

TOWN OF SMITHFIELD PLANNING BOARD AGENDA PACKET



Chairman: Eddie Foy

Vice-Chairman: Stephen Upton

Members:

Mark Lane

Jack Matthews

Ashley Spain

Gerald Joyner

Daniel Sanders

Teresa Daughtry

Paul Embler, Planning Director

Mark Helmer, Senior Planner

Meeting Date: ***Thursday, July 3, 2014***

Meeting Time: ***6:00 p.m.***

Meeting Place: ***Council Chambers, Smithfield Town Hall***

DRAFT
Smithfield Planning Board Minutes
Thursday, May 1, 2014
6:00 P.M., Town Hall, Council Room

Members Present:

Chairman-Eddie Foy
Vice-Chairman Stephen Upton
Daniel Sanders
Gerald Joyner
Mark Lane
Teresa Daughtry
Jack Matthews

Members Absent:

Gerald Joyner

Staff Present:

Mark Helmer, Senior Planner
Veronica Hardaway, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

APPROVAL OF MINUTES FROM APRIL 3, 2014.

Stephen Upton made a motion, seconded by Jack Matthews to approve the minutes as written. Unanimous.

Public Hearings:

After all persons giving testimony were duly sworn, Mr. Foy opened the public hearing.

CUP-14-03 Nitro Solar LLC:

Ashley Spain recused himself for this case.

Mr. Helmer stated the applicant is requesting a conditional use permit to operate a solar farm on a portion of an 87.37 acre tract of land located within an R-20A (Residential-Agricultural) zoning district. The property considered for approval is located on the east side of Yelverton Grove Road approximately 1500 feet south of its intersection with Ray Drive and further identified as Johnston County Tax ID# 15L11034.

Mr. Helmer stated the installation would include a 5 mega-watt, fixed tilt, photovoltaic solar farm with electrical power inverters, electrical transformers and buried conduit. The proposed facility will tie into Duke Energy power grid. There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use Permit to include flood plains or designated wetlands. The existing facility appears to be exempt from storm water retention and nitrogen offset payments at this time.

Mr. Helmer stated the proposed solar facility is considered a utility and permitted in all zoning districts with a Town of Smithfield Council approved Conditional Use Permit. The entire facility will be fenced and gated and a fifty foot landscape buffer outside of the fence line. Access to the site will be from Yelverton Grove Road. NCDOT driveway permits will be required. The property will be served by private well and septic if needed. The Strategic Growth Plan has identified this area as being suitable for low density residential and agricultural land uses. Public Utilities type uses are permitted in all zoning districts with an approved conditional use permit and will be subject to any reasonable condition that may be placed on the project. The existing and surrounding land uses are low density residential and agricultural in nature. It is unlikely that negative impacts on existing and future surroundings uses will occur providing the site is properly buffered in accordance with the Town of Smithfield Unified Development Regulations. Sign requirements will be minimal for the requested use. Duke Energy Progress will provide electric and the Town of Smithfield will provide fire protection.

Mr. Helmer stated the Planning Department recommends approval of the Conditional Use Permit for a solar farm providing a fifty foot landscape buffer with security fence is installed in accordance with any approved site plan prior to operation of the facility.

Mr. Foy asked the Planning Board if they had any questions for Mark Helmer.

Mark Lane asked if Mr. Helmer has received any opposition phone calls regarding this case.

Mr. Helmer stated he has received a few calls, but the Board should hear testimony of any opposition.

Daniel Sanders asked if there were any wetlands around the proposed area.

Mr. Helmer stated he was not aware of any wetlands.

Mr. Foy asked what the buffer will look like and if it will be adequate to protect surrounding properties.

Mr. Helmer stated that the 50ft landscape buffer around the security fence will be adequate to limit any negative impacts on adjacent properties.

Mr. Foy asked if anyone wanted to speak for or against the proposal.

Keith Colson, 4215 E. McDowell Rd, Mesa, Arizona, a representative with Sunlight Partners, LLC stated this is a 5 megawatt facility with interconnection approval from Duke Energy Progress. Our company is always looking to be good neighbors. The facility will not be able to be seen, heard, or emit an odor. The inverters on the solar panels have fans that make noise but the only way to hear that noise is when you are standing right next to it. Based on the noise table and distance factors, the nearest house is approximately in excess of 450ft which means you would have a very hard time hearing the fan. The inverters range from 72-85 decibels next to the exhaust which dissipates the farther away you are.

Teresa Daughtry asked if the solar farm will be utilizing all 87.37 acres of land.

Mr. Colson stated that they would only be leasing the portion inside the fence area which is approximately 21 acres.

Teresa Daughtry asked if the company will be looking to expand in the future.

Mr. Colson stated no they are not looking to expand. The reason they are not looking to expand is because there's a couple of rules that apply with NCUC and Duke Energy Progress and one of them is how much available capacity there is on the line. We as a company put in for 5 megawatts and the line can sustain 5 megawatts. The other thing is that if we were to go and do another one we would have to have another interconnection point and if it's the same owner, the next interconnection point would have to be ½ mile away. We as a company have no intention on expanding this whatsoever.

Teresa Daughtry stated there are three houses on the side and two houses on the corner of the projected solar farm and wanted to know approximately how close they were to the project.

Mr. Helmer stated that from the map the closest house is approximately 900ft from the northern most inverter.

Teresa Daughtry asked if the owners of those properties were sitting in their backyard, would they be able to hear the fans.

Mr. Colson stated they would not be able to hear anything and if they did they would install additional screening. He stated they have never had a complaint about inverter noise.

Teresa Daughtry asked the representative how the solar farm will affect the values of the surrounding properties as there is no comparison to Durham and Gilford Counties to Johnston County.

Mr. Foy asked Teresa Daughtry if she was referring to the land itself or to the neighbors.

Teresa responded she was asking in general because there is no way the surrounding land values can be compared to Durham and Gilford Counties.

Mr. Colson stated he would be happy to have an appraiser look specifically at this property and come back with the findings and how he felt the solar sight would affect the neighboring lands. The base logic is if there's a solar farm that we've already done work on it wasn't showing that there was depreciation in property value because of so much where it was located but more because of the external obsolescence factors involved with the solar farm in the absence of those. They are looking for smell, sound, and visual ugliness.

Mr. Foy stated it's understandable there are reasons why it could adversely affect property such as odor, noise, and appearance. However, if you can't see it, smell it, or hear it than there's not really a downside, but wants to make sure a good buffer is in place.

Mr. Colson stated the company is willing to fully comply with the ordinance and buffer requirements and are also willing to go beyond to make it so it's acceptable.

Teresa Daughtry asked if there is a maintenance contract for the facility.

Mr. Colson stated the entire facility will have an O&M, operations & maintenance, for both inside the facility and also the buffer.

Teresa Daughtry asked if the company will be using goats inside or any other animals.

Mr. Colson stated some people have tried that, they have not done that yet but are looking into it.

Teresa Daughtry asked how high the panels would be.

Mr. Colson stated the panels would not be higher than 12ft.

Teresa Daughtry asked what happens in the future if that land becomes part of the town.

Mr. Helmer stated that the land would be part of the town and the tax base.

Daniel Sanders asked if the facility would be maintained 24/7.

Mr. Colson stated there will be security system monitoring the site and from a maintenance stand point it will be maintained about twice per month.

Teresa Daughtry asked if the applicant were to have a lease for 20 years and at the end of the 20 years there's new technology, would the applicant be required to come back before the Board again.

Mr. Helmer stated any new changes to the site plan would require the applicant approval for a new conditional use permit.

Teresa Daughtry asked if the lease is not renewed what would the process be from the solar company.

Mr. Colson stated the company de-commissions the solar farm which includes digging up buried cables, pull plugs, and remove pads. This process is a money-making process due to all the scrap, wires, and panels.

Theresa Creech Parker stated her mother, Audrey Creech, owns property to the west of the solar farm project and would like to know who would be contracted for maintenance and how easy would it be to access them in case of emergencies.

Mr. Colson stated the maintenance is setup with a company called Sundurance, they are also the ones that will be installing the panels. They make themselves known to the surrounding neighbors.

Ms. Parker asked how many transformers will be in place.

Mr. Colson stated there will be three Cooper transformers.

Mr. Foy asked if the transformers make noise.

Mr. Colson stated they do not make noise.

Teresa Daughtry asked if the transformers were low or high power.

Mr. Colson stated they are responsible for increasing the voltage that's going to the lines on the street.

Ms. Parker asked if there will be any visible cables.

Mr. Colson stated that most of everything will be buried within the fence. Outside of the fence there will be three poles at the street going back toward the system.

Ms. Parker asked if there will be any visible lighting coming from the panels at night.

Mr. Colson stated no light will be emanated at night.

Teresa Daughtry asked how much affect has there been on property value in other states they have implemented the solar farm.

Mr. Colson stated they've never seen a decrease.

Mark Lane stated that since they are putting power back into the power grid, what happens when the power goes out.

Mr. Colson stated the line will be hot until Duke shuts it down but there's a lot of protection in there.

Teresa Daughtry asked if something were to be wrong with the power if it will affect the neighboring properties.

Mr. Colson stated that there would not be a problem and there are many tests that are conducted.

Mr. Foy stated many of these systems that have been put in North Carolina have been regulated through the state and Duke and that this project will meet the requirements.

Teresa Daughtry asked if there was a time limit on the tax credit.

Mr. Colson stated the tax credit goes until the end of 2015.

Richard Arthur, Pine Level, asked how much energy the solar farm will put out.

Mr. Colson stated that a 5 megawatt facility would run about 4500 homes.

Mr. Foy closed the public meeting for CUP-14-03 and asked for a motion.

Stephen Upton made a motion, seconded by Mark Lane, to move to the Finding of Fact.

The Planning Board is requested to review the petition for a Conditional Use Permit to allow for the construction and operation of a solar farm on property located within a R-20A (Residential-Agricultural) zoning district and make a recommendation to the Town Council in accordance with the finding of fact for a Conditional Use Permit.

The Smithfield Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

- 1. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.***

The proposed solar farm will not materially endanger the public health safety or general welfare; the panels are low profile, will be screened from view, do not produce sound, do not move and have no emissions. They are completely safe and will be installed following all local electrical and building codes. They will be designed to withstand wind loads and will be fenced in and buffered for safety purposes. They are monitored electronically on a 24 hour basis. There are no lights, so neighbors will not be visually disturbed. ***All members agreed.***

- 2. Based on the evidence and testimony presented it is the finding of Planning Board that the application, if approved, meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Smithfield Unified***

Development Ordinance or other applicable regulations or is approved with the following additional stated conditions.

The solar farm will be in complete compliance with local ordinances and; meets required conditions and specifications. The project will be prepared by licensed North Carolina Engineers and constructed by licensed North Carolina Contractors and Electricians. ***All members agreed.***

- 3. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses or is approved with the following additional stated conditions.***

The solar farm will not adversely affect the use or any physical attribute of adjoining or abutting property. It will be completely screened by a landscape buffer, it will be fenced in and locked so there is no debris or emission coming from the site, and dependable, renewable energy along with creation of new jobs is a benefit to the public. ***All members agreed.***

- 4. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.***

The screen buffer will be in complete harmony with the area, it will feature large, medium, and small trees and bushes, the solar panels will not be seen from neighboring sites and will not generate any noise or emissions. There are no impacts generated by the solar farm, it does not require sewer or water services, creates no traffic on the roads, does not impact school populations and requires no town services such as police or fire. ***All members agreed.***

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative;

Stephen Upton made a motion, seconded by Jack Matthews, to recommend approval to construct and operate a solar farm on a portion of an 87.37 acre tract of land located within an R-20A (Residential-Agricultural) zoning district. Unanimous.

CUP-14-04 Elizabeth Solar LLC:

Ashley Spain recused himself for this case.

Mr. Helmer stated the applicant is requesting a conditional use permit to operate a solar farm on a portion of a 34.22 acre tract of land located within an R-20A (Residential-Agricultural) and B-3 (Business) zoning district. The property considered for approval is located on the south side of US 70 Business Highway East approximately 850 feet east of its intersection with Hill Road and further identified as Johnston County Tax ID# 15M12032B.

Mr. Helmer stated the installation will include a 4 mega-watt, fixed tilt, photovoltaic solar farm with electrical power inverters, electrical transformers and buried conduit. The proposed facility will tie into Duke Energy power grid. There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use Permit to include flood plains or designated wetlands. The existing facility appears to be exempt from storm water retention and nitrogen offset payments at this time.

Mr. Helmer stated the proposed solar facility is considered a utility and permitted in all zoning districts with a Town of Smithfield Town Council approved Conditional Use Permit. The entire facility will be fenced and gated and a fifty foot landscape buffer outside of the fence line. Access to the site will be from a private driveway off US 70 Business Highway East. NCDOT driveway permits will be required. The property will be served by private well and septic if needed. The Strategic Growth Plan has identified this area as being suitable for low density residential and agricultural land uses. Public Utilities type uses are permitted in all zoning districts with an approved conditional use permit and will be subject to any reasonable condition that may be placed on the project. The existing and surrounding land uses are low density residential and agricultural in nature. It is unlikely that negative impacts on existing and future surroundings uses will occur providing the site is properly buffered in accordance with the Town of Smithfield Unified Development Regulations. Sign requirements will be minimal for the requested use. Pine Level will provide fire protection and Duke Energy will provide electric.

Mr. Foy asked if anyone wanted to speak for or against the proposal.

Mr. Foy asked how many acres this solar farm project will be.

Mr. Colson stated it will be 24.64 due to the irregular shape of the land.

Eugene Foxworth, 201 Hill Road, stated his house borders two sides of the proposed project. He stated he is opposed to this project as he does not want this project in his backyard. He believes this is the entrance area to the business district of Smithfield off of US Highway 70 and that this land can be utilized more appropriate. He also voiced his concern with abandonment of the facility and stated there was no specific use of a solar farm in the ordinance.

Mr. Helmer stated a solar farm is considered a public utility.

Mr. Foxworth stated he went on Purdue University's website which states that 80 decibels is equivalent to the sound of a diesel freight train going 45mph at 100ft away. He voiced that there is no data to substantiate what kind of impact it would have on neighboring properties or what affects it would have raising small children around it.

Mark Lane asked if Mr. Foxworth owned his property.

Mr. Foxworth stated he did own his property.

Mr. Helmer stated that looking at the most recent map it shows the developer increased the buffer from 50ft to 100ft.

Richard Arthur voiced his concern about whether or not the solar farm outweighs the risk of future commercial or residential development.

Al Peedin, 2316 Hodge Road Knightdale, is the land owner and stated he did not see a problem with this project. If you can't see, smell, or hear it then there shouldn't be an issue.

Terry Arthur, Pine Level, asked if there was a benefit to the Town of Smithfield or Johnston County with this solar farm.

Mr. Helmer stated it was unclear but in theory there should be.

Ms. Arthur asked if the solar farm would pay taxes to the town or county or would that be the land owner.

Mr. Helmer stated the amount of tax is assessed through the value, once the value goes up taxes will be increased but that would be through the county since it's out of city limits. As far as who will be paying the tax that would be between the land owner and the solar farm.

Ms. Arthur asked if there were any wetlands around the area.

Mr. Helmer stated he was not aware of any.

Ms. Arthur asked how long the lease was for.

Mr. Colson stated the agreement is a 15 year lease with two 5 year options.

Ms. Arthur asked if this project would devalue property around the solar farm.

Mr. Colson stated that it would not.

Mr. Foy closed the public meeting for CUP-14-04 and asked for a motion.

Stephen Upton made a motion, seconded by Mark Lane, to move to the Finding of Fact.

The Planning Board is requested to review the petition for a Conditional Use Permit to allow for the construction and operation of a solar farm on property located within a R-20A (Residential-Agricultural) zoning district and make a recommendation to the Town Council in accordance with the finding of fact for a Conditional Use Permit.

The Smithfield Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

- 1. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.***

The proposed solar farm will be detrimental to the adjacent land uses due to the type size and intensity of the project. Adjacent land and residential use will suffer from reduce land values due to loss in desirability of their land that is in close proximity to a major utility. ***Teresa Daughtry, Daniel Sanders, Mark Lane, and Eddie Foy agreed. Jack Matthews, and Stephen Upton opposed.***

Based upon failure to meet finding of fact number one and for reasons herein the Planning Board recommends denial of the proposed Conditional Use Permit.

Teresa Daughtry made a motion, seconded by Stephen Upton, to recommend denial based on finding of fact number one to construct and operate a solar farm on a portion of a 34.22 acre tract of land located within an R-20A (Residential-Agricultural) and B-3 (Business) zoning district. ***4 voted to recommend denial, 2 voted to recommend approval.***

ZA-14-03 Steve R Hargis:

Mr. Helmer stated the applicant is requesting to amend the Town of Smithfield Unified Development Ordinance, Article 10, Section 10-1, Table of Permitted Uses/Conditional Use Districts to allow for parks and recreation areas within the LI (Light Industrial) zoning district.

Mr. Helmer stated the proposed ordinance amendment is designed to allow for parks and recreational areas within the LI (Light Industrial) zoning district with a conditional use permit that will be subject to the Town of Smithfield Unified Development Ordinance standards, Planning Board recommendations and the Town Council approval. Town Council approved a similar request in November 2013 to allow for parks and recreational uses with the HI (Heavy Industrial) zoning district.

Mr. Helmer stated the Town of Smithfield Planning Department recommends approval of the request to amend the Town of Smithfield Unified Development Ordinance, Article 10, Section

10-1, Table of Permitted Uses/Conditional Use Districts to allow for parks and recreation areas within the LI (Light Industrial) zoning district. The Town of Smithfield Planning Board is requested to review the proposed zoning ordinance amendment and make a recommendation to the Town Council.

Mr. Foy asked if anyone wanted to speak for or against the proposal. There were none.

Mr. Foy closed the public meeting for ZA-14-03 and asked for a motion.

Stephen Upton made a motion, seconded by Jack Matthews to recommend approval to amend the Town of Smithfield Unified Development Ordinance, Article 10-1, Table of Permitted Uses/Conditional Use Districts to allow for parks and recreation areas within the LI (Light Industrial) zoning district. Unanimous.

CUP-14-05 Steve R. Hargis:

Mr. Helmer stated the applicant is requesting a conditional use permit to operate a warehouse and recreational facilities on properties located within a LI (Light Industrial) zoning district. The properties considered for approval are located on the east side of US 70 Business Highway West approximately 1000 feet north of its intersection with Cloverdale Drive and further identified as Johnston County Tax ID# 17J08001 and 17J08001C.

Mr. Helmer stated the proposed use of the facility would include an indoor recreation facility with basketball courts, locker rooms, apparel sales, and concession stand. There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use Permit to include flood plains or designated wetlands. The existing facility is exempt from storm water retention and nitrogen offset payments at this time.

Mr. Helmer stated the proposed recreational facility is a permitted use within the LI (Light Industrial) zoning district with a Town Council approved Conditional Use Permit. The applicant has provided a site plan as part of a complete application showing approximately thirty thousand square feet of a sixty thousand square foot warehouse facility being used towards the requested use. The building will house four basketball courts, restrooms, apparel shop, and concession stand. The site currently contains approximately 64 lighted and paved parking spaces. Overflow parking is located in the rear of the facility and should be required to be constructed to Town standards if future needs dictate. The site is generally in compliance with what was originally approved by Johnston County in 1995 except for some missing and dead plant material should be replaced prior to operation.

Mr. Helmer stated the recreational facility is inconsistent with the recommendations of the Comprehensive Growth Management Plan which calls for low density residential uses along US 70 Business Highway West. It should be noted that the property in question is only partially within the very edges of the Growth Management Plan study area. A recreational facility is a permitted use within LI (Light Industrial) zoning district with a valid conditional use permit. The site has adequate parking and the proposed landscape improvements will meet minimum development standards. A recreational facility at this location should not pose a compatibility

issue with surrounding land uses given the existing facility is designed so as to easily accommodate the type size and intensity of the proposed use. There is an existing free standing ground sign that may be refaced. Any changes beyond refacing the existing sign cabinet will require the entire sign to come into compliance with current development regulations. Water and sewer will be provided by Johnston County, Wilson's Mills will provide fire protection and Duke Energy Progress will provide electric.

Mr. Helmer stated the Planning Department recommends approval of the Conditional Use Permit for a recreational facility providing the site is landscaped in accordance with the site plan approved by Johnston County in 1995. The Planning Board is requested to review the petition for a Conditional Use Permit to allow for a recreational facility on property located with a LI (Light Industrial) zoning district and make a decision in accordance with the Finding of Fact for a Conditional Use Permit.

Mr. Foy asked if anyone wanted to speak for or against the proposal.

Steve Hargis, 1199 Crantock Road, Smithfield, is the owner of the proposed project.

Mr. Upton asked if there would be any security at the facility.

Mr. Hargis stated security will be provided through the tenant and are researching this at the present time.

Mr. Foy closed the public meeting for CUP-14-05 and asked for a motion.

Stephen Upton made a motion, seconded by Teresa Daughtry, to move to the Finding of Fact.

The Planning Board is requested to review the petition for a Conditional Use Permit to allow for a recreational facility on property located with a LI (Light Industrial) zoning district and make a decision in accordance with the Finding of Fact for a Conditional Use Permit.

The Smithfield Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

- 1. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.***

The proposed development will not endanger the public providing the plan meets all minimum required development regulations as found in the Town of Smithfield Unified

Development Ordinance to include parking, landscaping, storm water, lighting, pedestrian circulation and all applicable fire and building codes. **All members agreed.**

- 2. Based on the evidence and testimony presented it is the finding of Planning Board that the application, if approved, meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations or is approved with the following additional stated conditions.**

The applicant has provided a detailed site plan that meets all minimum development standards to include access, storm water, landscaping, buffers, and parking and all other regulations to include fire and building codes and that all required improvements will be constructed prior to issuance of a zoning land use permit, and certificate of occupancy. **All members agreed.**

- 3. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses or is approved with the following additional stated conditions.**

The proposed development will not substantially injure adjacent property values providing all minimum standards of the Town of Smithfield Unified Development Ordinance are met. **All members agreed.**

- 4. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.**

The development proposal will not adversely affect the adopted plans and policies of the Town of Smithfield because the applicant has made clear his intent to meet or exceed all minimum development standards. In the event additional parking is needed beyond the first 80 spaces, the field behind the facility will be used as overflow parking. **All member agreed.**

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative;

Mark Lane made a motion, seconded by Stephen Upton, to recommend approval to operate a recreational facility on properties located within a LI (Light Industrial) zoning district. Unanimous.

Old Business:

No Report.

New Business:

No Report.

Stephen Upton made a motion to adjourn, seconded by Jack Matthews. Unanimous.

Submitted this 1st day of May, 2014.

Veronica Hardaway
Administrative Support Specialist
Planning Department

**US301 Automotive Lot
CUP-14-06**

For Properties Located at:

South side of South Bright Leaf Boulevard approximately 200 feet northeast of its intersection with South Fifth Street and further identified as Johnston County Tax ID# 15041020C.

**Property Owner:
Carson Holding Brice**

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Conditional Use Permit
CUP-14-06

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Exhibit A
Staff Report



Town of Smithfield
Planning Department
350 East Market Street
P.O. Box 761
Smithfield, NC 27577
Phone: 919-934-2116
Fax: 919-934-1134

STAFF REPORT

Application Number: CUP-14-06
Project Name: US301 Automotive Lot
TAX ID number: 15041020C
Town Limits/ETJ: City
Applicant: Olivia Holding
Owners: Carson Holding Brice
Agents: AW Hodge Engineering, PC
Neighborhood Meeting: none

PROJECT LOCATION: South side of South Bright Leaf Boulevard approximately 200 feet northeast of its intersection with South Fifth Street.

REQUEST: The applicant is requesting a conditional use permit to operate an automotive sales lot on property located within a B-3 (Business) zoning district.

SITE DATA:

Acreage: 1.77 acres
Present Zoning: B-3 (Business)
Proposed Zoning: N/A
Existing Use / Previous: Vacant / Undeveloped

DEVELOPMENT DATA:

Proposed Use:

ENVIRONMENTAL: There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use permit to include flood plains or designated wetlands. The proposed facility will be required to comply with Town of Smithfield storm water regulations to include detention and nitrogen offset payments.

ADJACENT ZONING AND LAND USES:

North:	Zoning:	B-3 (Business)
	Existing Use:	Convenience Store & Financial Institution
South:	Zoning:	R-8 (Business)
	Existing Use:	Residential
East:	Zoning:	B-3 (Business)
	Existing Use:	Automotive Sales
West:	Zoning:	B-3 (Business)
	Existing Use:	Auto Sales / Retail sales

STAFF ANALYSIS AND COMMENTARY: The proposed automobile sales lot is a permitted use within the B-3 (Business) zoning district with a Town Council approved conditional use permit. The applicant has provided a sketch plan of the 1.77 acre site showing improvements to the property to include a paved display area for 55 automobiles and 8 required parking spaces. A 36 foot wide driveway is proposed allowing access from South Bright Leaf Boulevard. Cross access will be provided between the proposed car lot and proposed future retail store to the west. Landscaping will be provided in accordance with the Unified Development Ordinance and will include a twenty foot landscape buffer with privacy fence along East Dundee Street. A storm water pond is proposed at the rear of the lot that will be engineered to serve the subject lot and the adjacent lot to the east. A location for a modular constructed building is shown on the plan as well an accessory structured labeled as a “shop”. No building elevations have been provided by the applicant at this time. A lighting plan will be required showing all lamp fixture locations with required full cutoff design. This required lighting plan must also show that no more than 2 foot candles of light will be leaving the property at any given time.

- o **Consistency with the Strategic Growth Plan**

The proposed automobile sales lot is consistent with the recommendations of the Comprehensive Growth Management Plan which calls for commercial uses near the intersection of South Bright Leaf Boulevard and South Fifth Street.

- o **Consistency with the Unified Development Code**

An automobile sales lot is a permitted uses within B-3 (Business) zoning district with a valid conditional use permit. The applicant will be responsible for submitting a preliminary site plan that shows all applicable minimum development standards can and will be met prior to site plan approval and issuance of a valid zoning permit.

- o **Compatibility with Surrounding Land Uses**

An automobile sales lot at this location should not pose a compatibility issue with surrounding land uses given that will be located on a commercial corridor and adequately buffered from adjacent residential structures.

- **Signs**

There is an existing offsite advertisement / billboard sign that will remain on the site. The subject automobile sales lot will qualify for one ground sign and one wall sign in accordance with the Town of Smithfield Unified Development Ordinance.

OTHER:

FIRE PROTECTION: Town of Smithfield
SCHOOL IMPACTS: NA
PARKS AND RECREATION: NA
ACCESS/STREETS: South Bright Leaf Boulevard
WATER/SEWER PROVIDER: Town of Smithfield
ELECTRIC PROVIDER: Town of Smithfield

Planning Department Recommendations:

The Planning Department recommends approval of the proposed automobile sales lot providing the all storage areas and parking spaces are paved with landscaping and all that all other minimum development standards are met in accordance with the Town of Smithfield Unified Development Ordinance.

Planning Board Recommendations:

The Planning Board is requested to review the application for an automobiles sales lot within a B-3 zoning district and make a recommendation to Town Council in accordance with the finding of fact for a conditional use permit.

Exhibit B

Finding of Fact/Approval Criteria

Town of Smithfield
Conditional Use Permit Application
Finding of Fact / Approval Criteria

Application Number: CUP-14-06 **Name:** US301 Automotive Sales

Request: Applicant seeks a CUP for an automotive sales lot.

The Smithfield Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

1. Finding One of Four:

Circle One

A. Approval:

Based on the evidence and testimony presented it is the finding of the Town Council that the application, if approved, will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.

The proposed automobile sales lot at this location will not materially endanger the public were shown because the site has adequate parking available and layout of the site facilitates safe movement of automobiles and pedestrian traffic with little additional congestion.

B. Denial: (If denied, must include facts supporting denial)

Based on the evidence and testimony presented it is the finding of the Town Council that the application, if approved, will materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved for the following stated reasons: (Applicant fails to meet the criteria for approval.)

The proposed automobile sales lot at this location may endanger the public were shown if more automobiles exist on the lot than what the site is designed to safely hold resulting in automobiles parking within the public right-of-way and within designated landscape yards and required buffer yards.

2. Finding Two of Four:

Circle One

A. Approval:

Based on the evidence and testimony presented it is the finding of the Town Council that the application, if approved, meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances providing the applicant submits a detailed site plan for planning staff approval that shows required landscaping, lighting, stormwater retention and utility connections prior to issuance of site plan approval and issuance of a valid zoning permit for an automobile sales lot.

B. Denial: (If denied, must include facts supporting denial)

Based on the evidence and testimony presented it is the finding of the Town Council that the application, fails to meet all required specifications or fails to conform to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations in the following ways or for the following reasons:

The proposed automobile sales lot at this location does not conform to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances because the applicant has not provided a detailed site plan that shows required landscaping, lighting, storm water retention and utility connections.

3. Finding Three of Four:

Circle One

A. **Approval:**

Based on the evidence and testimony presented it is the finding of the Town Council that the application, if approved, will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses providing required landscape buffers and street yards are installed and maintained in accordance with minimum development standards and that no more than 55 automobile sales for sale are on the lot at any given time. Automobiles for sale shall be no closer than 15 feet from the right-of-way of South Bright Leaf Boulevard in accordance with the Town of Smithfield Unified Development Ordinance.

B. **Denial: (If denied, must include facts supporting denial)**

Based on the evidence and testimony presented it is the finding of the Town Council that the application, if approved, will substantially injure the value of adjoining or abutting property and/or will be detrimental to the use or development of adjacent properties or other neighborhood uses in the following ways or for the following reasons.

The proposed automobile sales lot at this location may be detrimental to the adjacent residential land use to the south due to increased traffic and noise generated by activities associated with automobiles sales.

4. Finding Four of Four:

Circle One

A. **Approval:**

Based on the evidence and testimony presented it is the finding of the Town Council that the application, if approved, would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location will not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development proving all minimum development standards are met to include landscaping, lighting, storm water detention.

B. **Denial: (If denied, must include facts supporting denial)**

Based on the evidence and testimony presented it is the finding of the Town of Smithfield that the application, if approved, would adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties in the following ways or for the following stated reasons: (Applicant fails to meet the criteria necessary for approval.)

The proposed automobile sales lot at this location will adversely affect the adopted plans and policies of the Town of Smithfield, and violate the character of existing standards for development if automobile sales occurs without minimum development standards being met to include landscaping, lighting, storm water detention.

5. Once all findings have been decided one of the two following motions must be made:

Motion to Approve: *Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative I move to recommend approval of Conditional Use Permit Application # CUP-14-06.*

Motion to Deny: *Based upon failure to meet all of the above four stated findings and for reasons stated therein, I move to recommend denial of Conditional Use Permit Application # CUP-14-06 for the following stated reason:*

6. Record of Decision:

Based on a motion and majority vote of the Town of Smithfield Planning Board Conditional Use Permit Application Number CUP-14-06 is hereby:

_____ recommended for approval upon acceptance and conformity with the following conditions; or,

_____ recommended for denial for the noted reasons.

Decision made this ___ day of _____, 20___ while in regular session.

Eddie Foy, Planning Board Chairman

ATTEST:

Mark E. Helmer, AICP, CZO
Senior Planner

Exhibit C
Planning Board Minutes/Actions

Exhibit D
Adjoining Property Owner Certification



PLANNING DEPARTMENT
Paul C. Embler, Jr., Director

ADJOINING PROPERTY OWNERS CERTIFICATION

I, Mark E. Helmer, hereby certify that the property owner and adjacent property owners of the following petition, CUP-14-06, were notified by First Class Mail on 6-13-14.

Mark E. Helmer
Signature

Johnston County, North Carolina

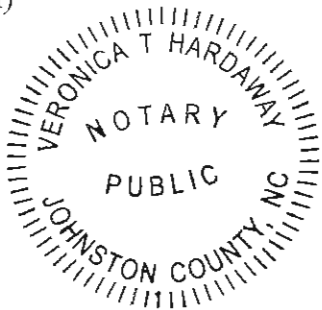
I, Veronica Hardaway, a Notary Public for Johnston County and State of North Carolina do hereby certify that Mark E. Helmer personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

12th day of June, 2014

Veronica T Hardaway
Notary Public Signature

Veronica T Hardaway
Notary Public Name

My Commission expires on 1-14-18
(Seal)



Adjacent Property Owners of
CUP-14-06

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15041010	169306-48-3178	WATSON, ANYA MICHELLE	513 E HOLT ST	SMITHFIELD	NC	27577-4325
15045015	169306-37-7993	BURGESS, STEVEN PAUL	106 E RIVERSIDE DR	SMITHFIELD	NC	27577-0000
15046012	169310-47-1464	SMITHFIELD HOUSING AUTHORITY	801 S 5TH ST	SMITHFIELD	NC	27577-0000
15041020C	169306-47-2710	BRICE, CARSON HOLDING	2116 WHITE OAK RD	RALEIGH	NC	27608-1452
15045031A	169306-37-7787	CARPENTER, WILLIAM ROD &	211 WOODLAWN DRIVE	SMITHFIELD	NC	27577-3853
15041019	169306-48-2143	COATS, STANLEY B II	C/O SECURITY CREDIT CORR	SMITHFIELD	NC	27577-2221
15041023	169306-48-0172	BON-RIC LLP	P O BOX 607	SELMA	NC	27576-0607
15041020B	169306-37-9752	HOLDING, ELIZABETH CARSON	2116 WHITE OAK RD	RALEIGH	NC	27608
15041020A	169306-47-5778	E & F PROPERTIES INC	PO BOX 1352	SMITHFIELD	NC	27577-0000



PLANNING DEPARTMENT
Paul C. Embler, Jr., Director

Notice Of Public Hearing

Notice is hereby given that a public hearing will be held before the Planning Board of the Town of Smithfield, N.C., on Thursday, July 3, 2014 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

CUP-14-06 Olivia Holding: The applicant is requesting a conditional use permit to operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the south side of South Bright Leaf Boulevard approximately 200 feet northeast of its intersection with South Fifth Street and further identified as Johnston County Tax ID# 15041020C.

All interested persons are encouraged to attend. To accommodate disabilities and to comply with ADA regulations, please contact the town office if you need assistance. Further inquiries regarding this matter may be directed to the Smithfield Planning Department at (919) 934-2116 or online at www.smithfield-nc.com.

Run "Legal Ad" in the Smithfield Herald on 6/18/14 and 6/25/14



PLANNING DEPARTMENT
Paul C. Embler, Jr., Director

Notice Of Public Hearing

Notice is hereby given that a public hearing will be held before the Planning Board of the Town of Smithfield, N.C., on Thursday, July 3, 2014 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

CUP-14-06 Olivia Holding: The applicant is requesting a conditional use permit to operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the south side of South Bright Leaf Boulevard approximately 200 feet northeast of its intersection with South Fifth Street and further identified as Johnston County Tax ID# 15041020C.

You have been identified as a property owner in the area specified above and are being advised of this meeting as you may have interest in this matter. You are welcome to attend; however, you are not required to in order for the Board to act on this request. Additional information may be obtained by contacting the Town of Smithfield Planning Department at 919-934-2116.

Exhibit E
Conditional Use Permit Application



Town of Smithfield
 Planning Department
 350 E. Market St Smithfield, NC 27577
 P.O. Box 761, Smithfield, NC 27577
 Phone: 919-934-2116
 Fax: 919-934-1134

CONDITIONAL USE PERMIT APPLICATION

Pursuant to Article 13, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town Council to allow a Conditional Use. Conditional Uses are uses that may be appropriate in a particular district, but has the potential to create incompatibilities with adjacent uses.

Conditional Use Permit applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee. The application fee is \$300.00. All fees are due when the application is submitted.

SITE INFORMATION:

Name of Project: US301 AUTOMOTIVE LOT Acreage of Property: +/- 1.77 AC
 Parcel ID Number: 169306-47-2710 Tax ID: 15041020C
 Deed Book: 2619 Deed Page(s): 252
 Address: _____
 Location: ON THE SOUTH SIDE OF US301; APPROXIMATELY 350' NORTH OF THE INTERSECTION WITH FIFTH STREET.
 Existing Use: _____ Proposed Use: AUTOMOTIVE SALES LOT
 Existing Zoning District: B-3
 Requested Zoning District B-3
 Is project within a Planned Development: Yes No
 Planned Development District (if applicable): _____
 Is project within an Overlay District: Yes No
 Overlay District (if applicable): ENTRY CORRIDOR

FOR OFFICE USE ONLY

File Number: CUP-14-06 Date Received: 6/6/14 Amount Paid: \$300.00

OWNER INFORMATION:

Name: CARSON HOLDING BRICE
Mailing Address: 2116 WHITE OAK ROAD, RALEIGH, NC 27608
Phone Number: 919-834-7631 Fax: _____
Email Address: carsonbrice@gmail.com

APPLICANT INFORMATION:

Applicant: OLIVIA HOLDING
Mailing Address: 2700 CAMBRIDGE ROAD, RALEIGH, NC 27608
Phone Number: 919-414-2515 Fax: 919-989-3291
Contact Person: OLIVIA HOLDING
Email Address: oholding@nc.rr.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

The following items must accompany a Conditional Use Permit application. This information is required to be present on all plans, except where otherwise noted:

- All required plans (please see the plan requirements checklist).
- A signed and sealed traffic impact analysis.
- Verification of wastewater allocation (granted or requested).
- Driveway permits (Town of Smithfield or NCDOT encroachment with associated documentation).
- Other applicable documentation: _____

STATEMENT OF JUSTIFICATION

Please provide detailed information concerning all requests. Attach additional sheets if necessary.
All site improvements will be in accordance to the Unified Development Ordinance of the town of Smithfield

REQUIRED FINDINGS OF FACT

Article 13, Section 13-17 of the Town of Smithfield Unified Development Ordinance requires applications for a Conditional Use Permit to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

1. That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;

The proposed automotive sale lot at this location will not materially endanger the public due to the proposed buffers, landscaping, lighting, stormwater and other development regulations.

2. That the use meets all required conditions and specifications;

All minimum buffer requirements shall be installed prior to operation. The site lighting shall meet or exceed the Town's Ordinance in the UDO and the areas used for automotive parking or display be installed with asphalt or concrete. The driveway improvements shall be in accordance with an approved NCDOT driveway permit.

3. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and

The adjacent properties will not be injured in value because the subject property has provided all required improvements to include buffering, landscaping, and adequate parking in accordance with the UDO.

4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b).

All minimum buffer requirements shall be installed prior to operation. The site lighting shall meet or exceed the Town's Ordinance in the UDO and the areas used for automotive parking or display be installed with asphalt or concrete. The driveway improvements shall be in accordance with an approved NCDOT driveway permit.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Smithfield to approve the subject Conditional Use Permit. I hereby certify that I have full legal right to request such action and that 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 Smithfield, North Carolina, and will not be returned.

OLIVIA HOLDING

Print Name

Olivia B Holding

Signature of Applicant

6/3/14

Date



Town of Smithfield
 Planning Department
 350 E. Market St Smithfield, NC 27577
 P.O. Box 761, Smithfield, NC 27577
 Phone: 919-934-2116
 Fax: 919-934-1134

OWNER'S CONSENT FORM

Name of Project: US301 AUTOMOTIVE LOT Submittal Date: 06/06/14

OWNERS AUTHORIZATION

I hereby give CONSENT to OLIVIA HOLDING (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 the subject of this application. 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 Smithfield 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.

Carson Brice CARSON BRICE 6.4.14
 Signature of Owner Print Name Date

CERTIFICATION OF APPLICANT AND/OR 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 Smithfield, North Carolina, and will not be returned.

Olivia Holding OLIVIA HOLDING 6/3/14
 Signature of Owner/Applicant Print Name Date

FOR OFFICE USE ONLY

File Number: CUP-14-06 Date Received: 6/6/14 Parcel ID Number: 169306-47-2710



Approximate Location of Proposed Automobile Sales Lot

Vicinity Map for:
CUP-14-06
Applicant:
Olivia Holding



Map Created by Town of Smithfield
Geographic Information Services

