

# 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, February 5, 2015*

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

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

**AGENDA  
PLANNING BOARD  
REGULAR MEETING  
FEBRUARY 5, 2015  
MEETING TIME: 6:00 PM  
TOWN HALL**

**Call to Order.**

**Approval of the minutes for December 4, 2015.**

**Public Hearing**

**RZ-15-01 Nell Howell Estate, Etal:** The applicant is requesting to rezone a 50.4 acre portion of a 66 acre tract of land from LI (Light Industrial) to B-3 (Business) and a 15.6 acre portion of a 66 acre tract of land from LI (Light Industrial) to R-8 (Residential). The request also includes the rezoning of a 28.8 acre portion of a 238.57 acre tract of land from R-6 (Residential) to B-3 (Business) and a 6.6 acre portion of a 238.57 acre tract of land from R-10 (Residential) to R-8 (Residential) and a 4.3 acre portion of a 238.57 acre tract of land from R-20A (Residential-Agriculture) to R-8 (Residential) and a 132.8 acre portion of a 238.57 acre tract of land from R-8 (Residential) to B-3 (Business) These properties are bound to the north by Buffalo Road, to the south by Ava Gardner Avenue to the east by US 70 Bypass and to the west by Booker Dairy Road. The properties considered for rezoning include only the portions of properties located within the Town of Smithfield Planning and Zoning Jurisdiction and are further identified as a 173.8 acre portion Johnston County Tax ID# 14057009 and the entire 66 acres of Johnston County Tax ID# 14054010F.

**CUP-15-01 NC 210 Car Lot:** The applicant is requesting a conditional use permit to construct and operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of the intersection of Swift Creek Road and NC Hwy 210. The property is further identified as Johnston County Tax ID# 15I09015H.

**Old Business.**

**New Business.**

**2015 Proposed Unified Development Ordinance updates**

**Adjournment.**

**DRAFT**  
**Smithfield Planning Board Minutes**  
**Thursday, December 4, 2014**  
**6:00 P.M., Town Hall, Council Room**

**Members Present:**

Mark Lane  
Stephen Upton  
Gerald Joyner  
Daniel Sanders  
Teresa Daughtry

**Members Absent:**

Eddie Foy  
Ashley Spain

**Staff Present:**

Mark Helmer, Senior Planner  
Veronica Hardaway, Administrative Support Specialist

**Staff Absent:**

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM NOVEMBER 6, 2014.**

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

**Old Business:**

Mark Helmer asked the committee if they had any questions about what was reviewed with the Unified Development Ordinance so far.

Stephen Upton recommended a no parking zone sign be erected in front of I&R auto.

Mark Helmer stated the Code Compliance Officer has been at I&R auto numerous times.

Teresa Daughtry recommended I&R Conditional Use Permit be revoked.

Mark Helmer stated a revocation of a permit needs to be brought to the Town Manager and Council.

**New Business:**

The Planning Board reviewed the next section of the Unified Development Ordinance.

**ARTICLE 19. REGULATIONS FOR SIGNS**

**31. This amendment proposes various possible changes that could be made to the sign regulation.**

Article 19-4 On-Premise Signs (B) On-Premise Signs: Single Tenant Development, (2) O-I, B-1, B-2, and B-3. Signs allowed within the zoning district may be either:

Freestanding:  
Ground  
Changeable Copy  
Menu Board

Attached:  
Projecting  
Window  
Wall  
Awning/Canopy  
Menu Board  
Changeable Copy

**Wall signs shall be permitted at a rate of one (1) square foot of sign area per one (1) linear foot of wall area. One (1) wall sign shall be allowed on each wall fronting on a public street or adjacent to parking and drive isles.**

**Ground signs shall be permitted at a rate of ¼ square foot of sign area per linear foot of street frontage. Lots with less than 200 linear feet in width shall be permitted a maximum of 50 square feet in ground sign area. Lots with between 200 linear feet and 400 linear feet shall have a maximum sign area of 70 square feet. One (1) ground sign shall be allowed on each side fronting on a public street.**

Additionally, the following requirements must be met based on the type of sign selected. If freestanding ground: The sign shall be a maximum of six feet in height with a minimum setback of ten feet.

If projecting: Signs (excluding awning/canopy signs) shall not project more than three feet from the façade of the building. Clearance over sidewalks shall be at a minimum of nine feet and clearance over streets, alleys, or driveways shall be a minimum of 14 feet. Signs shall not project above the third story of the building or above the building soffit, eave line, or building parapet.

If window: Only permanent identification signs are allowed as window signs; provided, however, temporary signs which are placed in or on windows shall be allowed when complying with Section 19-4(A)(8) hereinbefore. Window signs are not allowed above the third story of building. **Window signs shall be no greater than 25% of the window area in which the sign is located on.**

If wall: Maximum projection from wall shall be 12 inches.

If menu board: One external menu board with one face is allowed per restaurant. The total sign area shall not exceed 36 square feet per face. The sign shall not be located so that the copy is designed to be visible to vehicular traffic from the roadway. The minimum setback shall be ten feet.

(3)(a) LI and HI Districts. Signs allowed within the zoning district may be either:

Freestanding:

Attached:

Ground	Projecting
Changeable Copy	Window
Menu Board	Wall
	Awning/Canopy
	Menu Board
	Changeable Copy

- (a) **Wall signs shall be permitted at a rate of one (1) square foot of sign area per one (1) linear foot of wall area. One (1) wall sign shall be allowed on each wall fronting on a public street or adjacent to parking a drive isles.**

**Ground signs shall be permitted at a rate of 1 square foot of sign area per linear foot of street frontage. Maximum size shall not exceed 200 square feet. One (1) ground sign shall be allowed on each side fronting a public street. Maximum ground sign height shall not exceed 6 feet in total overall height.**

- (b) In the event the freestanding sign is less than the ~~125~~ **200** square feet per face allowed, the difference between the ~~125~~ **200** square feet per face allowed and the size of sign erected may be used to increase the size of the attached sign by that difference.
- (c) In the event that a lot has an off-premise sign which has the total maximum square footage allowed for both sides of the sign structure under Section 19-5(B) hereinafter, no on premise freestanding sign shall be allowed on that lot. Where the off-premise sign is less than the total square footage allowed, the total square footage for both sides of the on premise freestanding sign for that lot shall be not greater than the difference between the maximum square footage allowed for both sides of the off-premise sign and the size of the off-premise erected, but in no event shall the on premise freestanding sign be greater than the maximum 125 square feet allowed per face. When the provisions of this subsection (c) apply, they shall in no way be interpreted to allow on premise attached signs to be further increased in size under the formula set forth in subsection (b) hereinabove. Provided, however, on premise freestanding signs with off-premise signs on the same lot which were both erected prior to the effective date of this Section, shall be allowed to remain when conforming with the other provisions of this Section.
- (d) Additionally, the following requirements must be met based on the type of sign selected.

If freestanding ground: The sign shall be a maximum of six feet in height with a minimum setback of ten feet.

If projecting: Signs (excluding awning/canopy and marquee signs) shall not project more than three feet from the façade of the building. Clearance over

sidewalks shall be at a minimum of nine feet and clearance over streets, alleys or driveways shall be a minimum of 14 feet. Signs shall not project above third story of the building or above the building soffit, eave line, or building parapet.

If window: Only permanent identification signs are allowed as window signs; provided, however, temporary signs which are placed in or on windows shall be allowed when complying with Section 19-4(A)(8) hereinbefore. Window signs are not allowed above the third story of building.

If wall: Maximum projection from a wall shall be 12 inches.

If menu board: ~~One~~ **Two** external menu board with one face is allowed per restaurant. The total sign area shall not exceed 36 square feet per face. The sign shall not be located so that the copy is designed to be visible to vehicular traffic from the roadway. The minimum setback shall be ten feet.

(4) On-Premise Signs: Multiple Tenant Development. The following sign regulations shall be applicable within the zoning districts indicated for multiple tenant development. Any sign not specifically allowed is prohibited. Multiple tenant developments may erect either a development identification or joint identification sign. In addition, tenant identification signs for individual businesses within a development are allowed. For a multiple tenant development, the development itself is allowed one identification sign for each property boundary with street frontage with a maximum of two signs allowed per development, only one of which may be freestanding. These identification signs may be either a development or a joint identification sign. The choice of sign affects the tenant identification regulations within the development. If there is no identification or joint identification sign erected or maintained, individual tenants shall be allowed signs as permitted for individual tenants where a development identification sign is used. Where one type of sign has been selected and an additional identification sign is allowed due to a second street frontage, the additional sign must be of the same type (i.e., two development identification signs or two joint identification signs). If a joint identification sign is selected, said sign shall be limited to one sign component per tenant.

(5) On-Premise Development Identification Signs. Where a development identification sign is selected, such a sign or signs may be of the following types:

- |                    |            |
|--------------------|------------|
| Freestanding:      | Attached:  |
| Ground             | Wall       |
| High Rise Business | Projecting |
| Identification     |            |

The sign(s) shall meet the following requirements based on the zoning district in which it is located.

Zoning District	Maximum Height Allowed	Maximum Square Footage Per Face
-----------------	------------------------	---------------------------------

Ground	R-20A, R-10, R-8, R-6, R-MH, PUD (Residential)	6ft.	25 sq.ft.
	O/I, B-1, B-2, and B-3	8ft.	50 sq. ft.
	LI and HI	25ft.	187.5 sq. ft.
	Conditional Use in all districts when property is adjacent to		
High Rise Business	I-95 right-of-way and the sign is within six hundred sixty (660) Feet of the edge of the I-95	100ft.	400 sq. ft.

Setback for freestanding development identification signs in all zoning districts shall be 15 feet. A movie theater will be allowed one additional freestanding or attached marquee sign with the maximum square footage, height and setback in accordance with applicable regulations for single tenant developments in Section 19-4(B) hereinbefore. The following is required for all free standing high rise signs: landscaping is required equal to area of the sign; the sign must be on property owned by applicant on a fee simple basis and an establishment may not have another ground or freestanding sign. Where a development identification sign is selected, the individual tenant identification within the development shall meet the following regulations. Tenant identification signs shall be of the following types:

**Attached: Awning Projecting Wall Window**

One attached sign is allowed for each exterior public business entrance. The total allowable sign area for the building frontage having the primary business entrance shall be 25 square feet or one square foot per one linear foot of said building frontage, whichever is greater, but in no event shall the area be greater than the maximum square footage per face allowed for a development identification sign in the zoning district where the business is located. Each secondary business entrance shall be allowed a total sign area of one square foot per three linear feet of building frontage where the secondary business entrance is located. A maximum of two secondary business entrance signs is allowed. Where an exterior entrance does not exist, the tenant will be allowed one window sign. Signs may be illuminated internally or externally. Also, one suspended or transom sign may be incorporated per business, which sign shall not exceed six square feet per face per sign. Where an exterior entrance does not exist, the tenant will be allowed one window sign. Signs may be illuminated internally or externally. If wall: Maximum projection from a wall shall be 12 inches. If projecting: Signs (excluding awning/canopy and marquee signs) shall not project more than three feet from the façade of the building. Clearance over sidewalks shall be a minimum of nine feet and clearance over streets, alleys, or driveways shall be a minimum of 14 feet. Signs shall not project above third story of building or above the building soffit, eave line, or building parapet. If window: Only permanent identification signs are allowed as window signs; provided, however, temporary signs which are placed in or on windows shall be allowed when complying with Section 19-4(A)(8) hereinbefore. Window signs are not allowed above third story of the building. Neon window signs are limited to ground floor windows.

(6) Joint Identification Signs. Where a joint identification sign is selected, such sign or signs may be of the following types:

- |               |           |
|---------------|-----------|
| Freestanding: | Attached: |
| Ground        | Wall      |

## Projecting

The sign(s) shall meet the following requirements based on the zoning district in which it is located.

Zoning District	Maximum Height Allowed	Maximum Square Footage Per Face
R-20A, R-10, R-8, R-6, R-MH PUD (Residential)	6ft.	25 sq.ft.
O/I, B-1, B-2, and B-3	8ft.	50 sq. ft.
LI and HI	25ft.	187.5 sq. ft.

Setback for freestanding joint identification signs in all zoning districts shall be 15 feet. In addition, a movie theater will be allowed one additional freestanding or attached marquee sign with the maximum square footage, height, and setback in accordance with applicable regulations for single-tenant developments in Section 19-4(B) hereinbefore. Where a joint identification sign is selected, the individual tenant identification within the development shall meet the following regulations. Tenant identification signs shall be of the following types:

Attached:           Awning  
                          Wall  
                          Projecting  
                          Window

One attached sign is allowed for each exterior public business entrance. The total allowable sign area for the building frontage having the primary business entrance shall be 20 square feet or one square foot per two linear feet of said building frontage, whichever is greater, but in no event shall the area be greater than 60% of the maximum square footage allowed for a joint identification sign in the zoning district where the business is located. Each secondary business entrance shall be allowed a total sign area of one square foot per three linear feet of building frontage where the secondary business entrance is located. A maximum of two secondary business entrance signs is allowed. Where an exterior entrance does not exist, the tenant will be allowed one window sign. Signs may be illuminated internally or externally. If wall: Maximum projection from a wall shall be 12 inches. If projecting: Signs (excluding awning/canopy and marquee signs) shall not project more than three feet from the facade of the building. Clearance over sidewalks shall be a minimum of nine feet and clearance over streets, alleys, or driveways shall be a minimum of 14 feet. Signs shall not project above third story of building or above the building soffit, eave line, or building parapet. If window: Only permanent identification signs are allowed as window signs; provided, however, temporary signs which are placed in or on windows shall be allowed when complying with Section 19-4(A)(8) hereinbefore. Window signs are not allowed above the third story of the building.

Mr. Helmer asked if the committee had any additional questions.

Mark Lane asked if the Town Council needs to review the UDO article by article.



Mr. Helmer stated yes they will ultimately have to approve all changes.

Stephen Upton asked when all the changes will be effective.

Mr. Helmer stated it could possibly take up to a year.

Stephen Upton asked what happens to those that could benefit from the changes now, will they have to wait.

Mr. Helmer stated some ordinances can be changed just like the sign ordinance change that recently occurred.

Teresa Daughtry asked if the Department of Transportation could do more cleaning by I-95 so that businesses can be seen better from the road.

Mr. Helmer stated the brush could be cleaned out, but trees need to remain.

Mark Lane made a motion to adjourn, seconded by Jack Matthews. Unanimous.

Submitted this 4th day of December, 2014.

Veronica Hardaway  
Administrative Support Specialist  
Planning Department

**Nell Howell Estate, ETAL  
RZ-15-01**

**For Properties Located at:**

The land that is bound to the north by Buffalo Road, to the south by Ava Gardner Avenue to the east by US 70 Bypass and to the west by Booker Dairy Road. The properties and further identified as Johnston County Tax ID# 14057009 and 14054010F.

**Property Owner:  
Hope Panara & Allen Wellons**

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RZ-15-01**

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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:** RZ-15-01  
**Project Name:** Nell Howell Estates, ETAL  
**TAX ID number:** 14054010F and a portion of 14057009  
**Town Limits/ETJ:** City and ETJ  
**Applicant:** Nell Howell Estates, ETAL and Roberts and Wellons, INC  
**Owners:** Nell Howell Estates, ETAL and Roberts and Wellons, INC  
**Agents:** Ronnie L. Sutton  
**Neighborhood Meeting:** none

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**PROJECT LOCATION:** The land that is bound to the north by Buffalo Road, to the south by Ava Gardner Avenue to the east by US 70 Bypass and to the west by Booker Dairy Road. The properties and further identified as Johnston County Tax ID# 14054010F and a portion 14057009.

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**REQUEST:** The applicant is requesting to rezone approximately 238.5 acres of land from predominantly residential and light industrial zoning districts to the B-3 (Business) district and R-8 (Residential) zoning districts.

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### SITE DATA:

**Acreage:** 238.5 acres  
**Present Zoning:** R-20A (Residential-Agricultural), R-8 (Residential) and LI (Light Industrial)  
**Proposed Zoning:** B-3 (Business) and R-8 (Residential)  
**Existing Use:** Undeveloped land  
**Proposed Use:** none

### DEVELOPMENT DATA:

**Proposed Use:** none

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**ENVIRONMENTAL:** The property considered for a rezoning has been identified by the Town of Smithfield Future Land Use Plan as containing a few acres of wetlands and a regulated stream.

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## ADJACENT ZONING AND LAND USES:

North:	Zoning: R-20A and B-3 (Business) Existing Use: Professional Office
South:	Zoning: B-3 Existing Use: Commercial / Retail
East:	Zoning: US Hwy 70 Existing Use: Limited Access State Highway
West:	Zoning: R-10 and R-20 Existing Use: Residential subdivisions and undeveloped R-20A zoned property

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## STAFF ANALYSIS AND COMMENTARY:

The property considered for rezoning is a large area of undeveloped land adjacent to, and west of, US Highway 70. The southern-most portion of the property is accessed from Ava Gardner Avenue while the north side of the property is accessed from Buffalo Road. The bulk of the property will be intersected by the proposed Booker Dairy Road Extension which will provide access to the subject property from the west. As proposed, the western most portions of the properties are to be zoned for medium density residential while the remainder of the property will be zoned for commercial land uses.

- **Consistency with the Strategic Growth Plan**

The Strategic Growth Plan has identified this property as being suitable for low density residential land uses. However, the Booker Dairy Road extension is identified on the plan and it is reasonable to assume that upon its construction this land will be attractive to commercial development.

- **Consistency with the Unified Development Code**

The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance provided that all proposed future land uses construct the minimum required parking and meet ADA accessibility standards. Any use requiring outdoor storage will require conditional use permit approval by Town Council.

- **Compatibility with Surrounding Land Uses**

The portion of the property considered for a rezoning is north of, and adjacent to, Smithfield Plaza and any future commercial development along the proposed Booker Dairy Road extension will be a logical expansion of this existing commercial district. The properties fronting on Booker Dairy road will remain zoned for residential and will serve as a buffer from any future commercial development to the east. The northern most portion of the property will be better served by the B-3 (Business) zoning district and will be positioned to capitalize on its close proximity to the US Highway 70 and Buffalo Road interchange.

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**OTHER:**

FIRE PROTECTION: The Town of Smithfield Fire Department will provide fire protection.

SCHOOL IMPACTS: NA

PARKS AND RECREATION: NA

ACCESS/STREETS: Access from Ava Gardener Ave, Booker Dairy Rd and Buffalo Rd

WATER/SEWER PROVIDER: Town of Smithfield

ELECTRIC PROVIDER: Town of Smithfield

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**FINDINGS:**

In connection with a legislative decision for a rezoning request, the Town council may consider certain approval criteria. Please refer to attached "Approval Criteria". Planning Staff generally accepts these findings as fact as part of a complete application submitted by the petitioner.

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**Planning Department Recommendations:** The Planning Department recommends approval of the request to rezone approximately 238.5 acres of land adjacent to US Hwy 70 from the R-20A (Residential-Agricultural, R-8 (Residential), and (Light-Industrial) zoning districts to the B-3 (Business) and R-8 (Residential) zoning districts.

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**Planning Board Recommendations:** The Planning Board is requested to review the proposal and make a recommendation to Town Council for the rezoning of 238.5 acres of land.

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**Exhibit B**  
**Approval Criteria**



# Town of Smithfield

## Rezoning Permit Application

### Approval Criteria

Application No. RZ-15-01 Name: Nell Howell Estates, ETAL

**Request: Zoning reclassification from R-20A (Residential-Agricultural), R-8 (Residential) and LI (Light-Industrial) to B-3 (Business) and R-8 (Residential).**

Article 13 Section 13-17 of the Town of Smithfield Unified Development Ordinance requires all applications for a zoning map amendment to address the following eight findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application.

The Council has the responsibility to determine if the zoning map amendment is warranted. The Town Council of the Town of Smithfield shall decide the matter of this rezoning application by motion and vote on each of the following eight findings of fact. Any motion to find against the application must be supported by statement of specific reason or conclusions reached in support of the motion.

#### 1. Finding One of Eight:

*...The zoning petition is in compliance with all applicable plans and policies of the Town of Smithfield...*

Circle One

A. Agree

The rezoning request from the low density residential and industrial zoning to a commercial driven zoning district all the while retaining the residential component along the North-South portion of Booker Dairy Road seems a responsible and reasonable response to the Booker Dairy Road extension area. The Future land use plan has identified this property as being suitable for low density residential development and open space. The plan, while identifying the need for the Booker Dairy Road Extension, does not address the demand for additional commercial zoned property that such a road project can support.

B. Disagree

The Future land use plan has identified this property as being suitable for low density residential development and open space. The additional commercial activity and the traffic generated by such intensive uses offered by the B-3 (Business) zoning district will allow for harmful and adverse impacts on the area in general.

## **2. Finding Two of Eight**

***....The rezoning petition is compatible with established neighborhood patterns of the surrounding area....***

Circle One

A. Agree

The west most portion of the property considered for rezoning to residential is consistent with existing residential zoning and development patterns on the West side of Booker Dairy Road. The commercial component is a logical extension of an existing of an existing commercial district to the south. Rezoning the northern most portions of the property from an industrial zoning district to a commercial zoning district will be better serve the community and may help pave the way for north-south connection between Book Dairy Road and Buffalo Road.

B. Disagree

Although no known compatibility issues with adjacent land uses have occurred in the past, rezoning the bulk of the property to the B-3 (Business) zoning district could create the potential for a new commercial corridor adjacent to US Highway 70 and bring with it additional retail shopping centers, restaurants, gas stations and urban sprawl in general.

## **3. Finding Three of Eight**

***....The rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning....***

Circle One

A. Agree

The rezoning request from the low density residential and industrial zoning to a commercial driven zoning district all the while retaining the residential component on along the North-South portion of Booker Dairy Road seems a responsible and reasonable response to the changing conditions in the area, namely the Booker Dairy Road extension.

B. Disagree

The rezoning petition is NOT compatible with the changing neighborhood conditions that might warrant a rezoning because the rezoning request will contribute to urban sprawl through the commercialization of every corridor entering and leaving the city.

#### **4. Finding Four of Eight**

*....The rezoning request is in the community interest....*

A. Agree

The rezoning will allow for a wider range of commercial and residential uses and provide additional area for consideration of large scale commercial developments. The development that will occur from the rezoning will increase the tax base as an additional benefit.

B. Disagree

The denial of the rezoning will be in the best interest of Smithfield because it will maintain a reservoir of low density residential and industrial properties for future development.

#### **5. Finding Five of Eight**

*....The request does not constitute "Spot Zoning"....*

A. Agree

Given the large area proposed for rezoning, it is unlikely an argument could be made for "spot zoning" or "small scale" zoning.

B. Disagree

Since the rezoning does not meet the definition of spot zoning then there is no valid basis for denial.

#### **6. Finding Six of Eight**

*....Present regulations deny or restrict the economic use of the property....*

A. Agree

The property is currently zoned for residential and light industrial uses. However, additional office and commercial uses such as those permitted in the B-3 (Business) zoning district cannot occur unless the property is rezoned.

B. Disagree

There are limited considerations for residential development in the B-3 (Business) zoning district except for high density multi-family developments, these residential uses should be pursued in more depth prior to rezoning to commercial.

## **7. Finding Seven of Eight**

**....the availability of public services allows consideration of this rezoning request....**

A. Agree

In addition to public water and sewer being available to the site, the property can be served by the Town of Smithfield with electricity. CenturyLink and Time Warner also serve the area with phone and cable respectively.

B Disagree

Since all the above utilities serve the area then there can be no justification to deny the petition.

## **8. Finding Eight of Eight**

**....Physical characteristics of the site prohibit development under present regulations....**

A. Agree

There are no physical restraints to the area considered for rezoning such as wetlands, stream buffers, potential flood hazard areas and storm water that would outright prohibit development of the property. There is no limiting geological and hydrological formation that would prohibit development (rock outcrops, lakes, etc.).

B. Disagree

Since there are no physical features such as rock out crops that would render the rezoned *area undevelopable and given the fact that proper permits more than likely be obtained then there is no basis for denial based on physical characteristics.*

**9. 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 stated eight findings and fully contingent upon full incorporation of all statements entered into the record by the testimony of the applicant and applicant's representative I move to approve the Rezoning Petition RZ-15-01.

**Motion to Deny:** Based upon the failure to adequately address all of the above stated eight findings and for the reasons stated therein, I move to deny the Rezoning Petition RZ-15-01.

**10. Record of Decision:**

**Based on a motion and majority vote of the Town of Smithfield Town Council, Rezoning Petition RZ-15-01 is hereby:**

**Check one**

\_\_\_\_\_ **Approved for the following reasons:**

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\_\_\_\_\_ **Denied for the following reasons:**

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**Decision made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ while in regular session.**

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**Mr. Eddie Foy, Planning Board Chairman**

**Attest:**

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**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, RZ-15-01, were notified by First Class Mail on 1-23-15.

Signature

Johnston County, North Carolina

I, Shannan L. Williams, 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

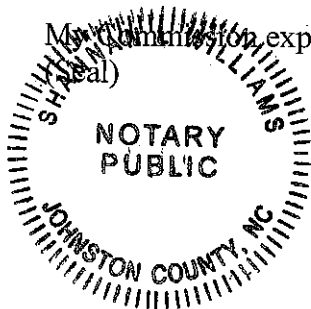
23<sup>rd</sup> day of January, 2015

Notary Public Signature

Shannan L. Williams

Notary Public Name

My Commission expires on 5-20-2017





Adjacent Property Owners of  
RZ-15-01

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIP CODE
14054042A	260503-33-8587	ROBERTS & WELLONS INC	PO BOX 1046	SMITHFIELD	NC	27577-0000
14057009J	260410-36-4416	SILVA, RUTH M	12 HAZELWOOD CT	SMITHFIELD	NC	27577-0000
14056003	260406-38-2213	AUSTIN, DALE L	1116 E BOOKER DAIRY RD	SMITHFIELD	NC	27577-9416
14001015	260407-69-5794	DAVIS, JANE WILLIAMS	7111 E CREEK EDGE DRIVE	WILMINGTON	NC	28409-0000
14056004	260406-38-1350	LMR RENTALS A NC GENERAL	201 S BRIGHTLEAF BLVD STE 5	SMITHFIELD	NC	27577-4077
14057012A	260406-37-7911	RAY, LOIS B	1215 E BOOKER DAIRY RD	SMITHFIELD	NC	27577-0000
14057012A	260406-37-7911	RAY, LOIS B	1215 E BOOKER DAIRY RD	SMITHFIELD	NC	27577-0000
14057010	260406-38-6294	OLSEN, PAUL A	1211 BOOKER DAIRY RD	SMITHFIELD	NC	27577-9419
14057012	260406-38-8131	OLSEN, MARGIE B	P O BOX 681	SMITHFIELD	NC	27577-0000
14057151L	260406-37-3981	MOORE, JAMES H JR	713 CHESTNUT DR	SMITHFIELD	NC	27577-0000
14057012B	260406-38-6101	STANCIL, CARL THOMAS	1209 BOOKER DAIRY RD	SMITHFIELD	NC	27577-0000
14057013	260406-37-6933	RAY, LOIS B	1215 E BOOKER DAIRY RD	SMITHFIELD	NC	27577-0000
14057013A	260406-37-6929	OLSEN, PAUL A	P O BOX 681	SMITHFIELD	NC	27577-0681
14057016	260410-36-8508	PILKINGTON, CLIFTON JACKSON	P O BOX 355	GRIFTON	NC	28530-0355
14074002K	260410-46-4209	BAM PROPERTIES OF NC LLC	285 SHIPWASH DR	GARNER	NC	27529-0000
14074002L	260410-46-3314	BAM PROPERTIES OF NC LLC	285 SHIPWASH DR	GARNER	NC	27529-0000
14074002M	260410-46-1327	BOOKER DAIRY HOMEOWNERS ASSOC	6301 BRACK PENNY RD	RALEIGH	NC	27603-0000
14074002N	260410-46-2313	PITTMAN, HARRY M	151 VALLEYWOOD CIRCLE	SMITHFIELD	NC	27577-0000
14074002W	260410-46-0333	FOX, JOHN E JR	172 CREEKWOOD CIRCLE	SMITHFIELD	NC	27577-0000
14074002Y	260410-36-8331	JERRY GOWER CONSTRUCTION CO IN	7324 SEIMANS ROAD	WENDELL	NC	27591-0000
14074002C	260410-46-7237	BOTKIN, CARLOS EARL	368 BAYHILL DRIVE	SMITHFIELD	NC	27577-0000
14L09033L	260503-31-2956	BLACKWELL, CYNTHIA DIAN	5142 BALLANTINE DRIVE	SUMMERVILLE	SC	29485-0000
14L09042A	260503-43-0320	MILLER, HELEN JEAN	3164 BUFFALO RD	SMITHFIELD	NC	27577-0000
14L09042B	260503-43-0039	MILLER, HELEN JEAN	3164 BUFFALO RD	SMITHFIELD	NC	27577-0000
14L09034L	260503-32-3041	KIRKS, TRAVIS EDWARD	20531 BURWOOD CIR	KATY	TX	77449-5042
14L09042E	260503-42-0321	MILLER, HELEN JEAN	3164 BUFFALO RD	SMITHFIELD	NC	27577-0000
14M09029A	260406-38-2525	GEORGE C MCLAMB PROPERTIES LLC	5494 WILSONS MILLS RD	CLAYTON	NC	27520-0000
14N99005J	260503-32-5875	KIRKS, DENNIS L	303 ANDOVER RD	BILLERICA	MA	01821-0000
14N99009	260503-32-7596	WORLEY, KATHIE L	405 BAILEY AVE	KENLY	NC	27542-0000
14057032B	260411-76-1412	LEE 1996 FAMILY LTD PTNRP	PO BOX 237	SMITHFIELD	NC	27577-0237

Adjacent Property Owners of  
RZ-15-01

14057008G	260410-36-4743	GILMORE, RODNEY	9 SHERWOOD CT	SMITHFIELD	NC	27577-4835
14057151S	260410-37-4365	BUTLER, RONNIE	1 EDEN DR	SMITHFIELD	NC	27577-4804
14057152D	260410-36-3976	BARBOUR, GAYLE C	8 ALPINE CT	SMITHFIELD	NC	27577-0000
14057151A	260406-37-4545	SHEEHAN, JEAN O	2 EDEN DRIVE	SMITHFIELD	NC	27577-0000
14057196C	260410-36-3874	LITTLEFIELD, HORACE C	7 SHERWOOD CT	SMITHFIELD	NC	27577-4835
14L10080	260411-66-5285	H O I LIMITED PARTNERSHIP	PO BOX 26405	GREENSBORO	NC	27404-0000
14057009H	260410-36-4353	EASTERLING, JULIEANNE G	10 HAZELWOOD CT	SMITHFIELD	NC	27577-0000
14074002E	260410-46-5337	NGUYEN, VU	521 INDUSTRIAL PARK DR	SMITHFIELD	NC	27577-6011
14057015	260410-36-6799	SULLIVAN, THOMAS E	1505 E BOOKER DIARY ROAD	SMITHFIELD	NC	27577-0000
14057016A	260410-36-9850	SULLIVAN, THOMAS E	1505 BOOKER DAIRY RD	SMITHFIELD	NC	27577-0000
14054010P	260504-60-4924	SYSCO FOOD SERVICES OF RAL LLC	1032 BAUGH RD	SELMA	NC	27576-0000
14054041	260503-44-4393	ROBERTS & WELLONS	P O BOX 299	SMITHFIELD	NC	27577-0000
14057009	260407-57-1688	NELL M HOWELL REVOC TRUST	PO BOX 528	SMITHFIELD	NC	27577-0000
14054010F	260503-42-3243	ROBERTS & WELLONS, INC	P O BOX 986	SMITHFIELD	NC	27577-0000
14057151K	260406-37-4712	CHAPPELL, LUCILLE	1302 BOOKER DAIRY RD	SMITHFIELD	NC	27577
14056005	260406-38-0386	STIERS, HARRY A	586 HOLLEY BERRY LANE	SELMA	NC	27576-0000
14054010	260504-71-1691	WELLONS, ALLEN H	P O BOX 986	SMITHFIELD	NC	27577-0000
14057012D	260411-55-3715	WALMART REAL ESTATE TRUST	PO BOX 8050M MS 0555	BENTONVILLE	AR	72712-8050
14074002D	260410-46-7326	MILAZZOTTO, ANA LUCIA	388 BAYHILL DR	SMITHFIELD	NC	27577-9433
14057152E	260410-37-4062	BEAN, HOWARD B	116 PRINCESS ST	ALEXANDRIA	VA	22314-0000
14057152F	260410-37-4166	TAYLOR, LESLIE L III	P O BOX 1376	SMITHFIELD	NC	27577-4818
14057196	260410-36-3589	HIGGENBOTTOM, MICHAEL DAVID	8 SHERWOOD COURT	SMITHFIELD	NC	27577-0000
14057026	260412-76-5550	CREECH, MERLEON G	P O BOX 39	PINE LEVEL	NC	27568-0000
14057004D	260406-39-3596	E & F PROPERTIES INC	PO BOX 1352	SMITHFIELD	NC	27577-0000
14057152G	260410-37-3260	ELLIOTT, CHARLES WALLACE JR	7 ALPINE CT	SMITHFIELD	NC	27577-4818
14056002	260406-38-3184	EST	1700 WOODARD RD	PRINCETON	NC	27569-8309
14057004B	260406-38-3522	WALKER, EDWARD J	148 PONDEROSA RD	MOSHANNON	PA	16859-7330
14074002X	260410-36-9345	TITMUS, HENRY EDWARD	169 CREEKWOOD CIR	SMITHFIELD	NC	27577-9411
14057001G	260503-21-8681	HAYWOOD, MILES	4616 TALL TREE LN	WILMINGTON	NC	28409-3300
14074001M	260410-36-7441	JEMMA PROPERTIES LLC	3717 ROLSTON DR	RALEIGH	NC	27609-7226
14057001A	260503-20-9910	SULLIVAN, THOMAS E	1505 E BOOKER DAIRY RD	SMITHFIELD	NC	27577-0000



## PLANNING DEPARTMENT

Paul C. Embler, Jr., Director

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### **Notice Of Public Hearings**

Notice is hereby given that public hearings will be held before the Planning Board of the Town of Smithfield, N.C., on Thursday, February 5, 2015 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following requests:

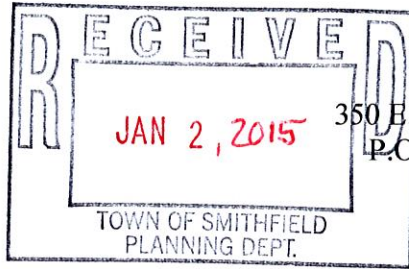
**CUP-15-01 NC 210 Car Lot:** The applicant is requesting a conditional use permit to construct and operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of the intersection of Swift Creek Road and NC Hwy 210. The property is further identified as Johnston County Tax ID# 15I09015H.

**RZ-15-01 Nell Howell Estate, Etal:** The applicant is requesting to rezone a 50.4 acre portion of a 66 acre tract of land from LI (Light Industrial) to B-3 (Business) and a 15.6 acre portion of a 66 acre tract of land from LI (Light Industrial) to R-8 (Residential). The request also includes the rezoning of a 28.8 acre portion of a 238.57 acre tract of land from R-6 (Residential) to B-3 (Business) and a 6.6 acre portion of a 238.57 acre tract of land from R-10 (Residential) to R-8 (Residential) and a 4.3 acre portion of a 238.57 acre tract of land from R-20A (Residential-Agriculture) to R-8 (Residential) and a 132.8 acre portion of a 238.57 acre tract of land from R-8 (Residential) to B-3 (Business) These properties are bound to the north by Buffalo Road, to the south by Ava Gardner Avenue to the east by US 70 Bypass and to the west by Booker Dairy Road. The properties considered for rezoning include only the portions of properties located within the Town of Smithfield Planning and Zoning Jurisdiction and are further identified as a 173.8 acre portion Johnston County Tax ID# 14057009 and the entire 66 acres of Johnston County Tax ID# 14054010F.

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](http://www.smithfield-nc.com).

**Run "Legal Ad" in the Smithfield Herald on 1/21/15 and 1/28/15**

**Exhibit E**  
**Rezoning 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

## REZONING APPLICATION

*Pursuant to Article 4, Section 4-1 of the Unified Development Ordinance, proposed amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, members of the public, or by one or more interested parties. Rezoning 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 for a rezoning to a Standard District.*

Name of Project: NELL HOWELL ESTATE, ETAL Acreage of Property: 248 +/- acres  
 Parcel ID Number: 260407-57-1688 & 260503-42-3243 Tax ID: 14057009 & 1405401F  
 Deed Book: 03334 & 01898 Deed Page(s): 0883 & 0361  
 Address: P.O. BOX 528, SMITHFIELD, NC 27577 & P.O. BOX 986, SMITHFIELD, NC 27577  
 Location: BOUNDED ON THE NORTH BY BUFFALO ROAD; ON THE EAST BY US HIGHWAY 70; ON THE SOUTH BY US HIGHWAY 301 AND ON THE WEST GENERALLY BY BOOKER DAIRY ROAD.  
 Existing Use: PASTURE/AGRICULTURAL Proposed Use: COMMERCIAL/MULTI-FAMILY  
 Existing Zoning District: B-3, R-8, R-10, R-20A & LI  
 Requested Zoning District B-3 AND R-8  
 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): \_\_\_\_\_

### FOR OFFICE USE ONLY

File Number: RZ-15-01 Date Received: 1/2/15 Amount Paid: \$300.<sup>00</sup>

**OWNER INFORMATION:**

**Name:** NELL HOWELL ESTATE; ROBERTS AND WELLONS, INC; AND RULDOPH A. HOWELL

**Mailing Address:** P.O. BOX 528 SMITHFIELD, NC 27577 & P.O. BOX 986 SMITHFIELD, NC 27577

**Phone Number:** 919-934-0553 NHEST/ 919-934-0053 ROBERTS & WELLONS      **Fax:** 919-934-4613 ROBERTS & WELLONS

**Email Address:** HOPE PANARA - hpanara@mac.com / ALLEN WELLONS - allen @wilkinswellon.com

**APPLICANT INFORMATION:**

**Applicant:** Same as Above

**Mailing Address:** Same as above

**Phone Number:** Same as above      **Fax:** Same as above

**Contact Person:** Ronnie L. Sutton, P.E

**Email Address:** rsutton@herring-sutton.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:*

- A map with metes and bounds description of the property proposed for reclassification.
- A list of adjacent property owners.
- A statement of justification.
- Other applicable documentation: \_\_\_\_\_

**STATEMENT OF JUSTIFICATION**

*Please provide detailed information concerning all requests. Attach additional sheets if necessary.*

THE PROPERTY REQUESTED TO BE REZONED IS ADJACENT TO AN ESTABLISHED SHOPPING CENTER/COMMERICAL AREA AND IS GENERALLY BOUNDED ON THE SOUTH BY BRIGHTLEAF BLVD. (US HIGHWAY 301) AND ON THE WEST BY US HIGHWAY 70, ON THE NORTH BY BUFFALO ROAD (SR 1003) AND ON THE EAST BY BOOKER DAIRY ROAD (SR 19230. THE PROPOSED EXTENSION OF BOOKER DAIRY ROAD IS RESULTS IN VIRTUALLY SPLITTING THE PROPERTY PROPOSED TO BE REZONED IN HALF. SINCE THE 1990'S THE COMMUNITY AS LOOKED UPON THIS PROPERTY AS BEING COMMERCIAL WITH THE CHAMBER COMMISSIONING STUDIES AND PREPARATION OF SKETCH PLANS PROPOSING THE PROPERTY TO BE GENERALLY COMMERICAL IN LAND USE. FROM THE INFORMATION WE HAVE GATHER THERE IS A PLANNING AND GROWTH OPINION THAT THIS TRACT OF LAND WILL BE THE NEXT COMMERCIAL GROWTH AREA IN SMITHFIELD. WITH THE PROPERTIES PROXIMITY TO US HIGHWAY 301, HIGHWAY 70 AND THE PROPOSED EXTENSION OF BOOKER DAIRY ROAD, THE MOST APPROPRIATE LAND USE IS COMMERCIAL AND SUPPORTING HIGH DENSITY RESIDENTIAL.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**REQUIRED FINDINGS OF FACT**

*Article 13, Section 13-17 of the Town of Smithfield Unified Development Ordinance requires applications for zoning map amendment 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. *The zoning petition is in compliance with all applicable plans and policies of the Town of Smithfield:*

THE EXISTING LAND USE PLAN OF THE TOWN OF SMITHFIELD INDICATES THE PROPERTY TO BE DEVELOPED AS COMMERCIAL, OFFICE & INSTITUTIONAL/HIGH DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL, AND OPEN SPACE LOW DENSITY RESIDENTIAL. IT SHOULD BE NOTED THAT THE OPEN/SPACE LOW DENSITY RESIDENTIAL AREA AS SHOWN ON THE FUTURE LAND USE PLAN WAS ZONED TO INDUSTRIAL IN RECENT YEARS AND IS LOCATED ADJACENT TO US HIGHWAY 70. IN DISCUSSIONS WITH TOWN OF SMITHFIELD OFFICIALS IT WAS INDICATED THAT COMMERCIAL LAND USES WERE COMPATIBLE WITH CURRENT VISIONS OF THE TOWN OF SMITHFIELD.

- 2. *The zoning petition is compatible with established neighborhood patterns of the surrounding area:*

IT IS OUR OPINION THAT THE PROPOSED REZONING REQUEST IS COMPATIBLE WITH ESTABLISHED NEIGHBORHOOD PATTERNS DUE TO EXISTING AND PROPOSED HIGHWAY PATTERNS AND PROPOSED BUFFERING OF COMMERCIAL ZONING ADJACENT TO EXISTING RESIDENTIAL LAND USES.

- 3. *The rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning:*

THE REZONING REQUEST AS PROPOSED IS COMPATIBLE WITH CHANGING NEIGHBORHOOD PATTERNS THAT WILL RESULT FROM THE PROPOSED EXTENSION OF BOOKER DAIRY ROAD.

- 4. *The rezoning request is in the community interest:*

IT IS OUR OPINION THAT THIS REZONING IS IN THE COMMUNITIES BEST INTEREST BY PROVIDING OPPORTUNITIES FOR BOTH COMMERCIAL AND MULTI-FAMILY LAND USES WHERE THE HIGHWAY INFRASTRUCTURE CAN BEST SUPPORT THESE TYPES OF LAND USES.

- 5. *The request does not constitute "Spot Zoning":*

IN OUR OPINION THE PROPOSED REZONING REQUEST DOES NOT IN ANY WAY CONSTITUTE "SPOT ZONING".



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: Nell Howell Estate, ETAL

Submittal Date: 12/31/14

**OWNERS AUTHORIZATION**

RONNIE L. SUTTON, P.E.

I hereby give CONSENT to \_\_\_\_\_ (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.

Signature of Owner

Hope Panara  
 Print Name

12/31/14  
 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.

Signature of Owner/Applicant

Ronnie L. Sutton, P.E.  
 Print Name

12/31/14  
 Date

**FOR OFFICE USE ONLY**

File Number: RZ-15-02 Date Received: 1/2/15 Parcel ID Number: \_\_\_\_\_





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: Nell Howell REVOCABLE TRUST, ETAL

Submittal Date: 12/31/14

**OWNERS AUTHORIZATION**

I hereby give CONSENT to RONNIE L. SUTTON, P.E. (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.

[Signature]  
 Signature of Owner

ALLEN WELLONS  
 Print Name

12/29/14  
 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.

[Signature]  
 Signature of Owner/Applicant

Ronnie L. Sutton, P.E.  
 Print Name

12/31/14  
 Date

**FOR OFFICE USE ONLY**

File Number: R2-15-07 Date Received: 1/2/15 Parcel ID Number:

**NELL HOWELL REVOCABLE TRUST PROPERTY  
REZONING DESCRIPTION  
TRACTS 1-C, 1-D & 1-G  
FROM B-3, R-6, R-8 AND R-20A  
TO B-3**

Beginning at the common property corner of the property of Nell Howell Revocable Trust Property Deed Book 3334, Page 883 Johnston County Registry and property of Robert and Wellons as recorded in Deed Book 1898 Page 361 Johnston County Registry said common corner also being located in the westerly right of way of US Highway 70 running from Buffalo Road to US Highway 301 and thence from the POINT OF BEGINNING thus described as follows: along and with the westerly right of way line of US Highway 70 4952 feet +/- to the northerly most corner of the property of Lee 1996 Family LTD Partnership as recorded in Deed Book 2994, Page 746 Johnston County Registry, cornering; thence leaving the westerly right-of-way of US Highway 70 along and with the easterly property line of said Lee 1996 Family LTD Partnership 56.8 +/- feet to the northerly most corner of property of HOI Limited Partnership as recorded in Deed Book 1292, Page 464 Johnston County Registry, cornering; thence along and with said HOI Limited Partnership northerly and westerly property lines 1268.4 +/- feet to a point located in northerly property line of property of HLK Commercial LLC as recorded in Deed Book 3587, Page 627 Johnston County Registry, cornering; thence along and with the northerly property line of said HLK Commercial LLC and the northerly property line of William S. Ragsdale III recorded in Deed Book 1654 Page 124 Johnston County Registry 214.5 +/- feet to the easterly right of way line of Ava Gardner Avenue, cornering; thence along and with the easterly right of way line of Ava Gardner Avenue in a northerly direction 624.3 +/- feet to the end of the dedicated right of way of Ava Gardner Avenue, cornering; thence in a westerly direction along with the end of the Ava Gardner Avenue and the northerly property line of Walmart Real Estate as recorded in Deed Book 1751 Page 775 Johnston County Registry 1154.7 +/- feet to the easterly property line of Ana Lucia Milazzotto, recorded in Deed Book 4105, Page 207 Johnston County Registry, cornering; thence along and with the Milazzotto easterly property line 60.6 +/- linear feet to point in Milazzotto northerly property line, cornering; thence along and with the northerly line of the Booker Dairy Plantation Park Subdivision, recorded in Plat Book 60 , Page 323 Johnston County Registry 764.1 +/- feet to a point in property of Clifton Jackson Pilkington recorded in Deed Book 2538, Page 14 Johnston County Registry, cornering; thence along and with the easterly property line of said Clifton Jackson Pilkington and property of Thomas E. Sullivan, Deed Book 1075, Page 328 476.3 +/- feet to a point in the northerly property line of said

Sullivan property, cornering; thence along a new line across the property of the aforementioned Nell Howell Revocable Trust in both a easterly and northerly direction 989.9+/- feet to a point in the southerly property line of Margie B. Olsen recorded in Deed Book 929, Page 45 Johnston County Registry; thence along and with the easterly, northerly and westerly property lines of said Margie B. Olsen and the westerly property lines of Paul A. Olsen Deed Book 1269, Page 467 and Carl Thomas Stancil recorded in Deed Book 2465 Page 27 Johnston County Registry 1239 +/- feet to a point in the northeasterly right of way of East Booker Dairy Road, cornering; thence along and with the northeasterly right of way of East Booker Dairy Road 355.6 +/- feet to a point in the southerly property line of the property of Edward J. Walker recorded in Deed Book 1815 Page 149 Johnston County Registry, cornering; thence along with the southwesterly property line of said Edward J. Walker Property and the southerly property line of E&F Properties Inc. recorded in Deed Book 4377 Page 880 Johnston County Registry 884.6 +/- feet to a point in the easterly property line of said E&F Properties Inc., cornering; thence along and with the easterly property line of said E&F Properties, Inc. and property of Thomas E Sullivan Deed Book 968 Page 486 Johnston County Registry 2362 +/- feet to a point in the southerly property line of Robert and Wellons, Deed Book 1898, Page 361 Johnston County Registry, cornering; thence along and with the southerly property line of said Robert and Wellons Property 968.3 +/- feet to the westerly right of way of US Highway 70 the point and place of beginning containing 171 acres more or less and being a portion of the property having PIN # 260407-57-1688.

**NELL HOWELL REVOCABLE TRUST PROPERTY  
REZONING DESCRIPTION  
TRACTS 1-E & 1-F  
FROM R-10 AND R-20A TO R-8**

BEGINNING at the westerly common property corner of the property of Nell Howell Revocable Trust Property Deed Book 3334, Page 883 Johnston County Registry and the property of Thomas E. Sullivan as recorded in Deed Book 527 Page 126 Johnston County Registry, said common corner being located along the easterly right-of-way of Booker Dairy Road and thence from the POINT OF BEGINNING thus described as follows: Along and with the easterly right-of-way of Booker Dairy Road 953 +/- feet to a point in the southerly property line of Lois B. Ray as recorded in Deed Book 1204 Page 655 Johnston County Registry, cornering, thence along and with the southerly property line of Lois B. Ray and Margie B. Olsen as recorded in Deed Book 929 Page 45 Johnston County Registry 509.6 +/- feet to a point, cornering, thence along and with a new line across the property of Nell Howell Revocable Trust Property 989.9 +/- feet to a point in the northeasterly property corner of Thomas E. Sullivan as recorded in Deed Book 1075 Page 328 Johnston County Registry, thence along and with the northerly property line of Thomas E. Sullivan 471.8 +/- feet to point and place of BEGINNING containing 10.9 acres more or less and being a portion of the property having NC PIN # 260407-57-1688.

**ROBERTS AND WELLONS PROPERTY  
REZONING DESCRIPTION  
TRACT 1-A  
FROM LI TO B-3**

Beginning at the common property corner of the property of Nell Howell Revocable Trust Property Deed Book 3334, Page 883 Johnston County Registry and property of Roberts and Wellons as recorded in Deed Book 1898 Page 361 Johnston County Registry said common corner also being located in the westerly right of way of US Highway 70 running from Buffalo Road to US Highway 301 and thence from the POINT OF BEGINNING thus described as follows: Along and with the northerly property line of Nell Howell Revocable Trust as recorded in Deed Book 3334, Page 883 Johnston County Registry 968.3 +/- feet to a point in the easterly property line of Thomas E. Sullivan Deed Book 968, Page 486 Johnston County Registry, cornering; thence along a new line across the property of Roberts and Wellons 936.2 +/- feet to a point in the southerly property of Helen Jean Miller Deed Book 857, Page 359 Johnston County Registry, cornering; thence along and with the easterly property line of said Helen Jean Miller 1535 +/- feet to the southerly right of way line of Buffalo Road, cornering; thence along and with the southerly right of way line of Buffalo Road 466.4 +/- feet to the westerly right of way of US Highway 70, cornering; thence leaving the southerly right of way of Buffalo Road in a southerly direction along and with the westerly right of way of US Highway 70 2601.1 +/- feet to the point and place of beginning containing 50.4 acres more or less and also being a portion of the property having NC PIN # 260503-42-3243.

**ROBERTS AND WELLONS PROPERTY  
REZONING DESCRIPTION  
TRACT 1-B  
FROM LI TO R-8**

Beginning at the northerly common property corner of the property of Nell Howell Revocable Trust Property Deed Book 3334, Page 883 Johnston County Registry and property of Thomas E. Sullivan as recorded in Deed Book 968 Page 486 Johnston County Registry, said common corner being located along the southerly property line of Roberts and Wellons as recorded in Deed Book 1898 Page 361 Johnston County Registry and thence from the POINT OF BEGINNING thus described as follows: Along and with the northerly property line of Thomas E. Sullivan 753.2 +/- feet to a point, cornering, thence along and with the easterly property lines of Thomas E. Sullivan and Miles Haywood as recorded in Deed Book 1288 Page 401 Johnston County Registry 854.9 +/- feet to a point, cornering, thence along and with the southerly property lines of Miles Haywood, Kathie L. Worley as recorded in Deed Book 857 Page 358 Johnston County Registry and Helen Jean Miller as recorded in Deed Book 857 Page 359 Johnston County Registry 772.6 +/- feet to a point, cornering, thence along and with new line across the property of Roberts and Wellons 936.2 +/- feet to the point and place of BEGINNING containing 15.6 acres more or less and being a portion of the property having NC PIN # 260503-42-3243.



#1

NELL M H. HOWELL REVOC TRUST  
DB 3334 PG 883  
PIN 260407-57-1688

#1A

ROBERT & WELLONS  
DB 1898 PG 361  
PIN 260503-42-3243

#3

THOMAS E. SULLIVAN  
DB 968 PG 486  
PIN 260503-30-2910

#4

E&F PROPERTIES INC  
DB 4377 PG 880  
PIN 260406-39-3596

#5

EDWARD J. WALKER  
DB 1815 PG 149  
PIN 260406-38-3522

#6

CARL THOMAS STANCIL  
DB 2465 PG 27  
PIN 260406-38-6101

#7

PAUL A. OLSEN  
DB 1269 PG 467  
PIN 260406-38-6294

#8

MARGIE B. OLSEN  
DB 929 PG 45  
PIN 260406-38-8131

#9

LOIS B. RAY  
DB 1204 PG 655  
PIN 260406-37-6933

#10

THOMAS E. SULLIVAN  
DB 527 PG 126  
PIN 260410-36-6799

#11

THOMAS E. SULLIVAN  
DB 1075 PG 328  
PIN 260410-36-9850

#12

CLIFTON JACKSON PILKINGTON  
DB 2538 PG 14  
PIN 260410-36-8508

#13

BOOKER DAIRY HOMEOWNERS ASSOC  
DB 3274 PG 19  
PIN 260410-46-1327

#20

VU NGUYEN  
DB 3072 PG 917  
PIN 260410-46-5337

#21

ANA LUCIA MILAZZOTTO  
DB 4105 PG 207  
PIN 260410-46-4326

#22

CARLOS EARL BOTKIN  
DB 3367 PG 82  
PIN 260410-46-7237

#23

WALMART REAL ESTATE TRUST  
DB 1751 PG 775  
PIN 260411-55-3715

#24

CNL APF PARTNERSHIP LP  
DB 4358 PG 625  
PIN 260411-55-9495

#25

WILLIAM S. RAGSDALE III  
DB 1654 PG 124  
PIN 260411-65-16255

#26

HLK COMMERCIAL LLC  
DB 3587 PG 627  
PIN 260411-65-3605

#27

H O I LIMITED PARTNERSHIP  
DB 1292 PG 464  
PIN 260411-66-5285

#28

LEE 1996 FAMILY LTD PARTNERSHIP  
DB 2994 PG 746  
PIN 260411-76-1412

#29

MERLEON G. CRECH  
DB 833 PG 510  
PIN 260412-76-5550

#30

JANE WILLIAMS DAVIS  
DB 3752 PG 594  
PIN 260407-69-5794

#31

SYSCO FOODS SERVICES OF RALEIGH LLC  
DB 2865 PG 843  
PIN 260504-60-4924

#32

ROBERT & WELLONS  
DB 619 PG 13  
PIN 260503-44-4393

#33

HELEN JEAN MILLER  
DB 857 PG 359  
PIN 260503-43-0320

#34

HELEN JEAN MILLER  
DB 857 PG 359  
PIN 260503-43-0039

#35

HELEN JEAN MILLER  
DB 857 PG 359  
PIN 260503-42-0321

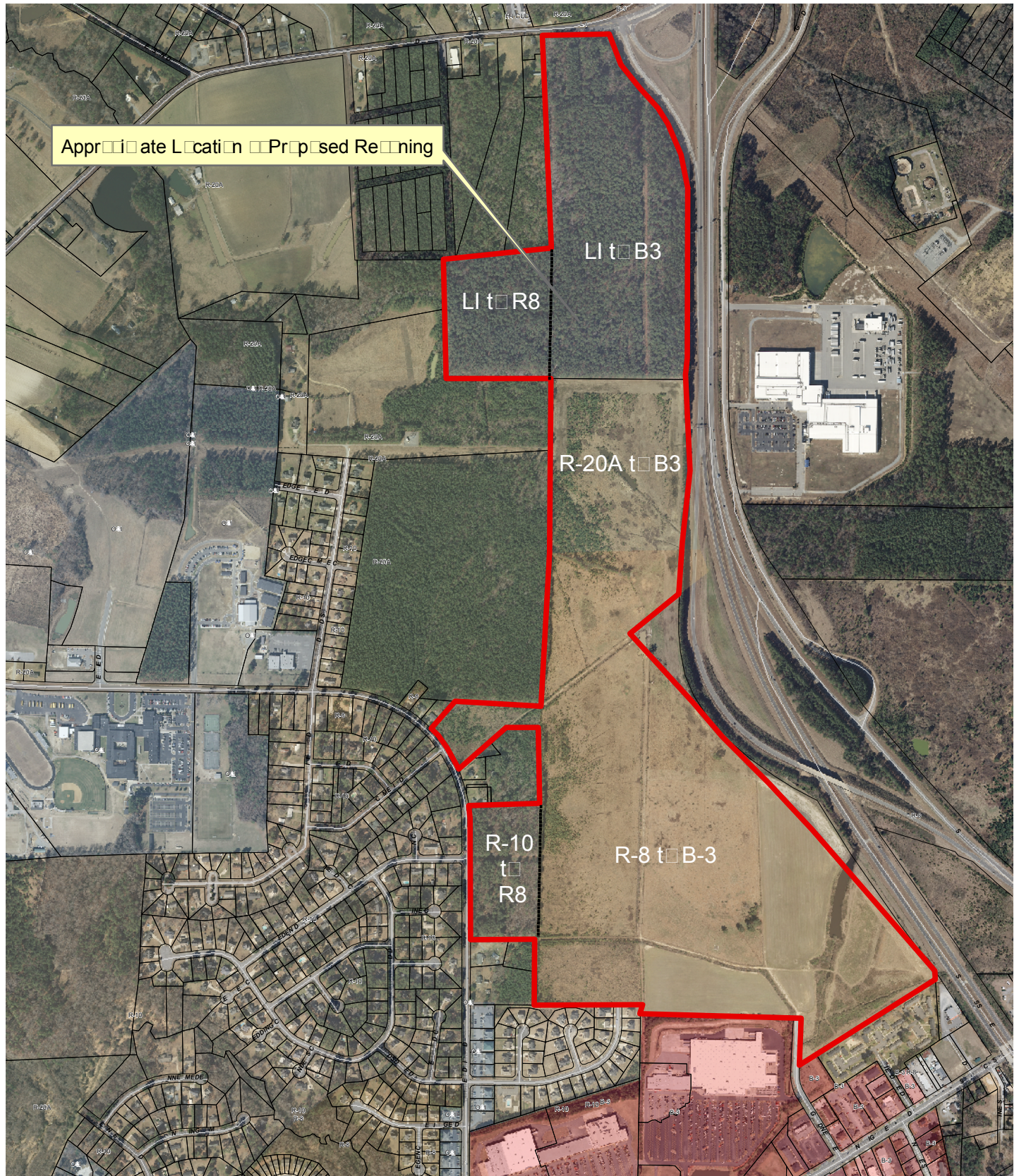
#36

KATHIE L. WORLEY  
DB 857 PG 358  
PIN 260503-32-7596

#37

MILES HAYWOOD  
DB 1288 PG 401  
PIN 260503-21-8681





Appropriate Location of Proposed Re-zoning

LI t B3

LI t R8

R-20A t B3

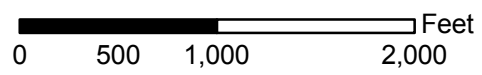
R-10  
t  
R8

R-8 t B-3

Vicinity Map of:  
 RZ-15-01  
 Applicant:  
 Nell Howell Estate, ETAL



Map Created by Town of Smithfield  
 Geographic Information Services



**Automobile Sales Lot  
CUP-15-01**

**For Properties Located at:**

West side of the intersection of Swift Creek Road and  
NC Hwy 210 and further identified as Johnston County  
Tax ID# 15I09015H.

**Property Owner:  
Charles Phillip & Jamie Tyler**

**Table of Contents**  
**Conditional Use Permit**  
**CUP-15-01**

<b>Staff Report</b>	<b>Exhibit A</b>
<b>Find of Fact / Approval Criteria</b>	<b>Exhibit B</b>
<b>Planning Board Report / Actions</b>	<b>Exhibit C</b>
<b>Adjoining Property Owners Certification</b>	<b>Exhibit D</b>
<b>Conditional Use Permit Application</b>	<b>Exhibit E</b>

**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-15-01  
**Project Name:** NC 210 Car Lot  
**TAX ID number:** 15109015H  
**Town Limits/ETJ:** City  
**Applicant:** Charles Phillip and Jamie Tyler  
**Owners:** Charles Phillip and Jamie Tyler  
**Agents:** Triangle Civil Works

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**PROJECT LOCATION:** West side of the intersection of Swift Creek Road and NC Hwy 210.

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**REQUEST:** The applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 20 cars for sale and located on property located within a B-3 (Business) zoning district.

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### SITE DATA:

**Acreage:** a portion of a 3.228 acre parcel  
**Present Zoning:** B-3 (Business)  
**Proposed Zoning:** N/A  
**Existing Use / Previous:** Vacant / Undeveloped

### DEVELOPMENT DATA:

#### Proposed Use:

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**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.

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## ADJACENT ZONING AND LAND USES:

North:	Zoning:	R-20A (Residential-Agricultural)
	Existing Use:	Residential
South:	Zoning:	R-20A (Residential-Agricultural)
	Existing Use:	Residential
East:	Zoning:	B-2 (Business)
	Existing Use:	Residential
West:	Zoning:	R-20A (Residential-Agricultural)
	Existing Use:	Residential

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**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 3.228 acre site showing improvements to the property to include a gravel parking area for 30 automobiles and 5 required parking spaces. A 30 foot wide driveway is proposed allowing access from NC Highway 210. Landscaping will be provided in accordance with the Unified Development Ordinance and will include a 40 foot landscape buffer and no privacy fence along southwestern property line. A location for a modular constructed building is shown on the plan. 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. All areas for the storage of automobiles that can accommodate more than 5 vehicles must be paved in accordance with minimum development standards of the Town of Smithfield Unified Development Ordinance. A variance to the parking requirement must be requested and granted by the Town of Smithfield Board of Adjustment prior to staff approving a site plan with gravel parking. Staff recommends that the street yard landscaping be planted adjacent to the parking area and that vehicular screening be installed around all areas containing vehicular surface areas.

- **Consistency with the Strategic Growth Plan**

The proposed automobile sales lot is inconsistent with the recommendations of the Comprehensive Growth Management Plan which calls for low density residential development and uses near the intersection of NC Hwy 210 and Swift Creek Road.

- **Consistency with the Unified Development Code**

An automobile sales lot is a permitted use within the 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 to include paved parking and vehicular storage.

- **Compatibility with Surrounding Land Uses**

An automobile sales lot at this location will pose a compatibility issue with surrounding land uses given that it is in a rural setting and adjacent to establish residential homes.

- **Signs**

Signs shall be permitted in accordance with the Town of Smithfield Unified Development Ordinance which will allow for a maximum height of 6 feet and 75 square feet in area.

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**OTHER:**

FIRE PROTECTION: Town of Smithfield

SCHOOL IMPACTS: NA

PARKS AND RECREATION: NA

ACCESS/STREETS: NC Hwy 210

WATER/SEWER PROVIDER: Town of Smithfield allocation

ELECTRIC PROVIDER: Duke / Progress

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**Planning Department Recommendations:**

The Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces are paved and landscaping is installed in accordance with minimum developments standards and that vehicular surface screening is installed adjacent to all vehicular surface areas.

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**Planning Board Recommendations:**

The Planning Board is requested to review the application and make a recommendation to Town Council based on the Finding of Fact for a conditional use permit for an automobile sales lot.

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## **Exhibit B**

### **Finding of Fact/Approval Criteria**



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

**Application Number:** CUP-15-01    **Name:** NC Hwy 210 car lot

**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, paved parking 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 paved parking that meets minimum development standards and a lighting plan with utility connections. Furthermore, the landscaping provided will not adequately protect adjacent land owners from adverse impacts due to increased light, noise and traffic.

### 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 30 automobile sales for sale are on the lot at any given time. Automobiles for sale shall be no closer than 50 feet from the right-of-way of NC Hwy 210 and Swift Creek Road in accordance with the Town of Smithfield Unified Development Ordinance. All parking areas shall be paved or the applicant shall request a variance by the Town of Smithfield Board of Adjustment.

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, paved parking and all other minimum development standards.

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 occur without minimum development standards being met to include paved parking, landscaping and lighting.

**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-15-01.*

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**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-15-01 for the following stated reason:*

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**6. Record of Decision:**

**Based on a motion and majority vote of the Town of Smithfield Planning Board Conditional Use Permit Application Number CUP-15-01 is hereby:**

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

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\_\_\_\_\_ recommended for denial for the noted reasons.

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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-15-01, were notified by First Class Mail on 1-23-15.

Signature

Johnston County, North Carolina

I, Shannan L. Williams, 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

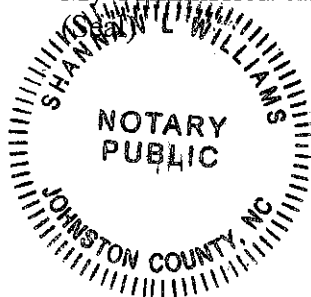
23<sup>rd</sup> day of January, 2015

Notary Public Signature

Shannan L. Williams

Notary Public Name

My Commission expires on 5-20-2017





Adjacent Property Owners of  
CUP-15-01

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15I09015H	167400-91-1487	TYLER, CHARLES PHILLIP	5194 US 70 BUS HWY W	CLAYTON	NC	27520-6815
15I09015O	167400-81-9619	DJ'S PROPERTIES INC	1001 NC 210 HWY	SMITHFIELD	NC	27577-0000
15I09015P	167400-91-0894	DJ'S PROPERTIES INC	1001 NC 210 HWY	SMITHFIELD	NC	27577-0000
15I09016B	168400-00-2088	WATSON, FRANKLIN	2267 NC HWY 210	SMITHFIELD	NC	27577-0000
15I09015M	167400-91-3786	HOWLEY, HENRY T	104	NORTH PORT	FL	34287-3436
15I09016G	167400-91-2032	LOFTON, LEONARD CLIFTON	303 TRALEE DR	SMITHFIELD	NC	27577-0000
15J09014E	167400-91-5327	DAUGHTRY FARMS LLC	PO BOX 1264	SMITHFIELD	NC	27577-0000
15I09016F	167400-90-5749	WATSON, FRANKLIN	2267 NC HIGHWAY 210	SMITHFIELD	NC	27577-8200
15I09015W	167400-81-7436	DJ'S PROPERTIES INC A NC CORP	ATTN: DAVID JONES	SMITHFIELD	NC	27577-0000
15I09015V	167400-81-8516	CHAVEZ, ISIDRO RIVERA	91 WILLOW LN	SMITHFIELD	NC	27577-6936
15I09015N	167400-90-2916	JONES, CLINTON THOMAS JR	2365 HWY 210	SMITHFIELD	NC	27577-0000
15J09014G	167400-91-7045	DAUGHTRY FARMS LLC	PO BOX 1264	SMITHFIELD	NC	27577-0000
15I09015Q	167400-81-9265	CAPORALE, MICHAEL	2190 NC HIGHWAY 210	SMITHFIELD	NC	27577-6608



## PLANNING DEPARTMENT

Paul C. Embler, Jr., Director

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### **Notice Of Public Hearings**

Notice is hereby given that public hearings will be held before the Planning Board of the Town of Smithfield, N.C., on Thursday, February 5, 2015 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following requests:

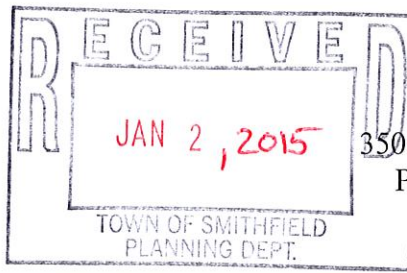
**CUP-15-01 NC 210 Car Lot:** The applicant is requesting a conditional use permit to construct and operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of the intersection of Swift Creek Road and NC Hwy 210. The property is further identified as Johnston County Tax ID# 15I09015H.

**RZ-15-01 Nell Howell Estate, Etal:** The applicant is requesting to rezone a 50.4 acre portion of a 66 acre tract of land from LI (Light Industrial) to B-3 (Business) and a 15.6 acre portion of a 66 acre tract of land from LI (Light Industrial) to R-8 (Residential). The request also includes the rezoning of a 28.8 acre portion of a 238.57 acre tract of land from R-6 (Residential) to B-3 (Business) and a 6.6 acre portion of a 238.57 acre tract of land from R-10 (Residential) to R-8 (Residential) and a 4.3 acre portion of a 238.57 acre tract of land from R-20A (Residential-Agriculture) to R-8 (Residential) and a 132.8 acre portion of a 238.57 acre tract of land from R-8 (Residential) to B-3 (Business) These properties are bound to the north by Buffalo Road, to the south by Ava Gardner Avenue to the east by US 70 Bypass and to the west by Booker Dairy Road. The properties considered for rezoning include only the portions of properties located within the Town of Smithfield Planning and Zoning Jurisdiction and are further identified as a 173.8 acre portion Johnston County Tax ID# 14057009 and the entire 66 acres of Johnston County Tax ID# 14054010F.

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](http://www.smithfield-nc.com).

**Run "Legal Ad" in the Smithfield Herald on 1/21/15 and 1/28/15**

**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: NC 210 Car Lot                      Acreage of Property: 3.228 AC  
 Parcel ID Number: 167400-914-1487                      Tax ID: 15109015H  
 Deed Book: 4054                      Deed Page(s): 0390  
 Address: Unassigned  
 Location: West corner of Intersection of Swift Creek Road (SR 1501) and NC Hwy 210.

Existing Use: Vacant                      Proposed Use: Auto Sales Lot  
 Existing Zoning District: B-3  
 Requested Zoning District: \_\_\_\_\_  
 Is project within a Planned Development:     Yes     No  
 Planned Development District (if applicable): N/A  
 Is project within an Overlay District:     Yes     No  
 Overlay District (if applicable): N/A

## FOR OFFICE USE ONLY

File Number: COP-15-02      Date Received: 1/2/15      Amount Paid: \$300.00



**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 USE DOES NOT MATERALLY ENDANGER THE PUBLIC HEALTH, SAFETY OR GENERAL WELFARE.  
EMERGENCY SERVICES ACCESS IS FULLY PROVIDED TO THE DEVELOPED SITE.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
THE PROPOSED USE SHALL MEET ALL REQUIRED CONDITIONS RESULTING FROM THE APPLICATION FOR CONDITIONAL USE AUTHORIZATION. ALL OTHER APPLICABLE REQUIREMENTS OF TOWN OF SMITHFIELD UDO SHALL ME MET.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 PROPOSED USE DOES NOT RESTRICT THE EXISTING USES OR FUTURE DEVELOPMENT POTENTIAL OF ADJACENT PROPERTIES.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

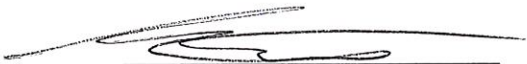
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of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

\_\_\_\_\_  
THE PROPOSED USE IS IN COMFORMANCE WITH OTHER USES WITHIN THE TOWN OF SMITHFIELD ZONED B-3 HIGHWAY ENTRANCE AND ABUTTING CORRIDORS BRINGING TRAFFIC INTO THE TOWN OF SMITHFIELD. THIS USE CONFORMS TO THE COMMERCIAL NODES DESIGNATED IN THE FUTURE LAND USE PLAN, AT NC 210 AND SR 1010. DUE TO THAT NODE'S PARTIAL LOCATION IN A FLOOD PLAIN, THE INTERSECTION OF SWIFT CREEK ROAD AND NC HWY 210.  
\_\_\_\_\_  
\_\_\_\_\_

**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.*

Phillip Tyler  
Print Name

  
Signature of Applicant

12-22-14  
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

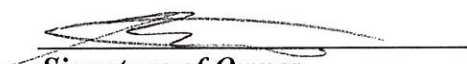
## OWNER'S CONSENT FORM

Name of Project: NC HWY 210 CAR LOT                      Submittal Date: JANUARY 2, 2015

### OWNERS AUTHORIZATION

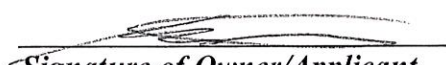
I hereby give CONSENT to AMOS D. SIMMONS, JR. (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) 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.

 \_\_\_\_\_      Phillip Tyler \_\_\_\_\_      12-22-14 \_\_\_\_\_  
*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.

 \_\_\_\_\_      Phillip Tyler \_\_\_\_\_      12-22-14 \_\_\_\_\_  
*Signature of Owner/Applicant*                      *Print Name*    *Date*

### FOR OFFICE USE ONLY

File Number:	Date Received:	Parcel ID Number: 167400-914-1487
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December 31, 2014

## STATEMENT OF JUSTIFICATION

RE: NC Hwy 210 Car Lot  
Conditional Use Permit Application

### **PROPERTY DESCRIPTION:**

This property is located in the southwest quadrant of the intersection of Swift Creek Road (NCSR 1501) and NC Highway 210 and is currently zoned B-3. Directly across Swift Creek Road is a 1.73 acres parcel zoned B-2 owned by Henry T. Howley and Lara DeJoy of North Port, Florida. The current owner of the subject 3.228 acres parcel is seeking to conditional use authorization to provide an automobile sales lot. The adjoining property to the west is a mobile home subdivision and the property adjoining it is a mobile home park. The property to the south is a single family residence. We believe conditional use authorization will allow this property to be utilized at its highest and best use.

### **PROTECTION OF ADJOINING PROPERTIES:**

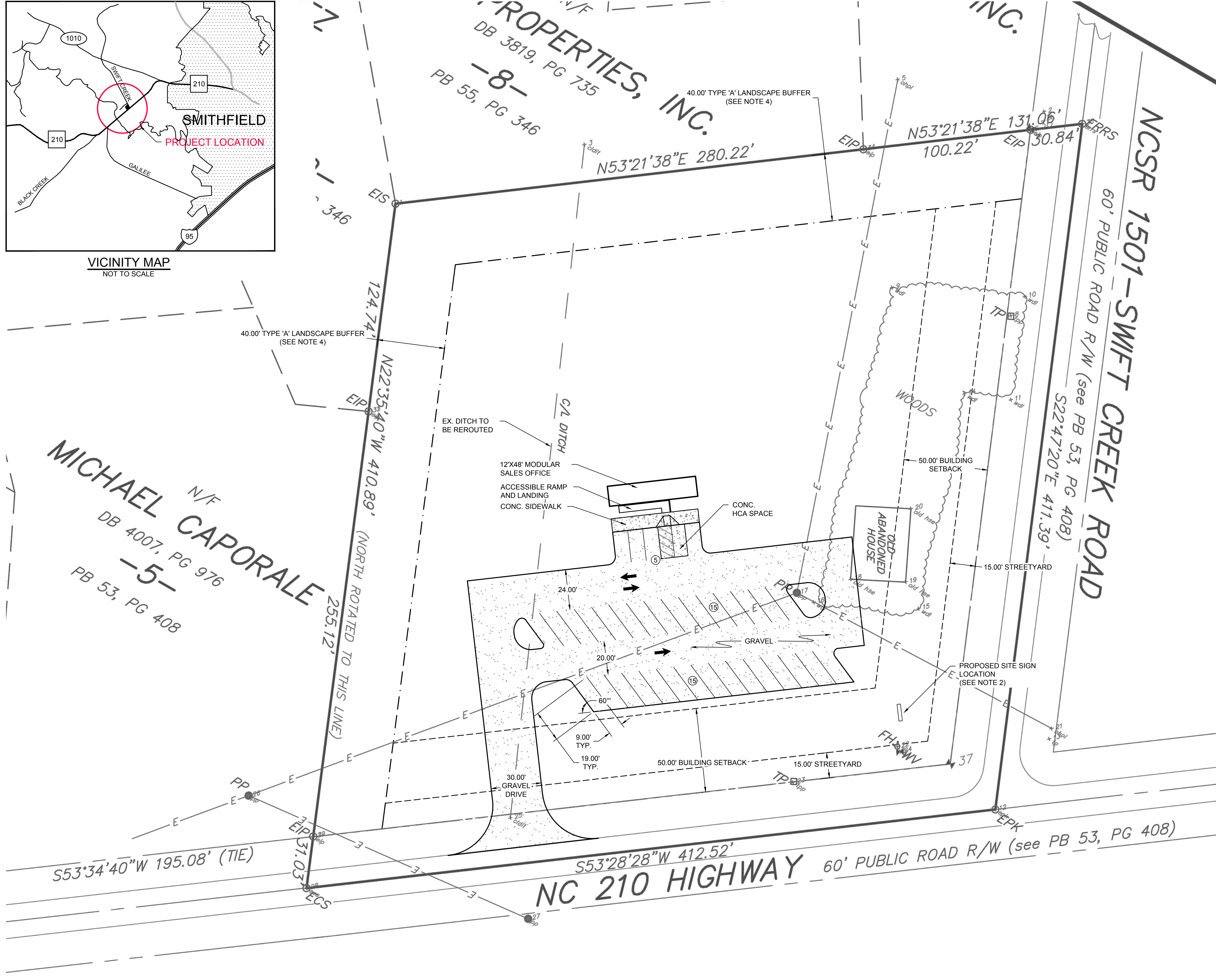
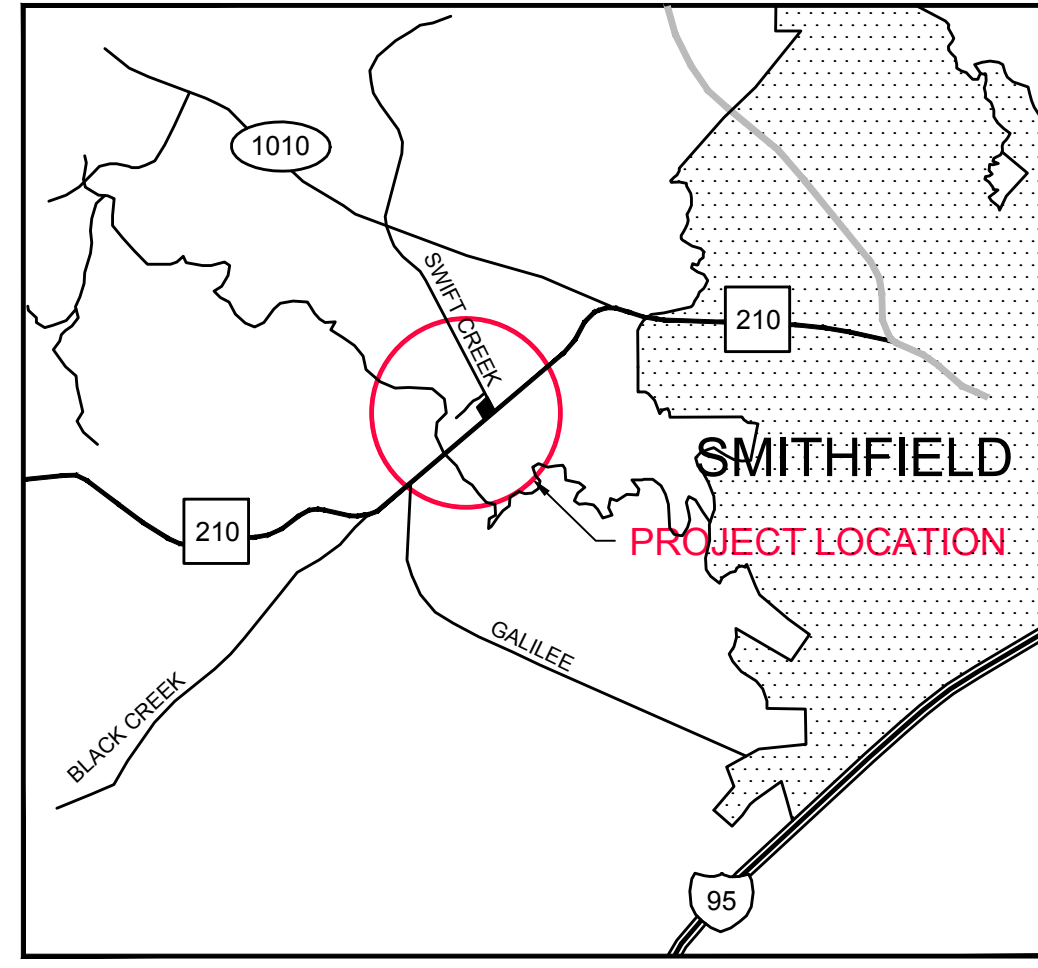
The adjoining properties will be adequately protected by the current buffer requirements of the Town's Unified Development Ordinance which requires a 40 foot buffer adjoining residential zoned property. The current planting requirements for the buffer are 2 trees per 1000 square feet with a minimum of 50% evergreen and 12 three foot high shrubs at planting per 1000 square feet. The shrubs are required to be a minimum of six feet high at maturity. Using these requirements the buffer would contain 58 trees and 345 shrubs. Adjacent parcels will be further protected through compliance with the Town of Smithfield's requirements for site lighting. See the attached Preliminary Landscape Plan, L-1, for a layout of how the required landscape plantings might appear for this project.

### **CONFORMANCE WITH UDO:**

All other standards required by the Town of Smithfield's Unified Development Ordinance will be met through approval of the final construction plans at the time of site permitting.

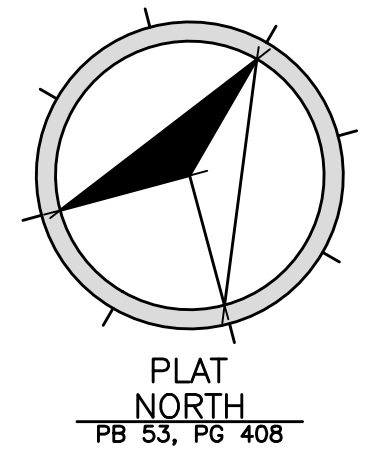
SAVED: 12/31/14 9:06 AM

I:\TRICIVIL\WORKS\PROJECTS\PHILLIP TYLER\NC 210 CAR LOT\DOCUMENTS\DWG\SHEETS\1 PRELIMINARY LAYOUT.DWG



**SITE DATA:**

- TRACT 1 PROPERTY INFORMATION
- OWNER: CHARLES PHILLIP AND JAMIE TYLER  
5194 US HWY 70 BUS. W.  
CLAYTON, NC 27520
  - NC PIN: 167400-91-1437
  - TAX ID: 15109015H
  - DEED REFERENCE DB 4094 PG 0390
  - EXISTING USE: VACANT
  - PROPOSED USE: AUTOMOBILE SALES LOT
  - EXISTING ZONING: B-3
  - AREA: 3.774 AC (INCLUDING R/W)  
3.228 AC (EXCLUDING R/W)
- PARKING PROVIDED:
- 30 AUTOMOBILE SPACES
  - 5 EMPLOYEE / CUSTOMER SPACES



**CONDITIONAL USE PERMIT APPLICATION SHEET LIST**

- PRELIMINARY SITE PLAN LAYOUT P-1  
PRELIMINARY LANDSCAPE PLAN L-1

**SITE NOTES**

- EXISTING CONDITIONS SURVEY PREPARED BY JIMMY BARBOUR SURVEYING OF SMITHFIELD IN A MAP ENTITLED "SURVEY FOR CHARLES PHILLIP TYLER AND JAMIE TYLER" DATED FEBRUARY 21, 2012.
- SIGNAGE SHALL BE DESIGNED AND INSTALLED PER TOWN OF SMITHFIELD UDO.
- SITE LIGHTING SHALL BE DESIGNED AND INSTALLED PER TOWN OF SMITHFIELD UDO.
- LANDSCAPING SHALL BE DESIGNED AND INSTALLED PER TOWN OF SMITHFIELD UDO.
- ALL OTHER SITE ELEMENTS SHALL BE DESIGNED AND INSTALLED PER TOWN OF SMITHFIELD UDO.
- GARBAGE COLLECTION SHALL BE BY ROLL OFF CONTAINER COLLECTION.
- IT IS NOT EXPECTED THAT AVERAGE DAILY TRAFFICE GENERATION WILL EXCEED 800 TRIPS / DAY FOR THE PROPOSED USE.
- WASTE WATER BY ON-SITE SEPTIC SYSTEM.
- WATER SUPPLY BY TOWN OF SMITHFIELD.
- ALL APPLICABLE NCDOT DRIVEWAY AND ENCROACHMENT PERMITS SHALL BE SECURED PRIOR TO CONSTRUCTION.



DESIGNED:	PROJECT DATE: JAN 2015	
DRAWN: RAJ	PROJECT NO.	
CHECKED: DCS	DWG FILE NAME: P-1 Preliminary Layout.dwg	
PROJ. ENG.: DCS		
REV. NO.	DESCRIPTIONS	DATE
	REVISIONS	

**TRIANGLE CIVILWORKS**  
PROFESSIONAL ASSOCIATION  
NCBELS NO. C-2663  
211 TYLER DRIVE  
SMITHFIELD, NC 27577  
919-209-9955

**NC HIGHWAY 210 CAR LOT  
CONDITIONAL USE PERMIT  
SMITHFIELD, NORTH CAROLINA**

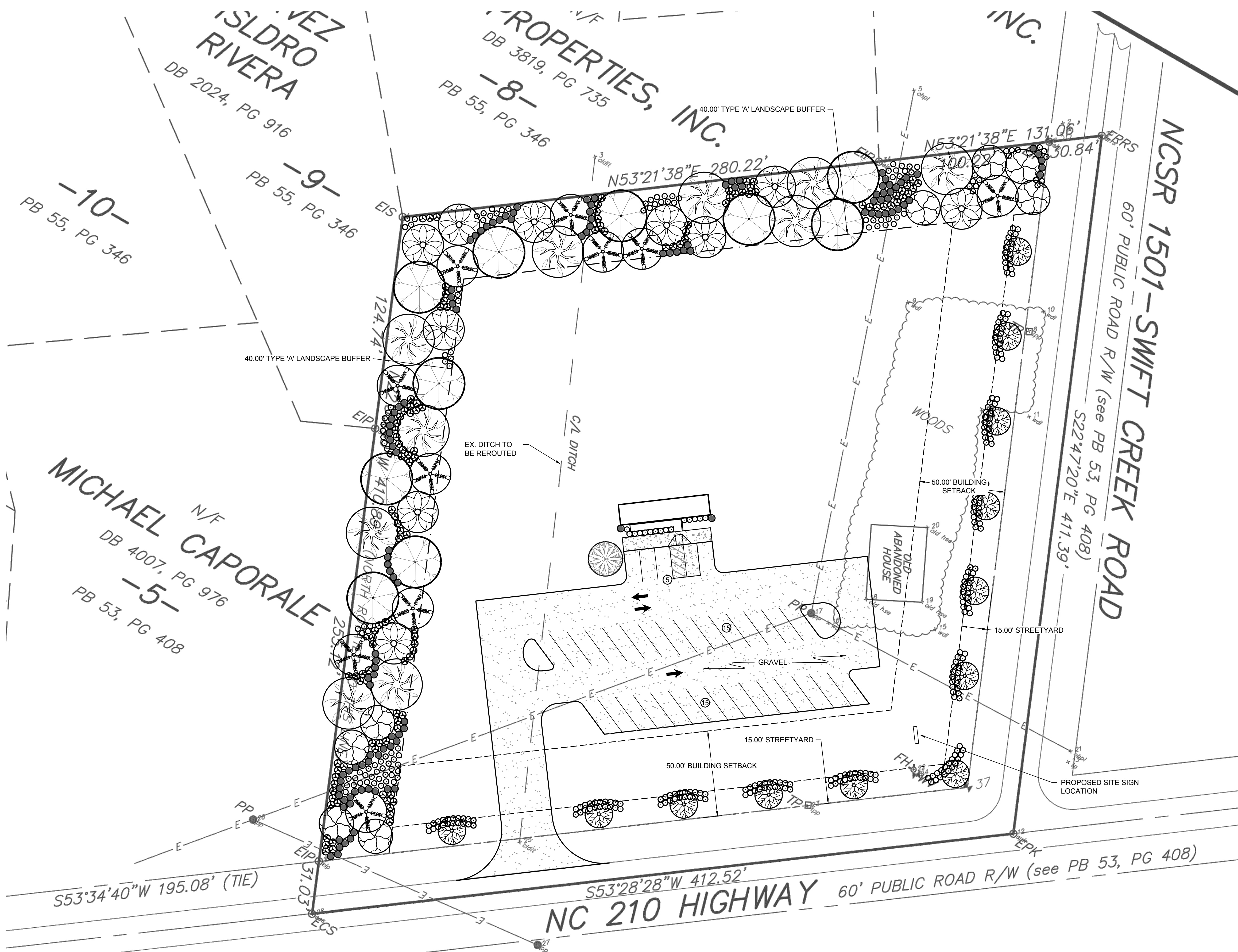
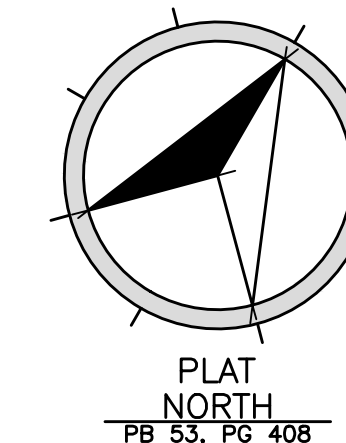
**PRELIMINARY  
SITE PLAN LAYOUT**

1"=30'

PRELIMINARY  
NOT RELEASED  
FOR CONSTRUCTION

12/31/14

SHEET NO.  
**P-1**  
OF: 2



**Plant List and Legend**

TREES	symbol	quantity	botanic name	common name	size	container	variety
		8	Acer rubrum	Red Maple	2' cal. 10' ht.	B&B	
		12	Lagerstroemia indica	Crape Myrtle	6' ht.	B&B	Natchez
		10	Liriodendron tulipifera	Tulip Poplar	2' cal. 10' ht.	B&B	
		10	Platanus x acerfolium	London Plane Tree	2' cal.	B&B	Bloodgood
		10	Quercus phellos	Willow Oak	2' cal. 10' ht.	B&B	
		10	Taxodium distichum	Bald Cypress	2' cal. 10' ht.	B&B	
		1	Ulmus parvifolia	Chinese Elm	2' cal. 10' ht.	B&B	Allee
SHRUBS		115	Eleagnus pungens	Thorny Eleagnus	18' ht.	3 gal.	
		370	Ilex cornuta 'Needlepoint'	Needlepoint Holly	18' ht.	3 gal.	
		117	Osmanthus fragrans	Fragrant Tea Olive	18' ht.	3 gal.	

**Planting Calculations**

<b>STREET YARD</b>	
WIDTH:	15'
UNDERSTORY TREES REQUIRED: 1 PER 50' LENGTH	
UNDERSTORY TREES PROPOSED:	12
SHRUBS REQUIRED:	20 PER 50' LENGTH
SHRUBS PROPOSED:	240
<b>VEHICULAR SURFACE AREA</b>	
<b>DISPLAY AREA</b>	
NO SCREEN REQUIRED (GREATER THAN 50' FROM ROW)	
PER ARTICLE 17(C)(7)(a)	
NO INTERIOR PLANTINGS REQUIRED FOR DISPLAY AREA PER ARTICLE 17(C)(7)(b)	
<b>STAFF/CUSTOMER PARKING AREA</b>	
SHADE TREES REQUIRED:	1
SHADE TREES PROPOSED:	1
<b>BUFFERYARD</b>	
AREA IN SQUARE FEET:	28,750
TREES REQUIRED:	58
TREES PROPOSED:	58
SHRUBS REQUIRED:	345
SHRUBS PROPOSED:	345
<b>FOUNDATION PLANTINGS</b>	
BUILDING FACE AREA IN SF:	780
PLANTING AREA IN SF REQUIRED:	94
PLANTING AREA IN SF PROPOSED:	184



DESIGNED:	PROJECT DATE:	JAN 2015
DRAWN:	PROJECT NO.:	
CHECKED:	DWG FILE NAME:	L-1 Preliminary Planting.dwg
PROJ. ENG.:	REV. NO.:	
	DESCRIPTIONS:	
	DATE:	
REVISIONS		

**NC HIGHWAY 210 CAR LOT  
CONDITIONAL USE PERMIT  
SMITHFIELD, NORTH CAROLINA**

**PRELIMINARY  
LANDSCAPE PLAN**

1"=30'

PRELIMINARY  
NOT RELEASED  
FOR CONSTRUCTION

SHEET NO.  
**L-1**  
OF: 2

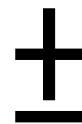
12/31/14



Vicinity Map for:  
CUP-15-01  
Applicant:  
Charles Phillip  
Janie Toler



Map Created by Smithfield  
Geographic Information Services



0 50 100 200 Feet