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RNCPP K'PI 'DQCTF"  
CI GPF C'RCEMGV"



Ej ckt o cp<' " Eddie Foy"  
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"Xleg/Ej ckt o cp<'""""""Stephen Upton" "  
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" O go dgt u<' "  
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" " Mark Lane Gerald Joyner (Alt.)  
Jack Matthews Daniel Sanders  
Ashley Spain Teresa Daughtry

Paul Embler, Planning Director  
Mark Helmer, Senior Planner  
Veronica Hardaway, Administrative Assistant

**Meeting Date:** Thursday, September 1, 2016  
**Meeting Time:** 6:00 p.m.  
**Meeting Place:** Council Chambers, Smithfield Town Hall

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EWR/38/29' Lqti g' Ewxcu< The applicant is requesting a conditional use permit to construct and operate a storage building sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the south side of NC HWY 210 approximately 490 west of its intersection with West Market Street and further identified as Johnston county Tax ID# 15076019.

EWR/38/2: 'Dt gpv'Y ki u<The applicant is requesting a conditional use permit to operate a commercial dog kennel on property located within a R-20A (Residential-Agricultural) zoning district. The property considered for approval is located on the south side of Little Creek Church Road approximately 1,400 feet east of its intersection with Rock Pillar Road. The property is further identified as Johnston County Tax ID#15J08009A.

T\ /38/24' I gpv'k' Nk'v'pi 'K'p< The applicant is requesting to rezone one tract of land totaling approximately 9.45 acres from the R-8 CUD (Residential-Conditional Use) zoning district to the R-8 (Residential) and RHO (Rowhouse Overlay) zoning districts. The property considered for rezoning classification is located on the southwest side of Barbour Road approximately 780 feet northeast of its intersection with Laurel Drive. The property is further identified as Johnston County Tax ID#4340665.

EWR/38/2; 'I gpv'k' Nk'v'pi 'K'p< The applicant is requesting a conditional use permit to construct a 45 unit Rowhouse subdivision development on approximately 9.45 acre tract on land located within an the R-8 (Residential) and RHO (Rowhouse Overlay) zoning districts. The property considered for a conditional use permit is located on the southwest side of Barbour Road approximately 780 feet northeast of its intersection with Laurel Drive. The property is further identified as Johnston County Tax ID#4340665.

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Cf l'q'w't'p'o gpv'

**DRAFT**  
**Smithfield Planning Board Minutes**  
**Thursday, August 4, 2016**  
**6:00 P.M., Town Hall, Council Room**

**Members Present:**

Chairman Eddie Foy  
Vice-Chairman Stephen Upton  
Daniel Sanders  
Gerald Joyner  
Jack Matthews  
Ashley Spain

**Members Absent:**

Teresa Daughtry  
Mark Lane

**Staff Present:**

Mark Helmer, Senior Planner  
Veronica Hardaway, Administrative Support Specialist

**Staff Absent:**

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM JUNE 2, 2016.**

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

**Public Hearings:**

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

Mr. Foy identified Gerald Joyner as a voting member of the board due to board members absence.

**CUP-16-06 Car Service of Four Oaks:**

Mr. Helmer stated the applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate no more than 10 automobiles for sale on property located within a B-3 (Business) zoning district. The property considered for approval is located on the south side of East Edgerton Street approximately 430 feet south of its intersection with North Brightleaf Boulevard. The property is further identified as Johnston County Tax ID# 15006015.

Mr. Helmer stated 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. Car Service of Four Oaks is an existing automotive repair business located at 36 East Edgerton Street. Car Service of Four Oaks is requesting a conditional use permit to allow for automobile sales at this location. The property considered for approval is located within a B-3 (Business) zoning district. The parcel is approximately 7.72 acres in size and contains two warehouses totaling approximately 60,000 square feet in area. The property contains

approximately 20,000 square feet of paved area that can safely accommodate 25 standard parking spaces. The property contains approximately 9,000 square feet of graveled area and approximately 25,000 square grassed and fenced storage yard that was constructed after receiving a valid conditional use permit for an automobile storage yard. The automobile storage yard appears to have ceased operations for more than 180 days. Additional approved land uses for this property include a low traffic generating indoor mini-storage facility.

Mr. Helmer stated an 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 identifying 10 paved parking spaces being designated for automobile sales. The remaining paved parking areas would be available for customer and employee parking. Paved parking for employees and customers should remain available providing the automobiles for sale are limited to a maximum of 10 and a reasonable number of cars parked at the site awaiting repairs and pickup are kept to a minimum. The proposed automobile sales lot is inconsistent with the recommendations of the Comprehensive Growth Management Plan which recommends industrials at this location.

Mr. Helmer stated an automobile sales lot is a permitted use within the B-3 (Highway Entrance Business) zoning district with a valid conditional use permit. The applicant has submitted a site plan that shows adequate paved parking is available at the site and the maximum number of automobiles will be limited to the total number of paved parking spaces available to the requested use and automotive repair shop. An automobile sales lot at this location should not pose a compatibility issue with surrounding land uses to include Resthaven Cemetery and the American Legion baseball fields providing that inoperative and partially dismantled automobiles are not allowed to accumulate or be stored outdoors without proper screening from the public right-of-way and adjacent land uses. Signs shall be permitted in accordance with the Town of Smithfield Unified Development Ordinance which will allow the existing free standing sign to be refaced as needed. The Town of Smithfield will provide fire, water/sewer, and electric services.

The Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces used for the sale of automobiles are paved and that the use is limited to a maximum of ten automobiles for sale at any given time.

The Planning Board is requested to review the petition for an automobile sales lot on property located within the B-3 (Highway Entrance Business) corridor and make a recommendation to Town Council in accordance with the finding of fact for a conditional use permit.

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

Daniel Sanders asked if the proposed site is off highway 301.

Mr. Helmer stated Edgerton Street intersects with N. Brightleaf Boulevard and that's ultimately will traffic will come and go from the site. Edgerton Street dead-ends into the property.

Mr. Foy asked if that was a private road.



Mr. Helmer stated Edgerton Street is a public road but it ends right at the property.

Daniel Sanders asked if the two storage warehouses at the back of the property next to the cemetery is part of the building.

Mr. Helmer stated there are two warehouses that back up towards the railroad tracks. He stated he spoke with Public Works who maintains the cemetery and they have explained the cemetery is at maximum capacity so there will not be any funerals conducted.

Daniel Sanders asked if this is the property that has the chain link fence.

Mr. Helmer stated that is not the property. The actual fenced in property is an old repo storage yard.

Daniel Sanders asked if repairs will be conducted at this site.

Mr. Helmer stated the applicant has a valid permit to conduct repairs.

Mr. Upton stated there are two buildings; the applicant is only in one building.

Mr. Helmer stated that is correct.

Mr. Upton asked where screening would be placed.

Mr. Helmer stated screening would not be necessary due to the paved area is where cars would be sitting, they wouldn't be up on blocks.

Mr. Upton asked how many paved spaces there are.

Mr. Helmer stated approximately 10 spaces.

Aleksandar Trajanovski, owner of Car Service of Four Oaks, stated he owns and manages the garage. Pertinent to the discussion the board had earlier, the aerial map seems to be a bit dated. The aerial photography shows parking next to the fence, which no longer will be the case. Employees park on the extension of the pavement. The property has approximately 13,000 square feet coverage where cars would be repaired and kept.

Mr. Upton stated that the cars that have been on display at this property without tags seem to be fairly decent.

Mr. Trajanovski stated cars have a lot of computer problems these days and that's what we will generally be working on. He stated his garage specializes in higher end vehicle models.

Mr. Foy stated that this garage sounds like a great business.

Mr. Upton asked if he does more diagnostic type work.

Mr. Trajanovski stated that is correct.

Ashley Spain asked if the applicant has another business in Four Oaks.

Mr. Trajanovski stated no, he started this business 2.5 years ago in a small garage located in Four Oaks and he just kept the name.

Being no further questions, Mr. Foy closed the public meeting for CUP-16-06.

Stephen Upton made a motion, seconded by Ashley Spain, to move to the Finding of Fact.

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

- 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 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 and paved parking prior to issuance of site plan approval and issuance of a valid zoning permit for an automobile sales lot.

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

***properties or other neighborhood uses or is approved with the following additional stated conditions.***

The proposed 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 no more than 10 automobiles for sale are on the lot at any given time.

- 4. *Based on 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 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.

Based upon satisfactory compliance with the above stated four 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 Ashley Spain to operate an automotive sales lot designated to accommodate no more than 10 automobiles for sale on property located within a B-3 (Business) zoning district.

**Old Business:**

Mr. Foy expressed his appreciation to the Board for participating in the June meeting in his absence.

**New Business:**

Mr. Foy stated he would like to step down as Chairman to the Board. He asked Planning Board members to discuss and vote at the September Planning Board Meeting.

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

Submitted this 4<sup>th</sup> day of August, 2016.

Veronica Hardaway  
Administrative Support Specialist  
Planning Department



**ADJACENT ZONING AND LAND USES:**

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**STAFF ANALYSIS AND COMMENTARY:**

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○Á **Consistency with the Strategic Growth Plan**

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○Á **Consistency with the Unified Development Code**

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○Á **Compatibility with Surrounding Land Uses**

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**Planning Department Recommendations:**

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**Planning Board Recommendations**

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**Hlpf lpi 'qh'Hcev'ICr r t qxcnEt kgt k"**

**Cr r decvqp'P wo dgt:** CUP-16-07 **P co g**<Cuevas outdoor display and sales of storage buildings  
"

**Tgs wgu**< Applicant seeks a CUP for outdoor display and sales of storage buildings.

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.

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Circle One

**A. Cr r t qxcn**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 storage building 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 **Ræpplpi 'Dqct f** 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 storage building sales lot at this location may endanger the public were shown if storage buildings are placed with in the 50 foot building setback or buildings are placed to close together and cause emergency access to the site to be compromised.





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CUP-16-07

A. **Crrtqxcκ**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqctf** 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 storage building 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 that the storage building and other items for display and sale are located on the property in a safe and orderly manner and that no manufacturing and construction of storage building and accessories occur on the site.

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

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqctf** 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 storage building sales lot at this location will be detrimental to the adjacent land uses due to increased traffic and noise generated by activities associated with storage building sales lot if manufacturing and construction of storage building and accessories occur on the site.

**60Hlpf lpi 'Hqwt 'qhHqwt <'**

Circle One

**A. Cr rt qxcκ**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 storage building 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 parking, landscaping and building setbacks.

**B. F gpkκ (If denied, must include facts supporting denial)**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 storage building sales 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 storage building sales occur without minimum development standards being met to include paved parking.





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: Jorge D. Cuevas      Acreage of Property: 1.22 Acres  
 Parcel ID Number: 15076019      Tax ID: \_\_\_\_\_  
 Deed Book: 4346      Deed Page(s): 203  
 Address: \_\_\_\_\_  
 Location: SMITHFIELD NC 27577

Existing Use: Vacant - undeveloped      Proposed Use: Outdoor Sales  
 Existing Zoning District: B-3      of storage buildings

Requested Zoning District \_\_\_\_\_

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: CU-16-07      Date Received: 8/5/16      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;  
NO, because it's outdoor sale and we are no using or doing any kind of activity other than displaying storages buildings that have been built.
2. That the use meets all required conditions and specifications;  
The use meets all required specifications and is a permitted use and is in the B-3 ZONED DISTRICT.
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  
That the use will not adversely affect the use or any physical attribute because the site will be built to current development standart with pave parking and required landscaping.
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 coprehensive plan shows site been used for future commercial development.

**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.*

George D. Cuevas  
*Print Name*

  
*Signature of Applicant*

\_\_\_\_\_  
*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: Building sales      Submittal Date: \_\_\_\_\_

**OWNERS AUTHORIZATION**

I hereby give CONSENT to JORGE DANIEL CUEVAS (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.

     JORGE DANIEL CUEVAS      \_\_\_\_\_  
 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.

     JORGE DANIEL CUEVAS      8/5/14  
 Signature of Owner/Applicant      Print Name      Date

**FOR OFFICE USE ONLY**

File Number: CVP-16-07      Date Received: 8/5/14      Parcel ID Number: 15676019



# 100 Block of NC 210 Highway



**Location of Proposed Retail Sales of Storage Buildings**

**Project Name:**  
Jorge Cuevas  
Outdoor Sales

**Proposed Use:**  
Outdoor Sales of  
Storage Buildings

**File Number:**  
CUP-16-07

**Property Owner:**  
Jorge Cuevas

**Applicant:**  
Jorge Cuevas

**Location:**  
NC 210 Hwy

**Tax ID#**  
15076016

**Zoning District:**  
B-3 (Business  
Entrance Highway)

Map created by the  
Mark E. Helmer, AICP  
Senior Planner,  
GIS Specialist  
on 8/17/2016

1 inch = 50 feet





MEANS TO STATE OR OBLIGATE A PROFESSIONAL SURVEYOR OR CONSULTANT REGARDING THOSE FACTS OR FINDINGS WHICH ARE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE EITHER EXPRESS OR IMPLIED. THE MAP OR PLAT SHOWN HEREON SHALL NOT BE USED WITH AN AFFIDAVIT OR LETTER OF ANY KIND FOR REUSE INCLUDING, BUT NOT LIMITED TO FUTURE LOAN CLOSINGS, PLOT PLANS, CONSTRUCTION, LANDSCAPING, PERMITTING, ETC. IT IS A VIOLATION OF THE FEDERAL COPYRIGHT ACT TO COPY OR MODIFY AND REUSE THIS SURVEY BEYOND THE DATE AND SCOPE NOTED ON THE MAP. JIMMY BARBOUR SURVEYING, PA, ITS ASSOCIATES, AND/OR AGENTS SHALL NOT BE LIABLE FOR USE OF THIS SURVEY BY ANY OTHER ENTITIES OR PERSONS FOR ANY PURPOSE BEYOND THE DATE AND SCOPE AS NOTED ON THIS MAP OR PLAT.

**RECEIVED**  
AUG 1 2016  
TOWN OF SMITHFIELD PLANNING DEPT.

PRELIMINARY SITE PLAN FOR:

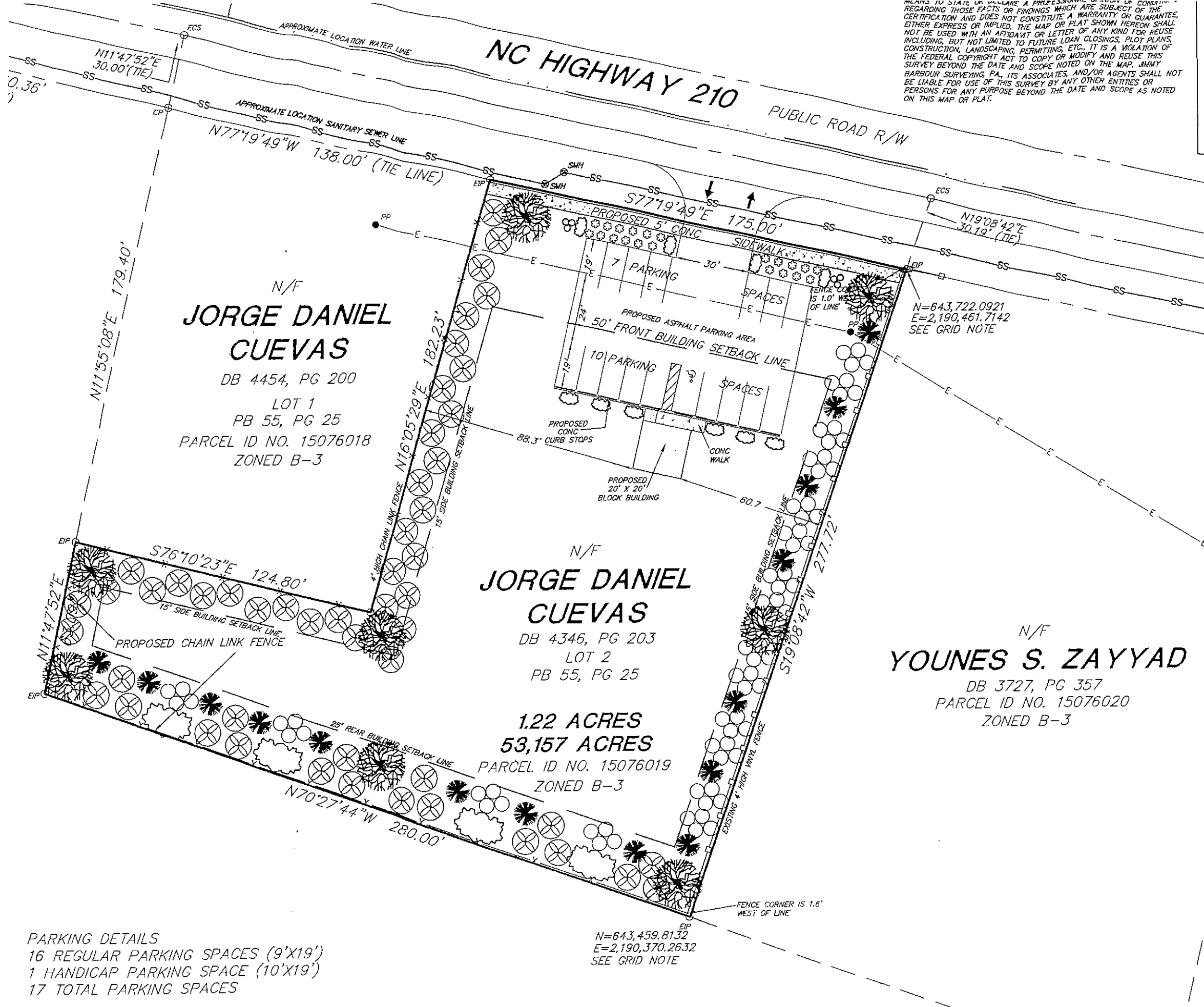
**JORGE DANIEL CUEVAS**

OWNER	N/F JORGE DANIEL CUEVAS		
TOWNSHIP	SMITHFIELD	COUNTY	JOHNSTON
TOWN OF	SMITHFIELD	STATE	NC
SURVEYED BY	R MORRISON		
DATE SURVEYED	3-16-2016	SCALE	1"=40'
DRAWING NO.	16-059		

**JIMMY BARBOUR SURVEYING, PA**

JIMMY C. BARBOUR, PLS., GSI  
C-3109  
213 S. SECOND STREET  
P. O. BOX 28  
SMITHFIELD, N.C. 27577  
919 989-6642 919-989-3013  
919 989-6643 FAX

ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES  
AREA BY COORDINATE METHOD.  
GRAPHIC SCALE 1"=40'



PARKING DETAILS  
16 REGULAR PARKING SPACES (9'X19')  
1 HANDICAP PARKING SPACE (10'X19')  
17 TOTAL PARKING SPACES

PROPERTY IS ZONED B-3  
SETBACK FOR B-3 ZONED PER ARTICLE 12 OF THE  
TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE (12-2)

SURVE



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-16-07, were notified by First Class Mail on 8-15-16.

  
Signature

Johnston County, North Carolina

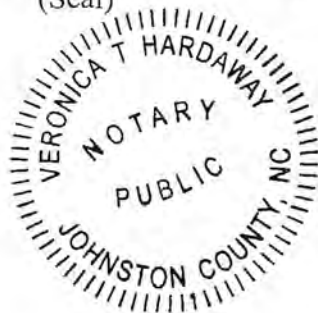
I, Veronica T. Hardaway, a Notary Public for Johnston County and State of North Carolina do hereby certify that Mark E. Helmer personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

15th day of August, 2016

  
Notary Public Signature

  
Notary Public Name

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



Adjacent Property Owners of  
CUP-16-07

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15077011B	169413-04-4077	JOHNSTON COUNTY CEMETERY ASSOCIATION				00000-0000
15076018	169413-03-1611	CUEVAS, JORGE DANIEL	190 WABER CT	SMITHFIELD	NC	27577-7238
15076020	169413-03-5506	ZAYYAD, YOUNES S	173 PATRICIA DRIVE	SMITHFIELD	NC	27577-0000
15076019	169413-03-2556	CUEVAS, JORGE DANIEL	190 WABER CT	SMITHFIELD	NC	27577-7238
15076017	169413-03-2259	FERRELLGAS LP	ONE LIBERTY PLAZA	LIBERTY	MO	64068-0000

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

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UVCHTGRQTV

Application Number: Á Á ÔWÚËÍ Èè Á Á  
Project Name: Šãq^ÁÔ!^^ ÁŠãã•Á Šãq^ÁÔ!^^ ÁŠãã•Á  
TAX ID number: Á Á FÍ RÈ €€JÇÁ Á Á Á  
Town Limits/ETJ: Á Á ÒVRÁ  
Applicant: ÁÁ Y ÈÓ!^} óY ã\*•ÁÁ  
Owners: Á Á Á Á Úæ ^  
Agents: Á Á Á Á ÞÐÁ  
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PROJECT LOCATION: Ú| ~ ó^ ã^Á ÁŠãq^ÁÔ!^^ ÁÔ@!&@Ú| ããÁã } |! çã æ|^ ÁFÈ €€Á^^ ó^æ ó^  
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### ADJACENT ZONING AND LAND USES:

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### STAFF ANALYSIS AND COMMENTARY:

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oÁ **Consistency with the Strategic Growth Plan**

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oÁ **Consistency with the Unified Development Code**

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Planning Department Recommendations:

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Planning Board Recommendations

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**Vqy p'qh'Uo kj Hgrf "**  
**Eqpf kqpcnWg'Rgt o k'Cr rdecvqp"**  
**Hpf lpi 'qh'Hcev'ICr r t qxcnEt kgt k"**

**Cr rdecvqp'Pwo dgt:** CUP-16-08 **Pco g**<Little Creek Labs

**Tgs wgu**< Applicant seeks a CUP for a commercial dog kennel with a 1,800 square foot structure with outdoor dog runs.

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.

**30 Hpf lpi 'Qpg'qh'Hqwt <'**

Circle One

**A. Cr r t qxcn**

Based on the evidence and testimony presented it is the finding of the **Rc p p l p i 'Dq c t f** 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 expansion of the existing commercial dog kennel 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 **Rc p p l p i 'Dq c t f** 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 expansion of the existing commercial dog kennel at this location may endanger the public were shown if all structures are not found to be safe and not constructed to meet all applicable building and fire codes.

**Hlpf lpi 'Vy q'qhlHqwt<'**

"

Circle One

**C0 Cr rt qxcn'**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 expansion of the existing commercial dog kennel at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances. Commercial dog kennels are a permitted use within the R-20A with no additional supplemental standards required by the current Unified Development Ordinance. "

**B. F gplcr<(If denied, must include facts supporting denial)**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f "** 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 expansion of the existing commercial dog kennel does not conform to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances because the plan fails to show all existing structures on the property to include the existing kennel and single family dwelling.

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CHIC 510

**A. Cr rt qxcκ**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 expansion of the existing commercial dog kennel 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. The adjacent land uses include agricultural and woodlands. The nearest neighbor is approximately 380 to the north of the proposed commercial dog kennel.

"

**B. F gpkκ (If denied, must include facts supporting denial)**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 commercial dog kennel at this location will be detrimental to the adjacent land uses due to increased traffic and noise generated by activities associated with a commercial dog kennel.

**60Hlpf lpi 'Hqwt 'qhHqwt <'**

Circle One

**A. Cr rt qxcκ**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 expansion of the existing commercial dog kennel 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 building setbacks.

**B. F gpkκ (If denied, must include facts supporting denial)**

Based on the evidence and testimony presented it is the finding of the **Ræpplpi 'Dqct f** 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 commercial dog kennel 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 the applicant fails to secure a valid certificate of occupancy prior to operations in the new kennel facility.





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: Kenel facility      Acreage of Property: ~~0.80~~ 6.28  
 Parcel ID Number: 15J08009A      Tax ID: \_\_\_\_\_  
 Deed Book: \_\_\_\_\_      Deed Page(s): \_\_\_\_\_  
 Address: 445 Little Creek Church Rd. Clayton, NC 27520  
 Location: \_\_\_\_\_

Existing Use: Residential / Kenel      Proposed Use: Expansion of Kenel  
 Existing Zoning District: R-20A  
 Requested Zoning District: \_\_\_\_\_  
 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: <u>COP-16-08</u>	Date Received: <u>8/5/14</u>	Amount Paid: <u>\$300.00</u>
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**OWNER INFORMATION:**

Name: Brent Wiggs  
Mailing Address: 445 Little Creek Church Rd. Clayton, NC 27520  
Phone Number: 919-202-9369 Fax: \_\_\_\_\_  
Email Address: info@littlecreeklabs.com

**APPLICANT INFORMATION:**

Applicant: Brent Wiggs - Little Creek Labs  
Mailing Address: 445 Little Creek Church Rd. Clayton, NC 27520  
Phone Number: 919-202-9369 Fax: \_\_\_\_\_  
Contact Person: Brent Wiggs  
Email Address: info@littlecreeklabs.com

**REQUIRED PLANS AND SUPPLEMENTAL INFORMATION**

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

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

**STATEMENT OF JUSTIFICATION**

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

I own Little Creek Labs in the Smithfield/Clayton area. My business is growing tremendously and I'm in need of expansion. The new kennel facility that I'm having built will meet these needs. It will accompany all of my dogs & puppies. It will also be a neat & clean environment for them as well as a nice facility for future clients to visit!

## 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;

because it is set well off the road and towards the back of my property. My closest neighbor is across the road and about 3400 ft from the new kennel.

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

because it has been built by plan and I have obtained all permits pertaining to this job.

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

because the building is nowhere near any boundaries of adjoining properties. I have no neighbors beside me and the kennel is around 53ft off the property line.

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).

It has been built to required specifications. The building/kennel is of no threat or danger to the public whatsoever. As stated above, all necessary permits have been issued.



## 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.*

William Brent Wiggs  
Print Name

  
Signature of Applicant

8-3-16  
Date

**LEGEND**

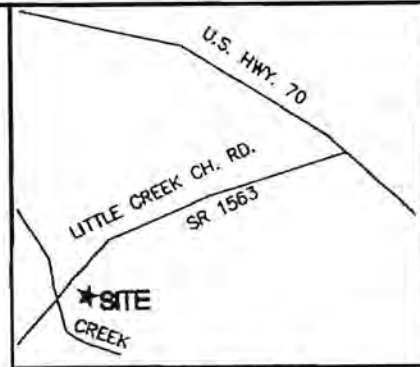
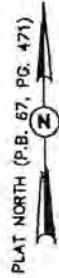
CO	SEPTIC CLEAN OUT
EIP	EXISTING IRON PIPE
PP	POWER POLE
EX.	EXISTING
R/W	RIGHT-OF-WAY
C	CENTERLINE
WM	WATER METER

AREA COMPUTED BY COORDINATE METHOD

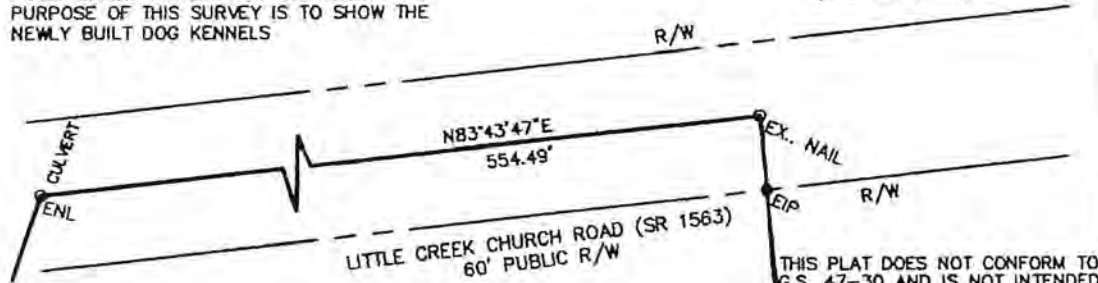
REF: BEING A SURVEY AND MAP OF A PORTION OF THE PROPERTY SHOWN AND DESCRIBED IN D.B. 4711, PG. 58 OF THE JOHNSTON COUNTY REGISTER OF DEEDS  
TAX ID #15J08009A

ADDRESS: 445 LITTLE CREEK CHURCH RD.  
CLAYTON, NC 27520

NOTE: ENTIRE PARCEL NOT SURVEYED  
PURPOSE OF THIS SURVEY IS TO SHOW THE NEWLY BUILT DOG KENNELS



VICINITY MAP  
(NO SCALE)



THIS PLAT DOES NOT CONFORM TO G.S. 47-30 AND IS NOT INTENDED FOR RECORDATION.

TAX #15J08009A  
WILLIAM BRENT WIGGS  
6.28 ACRES INCLUDING R/W

**TOWN OF SMITHFIELD  
PLAN APPROVED**  
By: *Mark G. Halmon*  
Date: *6/22/16*



I, ADRIAN J. BALL III, CERTIFY THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 13TH DAY OF JUNE, A. D., 2016.

*Adrian J. Ball III*

ADRIAN J. BALL III, PROFESSIONAL LAND SURVEYOR No. L-3637



**PARTIAL ASBUILT FOR  
WILLIAM BRENT WIGGS**

**JERRY BALL LAND SURVEYING, P.C.**  
205 S. POLLOCK ST.  
SMITHFIELD, N. C. 27576  
(919) 865-0077

WILSON MILL'S TOWNSHIP JOHNSTON COUNTY  
NORTH CAROLINA  
SCALE: 1" = 60' DATE: 06-13-16

# Wayne R. Dashfield, PE

421-B South Bright Leaf Blvd. Smithfield, NC 27577

(919) 934-0961

Fax (919) 934-0967

August 11, 2016

Johnston County Inspections  
Smithfield, NC 27677

Re: 3<sup>RD</sup> Party Inspection of 50' x 30' Metal Building

Mr. William Wiggs  
445 Little Creek Church Road  
Clayton, NC 27520

Dear Sir or Madam:

On April 19, 2016 I made an on-site inspection of the 1800 SF enclosed metal building with 10'x30' lean-to on each side at Mr. Wiggs request. The purpose of this visit was to verify that the building was designed and constructed to the current 2012 North Carolina Building Code and all its amendments ( 100 MPH wind Loads and 10 PSF Ground Snow Loads). I was given a set of plans that showed the requirements for construction.

On August 10, 2016 Mr. Wiggs informed me that he would need a design proposal for the anchoring system for the metal building. My design will compose of adding concrete anchors to each of the framing tube columns. This will involve cutting the existing concrete and boring a 16" diameter by 36" deep hole by each column and will be filled with concrete. I will submit the sealed plans for approval by the Johnston County Inspection.

If can be of any more assistance, please feel free to contact me.

Yours truly,

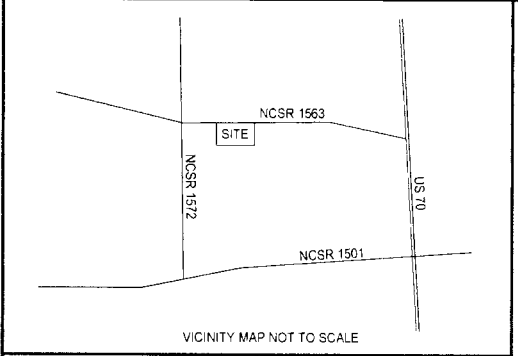
Wayne R. Dashfield, PE





CERTIFICATE OF OWNERSHIP AND DEDICATION  
I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON WHICH IS LOCATED IN THE JOHNSTON AND THAT I HEREBY ADOPT THIS SUBDIVISION PLAN WITH MY FREE CONSENT ESTABLISHED MINIMUM SETBACK LINES AND DEDICATE ALL STREETS, ALLEYS, PARKS, AND OTHER SITES AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED.  
DATE 2-7-06 OWNER Sue U. Warrick

STATE OF NORTH CAROLINA, JOHNSTON CO.  
FILED FOR REGISTRATION AT 3:46:46 P M  
Feb 10 20 06 IN THE  
REGISTER OF DEEDS OFFICE  
RECORDED IN BOOK 67 PAGE 471  
Craig Olex Register of Deeds  
BY Jonna S. Stallings  
Deputy



LITTLE CREEK CHURCH ROAD  
(NCSR 1563)  
60' PUBLIC RW

- LEGEND:
- EIP... EXISTING IRON PIPE
- IPS... IRON PIPE SET
- EIS... EXISTING IRON STAKE
- ISS... IRON STAKE SET
- R.V.W... RIGHT OF WAY
- PK... PARKER MAGNAIL
- ECM... EXISTING CONC MONUMENT
- CMS... CONCRETE MONUMENT SET
- PP... POWER POLE

AREA BY COORDINATE METHOD  
TITLE BY LAWYER  
PROPERTY SUBJECT TO EASEMENT OF RECORD  
THIS PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN ACCORDING TO PANEL NO. 3720167500J

THIS PLAT IS EXEMPT FROM THE DEFINITION OF A SUBDIVISION WITHIN THE ZONING JURISDICTION OF THE JOHNSTON COUNTY PLANNING DEPARTMENT

2-10-06 Coranola P. Ragsdale  
DATE JOHNSTON COUNTY PLANNER

Kay B. Hatch REVIEW OFFICER  
OF JOHNSTON COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING

Kay B. Hatch REVIEW OFFICER  
Feb 10, 2006  
DATE

I, ALSEY J. GILBERT PLS CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (detailed description recorded in db 1179 pg 444 etc) THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK 67 PAGE 171 THAT THE RATIO OF PRECISION IS 1:15,000 THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED WITHNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 9th DAY OF Feb AD 2006

ALSEY J. GILBERT PLS  
L-3201  
REG NO



THIS PLAT IS OF A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND

THIS SURVEY IS OF ANOTHER CATEGORY SUCH AS THE RECOMBINATION OF AN EXISTING PARCEL OR PARCELS OF LAND, A COURT ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION

THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET

6.28 acres  
273528.19 sq ft  
INCLUDING RIGHT OF WAY  
5.89 acres  
256695.53 sq ft  
LESS RIGHT OF WAY

JOHN D. JOHNS  
PLAT BOOK 65 PAGE 171

SUE U. WARRICK  
DB 1129 PG 441

SUE U. WARRICK  
DB 1129 PG 441

RECOMBINATION FOR  
**SUE U. WARRICK**  
WILSON MILLS TWP JOHNSTON COUNTY, NC  
SCALE 1"=60' DATE 1/27/2006

OWNER SUE U. WARRICK  
445 LITTLE CREEK  
CHURCH RD  
CLAYTON, N.C. 27520

ALSEY J. GILBERT PLS  
112 NORTH CHURCH ST.  
CLAYTON NC 27520  
PHONE 919/863-6104  
FAX 919/863-3683



# 400 Block of Little Creek Church Road



Project Name:  
Little Creek Labs

Proposed Use:  
Kennel Facility

File Number:  
CUP-16-08

Property Owner:  
W. Brent Wiggs

Applicant:  
W. Brent Wiggs

Location:  
Little Creek  
Church Road

Tax ID#  
15J08009A

Zoning District:  
R-20A (Residential-  
Agricultural)

Map created by the  
Mark E. Helmer, AICP  
Senior Planner,  
GIS Specialist  
on 8/17/2016

1 inch = 50 feet







PLANNING DEPARTMENT

Paul C. Embler, Jr., Director

ADJOINING PROPERTY OWNERS CERTIFICATION

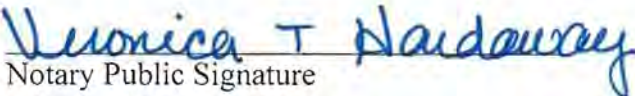
I, Mark E. Helmer, hereby certify that the property owner and adjacent property owners of the following petition, CUP-16-08, were notified by First Class Mail on 8-15-16.

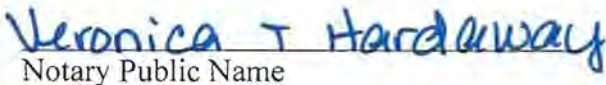
  
Signature

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

16<sup>th</sup> day of August, 2016

  
Notary Public Signature

  
Notary Public Name

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



Adjacent Property Owners of  
CUP-16-08

TAG	PIN	NAME1	ADDRESS1	CITY	STATE
15J08009B	167500-99-2181	KORNEGAY, BARBARA ROSS	118 WHITLEY STREET	MOUNT OLIVE	NC
15J08009	167500-99-0087	MOORE, ROBERT J	440 LITTLE CREEK CHURCH RD	CLAYTON	NC
15J08009A	167500-98-0725	WIGGS, WILLIAM BRENT	445 LITTLE CREEK CHURCH ROAD	CLAYTON	NC
15J08010P	167500-88-5001	VENERO, JAMES R	120 NOLAN CIRCLE	CLAYTON	NC
15J08021D	167500-88-5552	CRUZ, CARMEN	2323 NW 107TH AVENUE	SUNRISE	FL
15J08009G	168505-09-5521	ANN U WOOD REVOCABLE TRUST	286 LITTLE CREEK CHURCH RD	CLAYTON	NC
15J08009H	167500-98-6376	WARRICK, SUE U	145 LITTLE CREEK CHURCH ROAD	CLAYTON	NC
17I07003D	167500-88-3915	NICHOLS, FRED LEE	1185 COOPER BRANCH	CLAYTON	NC

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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-16-02  
**Project Name:** Bella Square  
**TAX ID number:** 4340665  
**Town Limits / ETJ:** Smithfield Corporate Limits  
**Applicant:** Genesis Living, Inc.  
**Owners:** Heath Street #215 Limited Partnership  
**Agents:** none  
**Neighborhood Meeting:** none

---

**PROJECT LOCATION:** Southeast side of Barbour Road approximately 780 feet northwest of its intersection with Laurel Drive

---

**REQUEST:** Rezone approximately 9.45 acres of land from the R-8 CUD (Residential-Condition Use) zoning district to R-8 (Residential) and RHO (Row House Overlay) zoning district

---

### SITE DATA:

**Acreage:** 9.45 acres  
**Present Zoning:** R-8 CUD (Residential-Conditional Use) district  
**Proposed Zoning:** R-8 (Residential) with RHO (Row House Overlay) district  
**Existing Use:** Partially completed duplex subdivision with no houses constructed  
**Proposed Use:** Single family residential (row houses)

### DEVELOPMENT DATA:

**Proposed Use:** N/A - All uses permitted with in the R8 (Residential) zoning district may be considered for future site plan approval.

---

**ENVIRONMENTAL:** There are no known environmentally sensitive areas to include wetlands and 100 year floodplain. The property is not located within the watershed protected area of the Town of Smithfield.

---

## ADJACENT ZONING AND LAND USES:

North:	Zoning: R20A (Residential Agriculture) Existing Use: Farm fields, some woodland, and limited residential S/D
South:	Zoning: R-20A (Residential-Agricultural) Existing Use: Farm fields and limited rural residential
East:	Zoning: R-20A (Residential-Agricultural) Existing Use: Rest home
West:	Zoning: R-20A (Residential-Agricultural) Existing Use: Farm fields and limited rural residential

---

## STAFF ANALYSIS AND COMMENTARY:

The property considered for rezoning is a partially constructed duplex subdivision with 25 lots (50 dwelling units). The property was originally zoned R20A and was rezoned to the current R8 CUD for the purpose of developing the duplex subdivision. A preliminary plat and an engineering plat were submitted and approved by the Town of Smithfield in 2001. The utilities and the roads were permitted and then partially constructed but never accepted by the State or the Town. The property although partially developed is listed on the tax books as undeveloped residential land.

Adjacent property to the north, south and west is primarily agricultural land with a mix of typical rural residential housing on individual lots ranging in size from less than an acre to approximately 50 acres. To the east is Britthaven rest home located on approximately 6 acres of land.

### Consistency with the Strategic Growth Plan

The proposed rezoning to the R-8 (residential) with RHO (overlay) zoning district is consistent with the Strategic Growth Plan which recommends the property be zoned for medium density residential 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 and developments are constructed in accordance with minimum development standards.

#### ○ Compatibility with Surrounding Land Uses

The property considered for a rezoning is located on land presently zoned R-8 CUD district. The existing approved subdivision for the property is permitted for 25 duplex lots allowing for 50 living units on the property. The proposed zoning change to R-8 RHO district should allow for a similar density of development. Therefore there should not be any appreciable difference in compatibility with the adjacent land uses.

---

## OTHER:

FIRE PROTECTION: The Town of Wilsons Mills will provide fire protection.

SCHOOL IMPACTS: There will be potential for impact on the schools but no more than the presently approved subdivision.

PARKS AND RECREATION: There will be impacts on parks and recreational facilities but will be mitigated when developed by construction of on-site recreational facilities or paying fee in lieu of recreation facilities in accordance with the UDO.

ACCESS/STREETS: Approximately 930 feet of road frontage along Barbour Road and approximately 1440 lf of existing unfinished subdivision streets.

WATER/SEWER PROVIDER: Town of Smithfield water and sewer allocation.

ELECTRIC PROVIDER: Duke Energy

---

**FINDINGS:**

In connection with a legislative decision for a rezoning request, the Planning Board and 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 9.45 acres of land from the R-8 CUD (Residential-Conditional Use District) zoning district to the R-8 RHO (Residential with Row House Overlay) 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 9.45 acres of land from the R-8 CUD (Residential-Conditional Use) zoning district to the R-8 RHO (Residential with Row House Overlay) zoning district

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# Town of Smithfield

## Rezoning Permit Application RZ-16-02

### Approval Criteria

**Application No.** RZ-16-02 **Name:** Genesis Living, Inc.

**Request:** Zoning reclassification from R-8 CUD (Residential-Conditional Use) district to the R-8 RHO (Residential-Row House Overlay) zoning district.

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 make a recommendation to the Council for either approval or denial of the rezoning request. 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 proposed rezoning petition is for a “redevelopment” project. The streets and utility infrastructure was previously constructed as Boyette Farm Subdivision. The rezoning petition is a request to include “Row House” as an overlay district. This request meets all applicable plans and polices of the Town of Smithfield.

The rezoning request to change the existing residential zoning with a conditional use district to a residential zoning with a row house overlay zoning district is consistent with the recommendations of the Future Land Use Plan which calls for moderate density residential uses.

B. Disagree

The Future land use plan has identified this property as being suitable for moderate density residential development and open space. The additional residential activity and the traffic generated by such uses will allow for harmful and adverse impacts on the area, particularly to the adjacent low density residential properties to the north, south and west.

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

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

Circle One

A. Agree

The rezoning will allow for single family housing which is similar to and compatible with development patterns in the surrounding area.

The rezoning petition is compatible with established neighborhood patterns of the surrounding area. This area contains some of the most developable residential properties located within the Town of Smithfield city limits due to prior medium density residential development on nearby properties.

B. Disagree

Although no known compatibility issues with adjacent land uses have occurred in the past, rezoning the property to R-8 RHO zoning district could create the potential for additional congestion along Barbour Road in the form of additional urban sprawl.

## **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 will result in a product that meets the current market demand in this area.

The rezoning request from the R-8 CUD residential business zoning districts to an R-8 RHO zoning district is consistent with historical trends suggesting that residential development will continue to occur along Barbour Road to the west.

B. Disagree

The rezoning petition is NOT compatible with the changing neighborhood conditions that might warrant a rezoning because recently there have been no newly constructed subdivisions along Barbour Road which allows the area to retain its existing rural residential character.

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

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

A. Agree

The rezoning will result in a product that meets the current market demand in this area.

The rezoning will allow for a wider range of residential uses and provide additional area for expansion of Smithfield's residential base. Any 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 properties for future development.

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

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

A. Agree

The rezoning is compatible with adjacent zoning and uses.

It is unlikely an argument could be made for "spot zoning" or "small scale" since the rezoning will be expanding on an already existing R-8 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

As evidenced by the abandoned project, the market conditions have changed. The rezoning will allow for a use that meets current market demands.

The property is currently zoned for residential uses. The existing zoning on the property is specific for duplex housing. The new zoning will allow for single family residential development thus expanding the opportunities for development.

B. Disagree

There are no considerations for residential row house development at this location. Alternate residential uses should be pursued in more depth prior to rezoning to R-8 RHO.

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

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

A. Agree

The current public services available are suitable for this rezoning.

In addition to public water and sewer being available to the site, the property is served with electricity by Duke Energy. 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

The streets and utility infrastructure has been constructed. The rezoning will allow for a feasible development strategy.

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 can 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-16-02.

**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-16-02.

**10. Record of Decision:**

**Based on a motion and majority vote of the Town of Smithfield Planning Board, Rezoning Petition RZ-16-02 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.**

---

**Eddie Foy, Planning Board Chairman**

**Attest:**

---

**Paul C. Embler, Jr ASLA  
Planning Director**



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: BELLA SQUARE                      Acreage of Property: 9.45  
 Parcel ID Number: 168500-92-7886                      Tax ID: 4340665  
 Deed Book: 1897                      Deed Page(s): 940  
 Address: N/A  
 Location: South side of Barbour Rd, approximately 0.7 mi west of Wilson's Mills Rd

Existing Use: R/A                      Proposed Use: Residential  
 Existing Zoning District: R-8 CUD  
 Requested Zoning District To include the overlay district of "Rowhouse"  
 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: _____      Date Received: _____      Amount Paid: _____
--



**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 proposed rezoning petition is for a "redevelopment" project. The streets and utility infrastructure was previously constructed as Boyette Farm Subdivision. The rezoning petition is a request to include "Rowhouse" as an overlay district. This request meets all applicable plans and policies of the Town of Smithfield. However, we are requesting a variance for the side setbacks from 6' to 5'.

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

This single family project is similar to and compatible with development patterns in the surrounding area.

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

This rezoning will result in a product that meets the current market demand in this area.

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

The rezoning will provide an opportunity to complete a project that has been stagnant for some time.

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

The rezoning is compatible with adjacent zoning and uses.

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

As evidenced by the abandoned project, the market conditions have changed the rezoning will allow for a use that meets current market demands.

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

The current public services available are suitable for this rezoning.

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

The streets and utility infrastructure has been constructed. The rezoning will allow for a feasible development strategy.

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**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.*

**Glenn Weeks**

*Print Name*



*Signature of Applicant*

8/10/16

*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: Bella Square      Submittal Date: \_\_\_\_\_

**OWNERS AUTHORIZATION**

I hereby give CONSENT to Glenn Weeks (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.

*Wayne Barefoot*      Wayne Barefoot      8-10-16  
 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.

*Glenn Weeks*      Glenn Weeks      8-10-16  
 Signature of Owner/Applicant      Print Name      Date

**FOR OFFICE USE ONLY**

File Number:	Date Received:	Parcel ID Number:
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N/F  
HEATH STREET #215 LIMITED PARTNERSHIP  
TAX: 4369642  
PIN: 169500-04-3091  
BOOK/PAGE: 01897/0940  
ZONING: R-20A

N/F  
ANGELA MARIE BRASWELL  
GREGORY LEE CHAVEZ  
TAX: 4401903  
PIN: 169500-02-3754  
ZONING: R-10

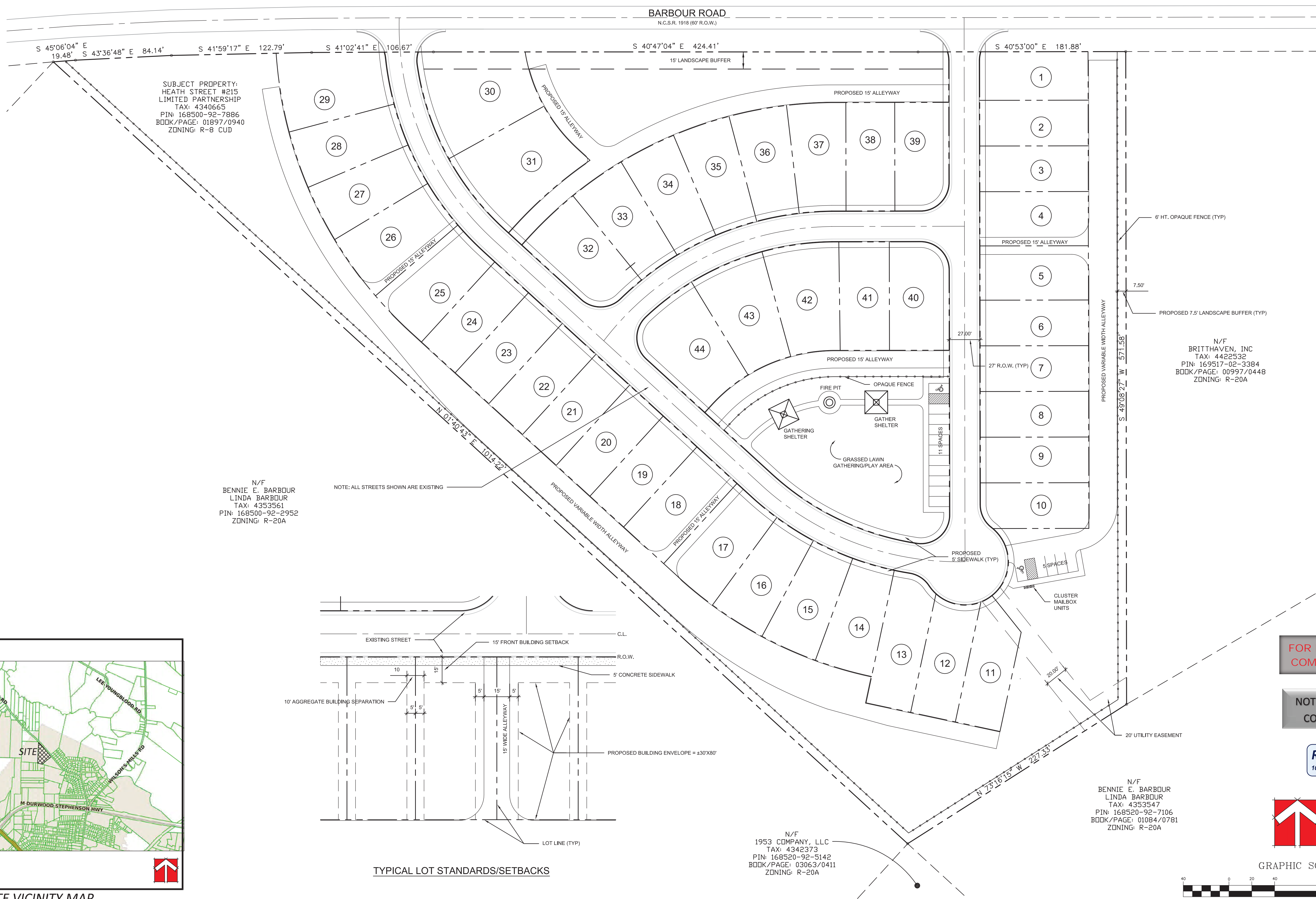
N/F  
RANDALL HORACE DAVIS  
CONNIE FAY DAVIS  
TAX: 4342396  
PIN: 169500-02-4617  
ZONING: R-10

SUBJECT PROPERTY:  
HEATH STREET #215  
LIMITED PARTNERSHIP  
TAX: 4340665  
PIN: 168500-92-7886  
BOOK/PAGE: 01897/0940  
ZONING: R-8 CUD

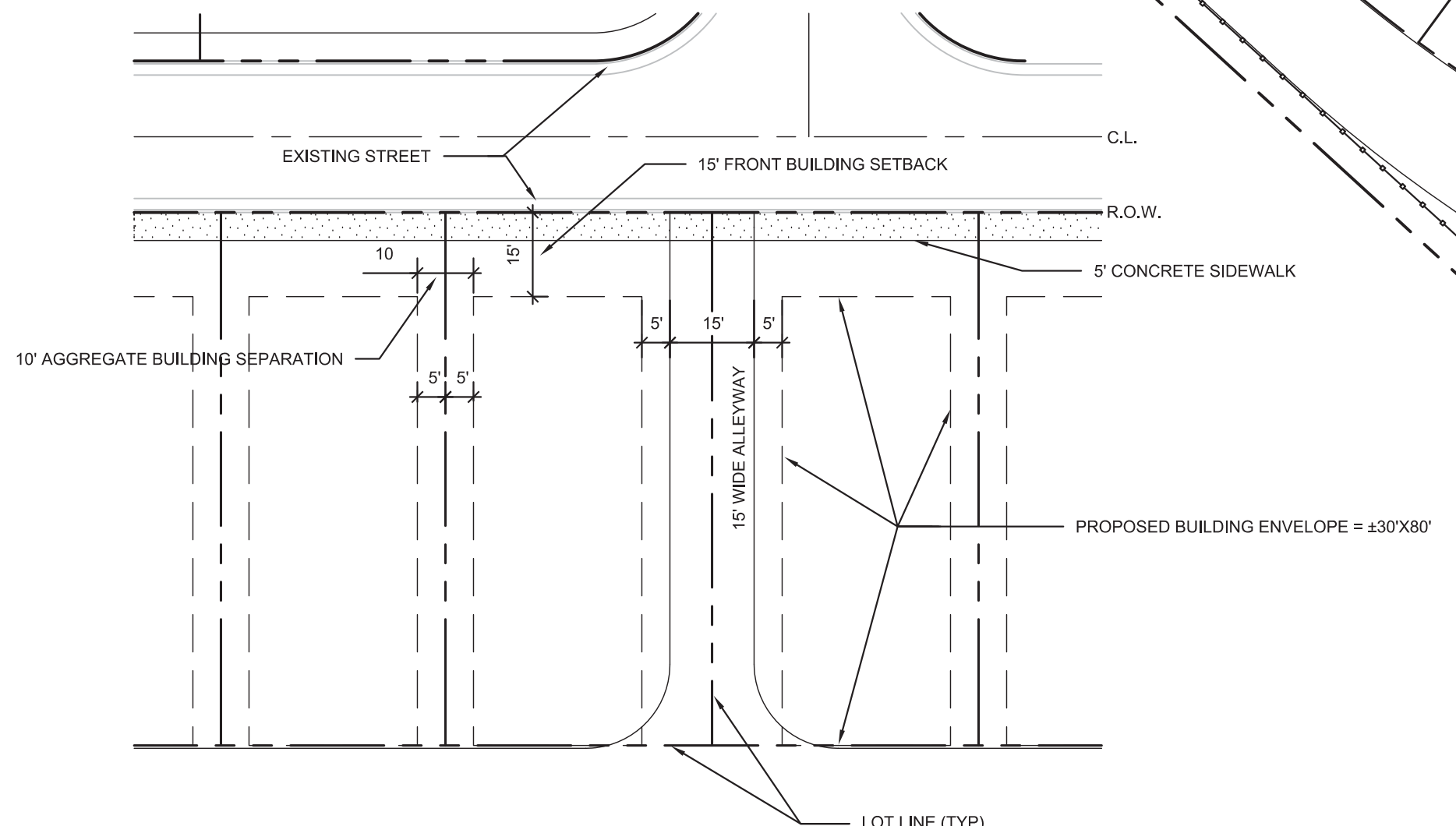
N/F  
BENNIE E. BARBOUR  
LINDA BARBOUR  
TAX: 4353561  
PIN: 168500-92-2952  
ZONING: R-20A

N/F  
BRITTHAVEN, INC  
TAX: 4422532  
PIN: 169517-02-3384  
BOOK/PAGE: 00997/0448  
ZONING: R-20A

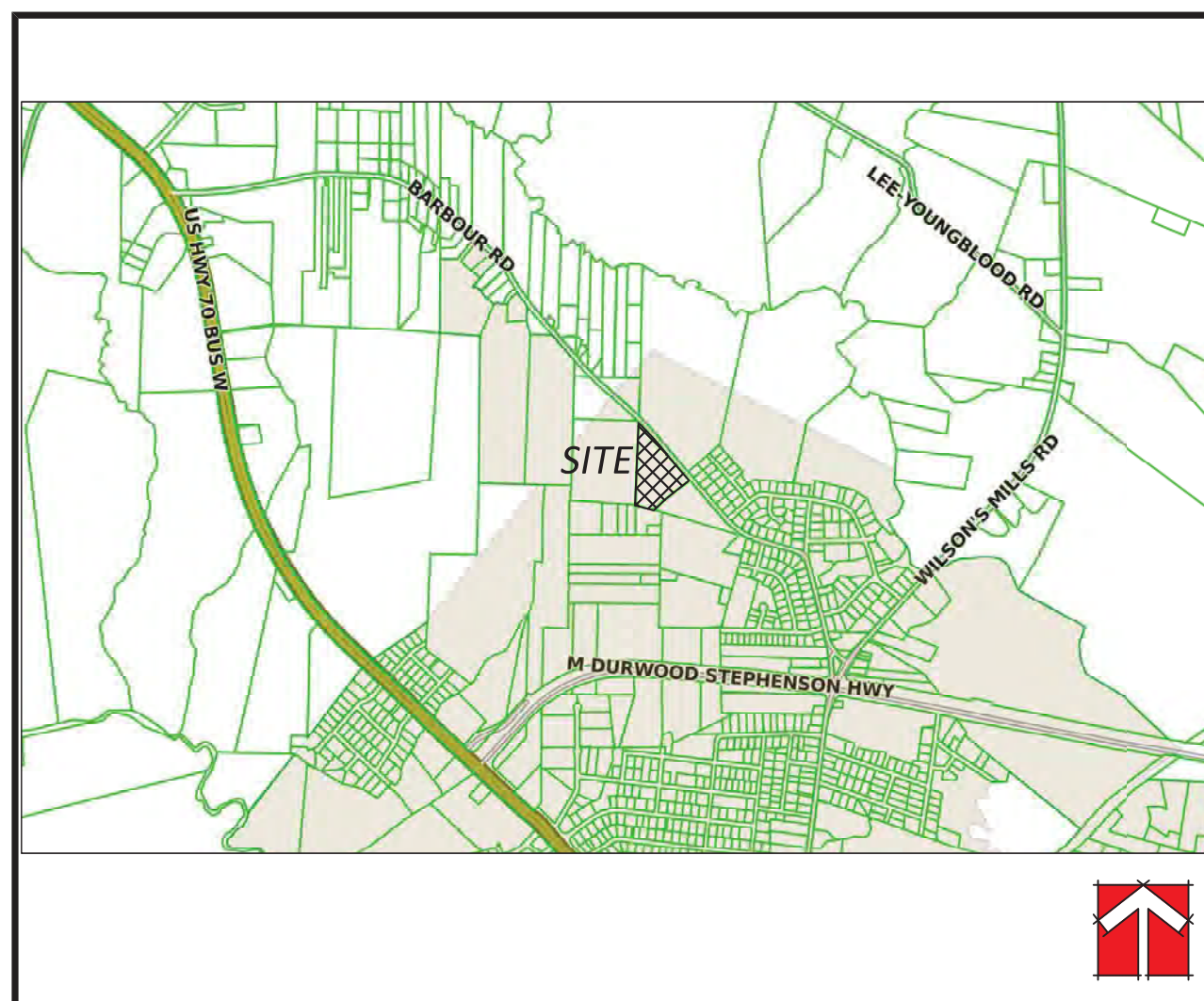
N/F  
1953 COMPANY, LLC  
TAX: 4342373  
PIN: 168520-92-5142  
BOOK/PAGE: 03063/0411  
ZONING: R-20A



NOTE: ALL STREETS SHOWN ARE EXISTING



TYPICAL LOT STANDARDS/SETBACKS

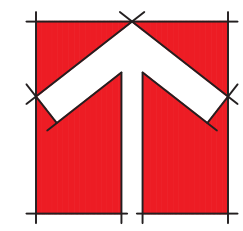


SITE VICINITY MAP  
NOT TO SCALE

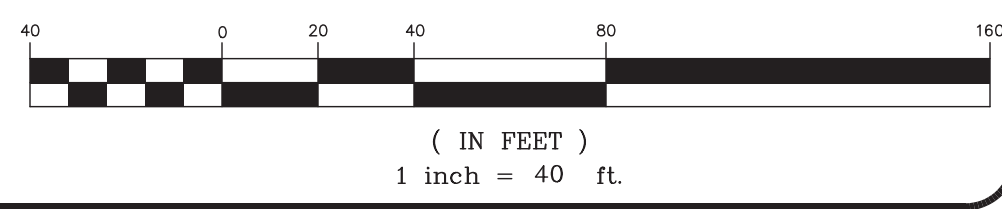
FOR REVIEW AND COMMENT ONLY

NOT RELEASED FOR CONSTRUCTION

REVISED  
10:02 am, Aug 16, 2016



GRAPHIC SCALE



REVISIONS:  
335 ATHLETIC CLUB BLVD  
CLAYTON, NC 27527  
dominic@adams-hodge.com  
919-243-1332  
FIRM # C-1187

**ADAMS & HODGE**  
ENGINEERING, PC

BELLA SQUARE  
SMITHFIELD, NORTH CAROLINA

SUBDIVISION PLAN

DESIGN: AWH/DCA  
DRAWN: TMH  
CHECKED: AWH  
HORIZONTAL SCALE: SEE GRAPHIC SCALE  
VERTICAL SCALE: N/A  
DATE: 08/15/2016  
JOB NO.: AH-  
SHEET

SD01



# 500 Block of Barbour Road



Project Name:  
Bella Square  
Rezoning

Proposed Use:  
Row House  
Development

File Number:  
RZ-16-02

Property Owner:  
Heath Street #215  
Ltd Prtrshp

Applicant:  
Genesis Living, Inc.

Location:  
501 Barbour Road

Tax ID#  
15078009L

Zoning District:  
R-8 CUD

Map created by the  
Mark E. Helmer, AICP  
Senior Planner,  
GIS Specialist  
on 8/17/2016

1 inch = 60 feet



Location of Proposed  
Rezoning From R-8 CUD  
to  
R-8 RHO





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-16-02, were notified by First Class Mail on 8-15-16.

Mark E. Helmer  
Signature

Johnston County, North Carolina

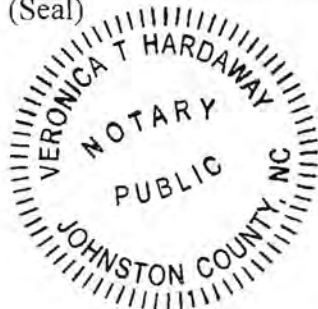
I, Veronica T. Hardaway, a Notary Public for Johnston County and State of North Carolina do hereby certify that Mark E. Helmer personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

16<sup>th</sup> day of August, 2016

Veronica T Hardaway  
Notary Public Signature

Veronica T Hardaway  
Notary Public Name

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



Adjacent Property Owners of  
CUP-16-09 - RZ-16-02

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15078009L	168500-92-7886	HEATH STREET #215 LMTD PRTRSHP	258 MEADOWBROOK DR	FOUR OAKS	NC	27524-8550
15K09010N	168520-92-5142	1953 COMPANY LLC	PO BOX 150	SMITHFIELD	NC	27577-0150
15K09016E	169500-02-4617	DAVIS, RANDALL HORACE	408 BARBOUR RD	SMITHFIELD	NC	27577-0000
15K09010G	168520-92-7106	BARBOUR, BENNIE E	661 BARBOUR RD	SMITHFIELD	NC	27577-5579
15J08036	168500-92-2952	BARBOUR, BENNIE E	661 BARBOUR RD	SMITHFIELD	NC	27577-5579
15J08035	168500-93-2691	MOORE, ALMA J	8205 GLEAVES COURT	ALEXANDRIA	VA	22309-0000
15078009K	169500-04-3091	HEATH STREET #215 LMTD PRTRSHP	258 MEADOWBROOK DR	FOUR OAKS	NC	27524-8550
15K09016D	169500-02-3754	BRASWELL, ANGELA MARIE	61 ROSEBAY LN	CLAYTON	NC	27527-8807
15078040	169517-02-3384	BRITTHAVEN INC	PO BOX 6159	KINSTON	NC	28502-6159
15K09010V	169517-01-4841	BARBOUR, LUTHER JR	401 BARBOUR RD	SMITHFIELD	NC	27577-5507

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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-16-09  
**Project Name:** Bella Square  
**TAX ID number:** 4340665  
**Town Limits / ETJ:** Smithfield Corporate Limits  
**Applicant:** Genesis Living, Inc.  
**Owners:** Heath Street #215 Limited Partnership  
**Agents:** none  
**Neighborhood Meeting:** none

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**PROJECT LOCATION:** Southeast side of Barbour Road approximately 780 feet northwest of its intersection with Laurel Drive

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**REQUEST:** Condition Use Permit for a Row House Overlay for a 44 lot single family development. Requested conditions to be place include: reducing side yard setback form 6 ft to 5 ft, reduce landscape buffer from 15ft to 7.5ft with landscaping and screen fencing, allow direct entry to parking spaces from public street at recreational amenity, and reduce the right of way requirement from 50ft to 40ft.

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### SITE DATA:

Acreage: 9.45 acres  
Present Zoning: R-8 CUD (Residential-Conditional Use) district  
Proposed Zoning: R-8 (Residential) with RHO (Row House Overlay) district  
Existing Use: Partially completed duplex subdivision with no houses constructed  
Proposed Use: Single family residential (row houses)

### DEVELOPMENT DATA:

Proposed Use: N/A - All uses permitted with in the R8 (Residential) zoning district may be considered for future site plan approval.

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**ENVIRONMENTAL:** There are no known environmentally sensitive areas to include wetlands and 100 year floodplain. The property is not located within the watershed protected area of the Town of Smithfield.

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**ADJACENT ZONING AND LAND USES:**

North:	Zoning: R20A (Residential Agriculture) Existing Use: Farm fields, some woodland, and limited residential S/D
South:	Zoning: R-20A (Residential-Agricultural) Existing Use: Farm fields and limited rural residential
East:	Zoning: R-20A (Residential-Agricultural) Existing Use: Rest home
West:	Zoning: R-20A (Residential-Agricultural) Existing Use: Farm fields and limited rural residential

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**STAFF ANALYSIS AND COMMENTARY:**

The property considered for rezoning is a partially constructed duplex subdivision with 25 lots (50 dwelling units). The property was originally zoned R-20A and was rezoned to the current R-8 CUD for the purpose of developing the duplex subdivision. A preliminary plat and an engineering plat were submitted and approved by the Town of Smithfield in 2001. The utilities and the roads were permitted and then partially constructed but never accepted by the State or the Town. The property although partially developed is listed on the tax books as undeveloped residential land.

Adjacent property to the north, south and west is primarily agricultural land with a mix of typical rural residential housing on individual lots ranging in size from less than an acre to approximately 50 acres. To the east is Britthaven rest home located on approximately 6 acres of land.

**Consistency with the Strategic Growth Plan**

The proposed rezoning to the R-8 (residential) with RHO (overlay) zoning district is consistent with the Strategic Growth Plan which recommends the property be zoned for medium density residential 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 and developments are constructed in accordance with minimum development standards.

- **Compatibility with Surrounding Land Uses**

The property considered for a rezoning is located on land presently zoned R-8 CUD district. The existing approved subdivision for the property is permitted for 25 duplex lots allowing for 50 living units on the property. The proposed zoning change to R-8 RHO district should allow for a similar density of development. Therefore there should not be any appreciable difference in compatibility with the adjacent land uses.

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**OTHER:**

**FIRE PROTECTION:** The Town of Wilsons Mills will provide fire protection.

SCHOOL IMPACTS: There will be potential for impact on the schools but no more than the presently approved subdivision.

PARKS AND RECREATION: There will be impacts on parks and recreational facilities but will be mitigated when developed by construction of on-site recreational facilities or paying fee in lieu of recreation facilities in accordance with the UDO.

ACCESS/STREETS: Approximately 930 feet of road frontage along Barbour Road and approximately 1440 lf of existing unfinished subdivision streets.

WATER/SEWER PROVIDER: Town of Smithfield water and sewer allocation.

ELECTRIC PROVIDER: Duke Energy

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**FINDINGS:**

In connection with a legislative decision for a rezoning request, the Planning Board and 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 establish a Row House Overlay (RHO) on the property with consideration given to the conditions requested by the developer.

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**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 establish of a Row House Overlay in accordance with the submitted plan and with the conditions requested by the developer.

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**Town of Smithfield**  
**Conditional Use Permit Application**  
**Finding of Fact / Approval Criteria**  
**CUP-16-09**

**Application Number:** CUP-16-09    **Name:** Genesis Living, Inc.

**Request:** Applicant seeks a CUP for an RHO subdivision.

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 **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 request for conditional use will not endanger the public health, safety, or general welfare for the reason that the 44 lot RHO subdivision will have less impact than the currently approved 25 lot 50 unit duplex subdivision.

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

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

The proposed subdivision will have an adverse effect on the rest home as well as the neighboring rural residential lots by creating additional vehicular traffic and by increasing the impervious area of development thus increasing storm water runoff.

**2. Finding Two of Four**

Circle One

**A. Approval:**

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

The proposed use will meet all required conditions and specifications in accordance with the current Unified Development Ordinance plus state and federal regulations once a variance is obtained to decrease the side yard setback from 6 feet to 5 feet.

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

Based on the evidence and testimony presented it is the finding of the **Planning Board** 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 subdivision plan does not meet the minimum side yard setback of 6 feet and should be denied.

### 3. Finding Three of Four:

Circle One

A. **Approval:**

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

The proposed use will not adversely affect the use or any physical attribute of adjoining or abutting property. The RHO subdivision is a single family residential subdivision which is more in keeping with adjacent developments than the previously approved duplex subdivision.

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

Based on the evidence and testimony presented it is the finding of the **Planning Board** 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.

It is unlikely that the proposed RHO development will substantially injure the value of adjoining or abutting properties and/or will be detrimental to the use or development of adjacent properties and should not be used for basis of denial.

#### 4. Finding Four of Four:

Circle One

A. **Approval:**

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 RHO subdivision does not adversely affect the adopted plans and polices of the Town of Smithfield because the development is in compliance with the Comprehensive Land Use Plan and the Unified Development Ordinance.

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

Based on the evidence and testimony presented it is the finding of the **Planning Board** 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 RHO subdivision will not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of the existing standards for development and should not be used for a basis of denial.

**4. 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-16-09*

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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-16-09 for the following stated reason:*

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**5. Record of Decision:**

**Based on a motion and majority vote of the Town of Smithfield Town Planning Board hereby recommends to the Town Council that Conditional Use Permit Application Number CUP-16-09 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:**

\_\_\_\_\_  
**Paul C. Embler, Jr. ASLA, Planning Director**





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: Bella Square      Acreage of Property: 9.45 ac  
 Parcel ID Number: 168500-92-7886      Tax ID: 4340665  
 Deed Book: 01897      Deed Page(s): 0940  
 Address: \_\_\_\_\_  
 Location: Southeast side of Barbour Road approx. 780 feet northwest of its intersection with Laurel Drive  
 Existing Use: Partial developed duplex S/D      Proposed Use: Single family row house S/D  
 Existing Zoning District: R-8 RHO  
 Requested Zoning District \_\_\_\_\_  
 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): Row House Overlay District

### FOR OFFICE USE ONLY

File Number: <u>LUP-16-09</u>	Date Received: <u>6/5/10</u>	Amount Paid: <u>\$300.00</u>
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## OWNER INFORMATION:

Name: Heath Street #215 Limited Partnership (Wayne Barefoot)

Mailing Address: 258 Meadowbrook Drive, Four Oaks, NC 27524-8550

Phone Number: 919 868 6901

Fax:

Email Address:

## APPLICANT INFORMATION:

Applicant: Genesis Living, Inc.

Mailing Address: 243 Presley Blvd. Garner, NC 27529

Phone Number: 919 337 2172

Fax:

Contact Person: Glenn Weeks

Email Address: genesislivinginc@hotmail.com

## REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

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

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

## STATEMENT OF JUSTIFICATION

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

The original subdivision (2001) was permitted as a 25 lot 50 unit duplex subdivision. The utilities and roadways were built but never accepted by the Town. It is proposed to construct a row house subdivision with single story and two story row houses on single family lots utilizing the existing utilities and streets. In order to fully use the existing infrastructure in the proposed RHO subdivision it is requested that variances/conditions be placed on the development to allow for the side yards to be reduced from 6 ft to 5 ft ; landscape buffers be reduced from 15 ft to 7.5 ft by incorporating landscaping and screen fence and by allowing access to parking spaces directly from a public street. The access to the parking will only occur at the common recreation space owned by the HOA. The HOA will own the parking spaces and will maintain the parking spaces and the associated site walk that lies outside of the street right of way. It is also requested that the street right of way be reduced from 50 ft to 40 feet in order to more accurately align the existing water meters and clean outs with the proposed single family RHO lots. A storm water management facility will need to be constructed on the opposite side of Barbour Road to detain the storm water generated by the subdivision. No traffic impact analysis, wastewater allocation or driveway permits will be required since they were obtained at the time the original subdivision was approved. All utilities and roadways will be certified to the Town and the State by a licensed professional engineer prior to acceptance of the subdivision by the Town. The RHO subdivision will contain 44 lots.



**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 request for a conditional use row house overlay will not endanger the public health, safety or general welfare for the reason that the 44 lot RHO subdivision will have less impact than the currently approved 25 lot 50 unit duplex subdivision.

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

The proposed use will meet all required conditions and specifications in accordance with the current Unified Development Ordinance plus state and federal regulations once conditions are placed on the development to decrease the side yard setback from 6 ft to 5 ft, allow landscape buffers to be reduced from 15 ft to 7.5 ft by incorporating fencing and landscaping and to allow for parking lot access directly from a public street into the parking spaces. Parking will be owned and maintained by the HOA.

- 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 will not adversely affect the use or any physical attribute of adjoining or abutting property. The RHO subdivision is a single family residential subdivision which is more in keeping with adjacent developments than the previously approved duplex subdivision.

- 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 RHO subdivision does not adversely affect the adopted plans and policies of the Town of Smithfield because the development is in compliance with the Comprehensive Land Use Plan and the Unified Development Ordinance.

## 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.*

Glenn Weeks

8/5/2016

Print Name

Signature of Applicant

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: Bella Square Submittal Date: \_\_\_\_\_

**OWNERS AUTHORIZATION**

I hereby give CONSENT to Glenn Weeks (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.

Wayne Barefoot 8-10-16  
 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.

Glenn Weeks 8-10-16  
 Signature of Owner/Applicant Print Name Date

**FOR OFFICE USE ONLY**

File Number: CUP-16-09 Date Received: \_\_\_\_\_ Parcel ID Number: \_\_\_\_\_



N/F  
HEATH STREET #215 LIMITED PARTNERSHIP  
TAX: 4369642  
PIN: 169500-04-3091  
BOOK/PAGE: 01897/0940  
ZONING: R-20A

N/F  
ANGELA MARIE BRASWELL  
GREGORY LEE CHAVEZ  
TAX: 4401903  
PIN: 169500-02-3754  
ZONING: R-10

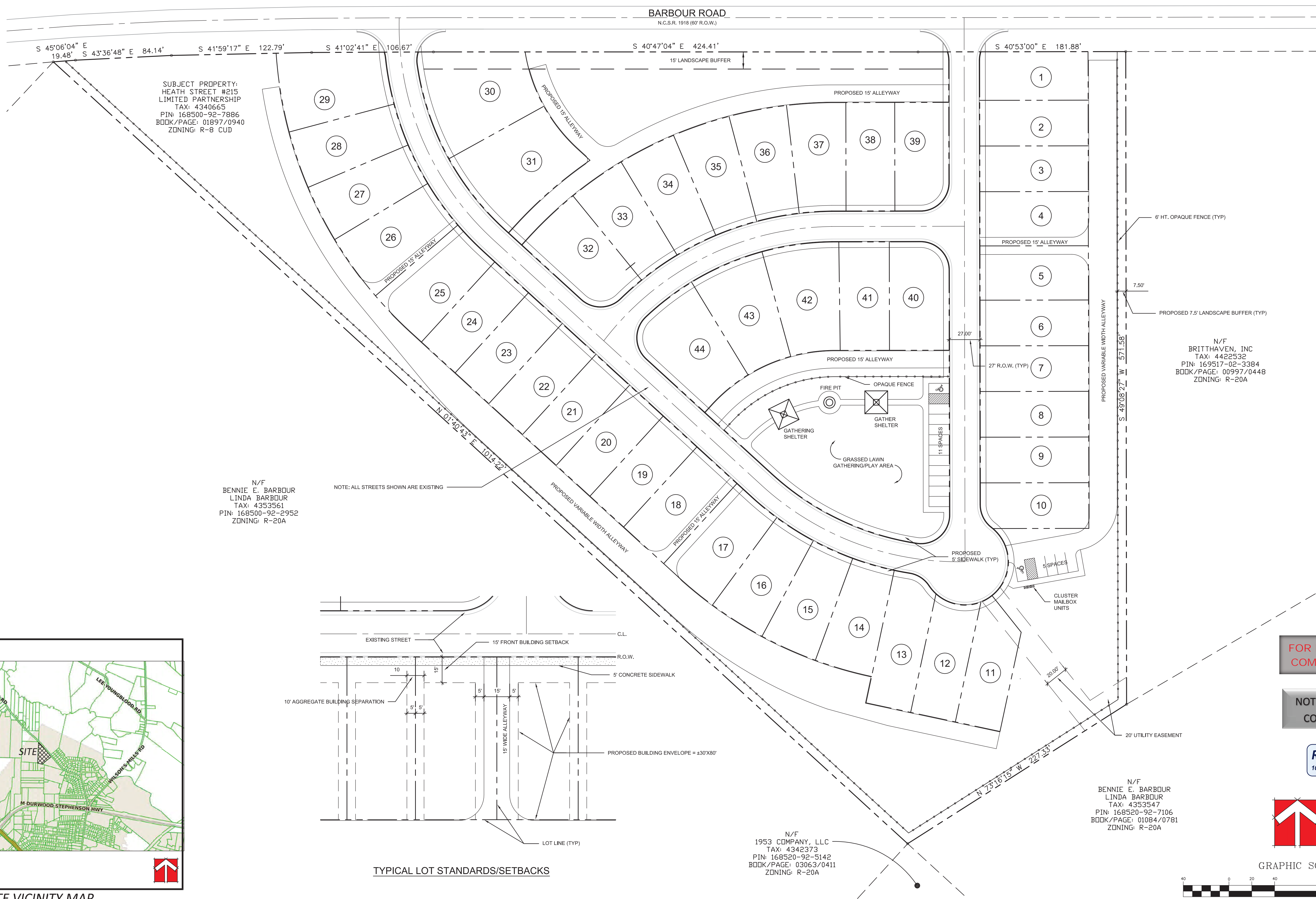
N/F  
RANDALL HORACE DAVIS  
CONNIE FAY DAVIS  
TAX: 4342396  
PIN: 169500-02-4617  
ZONING: R-10

SUBJECT PROPERTY:  
HEATH STREET #215  
LIMITED PARTNERSHIP  
TAX: 4340665  
PIN: 168500-92-7886  
BOOK/PAGE: 01897/0940  
ZONING: R-8 CUD

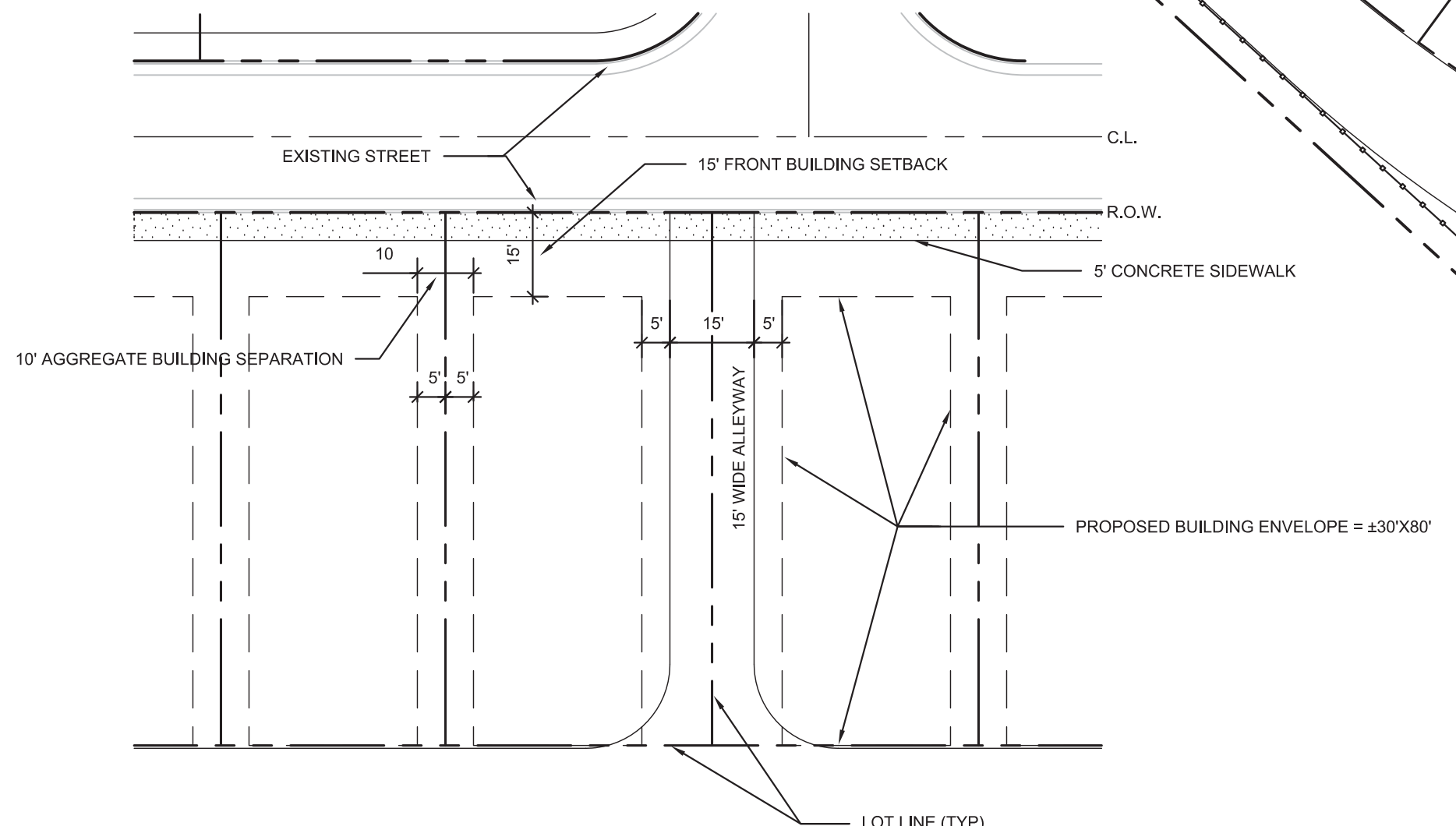
N/F  
BENNIE E. BARBOUR  
LINDA BARBOUR  
TAX: 4353561  
PIN: 168500-92-2952  
ZONING: R-20A

N/F  
BRITTHAVEN, INC  
TAX: 4422532  
PIN: 169517-02-3384  
BOOK/PAGE: 00997/0448  
ZONING: R-20A

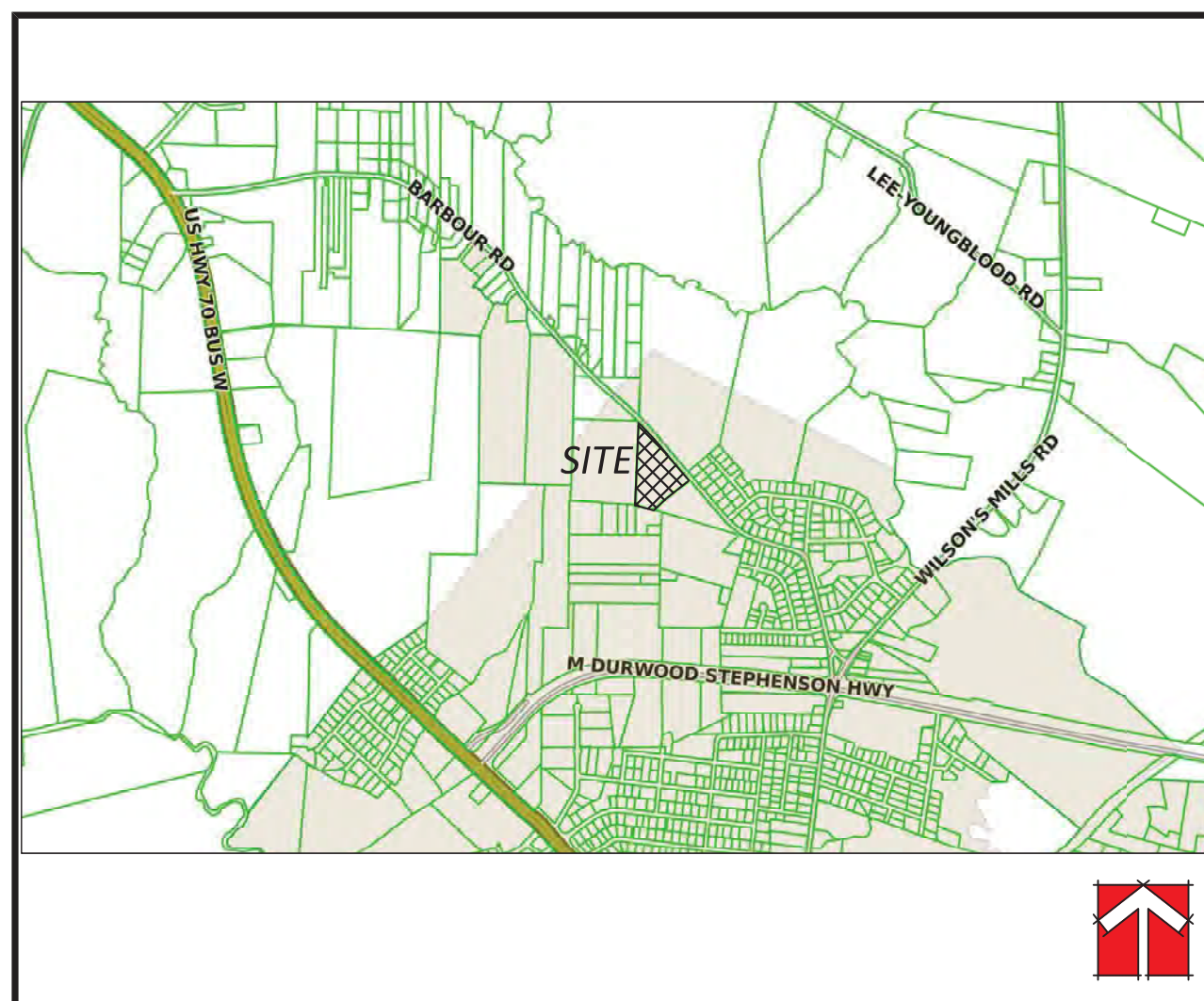
N/F  
1953 COMPANY, LLC  
TAX: 4342373  
PIN: 168520-92-5142  
BOOK/PAGE: 03063/0411  
ZONING: R-20A



NOTE: ALL STREETS SHOWN ARE EXISTING



TYPICAL LOT STANDARDS/SETBACKS

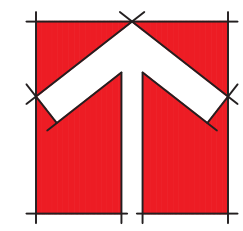


SITE VICINITY MAP  
NOT TO SCALE

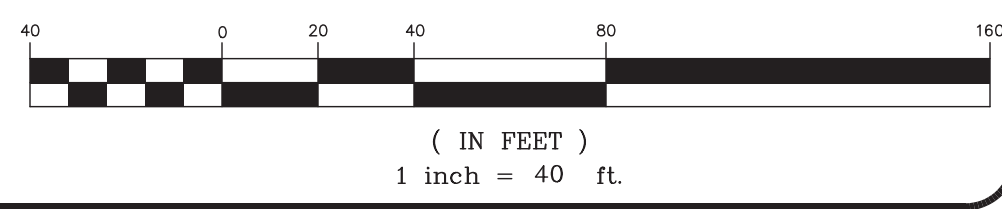
FOR REVIEW AND COMMENT ONLY

NOT RELEASED FOR CONSTRUCTION

REVISED  
10:02 am, Aug 16, 2016



GRAPHIC SCALE



REVISIONS:  
335 ATHLETIC CLUB BLVD  
CLAYTON, NC 27527  
dominic@adams-hodge.com  
919-243-1332  
FIRM # C-1187

**ADAMS & HODGE**  
ENGINEERING, PC

BELLA SQUARE  
SMITHFIELD, NORTH CAROLINA

SUBDIVISION PLAN

DESIGN: AWH/DCA  
DRAWN: TMH  
CHECKED: AWH  
HORIZONTAL SCALE: SEE GRAPHIC SCALE  
VERTICAL SCALE: N/A  
DATE: 08/15/2016  
JOB NO.: AH-  
SHEET

SD01



# 500 Block of Barbour Road



Project Name:  
Bella Square  
Conditional Use  
Permit Request

Proposed Use:  
SFD Row House  
Development

File Number:  
CUP-16-09

Property Owner:  
Heath Street #215  
Ltd Prtrshp

Applicant:  
Genesis Living, Inc.

Location:  
501 Barbour Road

Tax ID#  
15078009L

Zoning District:  
R-8 ROH

Map created by the  
Mark E. Helmer, AICP  
Senior Planner,  
GIS Specialist  
on 8/17/2016

1 inch = 60 feet



Location of Proposed  
Single Family Row House  
Development






**PLANNING DEPARTMENT**

Paul C. Embler, Jr., Director

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**ADJOINING PROPERTY OWNERS CERTIFICATION**

I, Mark E. Helmer, hereby certify that the property owner and adjacent property owners of the following petition, CUP-16-09, were notified by First Class Mail on 8-15-16.

  
Signature

Johnston County, North Carolina

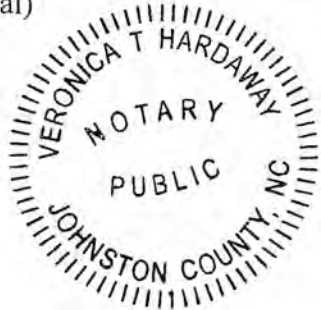
I, Veronica T. Hardaway, a Notary Public for Johnston County and State of North Carolina do hereby certify that Mark E. Helmer personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

16th day of August, 2016

  
Notary Public Signature

  
Notary Public Name

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





Adjacent Property Owners of  
CUP-16-09 - RZ-16-02

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15078009L	168500-92-7886	HEATH STREET #215 LMTD PRTRSHP	258 MEADOWBROOK DR	FOUR OAKS	NC	27524-8550
15K09010N	168520-92-5142	1953 COMPANY LLC	PO BOX 150	SMITHFIELD	NC	27577-0150
15K09016E	169500-02-4617	DAVIS, RANDALL HORACE	408 BARBOUR RD	SMITHFIELD	NC	27577-0000
15K09010G	168520-92-7106	BARBOUR, BENNIE E	661 BARBOUR RD	SMITHFIELD	NC	27577-5579
15J08036	168500-92-2952	BARBOUR, BENNIE E	661 BARBOUR RD	SMITHFIELD	NC	27577-5579
15J08035	168500-93-2691	MOORE, ALMA J	8205 GLEAVES COURT	ALEXANDRIA	VA	22309-0000
15078009K	169500-04-3091	HEATH STREET #215 LMTD PRTRSHP	258 MEADOWBROOK DR	FOUR OAKS	NC	27524-8550
15K09016D	169500-02-3754	BRASWELL, ANGELA MARIE	61 ROSEBAY LN	CLAYTON	NC	27527-8807
15078040	169517-02-3384	BRITTHAVEN INC	PO BOX 6159	KINSTON	NC	28502-6159
15K09010V	169517-01-4841	BARBOUR, LUTHER JR	401 BARBOUR RD	SMITHFIELD	NC	27577-5507



## PLANNING DEPARTMENT

Paul C. Emblar, 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, September 1, 2016 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following requests:

**CUP-16-07 Jorge Cuevas:** The applicant is requesting a conditional use permit to construct and operate a storage building sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the south side of NC HWY 210 approximately 490 west of its intersection with West Market Street and further identified as Johnston county Tax ID# 15076019.

**CUP-16-08 Brent Wiggs:** The applicant is requesting a conditional use permit to operate a commercial dog kennel on property located within a R-20A (Residential-Agricultural) zoning district. The property considered for approval is located on the south side of Little Creek Church Road approximately 1,400 feet east of its intersection with Rock Pillar Road. The property is further identified as Johnston County Tax ID#15J08009A.

**RZ-16-02 Genesis Living Inc:** The applicant is requesting to rezone one tract of land totaling approximately 9.45 acres from the R-8 CUD (Residential-Conditional Use) zoning districts to the R-8 (Residential) and RHO (Rowhouse Overlay) zoning districts. The property considered for rezoning classification is located on the southwest side of Barbour Road approximately 780 feet northwest of its intersection with Laurel Drive. The property is further identified as Johnston County Tax ID#4340665

**CUP-16-09 Genesis Living Inc:** The applicant is requesting a conditional use permit to construct a 45 unit Rowhouse subdivision development on approximately 9.45 acre tract on land located within an the R-8 (Residential) and RHO (Rowhouse Overlay) zoning districts. The property considered for a conditional use permit is located on the southwest side of Barbour Road approximately 780 feet northwest of its intersection with Laurel Drive. The property is further identified as Johnston County Tax ID#4340665

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 8/17/16 and 8/24/16**



## PLANNING DEPARTMENT

Paul C. Emblar, Jr., Director

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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.