Staff Report for Town Council

Meeting Date: July 18, 2019

19-A-05 Hoke and Said Annexation
Purpose: Conduct public hearing and consider action on requested annexation.

Prepared by: Gillian White, Planning and Development Services

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owner of property located at 7905 and 7913 Emery Gayle Lane and the owner of property located at 8605 Broderick Place (approximately 1,200 feet west of the Green Level West Road and Emery Gayle Lane intersection) have petitioned for annexation. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request. Staff has concerns regarding the feasibility of providing solid waste services to the two lots off Emery Gayle Lane, a private easement access driveway.

Associated Case(s): None.

Recommendation: That Council conduct a public hearing and consider action on the requested annexation.

The petition and proposed annexation ordinance that Council will review at this meeting are attached.

Background:

Owners of property located outside of the corporate limits of the Town that desire to develop using Town utilities or that otherwise desire to be located in the corporate limits must first petition to be annexed, pursuant to the requirements of either NCGS Chapter 160A, Article 4, Part 1, when their property is contiguous to the corporate limits, or to NCGS Chapter 160A, Article 4, Part 4, when their property is not contiguous to the corporate limits. In either case, Council must conduct a public hearing on the annexation request prior to taking action. At the public hearing on a request for contiguous annexation, such as this, the owner may speak and allege that the petition contains an error, and any town resident may speak and question the necessity for the annexation. Council has the discretion to consider whether the town should annex the area.

Once property is annexed, the property and its citizens become subject to all the laws, ordinances, and regulations of the Town and are entitled to receive the services the Town provides its citizens (fire and police protection; solid waste; utilities; etc). If the annexed property is located in an area served by a rural fire department, the Town may also be required to assume a proportionate share of any debt related to equipment or facilities of the rural fire department. If the property is located outside of the Town’s extraterritorial jurisdiction, the property owner must also submit a rezoning application in order to establish initial Town zoning designation upon annexation.

Discussion:
The owners of the following property filed an annexation petition with the Town on May 15, 2019.

<table>
<thead>
<tr>
<th>Property Owner(s) Address List</th>
<th>Property Location</th>
<th>Wake County Parcel Number (10-digit)</th>
<th>Wake County Real Estate ID</th>
<th>Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eric Hamilton Hoke 7905 Emery Gayle Lane Cary, NC 27519</td>
<td>7905 Emery Gayle Lane</td>
<td>0723792316</td>
<td>0138729</td>
<td>8.549</td>
</tr>
<tr>
<td>Eric Hamilton Hoke 7905 Emery Gayle Lane Cary, NC 27519</td>
<td>7913 Emery Gayle Lane</td>
<td>0723791821</td>
<td>0462307</td>
<td>3.1882</td>
</tr>
<tr>
<td>Bayan B. and Nawwaf Said 400 Riggsbee Farm Drive Cary, NC 27519</td>
<td>8605 Broderick Place</td>
<td>0723781974</td>
<td>0462308</td>
<td>2.3992</td>
</tr>
</tbody>
</table>

Adjacent Right-of-Way 0.0

Total Acres 14.136

**VICINITY MAP**

Click the map to see surrounding development activity.
This annexation petition includes three properties, all of which are in the Town’s extra-territorial jurisdiction (ETJ) and zoned Residential 40. Until October 2018, all three properties were part of the same parcel of land. In October, the property was subdivided via an “expedited” plat process created by the General Assembly in 2017. Under this new process, certain parcels of land greater than 5 acres in size may be divided into three total lots without having to comply with local subdivision regulations. In accordance with this law, the Town was required to approve this subdivision, which carved two new lots out of an existing 14.136-acre parcel, for a total of three lots.

The 8.549-acre lot (REID 0138729) is currently developed with a detached dwelling that contains a bed and breakfast business (The Hamilton Scot Inn) which was approved through a special use permit granted by the Town Council in March 2012. This lot and the 3.1882-acre lot (REID 0462307) are accessed off Emery Gayle Lane, which is a long gravel drive located in a private easement (see Figures 1 and 2). This owner desires to sell the smaller of the two lots, which is now vacant, for development with a single-family home. The owner of the 2.3992-acre lot accessed off Broderick Place (REID 0462308) also desires to build a residence. Broderick Place is a paved street located in the existing Saxonbury-Singh subdivision (see Figure 3). No rezoning or development plan approval is associated with this annexation. The properties must be annexed into the Town prior to connecting to utilities.

Figure 1. Looking West on Emery Gayle Lane
As part of evaluating an owner-initiated request for annexation, Town departments providing services to citizens are notified to determine if they will be able to provide the applicable services to the proposed annexation area. The Public Works Department initially expressed concern about providing solid waste services to the two lots accessed off Emery Gayle Lane (REIDs 0462307 and 0138729), and met with that property owner about accessibility issues for Town solid waste vehicles. In response to concerns about access, the property owner created a gravel turning area for vehicles on the larger of the two lots on Emery Gayle.
Lane (see Figure 4). While Public Works staff appreciates such prompt unilateral action and believes its vehicles will be able to turn around in that area provided, there are other concerns about service directly to these lots.

Figure 4. Vehicle Turning Area Constructed by Property Owner (Current Terminus – Emery Gayle Lane)

Emery Gayle Lane is not public right of way, but a private access easement extending over several private properties that was created by plat. The proposed gravel turn-around area appears to be located partially within the easement area, and partially on the 8.549-acre lot. It is not clear that Town solid waste vehicles would be entitled to use Emery Gayle Lane to access the two lots, or what rights the Town may have to use the newly created turn-around area. Also unclear is potential Town liability for damage to Emery Gayle Lane, and whether either Emery Gayle Lane or the turn-around are constructed to withstand the weight of the Town’s solid waste vehicles. For these reasons, staff recommends that Council consider the access issue and, should Council choose to annex the three lots, it be with the understanding that solid waste services for the two lots accessed off Emery Gayle Lane would be provided at Green Level Church Road (see Figure 5). This recommendation would not preclude the property owner(s) from working with staff to determine if there might be future service provided using Emery Gayle Lane.
Figure 5. Intersection of Green Level Church Road and Emery Gayle Lane (looking north)
As required by statute, the Town Clerk has certified that the petition is valid. On June 27, 2019, the Town Council adopted a Resolution calling for the public hearing to be held on July 18, 2019.

In addition to the details explained above, the following information may inform Council’s decisions on this matter.

**ZONING & PROPOSED USE:**

**Current Zoning:** Residential 40 (R-40)

**Acreage:** 14.136 plus 0.0 adjacent right of way = 14.136 total acres
Contiguous to Primary Corporate Limits: Yes; 49.7% contiguous (excluding satellite town limits)
Existing Use: Detached Residential (with bed and breakfast business) and vacant
Proposed Use: Detached Residential (connect to Town utilities)

**UTILITIES:**

<table>
<thead>
<tr>
<th>REID</th>
<th>Water</th>
<th>Sewer</th>
</tr>
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<tbody>
<tr>
<td>0138729</td>
<td>1,200 feet east (in Green Level Church Road)</td>
<td>200 feet south (requires easement)</td>
</tr>
<tr>
<td>0462307</td>
<td>1,300 feet east (in Green Level Church Road)</td>
<td>Adjacent to site</td>
</tr>
<tr>
<td>0462308</td>
<td>Adjacent to site</td>
<td>Adjacent to site</td>
</tr>
</tbody>
</table>

**DISTRICTS & TAX VALUE:**
Fire District: Morrisville Fire District
Voting District: A
Tax Value: $2,186,438

The ordinance that Council will consider for adoption at this meeting is attached.

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