

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, March 5, 2015*

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

Meeting Place: *Council Chambers, Smithfield Town Hall*

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

Call to Order.

Approval of the minutes for February 5, 2015.

Public Hearing

RZ-15-02 Larry Denning: The applicant is requesting to rezone approximately 9.51 acres of land from the R-20A (Residential-agricultural) zoning district to the B-3 (Business) zoning district. The property considered for rezoning is located on the south side of NC 210 Highway approximately 1,200 feet west of its intersection with Skyland Drive. The property is further identifies as Johnston County Tax ID# 15076012A.

Old Business.

New Business.

2015 Proposed Unified Development Ordinance updates

Adjournment.

DRAFT
Smithfield Planning Board Minutes
Thursday, February 5, 2015
6:00 P.M., Town Hall, Council Room

Members Present:

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

Members Absent:

Staff Present:

Mark Helmer, Senior Planner
Veronica Hardaway, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

APPROVAL OF MINUTES FROM DECEMBER 4, 2014.

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

Public Hearings:

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

RZ-15-01 Nell Howell Estate, Etal:

Mr. Helmer stated 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.

Mr. Helmer stated 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. 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. The property considered 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.

Mr. Helmer stated 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. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance (UDO) 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. 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 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. The Town of Smithfield will provide fire protection as well as water/sewer and electric services.

Mr. Helmer stated in connection with a legislative decision for a rezoning request, the Planning Board may consider certain approval criteria. Planning staff generally accepts these findings as fact as part of a complete application submitted by the petitioner. 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 LI (Light Industrial) zoning districts to the B-3 (Business) and R-8 (Residential) zoning districts. 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.

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

Mr. Foy asked if the NCDOT Booker Dairy Road extension project is where the road turns towards Bright Leaf Boulevard out to 70 bypass.

Mr. Helmer stated the NCDOT road project would extend Booker Dairy Road further east and it would then curve to the south and tie into Ava Gardner Avenue.

Mr. Foy asked if there was any indication when this would start.

Mr. Helmer stated he hoped NCDOT would begin right-of-way acquisition within the next year or two.

Jack Matthews asked if Bayhill Drive would be extended as part of the NCDOT roadway project.

Mr. Helmer stated there are no plans to extend Bayhill Drive at this time.

Mark Lane asked who the property owners are.

Mr. Helmer stated Nell Howell Estate and Roberts and Wellons are the owners.

Teresa Daughtry asked how much of the property would be affected by the proposed Flood Insurance Rate Maps.

Mr. Helmer stated the proposed flood maps show some 100 year floodplain near the existing blue line stream located on the very southeast portion of the property. Mr. Helmer stated he was confident that any future development proposal would be able to design and engineer around this environmentally sensitive area of the property.

Teresa Daughtry asked if NCDOT have been in contact with the land owners as far as purchasing land and what their plans are.

Mr. Helmer stated he did not know what the NCDOT schedule was for right-of-way acquisition but stated Ron Sutton is present and maybe able to shed some light on NCDOT timelines.

Daniel Sanders asked if Army Corp Engineer has anything to do with this development.

Mr. Helmer stated the Army Corp will be the regulatory agency responsible for permitting development proposals affected by delineated wetlands and are a part of the development review process. However, there is no development proposal at this time and only a change in the zoning classification is being considered at this time.

Daniel Sanders asked how big the proposed highway is supposed to be.

Mr. Helmer stated the plans that he has been shown looks like a four lane divided highway on the extended portion of Booker Dairy Road.

Mark Lane asked what is the difference is between R-8 and R-10 zoning district.

Mr. Helmer stated that the R-10 zoning district is a medium density residential zoning district that is suitable for single family homes. The R-8 zoning district allows for a slightly smaller lot and allows for multi-family housing such as duplexes and apartment complexes.

Teresa Daughtry asked if the applicant is requesting all of this to be rezoned at one time.

Mr. Helmer stated that one petition is adequate to amend the official zoning map.

Ron Sutton, with Herring-Sutton Associates, is representing Nell Howell Family Trust as well as Mr. Wellons and partners who own the property being considered for rezoning. He stated he agrees with the recommendations that staff has presented and asked the Board if they had any questions he may answer for them.

Mr. Foy asked Mr. Sutton if he had anything he would like to add to what has already been said.

Mr. Sutton stated that NCDOT has delayed completion of the Booker Dairy Road plan about 180 days. They were supposed to be completed by December 31st of 2015 but that has not been confirmed to date. Once the plan is completed, a right-of-way acquisition has to be made but at this time there hasn't been one initiated. It is understood, in discussion, that NCDOT is looking to build two lanes at this time.

Teresa Daughtry asked if NCDOT is planning on making the proposed road a controlled road.

Mr. Sutton stated the environmental review that was approved for this project on Booker Dairy Road actually called for one point of access which crosses the Howell property.

Teresa Daughtry asked if a water main was being installed on the Wellons property.

Mr. Sutton stated he is not familiar with any utility expansion in that area.

Daniel Sanders asked Mr. Sutton if this would have to be presented back to the Board if NCDOT does not approve.

Mr. Sutton stated that NCDOT does not have any authority over how a piece of property is zoned.

Teresa Daughtry asked if changing the zoning would affect the price that NCDOT would have to pay the property owners.

Mr. Sutton stated he does not have that answer as he is not a real estate broker.

Mr. Foy closed the public meeting for RZ-15-01 and asked for a motion.

Stephen Upton made a motion, seconded by Daniel Sanders, to move to the Finding of Fact.

In connection with a legislative decision for a rezoning request, the Planning Board may consider certain approval criteria. Planning staff generally accepts these findings as fact as part of the complete application submitted by the petitioner.

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 Planning Board has the responsibility to determine if the zoning map amendment is warranted. The Planning Board shall recommend and 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. *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 and 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 industrial in recent years and is located adjacent to US Highway 70. In discussions with the Town of Smithfield officials it was indicated that commercial land uses were compatible with current visions of the Town of Smithfield. ***All members stated true.***

2. *The rezoning 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. ***All members stated true.***

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. ***All members stated true.***

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. ***All members stated true.***

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

In our opinion the proposed rezoning request does not in any way constitute "spot zoning" ***All members stated true.***

6. Present regulations deny or restrict the economic use of the property:

While present regulations do not deny or restrict economic use of the property, the majority of the current zoning is not compatible with the presences of an/extensive multi-lane highway system or soil conditions that are not conducive to residential development on an economic or quality of life view point. **All members stated true.**

7. The availability of public services allows consideration of this rezoning request:

As previous stated the area of the proposed zoning request is bounded by an extensive highway system both existing and proposed. Also water, sewer, electrical and gas utilities are readily available to the site. **All members stated true.**

8. Physical characteristics of the site prohibit development under present regulations:

Due to the nature of the soils in the area and its properties proximity to existing US Highways and existing commercial land uses, the property is not conducive to being developed in a residential land use pattern. **All members stated true.**

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;

Stephen Upton made a motion, seconded by Jack Matthews, to recommend approval 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.

CUP-15-01 NC 210 Car Lot:

Mr. Helmer stated 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.

Mr. Helmer stated the applicant requesting a conditional use permit to operate an automotive sales lot is designed to accommodate 30 cars for sale and located on property located within a B-3 (Business) zoning district. There does not appear to be any environmentally sensitive areas on the property considered for Conditional Use Permit to include flood plains or designated wetlands. The proposed facility will be required to comply with Town of Smithfield water regulations to include detention and nitrogen offset payments.

Mr. Helmer stated 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 (UDO) 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 UDO. A variance to the parking requirement must be requested and granted by the Town of Smithfield Board of Adjustment prior to staff approving 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.

Mr. Helmer stated the 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. 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. 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 shall be permitted in accordance with the Town of Smithfield UDO which will allow for a maximum height of 6 feet and 75 square feet in area. The Town of Smithfield will provide fire protection as well as water/sewer services. Duke Energy Progress will provide electric.

Mr. Helmer stated 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 development standards and that vehicular surface screening is installed adjacent to all vehicular surface areas. 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.

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

Daniel Sanders asked if this proposed property was zoned residential in the past.

Mr. Helmer stated the proposed project was rezoned to R-20A (Residential) and was rezoned to commercial a few years ago.

Mark Lane asked if the site plan shows a gravel driveway.

Mr. Helmer stated the site plan does show a gravel driveway however, Dan Simmons was notified earlier in the week that the driveway needs to be paved.

Daniel Sanders asked if NCDOT was in charge of the driveway.

Mr. Helmer stated NCDOT is the permitting authority since NC Hwy 210 is a State maintained highway.

Stephen Upton asked if a trailer will be used for the office building.

Mr. Helmer stated a modular constructed building built to State building code is proposed.

Dan Simmons, Triangle Civil Workers, stated the owner has no intentions of leaving the driveway gravel and will be paved. He stated he objected to moving the site forward towards the road because he does not agree with the UDO Article 17 item 7a which states "Vehicular surface areas used for parking and circulation, or commercial display or storage of motor vehicles which are located within 50 feet of a street right-of-way must have a planting screen consisting of shrubs a minimum of 18 inches to 24 inches in height when installed with a minimum expected mature height of 36 inches. Shrubs shall be planted with gaps no greater than five feet. Forty percent of the shrubs may be deciduous. When practicable, plans to meet this requirement may be formulated in conjunction with the requirement of subsection (6)(b) above."

Dan Simmons stated if this project is moved towards the road, a hedge needs to be placed which will prevent anyone from seeing the cars from the lot. There will be no maintenance on site; this is strictly a sales lot.

Stephen Upton asked about lighting.

Mr. Simmons stated lighting would basically be security lighting after dark. A lighting plan will be submitted to staff that would meet code requirements of 2ft candles. No lighting will flood neighboring properties.

Teresa Daughtry stated that dealerships have been increasing landscape.

Mr. Helmer stated that is correct.

Mr. Helmer pointed out that staff disagrees with the applicant. Planning staff requests that vehicular surface screening be installed around the entire perimeter of the vehicle surface area regardless whether it is within 50 feet of the right-of-way or not.

Mr. Helmer stated that prior to adoption of the UDO, car lots were exempt from vehicular surface screening while all other commercial properties were required to install it. Car lots began to take advantage of the policy and began moving vehicles into the planted areas near the street. With vehicular surface screening installed, this is not possible because the hedge

that is formed creates a barrier between the paved area and landscaped area while blocking the view of the pavement. If the hedge row is maintained to a proper height, cars for sale will be seen from the public right-of-way.

Mr. Helmer reminded the Board that the standards found in the UDO are minimums and that conditions can be placed on the Conditional Use Permit that will hold the development to a higher standard if it will help reduce adverse impacts on adjacent properties and the area in general.

Mr. Helmer stated that proposed car lot looks as though it could benefit from vehicle surface screening since no parking lot landscaping is shown on the plan.

Teresa Daughtry stated she agreed with the vehicle surface screening due to heavy traffic on Highway 210 and Swift Creek Road that could pose dangerous.

Mark Lane asked if the landscaping is in the UDO or if that was a recommendation.

Mr. Helmer stated that vehicle surface screening (VSA) is required when the vehicular surface is within 50 feet of a public right-of-way. The applicant is attempting to avoid having to install the VSA landscaping by creating a grass strip between the street yard and vehicular surface area. Mr. Helmer stated that it can be anticipated that cars will be parked in this unpaved strip and that the property will be in violation of the permit from day one.

Mark Lane asked if the purpose of the screening is for safety.

Mr. Helmer stated that is correct and, that having cars all over the property is a safety concern.

Mr. Simmons stated he disagrees with staff regarding bushes being planted 5ft apart. They will need to be trimmed constantly to maintain 36" in height and will eventually grow together creating a solid screen. No other car lot in Smithfield is that way.

Mr. Helmer stated that every modern parking lot in Town has VSA screening except for car lots.

Teresa Daughtry stated she has concern with the height of the landscaping and site distances near the intersection of Swift Creek Road and Highway 210.

Mr. Helmer stated the applicant has submitted a plan showing small groupings of shrubs around the trees.

Dan Simmons stated unless the UDO is changed, those plantings have to be there.

Mr. Helmer stated if the Board wanted to place a condition to the corner of the lot and plant bushes instead of trees that could be done.

Teresa Daughtry asked if the tree on the corner can be removed and have bushes in its place.

Mr. Helmer stated the UDO requires street trees.

Teresa Daughtry stated trees are environmentally good but the safety of the intersection is also a concern.

Mr. Helmer stated that a typical 10 foot by 70 site distance triangle is required and appears to be met but the plan could be modified by moving landscaping even further back.

Teresa Daughtry asked if NCDOT would have a problem with not having a second driveway located on Swift Creek Road.

Mr. Simmons stated he spoke with NCDOT and they do not see this project as generating additional traffic and does not see the need for an additional driveway.

Teresa Daughtry asked how wide the driveway will be.

Mr. Helmer stated 30ft.

Mike Caporale, 2190 NC Highway 210, stated he has spent the last three years building his home and originally the proposed project was zoned as residential. He wouldn't have built such a large expensive home if he knew that land would be changed to commercial. His main concerns is having a used car lot right next door to him and have potential break-ins or people cutting through his property.

Mr. Foy asked where Mr. Caporale's house is in reference to the car lot.

Mr. Caporale stated he is right beside the proposed lot on the left. He stated he would like to see a white vinyl fence go up to separate the properties like the Family Dollar and State Employees Bank had done. Trees do nothing for his property and will be staring at this car lot from his home. The plantings look great on paper but it will take at least 10 years for the trees to mature. And as far as the traffic on Highway 210, tractor trailers hum by his home. He believes the intersection of Swift Creek Road and Highway 210 will be dangerous and feels the driveway should be moved to Swift Creek Road.

Ashley Spain asked if the applicant would be willing to accept the fence as a condition of approval.

Dan Simmons stated he would think they would if the standard reduction in buffer yard width applied.

Teresa Daughtry asked what the standard reduction is.

Mr. Helmer stated as much as 50% in area and plant material if a berm and a fence were installed. Only 20% if just a fence.

Teresa Daughtry asked what the height the fence would have to be.

Mr. Helmer stated 8ft.

Teresa Daughtry asked if the Town required the Family Dollar and State Employees buildings to install a white vinyl fence.

Mr. Helmer stated there is no particular code that states it has to be vinyl, wood, or any other material however, vinyl has more longevity and is more attractive.

Cathy Caporale, 2190 NC Highway 210, stated there is in fact heavy traffic on Highway 210 and can be very dangerous. She would like to see the driveway of the proposed site be accessed on Swift Creek Road as well as having the white vinyl fence installed.

Franklin Watson, 2267 Highway 210, stated he lives directly across the street from the proposed project. He stated he will see this car lot from his front door and there are single family homes surrounding this property. This project may not increase traffic but cars coming in and out of the lot will definitely affect traffic. He requests the Board to just think about the home owners.

Antonette Griffin, 363 Clayton Point Drive, stated her concern for decrease in property values and for possible traffic issues. She feels the driveway should be accessed on Swift Creek Road.

Daniel Sanders asked if the water was from the Town or County.

Mr. Helmer stated water was provided by the County.

Ashley Spain asked if the public sewer is available or would a septic tank system be used.

Mr. Helmer stated that public sewer is not available and that Johnston County Environmental Health would have to approve a septic system for the development.

Mr. Foy ask if anyone else wished to speak. There was none.

Mr. Foy closed the public meeting for CUP-15-01 and asked for a motion.

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

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

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

The proposed use does not materially endanger the public health, safety or general welfare. Emergency services access is fully provided to the developed site. ***All members stated true.***

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

The proposed use shall meet all required conditions resulting from the application for conditional use authorization. All other applicable requirements of the Town of Smithfield UDO shall be met. ***All members stated true.***

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

The proposed use does not restrict the existing uses or future development potential of adjacent properties. ***All members stated true.***

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

The proposed use is in conformance 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. ***All members stated true.***

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;

Teresa Daughtry made a motion, seconded by Jack Matthews to recommend approval of a conditional use permit to operate an automotive sales lot designated to accommodate 20 cars for sale and located on property located within a B-3 (Business) zoning district with the following conditions:

1. A vinyl fence is installed on the west side buffer yard at 8ft high.
2. Street trees nearest the intersection are set back an additional 10 feet.
3. Vehicular Surface Area is moved towards the public right-of-way.
4. All VSA's be screened with a continuous row of shrubs planted 5 foot on center.
5. All other minimum requirements of the UDO be met to include paving of all areas to be used for automobiles.

Motion unanimous.

Old Business:

No report.

New Business:

No report.

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

Submitted this 5th day of February, 2014.

Veronica Hardaway
Administrative Support Specialist
Planning Department

Glen Lake II
RZ-15-02

For Properties Located at:

The property considered for rezoning is located on the south side of NC 210 Highway approximately 1,200 feet west of its intersection with Skyland Drive. The property is further identifies as Johnston County Tax ID# 15076012A.

Property Owner:
Denning Family Trust #1

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RZ-15-02

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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-15-02
Project Name: Glen Lake II
TAX ID number: 15076012A
Town Limits/ETJ: City
Applicant: Penco Land Company, LLC
Owners: Denning Family Trust #1
Agents: none
Neighborhood Meeting: none

PROJECT LOCATION: South side of NC 210 Highway approximately 1,200 feet west of its intersection with Skyland Drive.

REQUEST: The applicant is requesting to rezone approximately 9.51 acres of land from the R-20A (Residential-Agricultural) zoning district to the B-3 (Business) zoning district.

SITE DATA:

Acreage: 9.51 acres
Present Zoning: R-20A (Residential-Agricultural)
Proposed Zoning: B-3 (Business)
Existing Use: Agriculture / Vacant
Proposed Use: N/A

DEVELOPMENT DATA:

Proposed Use: N/A - All uses permitted within the B-3 (Business) zoning district may be considered for future site plan approval.

ENVIRONMENTAL: The southernmost portion of property contains environmentally sensitive areas to include wetlands, floodplain and a small lake. Any future development proposal will be encouraged to limit encroachment into these areas and will be required to document riparian buffers, provide storm water facilities and elevate structures if they are located within the 100 year flood plain.

ADJACENT ZONING AND LAND USES:

North:	Zoning:	R-8 and R-20A
	Existing Use:	Vacant / Agricultural
South:	Zoning:	R-20A
	Existing Use:	Vacant / Wetlands
East:	Zoning:	B-3
	Existing Use:	Vacant / Agricultural
West:	Zoning:	R-20A
	Existing Use:	Single Family Dwelling

STAFF ANALYSIS AND COMMENTARY:

The property considered for rezoning contains is currently being used for agricultural endeavors. Rezoning the property to the B-3 (Business) will allow for all permitted use within the B-3 (Business) zoning district to be considered for future approval to included multifamily housing complexes, retail strip centers and convenience stores.

- **Consistency with the Strategic Growth Plan**

The proposed rezoning to the B-3 (Business) zoning district is consistent with the Strategic Growth Plan which recommends the property be zoned for high density residential development and office and institutional land uses.

- **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 property considered for a rezoning is located on a minor corridor entering the Town from the west and is in close proximity to other like zoning districts. Rezoning this property from residential to a commercial district will not create any compatibility issues with the adjacent commercial uses.

OTHER:

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

SCHOOL IMPACTS: NA

PARKS AND RECREATION: NA

ACCESS/STREETS: Approximately 630 feet or road frontage along NC 210 Highway.

WATER/SEWER PROVIDER: Town of Smithfield

ELECTRIC PROVIDER: Duke Energy

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.

Planning Department Recommendations: The Planning Department recommends approval of the request to rezone approximately 9.51 acres of land located on the south side of NC Highway 210 from the R-20A (Residential-agricultural) zoning district to the B-3 (Business) zoning district.

Planning Board Actions: The Planning Board is requested to review the petition and make a recommendation to Town Council in accordance with the approval criteria for the rezoning of approximately 9.51 acres of land located on the south side of NC Highway 210 from the R-20A (Residential-agricultural) zoning district to the B-3 (Business) zoning district.

Exhibit B
Approval Criteria

Town of Smithfield

Rezoning Permit Application

Approval Criteria

Application No. RZ-15-02 Name: Glen Lake II

Request: Zoning reclassification from R-20A (Residential-Agricultural) to B-3 (Business)

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 Residential-Agricultural to the Business zoning district meets all the Town's plans and policies and will blend in well with the adjacent land uses. The Comprehensive Land Use Plan directly indicates the subject property is best suited for high density residential and office/institutional land uses.

B. Disagree

The rezoning request from the Residential-Agricultural to the Business zoning district does not necessarily meet all the Town's plans and policies because the Comprehensive Land Use Plan call for

high density residential and office/institutional land uses. High density residential land uses can be better achieved with the R-8 (Residential) zoning classification.

2. Finding Two of Eight

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

Circle One

A. Agree

The rezoning request is compatible with established neighborhood patterns which includes a commercial zoning district immediately east of and adjacent to the subject property. Existing high density residential and commercial properties and uses are approximately 1,200 feet east of the subject property.

Disagree

Although no known compatibility issues with adjacent land uses have occurred in the past, rezoning the property to the B-3 (Business) zoning district will allow for wider range of land uses to include professional offices, retail sales and storage yards with an approved conditional use permit request.

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 petition is compatible with the changing neighborhood conditions that might warrant a rezoning because the demand for multifamily housing and senior living facilities is creating a need for additional zoning districts that can support such uses.

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....

2 of 5

RZ-15-02

A. Agree

The rezoning will allow for additional commercial zoning districts that can support high density residential and associated commercial land uses. 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 rezoning the property to a high density residential zoning district that does not allow for commercial uses may be a better alternative.

5. Finding Five of Eight

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

A. Agree

Since adjacent nearby properties are presently zoned B-3 (Business) then 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 R-20A (Residential-Agricultural). High density residential and commercial uses such as those permitted in the B-3 (Residential-Agricultural) zoning district cannot occur unless the property is rezoned.

B. Disagree

There are limited considerations for residential development in the R-20A (Business) zoning district. Rezoning the property to a zoning district that allows for multifamily housing while limiting commercial uses should be pursued in more depth prior to rezoning to B-3 (Business).

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 is served by Duke Power 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

Much of the property is not affected by physical restraints such as wetlands, stream buffers, potential flood hazard areas and storm water. There is no limiting geological and hydrological formation that would prohibit development (rock outcrops, lakes, etc.) on the portion closest to NC 210 Highway.

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-15-02.

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-15-02.

10. Record of Decision:

Based on a motion and majority vote of the Town of Smithfield Town Council, Rezoning Petition RZ-15-02 is hereby:

Check one

_____ Approved for the following reasons:

_____ Denied for the following reasons:

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

Mr. 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, RZ-15-02, were notified by First Class Mail on 2-18-15.

Mark E. Helmer

Signature

Johnston County, North Carolina

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

18th day of February, 2015

Veronica T Hardaway

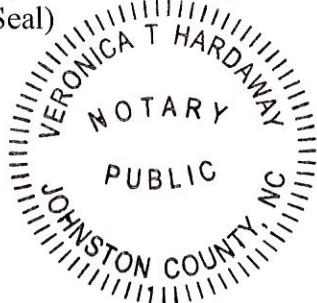
Notary Public Signature

Veronica T Hardaway

Notary Public Name

My Commission expires on 1-14-18

(Seal)



Adjacent Property Owners of
RZ-15-02

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15077009	168400-84-5497	STRICKLAND, MARY F ET AL	C/O WACHOVIA	JACKSONVILLE	FL	32203-0062
15077008	168400-74-4498	KEENER LUMBER CO INC	1209 W MARKET ST	SMITHFIELD	NC	27577-2323
15076010	168400-73-3778	MOORE, MARILYN JONES	559 NC 210 HWY	SMITHFIELD	NC	27577-0000
15076012A	168400-73-8722	DENNING FAMILY TRUST #1	1206 CHESTNUT DR	SMITHFIELD	NC	27577-3606
15076012B	168400-83-5704	DENNING FAMILY TRUST #1	1206 CHESTNUT DR	SMITHFIELD	NC	27577-3606
15076013D	168400-73-8099	CORNERSTONE FAITH FELLOWSHIP	176 CHURCHILL DOWNS DR	CLAYTON	NC	27520-5536
15076011C	168400-62-5050	KEB ASSOCIATES	BOYETTE	SMITHFIELD	NC	27577-9154



PLANNING DEPARTMENT

Paul C. Embler, Jr., Director

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, March 5, 2015 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following requests:

RZ-15-02 Larry Denning: The applicant is requesting to rezone approximately 9.51 acres of land from the R-20A (Residential-agricultural) zoning district to the B-3 (Business) zoning district. The property considered for rezoning is located on the south side of NC 210 Highway approximately 1,200 feet west of its intersection with Skyland Drive. The property is further identifies as Johnston County Tax ID# 15076012A.

ZA-15-01 Tony Nazal: The applicant is requesting to amend the Town of Smithfield Unified Development Ordinance, Article 10, Section 10-1, Table of Permitted Uses/Conditional Use Districts to allow Alkaline Hydrolysis of animal proteins for the manufacture of agricultural fertilizers as a permitted use by right in the B-3 (Business) zoning district.

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



PLANNING DEPARTMENT

Paul C. Emblar, Jr., Director

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, March 5, 2015 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following requests:

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ZA-15-01 Tony Nazal: The applicant is requesting to amend the Town of Smithfield Unified Development Ordinance, Article 10, Section 10-1, Table of Permitted Uses/Conditional Use Districts to allow Alkaline Hydrolysis of animal proteins for the manufacture of agricultural fertilizers as a permitted use by right in the B-3 (Business) zoning district.

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

Run "Legal Ad" in the Smithfield Herald on 2/18/15 and 2/25/15

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: Glen Lake II Acreage of Property: 9.51 ±
 Parcel ID Number: 168400-73-8722 Tax ID: 15076012A
 Deed Book: 3363 Deed Page(s): 745
 Address: NC 210 HWY, Smithfield, NC
 Location: NC 210 HWY, Smithfield, NC

Existing Use: vacant, agriculture Proposed Use: multifamily (56 units)
 Existing Zoning District: R-20A
 Requested Zoning District: B-3
 Is project within a Planned Development: Yes No
 Planned Development District (if applicable): None
 Is project within an Overlay District: Yes No
 Overlay District (if applicable): None

FOR OFFICE USE ONLY

File Number: <u>RZ-15-02</u> Date Received: <u>1/22/15</u> Amount Paid: <u>\$310.00</u>

OWNER INFORMATION:

Name: Denning Family Trust # 1 (op Larry Denning)
Mailing Address: 1206 Chestnut Drive, Smithfield, NC 27577
Phone Number: 919-215-4593 Fax: _____
Email Address: _____

APPLICANT INFORMATION:

Applicant: Penco Land Company, LLC
Mailing Address: PO Box 19691, Raleigh NC 27619
Phone Number: 919-755-0558 Fax: _____
Contact Person: Frankie Pendergraph or Lee Vandecarr
Email Address: fpenderg@thepencos.com | lvandecarr@thepencos.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. see PIN# 15076012A
- A list of adjacent property owners. Denning Family Trust
- A statement of justification.
- Other applicable documentation: _____

STATEMENT OF JUSTIFICATION

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

The applicant is requesting that the subject parcel be re-zoned from R-20A to B-3. Currently all of the land in the surrounding area that has not been developed is zoned R-20A. Essentially, the R-20A zoning district allows low-density residential and agricultural uses. When property is planned to be developed, it is not uncommon for a re-zoning request to be pursued to allow for uses other than low-density residential or agricultural. The applicant is currently developing an adjacent parcel and the current re-zoning request is consistent with the development of the adjoining parcel.

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:

This zoning petition is in compliance with all applicable plans and policies of the Town of Smithfield. During the development process for this parcel, the applicant will seek and procure all necessary permits from the Town, County and State.

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

This zoning petition is compatible with established neighborhood patterns. It involves a parcel that is directly adjacent to a parcel that is currently being developed for multifamily housing.

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

This rezoning petition is compatible with the changing neighborhood conditions. NC 210 Hwy heading west out of Smithfield is a growth area. New multifamily and other businesses are currently being developed.

4. The rezoning request is in the community interest:

This request is in the community interest in that it expands the possible uses from the limited R-20A district to B-3.

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

This request does not constitute spot zoning. The immediately surrounding area contains a mix of residential (single family), residential (multifamily), industrial, agricultural and other uses.

6. Present regulations deny or restrict the economic use of the property:

Currently the parcel is zoned R-20A which essentially is an agricultural and very low density residential district. Because of the growth potential of the DC 210 Hwy corridor, the highest and best use of the parcel is more higher density residential, such as apartments, or office and institutional type uses.

7. The availability of public services allows consideration of this rezoning request:

Public services and utilities are available and in close proximity to the subject parcel.

8. Physical characteristics of the site prohibit development under present regulations:

The physical characteristics of the site do not prohibit the development of the site.

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 zoning map amendment. 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.

Frankie W. Pendergraph

Print Name



Signature of Applicant

1/16/15
~~*2/6/15*~~

Date

*Managing Member of
Penro Land Company, LLC*



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: Glen Lake II Submittal Date: 1/22/15

OWNERS AUTHORIZATION

I hereby give CONSENT to Penco Land Company, LLC and Frankie Rodriguez (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.

Larry Denning Larry Denning 1-22-15
 Signature of Owner Print Name Date

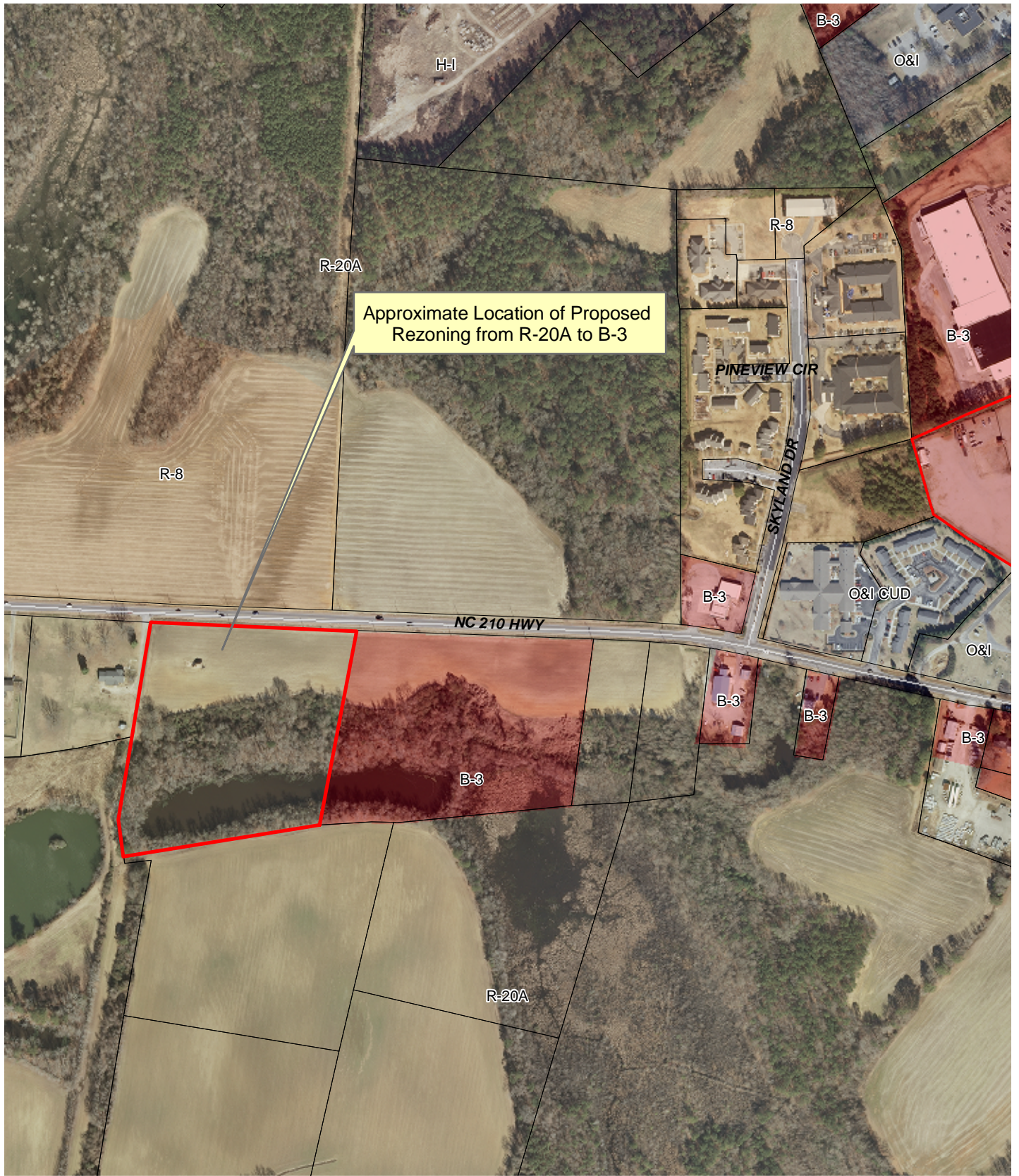
CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

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.

Larry Denning Larry Denning 1-22-15
 Signature of Owner/Applicant Print Name Date

FOR OFFICE USE ONLY

File Number: RZ-15-02 Date Received: 1/22/15 Parcel ID Number: 168400-73-8722



Vicinity Map for:
 RZ-15-02
 Applicant:
 Penco Land
 Company, LLC



Map Created by Town of Smithfield
 Geographic Information Services

