDED TO PIEDMONT LAND DESIGN, LLP BY NEWCOMB LAND SURVEYORS, PLLC AND IS TIED TO THE NC GRID COORDINATE SYSTEM (NAD1983 STATE PLANE) AND VERTICAL DATUM NAVD88.

THE AS-BUILT INFORMATION ON THESE PLANS IS LIMITED TO THE SANITARY SEWER, WATER MAINS AND STORM DRAINAGE. REFER TO DWG. AB 1 FOR MANHOLE, CLEANOUT AND VALVE COORDINATES.

SANITARY SEWER AND WATER MAINS DEPICTED IN THIS AS-BUILT PLAN ARE PUBLIC SANITARY SEWER AND PUBLIC WATER MAINS.

PIEDMONT LAND DESIGN LLP
8522-204 SIX FORKS ROAD
RALEIGH, NORTH CAROLINA 27615
919.845.7600 PHONE
919.845.7703 FAX\
FIRM # F-0843

01/05/2021

WEAVERS POND - PHASE 6
AS-BUILT PLANS
ZEBULON, NORTH CAROLINA

ISSUED: 5 JAN 2021

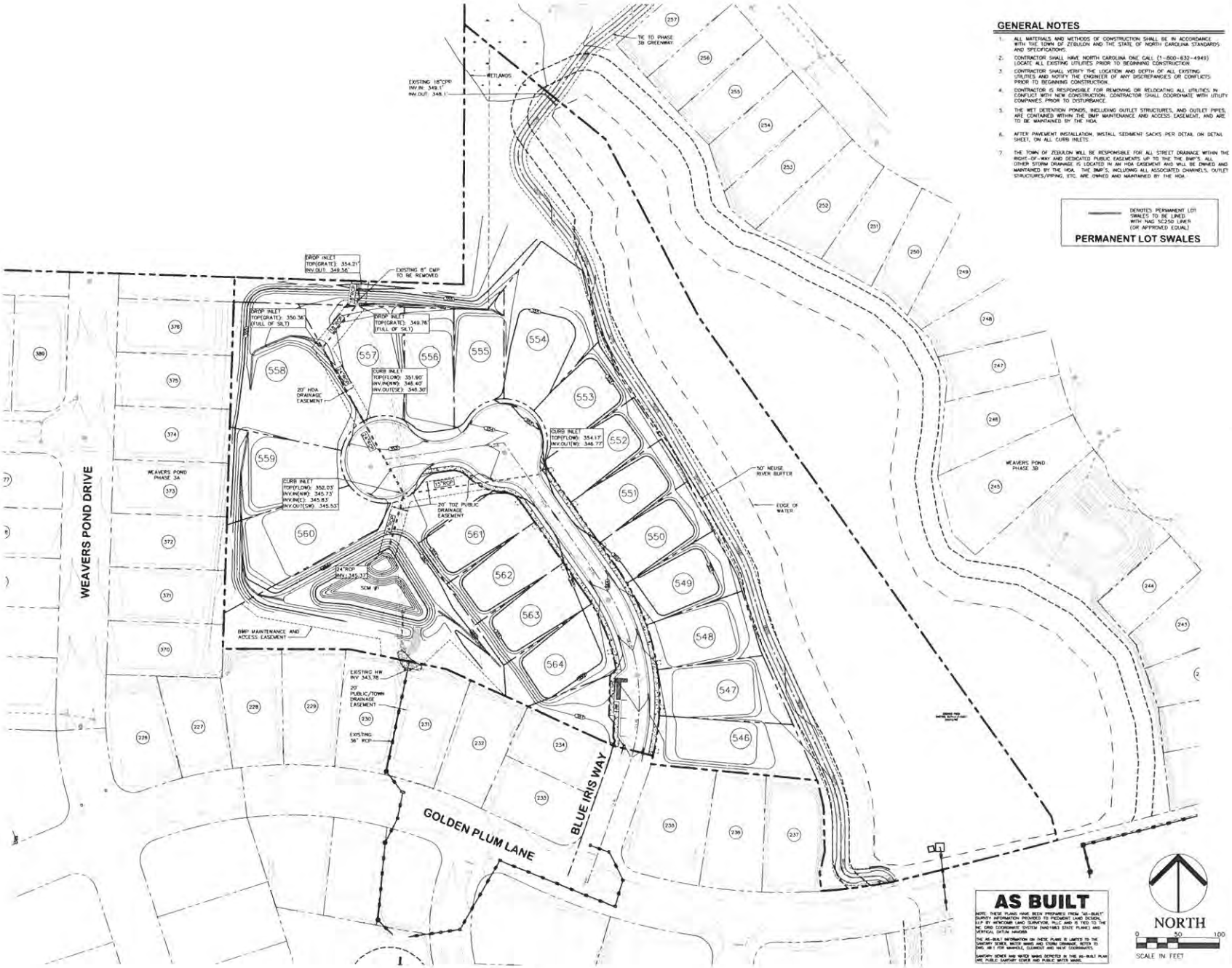
REVISIONS:

DRAWN BY: JET
CHECKED BY: MLS

PROJECT: FDCWP6

COVER SHEET

DWG. NO. AB 1



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FIRM # P-0843

01/05/2021

WEAVERS POND - PHASE 6 AS-BUILT PLANS

ZEBULON, NORTH CAROLINA

ISSUED: 5 JAN 2021

REVISIONS:

DRAWN BY: JET
CHECKED BY: MLS

PROJECT: FDCWP6

GRADING AND DRAINAGE PLAN

DWG. NO. AB 4



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FIRM # F-0843

WEAVERS POND - PHASE 6
AS-BUILT PLANS

ZEBULON, NORTH CAROLINA

ISSUED: 5 JAN 2021

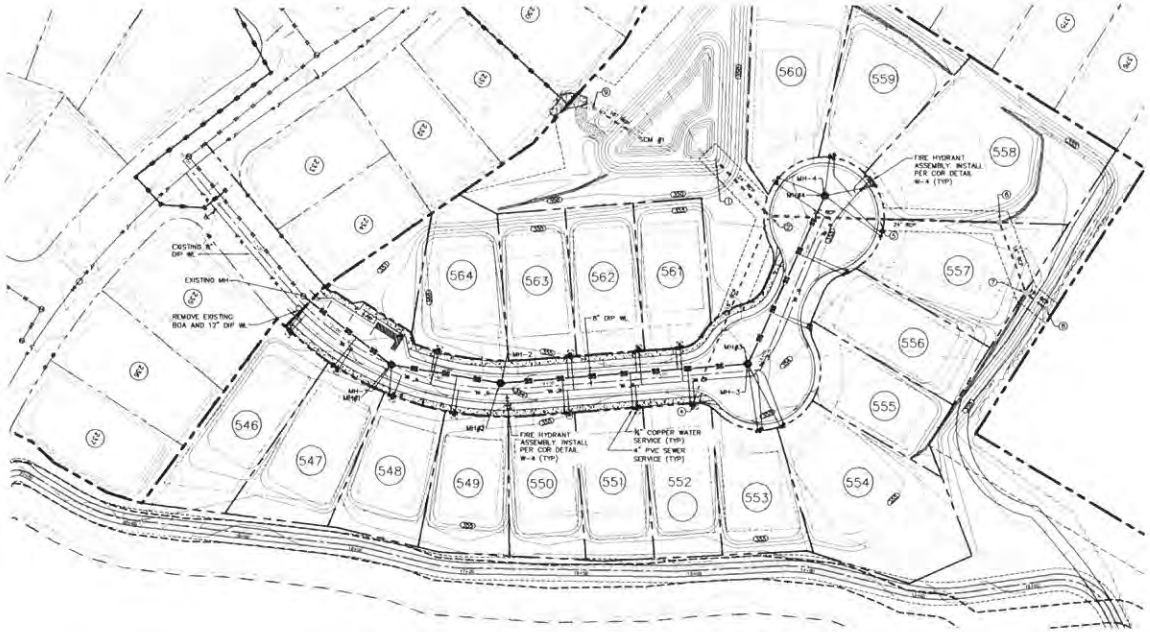
REVISIONS:

DRAWN BY: JET
CHECKED BY MLS

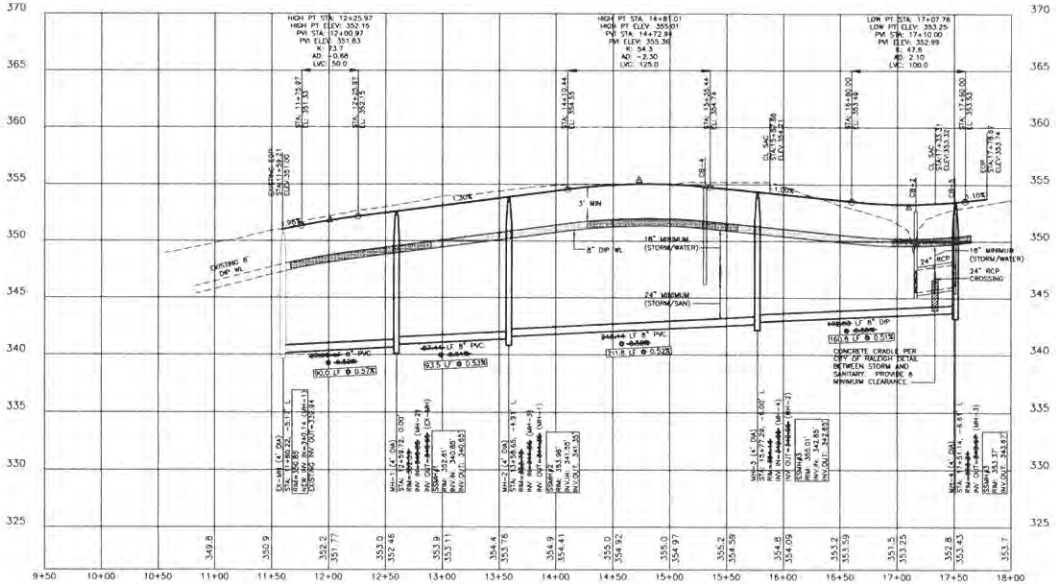
PROJECT: FDCWP6

UTILITY PLAN

DWG. NO. AB 5



BLUE IRIS WAY



AS BUILT

WHITE, THESE PLANS HAVE BEEN PREPARED FROM "AS-BUILT" SURVEY INFORMATION PROVIDED TO PIEDMONT LAND DESIGN, LLP BY KENCHARK LAND SURVEYOR, PLLC AND IS TIED TO THE NC STATE COORDINATE SYSTEM (NAD1983 STATE PLANE) AND VERTICAL DATUM (NAVD88).

THE AS-BUILT INFORMATION ON THESE PLANS IS LIMITED TO THE SANITARY SEWER, WATER MAIN AND STORM DRAINAGE. REFER TO DWG. AB-1 FOR MANHOLE, CLEANOUT AND VALVE COORDINATES.

SANITARY SEWER AND WATER MAINS DEPICTED IN THIS AS-BUILT PLAN ARE PUBLIC SANITARY SEWER AND PUBLIC WATER MAINS.

NORTH

0 50 100
SCALE IN FEET

PIEDMONT LAND DESIGN LLP
8522-204 SIX FORKS ROAD
RALEIGH, NORTH CAROLINA 27615
919.845.7600 PHONE
919.845.7703 FAX\
FIRM # P-0843

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 037722 MICHAEL L. SCHUCKER
01/05/2021

WEAVERS POND - PHASE 6
AS-BUILT PLANS

ZEBULON, NORTH CAROLINA

ISSUED: 5 JAN 2021

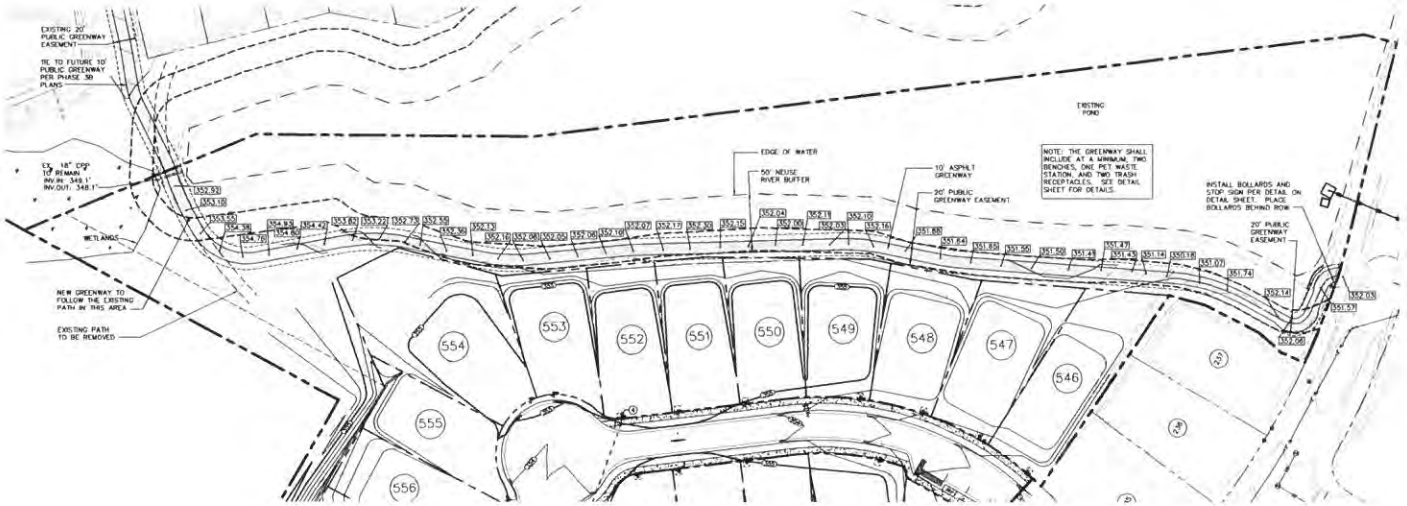
REVISIONS:

DRAWN BY: JET
CHECKED BY: ML5

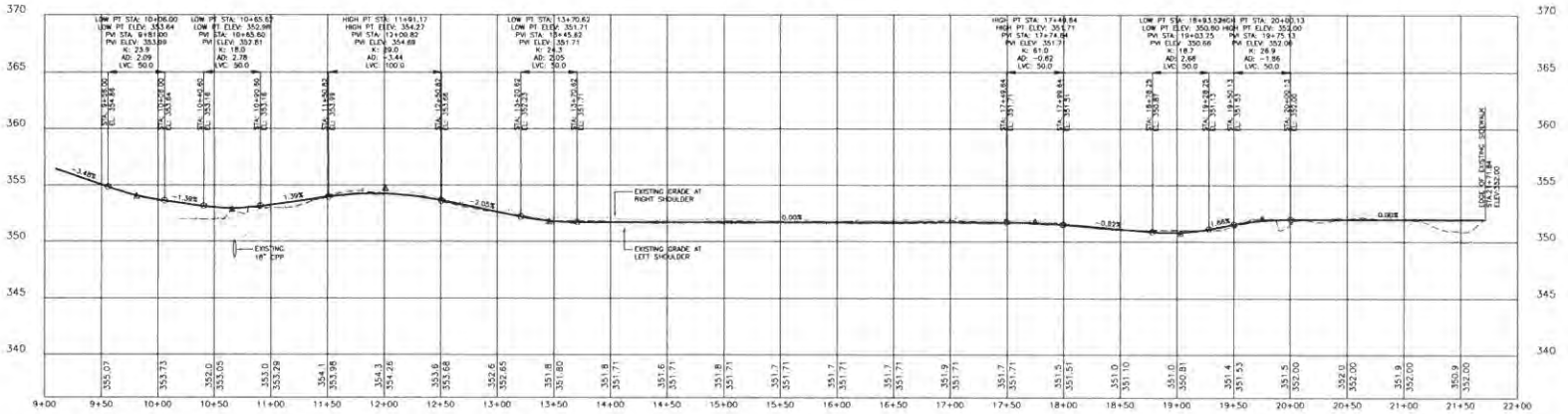
PROJECT: FDCWP6

BLUE IRIS WAY PLAN & PROFILE

DWG. NO. **AB 7**



GREENWAY



AS BUILT

NOTE: THESE PLANS HAVE BEEN PREPARED FROM "AS-BUILT" SURVEY INFORMATION PROVIDED TO PIEDMONT LAND DESIGN, LLP BY HEMCOMM LAND SURVEYOR, PLLC AND IS TIED TO THE NC GRID COORDINATE SYSTEM (NAD1983 STATE PLANE) AND VERTICAL DATUM (NAVD88).

THE AS-BUILT INFORMATION ON THESE PLANS IS LIMITED TO THE SANITARY SEWER, WATER MAIN AND STORM DRAINAGE. REFER TO DWG. AB1 FOR MANHOLE, CLEANOUT AND VALVE COORDINATES.

SANITARY SEWER AND WATER MAINS DEPICTED BY THIS AS-BUILT PLAN ARE PUBLIC SANITARY SEWER AND PUBLIC WATER MAINS.

NORTH

0 50 100
SCALE IN FEET

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919.845.7600 PHONE
919.845.7703 FAX\
FIRM # F-0843

01/05/2021

WEAVERS POND - PHASE 6

ZEBULON, NORTH CAROLINA

ISSUED: 5 JAN 2021

REVISIONS:

DRAWN BY: JET
CHECKED BY: MLS

PROJECT: FDCWP6

GREENWAY PLAN & PROFILE

DWG. NO. **AB 8**

RESOLUTION 2021-07
ACCEPTING ROADWAY AND STORM DRAINAGE INFRASTRUCTURE FOR WEAVERS PHASE 6

WHEREAS, Weavers Pond Development Company LLC, the developers of Weavers Pond Subdivision Phase 6, has requested the Town of Zebulon to assume ownership and maintenance of the roadway and storm drainage infrastructure within public right-of-way or dedicated easements of Weavers Pond Subdivision Phase 6, 574 LF Blue Iris Way, 3,770 LF of drainage infrastructure and 1,354 LF of 10' asphalt Greenway.

WHEREAS, the Town of Zebulon has inspected said infrastructure; and

WHEREAS, the Weavers Pond Development Co, LLC has completed all punch list tasks; and

WHEREAS, the Town of Zebulon has received all required documentation needed for Dedication and Warranty; and

WHEREAS, the Town of Zebulon has received a letter of credit from North State Bank for completion of final asphalt roadway overlay, 5' sidewalk, handicap ramps, stormwater pond conversion, greenway amenities and mail kiosk; and

WHEREAS, the Town of Zebulon may accept offer of dedication of streets, sidewalks, curb and gutter and storm drainage by resolution of the Board of Commissioners per Town of Zebulon Uniform Development Ordinance section 6.10.4 and 6.4.1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Zebulon accepts dedication of aforementioned Roadway, Storm Drainage Infrastructure and Greenway as described in attached documents effective April 12, 2021.

Adopted this 12th day of April 2021.

_____
Robert S. Matheny—Mayor

SEAL

_____
Lisa M. Markland, CMC—Town Clerk