



PLANNING BOARD AGENDA

Members:

Chairman: Stephen Upton (Town)

Vice-Chairman: Mark Lane (ETJ)

Teresa Daughtry (Town)

Ashley Spain (ETJ)

Oliver Johnson (Town)

Leslie Lazarus (Town)

Michael Johnson (Town)

Alisa Bizzell (Town Alt)

Stephen Wensman, AICP, ALA, Planning Director

Mark Helmer, AICP, CZO, Senior Planner

Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, January 3, 2019

Meeting Time: 6:00 p.m.

Meeting Place: Council Chambers, Smithfield Town Hall

**PLANNING BOARD AGENDA
FOR REGULAR MEETING
JANUARY 3, 2019
MEETING TIME: 6:00 PM TOWN HALL**

Call to Order.

Identify voting members Approval of the agenda

Approval of the 2019 meeting schedule

Approval of the minutes for November 1, 2018

New Business

RZ-18-07 Michael Stewart, P.E.: The applicant is requesting to rezone 21.26 acres of land from Johnston County AR (Agricultural-Residential) zoning district to the Town of Smithfield R-20A (Residential-Agriculture) zoning district. The property considered for rezoning is located on Black Creek Road approximately 1700 feet southwest of its intersection with NC Highway 210. The property is further identified as Johnston County Tax ID# 15I09011B.

RZ-18-09 Studio TK: The applicant is requesting to rezone a 3.12 acre portion of a 9.92 acre tract of land from the B-3(Highway Entrance Business) and R-20A (Residential-Agricultural) to the LI (Light Industrial) zoning district. The property considered for rezoning is located on the east side of US 70 Business West approximately 200 feet north of its intersection with Cloverdale Drive. The property is further identified as Johnston County Tax ID#17J08001A.

ZA-18-06 Town of Smithfield: The Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO), Article 5, to update the development review process to include adding a required public notice prior to preliminary subdivision approval.

ZA-18-08 Town of Smithfield: The Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to amend and incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, Article 3, and to make certain amendments to other sections as they pertain to the UDO Administrator's duties, the Board of Adjustments, the Planning Board, and the Town Council.

Old Business

Administrative Actions report

Land Use Permit Report for November, 2018
Board Actions Report for November, 2018

Adjournment



Planning Board Meeting Schedule 2019

Thursday, January 3, 2019

Thursday, February 7, 2019

Thursday, March 7, 2019

Thursday, April 4, 2019

Thursday, May 2, 2019

Thursday, June 6, 2019

Thursday, July 11, 2019

Thursday, August 1, 2019

Thursday, September 5, 2019

Thursday, October 3, 2019

Thursday, November 7, 2019

Thursday, December 5, 2019

****All meetings begin at 6pm****

**Draft
Smithfield Planning Board Minutes
Thursday, November 1, 2018
6:00 P.M., Town Hall, Council Chambers**

Members Present:

Chairman Stephen Upton
Vice Chairman Mark Lane
Oliver Johnson
Ashley Spain
Leslie Lazarus
Alisa Bizzell

Members Absent:

Teresa Daughtry
Michael Johnson

Staff Present:

Stephen Wensman, Planning Director
Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

Chairman Stephen Upton recognized the two absent members. He told the two new board members they would be sworn in tonight. Mr. Upton told Ms. Bizzell being an alternate you will be able to vote when in-town members are present. However when they are present you can speak or give your opinion but will not be able to vote as an alternate.

APPROVAL OF THE AGENDA

Mark Lane made a motion, seconded by Ashley Spain. Unanimously approved.

APPROVAL OF MINUTES from October 4, 2018

Oliver Johnson made mention that Michael Taylor was counted present and it should have read Michael Johnson. Mark Lane made a motion, seconded by Oliver Johnson, to approve the minutes as written. Unanimously approved

NEW MEMBERS SWORN IN

Stephen Upton swore Mark Lane in as Vice Chair.
Mark Lane swore in Stephen Upton as Chairman
Stephen Upton swore in Leslie Lazarus
Stephen Upton swore in Alisa Bizzell

SUB COMMITTEE MEMBERS

Mr. Upton stated in the past he asked Oliver Johnson, Michael Johnson and Mark Lane to serve on the UDO Sub Committee. He made the recommendation and all three members have accepted to serve. Mr. Upton asked for a nomination of the three person board. Ashley Spain made a nomination, seconded by Leslie Lazarus. Unanimously approved

Mr. Upton told new members Leslie Lazarus and Alisa Bizzell to browse through the UDO in their free time and try to become acquainted with it. If they have any questions at all, please feel free to ask. Mr. Upton also reminded everyone to please speak into the microphone when talking so it would be easier for the administrative assistant to understand the minutes later.

BOARD MEMBERS RECOGNIZED

Mr. Upton asked each board member to go around and state their name.

NEW BUSINESS

S-18-01 East River: Sam's Branch Development is requesting a preliminary plat for East River Subdivision. It is a 298 to 315 proposed residential PUD (Planned Unit Development) on 67.8 acres. The number range is due to future development not in phase 1 or phase 2, but later on they may change out some single family homes for townhouses. Therefore we don't know yet if it will be a 298 or 315 lot subdivision. The subdivision is located near Booker Dairy and Buffalo Road, just to the North on the river. The property was zoned PUD last year from R-8. It was rezoned with a master plan. A PUD is a Planned Unit Development. It is a district that creates its own regulations based on the plan. It's in the watershed district as well, so there are regulations related to protecting the watershed that need to be complied with as they develop. It will be in the Town of Smithfield's fire district and will add more students to area schools. The developer has proposed public trails that will be privately maintained. There will be trails within public access easements. There is no park dedication of land. They have to provide park land if the Town designates the need for it in that area or give the Town equal amount of money in lieu of the land for park dedication. At the time of final plat they will pay a fee in lieu of park land dedication. They are requesting annexation and that will be required before final plat. They will be on Town water and sewer. The properties surrounding this site to the North are R20-A residential agricultural zoning, right now it is farm land. To the South it is the same, there is some B-3 zoning on the East side of the road that touches the State Employees Credit Union. To the East is vacant R-10 single family residential zoning. Then the West is the river and more R-20A. This was the master plan that was approved last year with 7 conditions. Essentially the plan creates the rules. It has to develop according to this plan or significantly similar to this plan. From the master plan, a traffic impact study was required and they have done that. They will be voluntarily annexing before final plat. They have applied for a right-of-way permit for access onto Buffalo Road. They will not be providing single-family attached units in the first or second phase.

Mr. Upton suggested that any board member ask questions on certain phases as they arise and not wait too long or they may forget and miss the opportunity.

Mr. Upton asked Mr. Wensman if the traffic impact study he mentioned earlier was approved by DOT.

Mr. Wensman said yes, DOT is going to be constructing the road improvements. They needed the impact study to form their design.

Mr. Upton asked if the Planning Department was ok with what DOT presents.

Mr. Wensman said DOT will show us the plans and he imagines they will have some input if there are any problems that they see. They are building it according to their needs and the needs identified in the traffic impact study.

Mr. Lane asked how far apart roads had to be to have a stoplight.

Mr. Wensman said he thought they had to be 660 feet apart.

Mr. Wensman showed product types of the single family homes. He said they're the only type proposed in the first phase of construction. The triplexes are proposed later on if the market pushes in that direction. They are not shown on any place in the plan right now. Town Council's condition was they couldn't show up in phase one or two. They didn't want them near the entrances. The attached row houses would be located on the far northeast section of the property and one of the last phases of the development. Earlier he mentioned watershed rules, the Neuse River and Blue line Stream are on the South edge of the site. They will require buffering. There is an increase in the buffer from 50 foot to 100 foot because of the watershed district. The developer is proposing a greenway trail on the Neuse River and they will provide easements for that. As an alternate, they will also show a trail along the frontages of Buffalo Rd. If the Greenway Trail never comes up to this property from the South, the Greenway alternate site will be along Buffalo Rd. He briefly touched the watershed rules. He went over them in more detail in the master planning process. The applicant has provided the required open space for the required watershed district regulations and the cluster regulations. Under the Cluster regulations, lot size cannot be less than 4,800 sq. ft. (60% of 8,000) (UDO Section 7.34.4.1). Many of the lots are less than 4,800 sq. ft. in size: Single-family Detached – 3,145 sq. ft. Single family attached (tri-plex) units – 2,000 sq. ft. Townhome units – 1,400 sq. ft.

The Council approved this deviation from the cluster provisions with the approval of the PUD master plan. Minimum lot width and lot frontage cannot be less than 40 feet. Many of the lots are less than 40 feet wide (UDO Section 7.34.4.2) (UDO Section 7.34.4.3): Single-family detached – 37 ft. Single family attached (tri-plex) units – 25 ft. Townhome units – 17.5 ft. The Council approved this deviation from the cluster provisions with the approval of the PUD master plan. The side yard setbacks cannot be less than 6 feet.

Mark Lane asked if the Planning Staff was ok with Town Councils approval of the above mentioned deviations.

Mr. Wensman said if you recall staff had a few more conditions of approval than were ultimately approved on the master plan. So some of staff's requirements did disappear. One was lateral connections to adjacent properties. The PUD required more roads, smaller blocks and more intensive road network. Staff had put in a condition requiring instead of the center trail, that it be a road consistent with the PUD ordinance. The Town Council deleted that condition.

Mr. Upton said so the Planning Department recommended and advised the Town Council on some of these subjects we are discussing.

Mr. Wensman said some of the recommendations to remove them came from the Planning Board such as the lateral connections.

The subdivision shows a mix of 50 foot and 60 foot wide public R/W. The outer loop road on the west side of the development is shown as a 60 foot R/W, whereas, the remainder of the R/W is proposed to be 50 feet wide. The streets appear to be 24' wide with mountable valley curb. The Town standard is not mountable valley curb; it's a B-612 type curb. The Town approved the valley curb through the PUD process. The west side of the subdivision consists of three long streets running in a north-south direction and two running east-west from the intersections on Buffalo Road. There are two cul-de-sacs, one identified in the first phase of the development and another in the sixth phase. The east side of the subdivision consists of a

looped road surrounding an open green space and a private road leading to the row-type single-family attached townhouses.

Sidewalks are shown on both sides of each street throughout the development. The UDO only requires sidewalks on one side. Sidewalks are required along Buffalo Road; however the developer is proposing a 10' trail rather than a sidewalk that weaves in and out of the Buffalo Road right-of-way along both frontages. Sidewalk crosswalks are shown as being striped for pedestrian safety throughout the development.

Mr. Lane asked if the trails just mentioned are on the map.

Mr. Wensman answered yes they are.

Mr. Lane asked if the trails were indicated using the green line.

Mr. Spain asked if there would be room later on to create uniformity for another developer.

Mr. Wensman said he wasn't sure.

The preliminary plat shows private and public trails. The public trails parallel the Neuse River in open space, and along both sides of Buffalo Road. There is also a trail running perpendicular to Buffalo Road connecting the Neuse River Trail to the Buffalo Road trail through the center of the development. The plan is configured such that either the trail along the Neuse River or Buffalo road can be designated as the Mountains to Sea Greenway.

Mr. Lane said so they will have a public trail going through the middle of their development.

Mr. Wensman answered yes.

The preliminary plat shows the public trail along the Neuse River as accessing the Street D cul de-sac, then continuing as a shared sewer pump station access road. Public Utilities, Parks and Recreation and the Planning Department are uncomfortable with this configuration because utility trucks will block the greenway when maintaining lift station and because the configuration invites pedestrians, bikes and strollers to pump station which is a security risk and uninviting as a trail feature. The public trail along the Neuse River does not extend to the north and south boundaries of the site, however, a public trail easement does. If in the future the Mountains to Sea Trail reach this development, the missing trail segments can be constructed at that time within the provided public trail easements. The trail easement on the South will cross a blue line stream and associated buffer area. The trail easement on the north side will cross a Piedmont Natural Gas easement which will require a permit from the gas company prior to constructing the trail segment. The developer is proposing that these trails would be public, but maintained by the HOA.

Trail street crossings are shown as being striped for pedestrian safety throughout the development.

Trails in the Right of Way of Buffalo Road will require an NCDOT permit.

Mr. Lane asked how accurate the 100 year flood plain line is.

Mr. Helmer said it is very accurate, it uses fresh data and the technology is better than it has ever been.

Mr. Lane said the cul-de-sac in Phase 6, brings concerns to him. There's one lot on the flood plain line.

Mr. Helmer said the Town of Smithfield doesn't have a policy saying you can't have a lot in the 100 year flood plain. It just says if you build in a flood plain you have to elevate in accordance with the Flood Plain Prevention Ordinance.

Mr. Wensman said The PUD narrative mentions the development of pocket parks within the common open space. The proposed pocket parks are shown as long green strips between rows of homes. The developer indicates that the pocket parks will include paved pedestrian trails and attractive landscaping that may be used for soccer, football, cornhole, horseshoes, fire pits and cook outs.

Mr. Wensman said the applicant will be modifying the existing pond by the river in Phase 2, instead of previous proposal during Phase 3. They will have to execute an operations and maintenance agreement for that pond area so the HOA is responsible for the pond.

There are no specific landscaping standards for residential development. No landscape plan has been provided. The master plans shows very conceptually, that landscaping will be provided within the common open space. The master plan indicates the development will include a +/- 50' perimeter landscaped Type A buffer. The road section details show street trees in the R/W. Street trees are not permitted over utility lines and any trees in the public right of way will be the responsibility of the HOA for maintenance, removal or replacement. Trees are not permitted within the PSNC gas line easement along the north edge of the development.

Mr. Lane said well we are not concerned with that tonight because there are no landscaping standards.

Single family residential requires 2 parking stalls per unit. This requirement will easily be accommodated with the garages and driveways. The issue really becomes when you have 37 foot wide lots and a driveway, that is a pretty high frequency of driveways to street frontage and there's really not a lot of front street parking. You have 24 foot wide streets, very little street parking and minimal driveway parking. There is no overflow parking throughout this entire development. I have been told by the former planner in Clayton it has been an issue in similar developments of his. If this is the plan we approve the Town Council will need to designate one side of the street as no parking so emergency vehicles can gain access.

Mr. Lane asked if this was already in the master plan.

Mr. Wensman answered yes it is.

Mr. Lane asked Mr. Wensman what were the recommendations regarding parking.

Mr. Wensman stated it meets all the Town's standards. There isn't a lot that staff can do.

Mr. Upton asked who can do something about it.

Mr. Wensman said we can always change our standards, we could require overflow parking or park somewhere in a development. As a PUD you can often negotiate in that type of situation.

Mr. Upton said well you have been forewarned by a former Planner in Clayton.

Mr. Wensman said we took pictures of the development as well and shared with the Town Council.

Mr. Upton said so you're proceeding with improvements.

Mr. Wensman said yes, it is just something the Town will have to deal with moving forward.

Mr. Lane asked, when you say standards can be changed, is that something that can be changed in the UDO.

Mr. Wensman said yeah between the UDO and the Engineering Standards.

Mr. Spain asked how long on the UDO though, you're talking about a huge outlay that is supposed to already be fixed so to speak.

Mr. Wensman said he anticipates the Town Council to come back and limit parking to one side of the street and address the emergency services issues. People will complain about parking, but they are buying into this development so it is what it is.

Mr. Spain asked who would enforce the parking issue when the time comes.

Mr. Wensman said the Town of Smithfield

Mr. Upton asked how you recommend something when there isn't a lot you can do about it.

Mr. Lane stated this should have been thought about when the UDO was last updated.

Mr. Wensman said to be fair, we haven't had this type of development before. The trend now is smaller lots and bigger houses so this is a new type of development we have to deal with. The multi-family dwellings require 1.5 spaces per 1 bedroom units, 1.75 spaces per unit for 2 bedroom units, and 2 spaces for 3 or more bedroom units. The 30 townhomes shown in phases 8 and 9 have 55 parking stalls. The exact number of bedrooms in each unit is unknown. Parking requirements will be determined when the townhomes are proposed for construction. Throughout the development overflow parking for guests will be limited given the narrow lots and frequency of driveways.

Mr. Spain asked how we would do anything about the lack of parking to accommodate the number of homes.

Mr. Wensman said as the developer comes in with the individual phases, we will address the issue of parking at that time.

Mr. Spain asked if there is a mechanism to change it.

Mr. Wensman said yes minor changes, we can't require but we can encourage the change.

Mr. Upton asked if the Planning Board would have to recommend that change.

Mr. Wensman said no.

Mr. Upton said it's hard for this board to recommend something that we know isn't right.

Mr. Spain said if we have to approve something with no way to change it, then why approve it?

Mr. Lane said however it meets the UDO and we don't have a leg to stand on.

Mr. Wensman said I think a general condition could be added that the developer should look for opportunities for overflow parking throughout the whole development in each phase. It's a suggestion but I think it is as good as we can do with this phase.

Mr. Upton asked that Mrs. Edmonds, Planning Department Administrative Assistant, make note in her minutes to the Town Council Planning Board's concern on this issue.

Mr. Wensman said at the end, the board can make a recommended condition for approval.

The developer proposes to construct the subdivision over 9 phases (approximately 40 units per phase), one phase per year depending on the market. The approximate phase lines were shown on the approved master plan but are subject to change based on market conditions. As proposed, the replacement of single family detached units with single family attached will also be with each phase and depend on the market with the restriction that no townhome units be constructed within phase 1 or 2. The necessary infrastructure is proposed to be constructed as needed for each phase and designed for build-out.

Mr. Wensman said the developer proposes to construct the subdivision over 9 phases (approximately 40 units per phase), one phase per year depending on the market. The approximate phase lines were shown on the approved master plan but are subject to change based on market conditions. As proposed, the replacement of single family detached units with single family attached will also be with each phase depending on the market with the restriction that no townhome units be constructed within phase 1 or 2. The necessary infrastructure is proposed to be constructed as needed for each phase and designed for build-out.

Mr. Oliver Johnson stated they stress no townhomes in phases 1 and 2 but it is his assumption they will have tri-plexes and rowhomes and Phases 1 and 2.

Mr. Wensman said no

Mr. Oliver Johnson said the language and the phasing section, stresses townhomes and doesn't say anything about triplexes or rowhomes.

Mr. Wensman said they are specifically not allowed in Phase 1 and 2. We don't want Townhouses loaded up against our entrance.

Mr. Oliver Johnson said he understands that, the language was specific on townhouses but not triplexes.

Mr. Wensman said if you look at their detail they are calling their triplexes townhomes.

Mr. Oliver Johnson said it was mentioned the inclusion of townhomes would be determined by market conditions. That seems to be a nebulous term that they would determine market conditions.

Mr. Wensman said if the single family home market goes down and the Townhouse market comes back up, they will build more townhomes than single family homes. One of staff's original concerns is showing where that would be done. The location of those will matter. The cul-de-sac is a great place for townhomes because it is segregated off. Then again that might be their prime lots because of the open space back there. We did not get the Town Council or the developer to come forth with alternate plans for townhomes. I wanted an alternate plan. What would happen if you decided to go that way, but we didn't get that?

Mr. Upton asked are you going to get it.

Mr. Wensman said we will get it per phase and negotiate at that point whether it works or not.

Mr. Oliver Johnson stated it seems they would want to retain that information as long as they can. It seems like they want single homes at that location and load up at the back with townhomes.

Mr. Wensman said they have limited it to a number though, so we do have a maximum number. It can't all be townhomes; it can only be 76 additional units in the end. They haven't committed to having all townhomes and the city isn't going to allow it.

Mr. Lane said so Phase 1 and 2 will not have any townhomes.

Mr. Wensman said correct, they will not.

Mr. Lane said no matter what the market says.

Mr. Wensman said that's right, which was a condition of approval. Staff was asking for an alternate plan so we knew where those townhomes would go in the future if the market dictates. However staff was overruled on that one.

Mr. Wensman said the development will be a maintenance free development with the HOA responsible for maintenance of yards and shared open space and amenities. Submittal of deed restrictions and covenants will be required with this development. It'll address a statement of compliance with state, local and federal regulations. Also, operation and maintenance of shared open space, amenities and stormwater management facilities. These documents have not been provided as required. They will require Town Attorney review prior to recordation.

They have shown subdivision signs at all three entrances to the subdivision. Those will require separate approval. We do like them shown on the plans so we know what is being proposed.

Mr. Wensman stated the Planning Department recommends approval of the preliminary plat for the East River PUD subdivision with the following conditions:

- 1) That the final plat be contingent on the execution of an annexation agreement with the Town of Smithfield.
- 2) That the developer obtains a NCDOT Right-of-Way Permit for the street access onto Buffalo Road prior to construction approval.
- 3) That the developers dedicate additional right-of-way for Buffalo Road as required by NCDOT.

4) That Homeowners Association deed restrictions and covenants will be submitted for Town Attorney review to address among other items, a statement of compliance with state local and federal regulations, and operation and maintenance of shared open space, amenities and stormwater management facilities. These documents will require Town Attorney approval prior to recordation.

5) That there are no attached single family residential units within phases 1 or 2 as identified on the approved master plan phasing plan.

6) That a park dedication fee in lieu of parkland be paid prior to recording the final plat approval of each phase of the development consistent with Article 10, Section 10.112.8.

7) That the public trail is constructed and easements be dedicated for trails adjacent to each phase with the final plat of that phase consistent with the preliminary plat.

8) That the public trail in the cul-de-sac of Street D be modified such that it is independent of the sanitary sewer pump station access way.

9) The utilities shall be designed such that that extension can be made conveniently and without undue burden or expense to serve future adjacent development.

If the Planning Board wishes they can add another condition such that the developers provide overflow parking for each phase of the development. That would at least give them your request. We will have to work with them as a staff and fit it in somewhere.

Mr. Upton said at least the board can bring it to their attention. This board use to be different. Now it's just recommendations to the Town Council. We do spend our time and efforts to do right. I would like to thank the Planning Department for bringing all these things to our attention so we can digest some and give conversation. Personally, I would like to see these conditions brought to their attention. As Mr. Wensman said I still would like it in print and show we gave it thought.

Mr. Lane asked if Mr. Wensman felt good about the trail going into the cul-de-sac.

Mr. Wensman said no, but we had a staff review with the Town Manager and some compromises were made. Originally my request was it would avoid the cul-de-sac, pump station and blue line stream because the Town will have to bare that expense. Utilities want it away from the lift station. I don't think it is good for a trail to go through a cul-de-sac. That is a change from the master plan.

Mr. Lane said if that happens and the greenway does connect, that could bring a good number of people through there. I cut the greenway and know at times it can be busy. I wouldn't want it going through my front yard.

Mr. Wensman thinks it is reasonable for the Planning Board to make a recommendation.

Mr. Lane asked where it could go.

Mr. Wensman said they would have to lose some lots.

Mr. Lane said the lot where the 100 year flood plain is, doesn't need to be there.

Mrs. Lazarus thinks they will have issues selling the homes once buyers find out or see the trail going through their yards; they will not want to be there for safety reasons.

Mr. Spain said if someone walks through your yard and trips that would be a problem.

Mr. Lane said I don't care where it goes as long as it isn't in the cul-de-sac. If that means losing lots then so be it.

Mr. Upton said this is a good and smart board. They pick cases apart and I commend them for that. It is hard for the board to sit and study and make recommendations and not be able to have the final say.

Mr. Spain asked if there is a mechanism to stop that from happening.

Mr. Wensman said here's the masterplan with 7 conditions and it went around the cul-de-sac in the masterplan. When they found out it didn't work they placed it through the cul-de-sac.

Mr. Upton asked why it didn't work.

Mr. Wensman said they ran out of space. So a strong recommendation from the Planning Board to the Town Council that as a board you are not ok with the greenway trail going through the cul-de-sac. Staff had concerns about it going in front of the lift station as well.

Mr. Lane said so this wasn't on the master plan. It hasn't been approved.

Mr. Wensman said correct

Mr. Spain said we can make our recommendation but can Town Council go with our recommendation and say no.

Mr. Wensman said Council can do what they want, but it puts more pressure on Council to follow staff and Planning Board recommendations

Mr. Spain said if it is allowed within the UDO is there still that mechanism there.

Mr. Wensman said the UDO doesn't talk about how a trail interfaces with a cul-de-sac.

Mr. Lane said we just need to put a condition on it that it needs to go around the cul-de-sac.

Mr. Wensman said ok what I am hearing as a recommendation for parking would be that the developer work with staff to identify overflow parking spaces with each phase of development as possible.

Mr. Spain said I would like it added that parking be allowed only on one side of the street.

Mr. Wensman said that is a separate thing that Town Council would have to do. It's an ordinance issue. I would do it after your motion for the preliminary plat, it's a separate item. It's a future action the Council would have to make.

Mr. Lane said this will not take place at the next Council meeting, this will possibly be years down the road.

Mr. Wensman said correct.

Mr. Spain said when this thing goes through and phasing starts, there is no mechanism on parking now. You can park anywhere you want. What will happen if emergency vehicles need to get through those streets?

Mr. Wensman said if the Fire Chief notices there is an issue, it will come to a staff level, then to the Town Manager level, to the Mayor and then a discussion on a no parking ordinance. As a side recommendation after the preliminary plat, this will get the Council thinking about it and know that you're aware of it. It also lets the developer know, as they sell this development there's likely going to be one side of the street parking.

Mr. Lane said he wanted the developer to be held accountable as well.

Mr. Upton asked if that could be part of the condition.

Mr. Wensman said I don't think you can because it is a separate action required by the Town Council not the developer.

Mr. Spain asked if all these perceived problems down the road were known at the onset of this project, why they weren't addressed then.

Mr. Lane said because it meets UDO requirements.

Mr. Wensman said staff probably didn't highlight it, as strongly as we have now. We have more details about the development and it's a little clearer about what's happening. I did not make it an issue at the master plan level because I was looking at larger issues. But now we are getting more into it. It has become very obvious to me we have narrow lots and looking at how the driveways will be laid out, it's going to be tight.

Mr. Upton asked Mr. Wensman if he would be attending the Town Council meeting.

Mr. Wensman said yes.

Mr. Upton asked if he would be presenting this to them.

Mr. Wensman said yes, this presentation will be updated and presented back to them with the board's additional recommendations.

Ms. Bizzell asked if there would be houses on both sides of the street.

Mr. Wensman said yes

Ms. Bizzell said ok well as a homeowner I would have to deal with people parking in front of my house that I don't even know. An example is on Martin Luther King Drive my mom has visitors but they can't park in front of her house. Others are parked there, yet visiting several houses away. Not having adequate parking could really become a problem.

Mr. Lane asked if Council could take action or do they have to wait until there is a problem.

Mr. Wensman said for the parking ordinance, yes.

Mr. Wensman said the other condition concerning the trail should say that the developer reroute the trail outside of the cul-de-sac.

Mr. Upton said I am looking at the master plan, I am curious if the adjacent property owners have contacted you about this development.

Mr. Wensman said no, they haven't contacted me.

Oliver Johnson made a motion to adopt staff's recommendations with two conditions as presented, seconded by Ashley Spain. Unanimously Approved.

ADMINISTRATIVE ACTIONS REPORT

Mr. Helmer came forward to discuss the site plans currently in review.

SP-18-10 Dupree Strip Center is on East Market Street between Dogwood and Pine Street. The general purpose is for retail space and the developer also wants to include a restaurant in this strip center as well.

Mr. Wensman said he wanted to point out two issues staff has been dealing with. One is patio space; we don't have standards for parking for patio seating. It should be part of the overall seating for the entire restaurant.

Mr. Helmer said our parking standards changed with this current version of the UDO. We use to have restaurant parking based on the number of seating whether outdoor or indoor. The new ordinance is based on gross square footage of the space and doesn't really deal with the number of seats in the restaurant. Staff is working with the developer to make sure there is adequate parking.

Mr. Wensman said another issue with this particular site plan is dedicated dumpster driveways. Loading and unloading for every other use is internal to the site and I've made the decision that dumpsters are no different. But we don't have a specific requirement that prohibits a separate driveway for a dumpster. First we said we didn't want them backing up into the right of way. The developer is aware of this concern.

Mr. Helmer stated the positive things on the site plan are the developer will provide a solid visual screen from these adjacent properties, as well as sidewalks all the way around.

SP-18-11 O'Reilly Auto Parts Expansion This project was administratively approved some years back. They now want to expand their existing location. Originally they subdivided the front portion out, leaving a land locked tract in the rear and a strip of lot to access the land locked parcel. The tenant that did live here and sold the properties passed away. O'Reilly's will be adding a substantial amount of square footage to the rear of the structure where the existing storm pond is. They will remove the storm pond and relocate it behind the new addition. They will add additional parking and reconfigure the dumpster screening.

SP-18-13 Frank Lee Warehouse Complex will be located at the corner lot of Wal-Pat and Brogden Road. It was rezoned a few months back from B-3 to Heavy Industrial. The plan shows 7 warehouses and 3 proposed driveways. They're showing compliance with Town standards that states, all of the paved areas in front of the warehouse need to be paved. They have a preliminary storm water plan.

Mr. Wensman wanted to point out the rear loading areas of this project would be all gravel.

Old Business

There was none

Adjournment

Being no further business, Ashley Spain made a motion seconded by Mark Lane to adjourn the meeting. Unanimous approved.

Respectfully Submitted,

Julie Edmonds

Julie Edmonds
Administrative Assistant

DRAFT



Request for Planning Board Action

**Application
for
Zoning Map
Amendment
Date: 01/03/2019**

Subject: Zoning Map Amendment

Department: Planning

Presented by: Stephen Wensman

Presentation: Business Item

Issue Statement

Michael Stewart, PE, is requesting a zoning map amendment to rezone 21.26 acres of a property (Johnston County ID #15109011B) annexed into the Town on December 5, 2018 from AR (county zoning district) to R20-A Residential-Agriculture.

Financial Impact

None

Action Needed

To review the zoning map amendment and to make a recommendation to the Town Council with a consistency statement.

Recommendation

The Planning Department recommends approval of the rezoning to R20-A Residential/Agriculture and recommends that the Planning Board approve a consistency statement declaring the request to be consistent with the Town of Smithfield Plans and Policies and that the request is reasonable and not in the public interest.

Approved: Town Manager Town Attorney

Attachments:

- Consistency Statement
- Application
- Twin Creeks Plat
- Rezoning exhibit



Staff Report

Agenda Item:
Date:

Application for Zoning Map Amendment
01/03/2019

NOTE:

The Planning Board reviewed this application in September 2018 and tabled the item pending the Town Council's decision on the annexation. The Council decided to annex the property into the Town of Smithfield corporate limits on December 5, 2018.

Application Number: RZ-18-07
Project Name: Twin Creeks Rezoning
Property ID number: 15I09011B
Town Limits / ETJ: Outside ETJ (pending annexation)
Applicant: Michael Stewart, PE
Owners: Navaho Investment Company LLC – James A Lucas JR, Jimmie Johnston
Agents: Michael Stewart PE
Neighborhood Meeting: none

PROJECT LOCATION: The property is located on Galilee Road about 1900 feet south of Black Creek Road, near West Smithfield Elementary School. The property is partially within the ETJ and partially outside. The rezoning application is for the 21.26 acres located outside the ETJ (pending annexation).

REQUEST: The applicant is requesting the rezoning of approximately 21.26 acres with the Johnston County zoning designation AR to R-20A.

SITE DATA:

Acreage: 32.79 (21.26 acres to be rezoned)
Present Zoning: AR (Johnston County Zoning) and R-20A
Proposed Zoning: R-20A
Existing Use: Vacant/Agricultural
Proposed Use: Single Family Residential
School Impacts: NA
Parks and Recreation: NA
Fire District: Smithfield Fire District
Water and Sewer Provider: Town of Smithfield
Electric Provider: Duke Energy

ENVIRONMENTAL: The property is not located within a floodplain. A blue line stream is located near the middle of the parcel at the edge of the current ETJ boundary.

ADJACENT ZONING AND LAND USES:

	ZONING:	EXISTING USE:
NORTH:	R-20A	large lot single family – and School
SOUTH:	R-20A	Agriculture
EAST:	R-20A	Agriculture
WEST:	RA – Johnston County	Agriculture

ANALYSIS:

The 32.79 acre parcel with the Johnston County Property ID# 15I09011B received preliminary plat approval by the Johnston County Board of Commissioners around 2007-2008 when the property was fully within the jurisdiction of Johnston County. That development was never constructed and the preliminary plat expired. In 2009, the Town of Smithfield's ETJ was expanded to include the 11.53 acre portion of the property and was rezoned to R-20A (Residential-Agricultural). The remainder of the property, 21.26 acres, remained in the County's jurisdiction. In early 2018, the development was picked up and the County approved the preliminary plat for the 21.26 acres under County jurisdiction into 62 lots meeting the County's zoning and subdivision standards. The Town had first right to serve the property with water and sewer for the portion in the ETJ and the County wanted the entire parcel serviced together. As a result the applicant requested annexation which was approved on December 5, 2018.

The 21.26 acres formerly under County jurisdiction has the County's zoning designation of AR. Now that the parcel is within the Town's corporate limits, the appropriate zoning is R-20A, matching the 11.53 acres. Once rezoned, the developer plans to submit application for a preliminary plat in order to develop the remainder of the property.

Utilities. Smithfield will provide sewer and water utilities with a master meter on Johnston County's service lines and electricity will be provided by Duke Energy. Johnston County Utilities has requested that the entire development be served by the Town of Smithfield.

Vested Right. The area proposed for rezoning, has preliminary plat entitlements. The preliminary plat conforms to the County's AR district zoning and the Johnston County subdivision regulations. The annexation resulted in nonconforming setbacks and there will be no sidewalks as required by the Town's UDO.

CONSISTENCY STATEMENT:

In order to approve the rezoning, the Town Council must adopt a statement describing whether the rezoning is consistent with Town Plans and Policies.

Consistency with the Strategic Growth Plan. Staff finds the rezoning to be consistent with the Strategic Growth Plan which guides this area for low density residential.

Consistency with the Unified Development Code. Staff finds the land to be rezoned will not be consistent with the UDO. The land has preliminary plat entitlement for a development that does not meet the R-20A zoning district standards. Should the area be rezoned, the lots will be legal nonconforming.

Compatibility with Surrounding Land Uses. The property considered for a rezoning is compatible with surrounding agricultural or low density residential and institutional land uses.

RECOMMENDATION:

The Planning Department recommends approval of the zoning map amendment; and recommend that the Planning Board approve a consistency statement declaring the request to be consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

PLANNING BOARD RECOMMENDED ACTION:

The Planning Board is respectfully requested to review the petition and make a recommendation to the Town Council whether to approve or deny the rezoning of approximately 21.26 acres from AR (County zoning) to the R-20A Residential-Agriculture and to adopt a statement indicating how the rezoning is consistent with the town's plans and policies.

Recommended Motion. "Move to recommend that the Town Council approve the zoning map amendment, RZ-18-07 finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest"



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), (1) electronic submittal and the application fee. The application fee is \$300.00 for the first 5 acres and \$10.00 for each additional 10 acres or portion thereof.

Name of Project: TWIN CREEKS Acreage of Property: 32.888 ACRES
Parcel ID Number: 1673-56-5565 Tax ID: 15I09011B
Deed Book: 03276 Deed Page(s): 0267
Address: 6054 BLACK CREEK ROAD SMITHFIELD, NC 27577
Location: SOUTH OF BLACK CREEK ROAD AND WEST OF GALILEE ROAD

Existing Use: FARMING - AGRICULTURAL Proposed Use: SINGLE FAMILY RESIDENTIAL
Existing Zoning District: AR and R-20A
Requested Zoning District: R-20A
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: _____
--------------------	----------------------	--------------------

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.

JAMES A. Lucas, Jr.
Print Name

James A. Lucas, Jr.
Signature of Applicant

8-2-18
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: TWIN CREEKS Submittal Date: 8/3/2018

OWNERS AUTHORIZATION

I hereby give CONSENT to MICHAEL STEWART (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.

James A. Lucas, Jr. JAMES A. LUCAS, JR. 8-2-18
 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.

Michael Stewart MICHAEL STEWART 8/2/18
 Signature of Owner/Applicant Print Name Date

FOR OFFICE USE ONLY

File Number:	Date Received:	Parcel ID Number:
--------------	----------------	-------------------

Deed Description for Rezoning

Lying and being situated in Johnston County, North Carolina and being more particularly described as follows:

Being that certain tract of land in Smithfield, Johnston County, North Carolina and lying between Black Creek Road (N.C.S.R. 1162) and Galilee Road (N.C.S.R. 1341) and being Tract "1" recorded in Deed Book 3276, Page 267 at the Johnston County Registry and being more particularly described as follows:

Beginning at a point on the western right-of-way of Galilee Rd (N.C.S.R. 1341); thence leaving said right-of-way South 74°40'07" West 710.50 feet to an existing iron pipe; thence South 74°39'51" West 456.07 feet to an existing iron pipe; thence South 01°41'30" West 368.00 feet to an existing iron pipe; thence South 62°43'26" West 37.26 feet to a point; thence North 22°39'40" West 55.38 feet to a point; thence North 52°36'15" West 69.91 feet to a point; thence North 58°25'21" West 91.28 feet to a point; thence North 49°33'53" West 117.07 feet to a point; thence North 58°22'01" West 47.73 feet to an existing iron pipe; thence North 67°32'42" West 143.13 feet to a point; thence North 64°36'55" West 139.41 feet to an existing iron pipe; thence North 68°02'16" West 84.32 feet to an existing iron pipe; thence North 79°47'30" West 61.67 feet to an existing iron pipe; thence North 86°39'18" West 201.99 feet to a point; thence North 79°19'02" West 55.94 feet to a point, thence North 09°52'10" East 19.11 feet to a point; thence North 80°16'25" West 20.73 feet to a point; thence North 78°50'43" West 246.89 feet to an existing iron pipe; thence South 40°39'53" West 168.02 feet to an existing iron pipe; thence North 66°46'57" West 242.10 feet to an existing iron pipe; thence North 25°17'15" West 56.30 feet to a point on the eastern right-of-way of Black Creek Road (N.C.S.R. 1162); thence along and with said right-of-way South 64°08'00" West 178.81 feet to a point on said right-of-way; thence leaving said right-of-way South 72°31'45" East 507.90 feet to an existing railroad spike in tree; thence South 44°07'00" East 1415.74 feet to an existing iron pipe; thence South 24°37'51" East 247.53 feet to an existing iron pipe; thence North 58°02'55" East 223.26 feet to an existing iron pipe; thence North 58°09'04" East 90.52 feet to a point in creek; thence along said creek North 00°09'10" West 242.70 feet; thence North 02°57'17" West 266.80; thence North 28°49'37" West 64.94 feet; thence North 10°56'25" West 93.95 feet; thence North 08°12'11" West 39.95 feet; thence leaving said creek North 35°19'16" East 142.44 to a point; thence North 74°31'13" East 1059.27 feet to a point on the western right-of-way of Galilee Road (N.C.S.R. 1341); thence along and with said right-of-way North 01°27'40" East 392.33 feet to the point and place of beginning and being a total of 32.61 acres to be rezoned.

PROPERTY OWNERS	SITE ADDRESS	Mailing ADDRESS	DB	PAGE
DAVID AND RACHEL JOHNSON	5360 BLACK CREEK RD SMITHFIELD, NC 27577	5360 BLACK CREEK RD SMITHFIELD, NC 27577	1761	222
RACHEL JOHNSON	5360 BLACK CREEK RD SMITHFIELD, NC 27577	5360 BLACK CREEK RD SMITHFIELD, NC 27577	1604	977
DEREK E. THOMPSON	6140 BLACK CREEK RD SMITHFIELD, NC 27577	6141 BLACK CREEK RD SMITHFIELD, NC 27577	4881	505
CHRISTOPHER AND CAROLINE PETTIT	6278 BLACK CREEK RD SMITHFIELD, NC 27577	6278 BLACK CREEK RD SMITHFIELD, NC 27577	4687	3
ORIS MATHEWS	6335 BLACK CREEK ROAD SMITHFIELD, NC 27577	6336 BLACK CREEK ROAD SMITHFIELD, NC 27577	1386	38
JOHNSTON COUNTY BOARD OF EDUCATION	2665 GALILEE RD SMITHFIELD, NC 27577	P O BOX 1336 SMITHFIELD, NC 27577	2267	643
LEO DAUGHTRY	2417 GALILEE RD SMITHFIELD, NC 27577	P O BOX 1264 SMITHFIELD, NC 27577	828	685

**THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP AMENDMENT CONSISTENCY STATEMENT
BY THE SMITHFIELD TOWN COUNCIL
RZ-18-07**

Whereas the Smithfield Town Council, upon acting on a zoning map amendment to the *Unified Development Ordinance* and pursuant to NCGS §160A-383, is required to approve a statement describing how the action is consistent with the Town of Smithfield *Comprehensive Growth Management Plan*; and

Whereas the Smithfield Town Council, upon acting on a zoning map amendment to the *Unified Development Ordinance* and pursuant to NCGS §160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE SMITHFIELD TOWN COUNCIL AS APPROPRIATE:

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE IS ADOPTED,

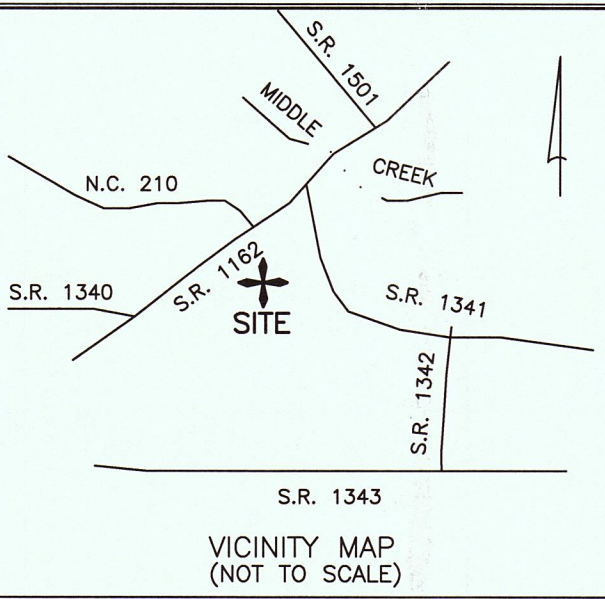
That the final action regarding zoning map amendment RZ-18-07 is based upon review of and consistency with, the Town of Smithfield *Comprehensive Growth Management Plan* and any other officially adopted plan that is applicable, along with additional agenda information provided to the Town Council and information provided at the public hearing; and

It is the objective of the Town of Smithfield Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning map amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the Town of Smithfield as supported by the staff report and attachments provided to the Town Council and information provided at the public hearing. Therefore, the amendment is reasonable and in the public interest.

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE FAILS,

That the final action regarding zoning map amendment RZ-18-07 is based upon review of, and consistency, the Town of Smithfield *Comprehensive Growth Management Plan* and other officially adopted plans that are applicable; and

It is the objective of the Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning map amendment does not promote this and therefore is neither reasonable nor in the public interest.

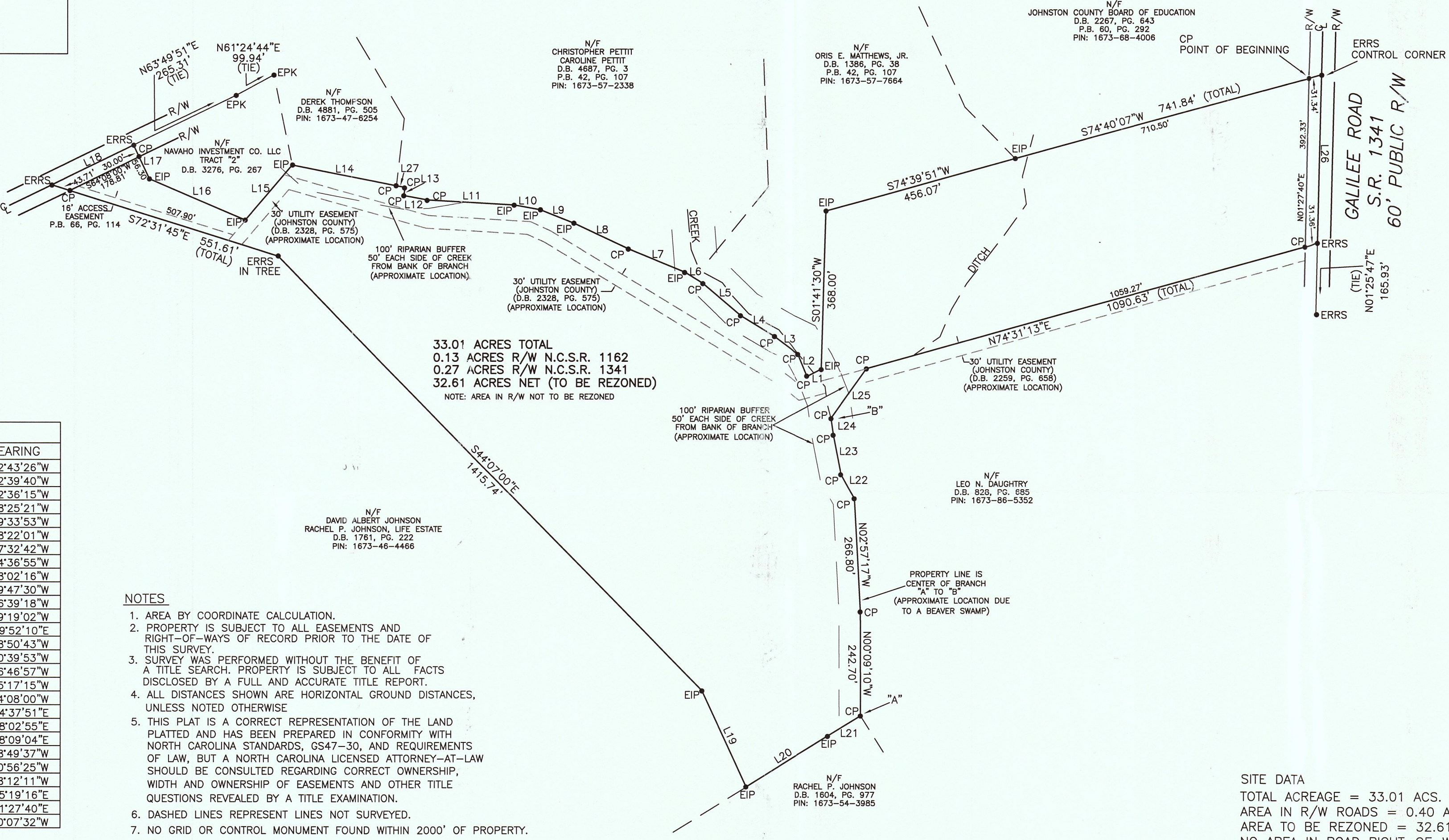


CERTIFICATE OF REGISTRATION BY REGISTER OF DEEDS
 NORTH CAROLINA
 FILED FOR REGISTRATION ON THE _____ DAY OF _____ (AM/PM)
 AND DULY RECORDED IN PLAT CABINET _____, PAGE _____
 REGISTER OF DEEDS

NOTE: PRIOR TO ANY LAND DISTURBING ACTIVITIES OWNER SHOULD CONTACT N.C.D.E.N.R. (DWG) TO VERIFY STREAM BUFFERS AND OTHER ENVIRONMENTAL CONCERNS.
 THIS PROPERTY IS NOT LOCATED IN A F.E.M.A. 100 YEAR FLOOD HAZARD AREA.
 REFERENCE: F.E.M.A. COMMUNITY PANEL NO. 3720168200K
 DATE: 06-20-2018

LEGEND
 EIP = EXISTING IRON PIPE
 EIS = EXISTING IRON STAKE
 ERB = EXISTING RE-BAR
 EPK = EXISTING P.K. NAIL
 CP = COMPUTED POINT (NOT FOUND OR SET)
 IPS = IRON PIPE SET
 N/F = NOW OR FORMERLY
 R/W = RIGHT-OF-WAY
 CL = CENTERLINE OF ROAD

BLACK CREEK ROAD
 S.R. 1162
 60' PUBLIC R/W



33.01 ACRES TOTAL
 0.13 ACRES R/W N.C.S.R. 1162
 0.27 ACRES R/W N.C.S.R. 1341
 32.61 ACRES NET (TO BE REZONED)
 NOTE: AREA IN R/W NOT TO BE REZONED

LINE	LENGTH	BEARING
L1	37.26	S62°43'26"W
L2	55.38	N22°39'40"W
L3	69.91	N52°36'15"W
L4	91.28	N58°25'21"W
L5	117.07	N49°33'53"W
L6	47.73	N58°22'01"W
L7	143.13	N67°32'42"W
L8	139.41	N64°36'55"W
L9	84.32	N68°02'16"W
L10	61.67	N79°47'30"W
L11	201.99	N86°39'18"W
L12	55.94	N79°19'02"W
L13	19.11	N09°52'10"E
L14	246.89	N78°50'43"W
L15	168.02	S40°39'53"W
L16	242.10	N66°46'57"W
L17	86.30	N25°17'15"W
L18	210.91	S64°08'00"W
L19	247.53	S24°37'51"E
L20	223.26	N58°02'55"E
L21	90.52	N58°09'04"E
L22	64.94	N28°49'37"W
L23	93.95	N10°56'25"W
L24	39.95	N08°12'11"W
L25	142.44	N35°19'16"E
L26	392.24	N01°27'40"E
L27	20.73	N80°07'32"W

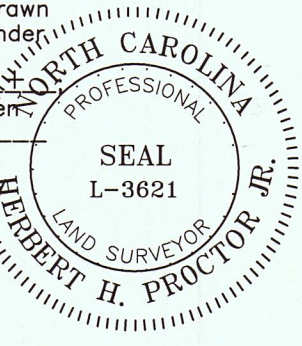
- NOTES**
1. AREA BY COORDINATE CALCULATION.
 2. PROPERTY IS SUBJECT TO ALL EASEMENTS AND RIGHT-OF-WAYS OF RECORD PRIOR TO THE DATE OF THIS SURVEY.
 3. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH. PROPERTY IS SUBJECT TO ALL FACTS DISCLOSED BY A FULL AND ACCURATE TITLE REPORT.
 4. ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES, UNLESS NOTED OTHERWISE.
 5. THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH NORTH CAROLINA STANDARDS, GS47-30, AND REQUIREMENTS OF LAW, BUT A NORTH CAROLINA LICENSED ATTORNEY-AT-LAW SHOULD BE CONSULTED REGARDING CORRECT OWNERSHIP, WIDTH AND OWNERSHIP OF EASEMENTS AND OTHER TITLE QUESTIONS REVEALED BY A TITLE EXAMINATION.
 6. DASHED LINES REPRESENT LINES NOT SURVEYED.
 7. NO GRID OR CONTROL MONUMENT FOUND WITHIN 2000' OF PROPERTY.

SITE DATA
 TOTAL ACREAGE = 33.01 ACS.
 AREA IN R/W ROADS = 0.40 ACS.
 AREA TO BE REZONED = 32.61 ACS.
 NO AREA IN ROAD RIGHT-OF-WAY TO BE REZONED
 CURRENT ZONING = AR AND R-20A
 REQUESTED ZONING = R-20A FOR ENTIRE TRACT

I, Herbert H. Proctor Jr., certify that this survey is an existing parcel of land and does not create a new street or change an existing street.

I, Herbert H. Proctor Jr., certify that this survey is an existing parcel of land and does not create a new street or change an existing street.

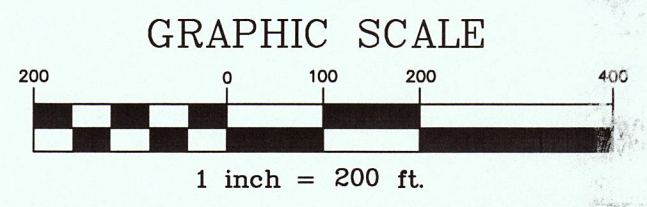
I, Herbert H. Proctor Jr., certify that this plat was drawn under my supervision from an actual survey made under my supervision; that the ratio of precision as calculated by latitudes and departures is 1/10,000; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____ page _____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 15th day of AUGUST, 2018.



NOTE:
 NO DETERMINATION HAS BEEN MADE BY THE SURVEYOR AS TO THE EXISTENCE OF THE FOLLOWING:
 - WETLANDS
 - UNDER GROUND UTILITIES
 - UNDER GROUND STORAGE FACILITIES
 - CEMETERIES OR BURIAL GROUNDS
 - HAZARDOUS WASTE

REFERENCES
 DEED BOOK 3276, PAGE 267
 PLAT BOOK 66, PAGE 114
 ALL DEEDS AND PLATS SHOWN ON SURVEY JOHNSTON COUNTY GIS

STATE OF NORTH CAROLINA
 COUNTY OF JOHNSTON
 I, _____, REVIEW OFFICER OF JOHNSTON COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER _____ DATE _____



PRELIMINARY PLAT. NOT FOR RECORDATION, SALES OR CONVEYANCES.

STEWART-PROCTOR, PLLC ENGINEERING and SURVEYING (LICENSE NUMBER P-0148) 319 CHAPANOKE ROAD SUITE 106 RALEIGH, NC 27603 TEL. 919 779-1855 FAX 919 779-1661		OWNER: NAVAHO INVESTMENT CO. LLC 4909 WESTERN BLVD. RALEIGH, N.C. 27606	REZONING PLAT FOR NAVAHO INVESTMENT COMPANY, LLC TRACT "1" SOURCE OF TITLE: DEED BOOK 3276, PAGE 267 IN THE JOHNSTON COUNTY REGISTRY	
DATE: 08/01/2018	SURVEYED BY	JOB	SMITHFIELD TOWNSHIP	NORTH CAROLINA
SCALE 1"=200'	DRAWN BY	DWG. NO. JJ-SMITHFIELD REZONE200SCALE"	JOHNSTON COUNTY	PROPERTY ADDRESS: 6054 BLACK CREEK ROAD
			ZONED: AR AND R-20A	PIN: 1673-56-5565

FROM P.B. 66, PG. 114

Rezoning Request



Project Name:
Twin Creeks

Proposed Use:
Single Family
Dwellings

File Number:
RZ-18-08

Property Owner:
Navaho Investment
Co. LLC

Applicant:
Michael Stewart, PE

Location:
Black Creek Road

Tax ID#
15109011B

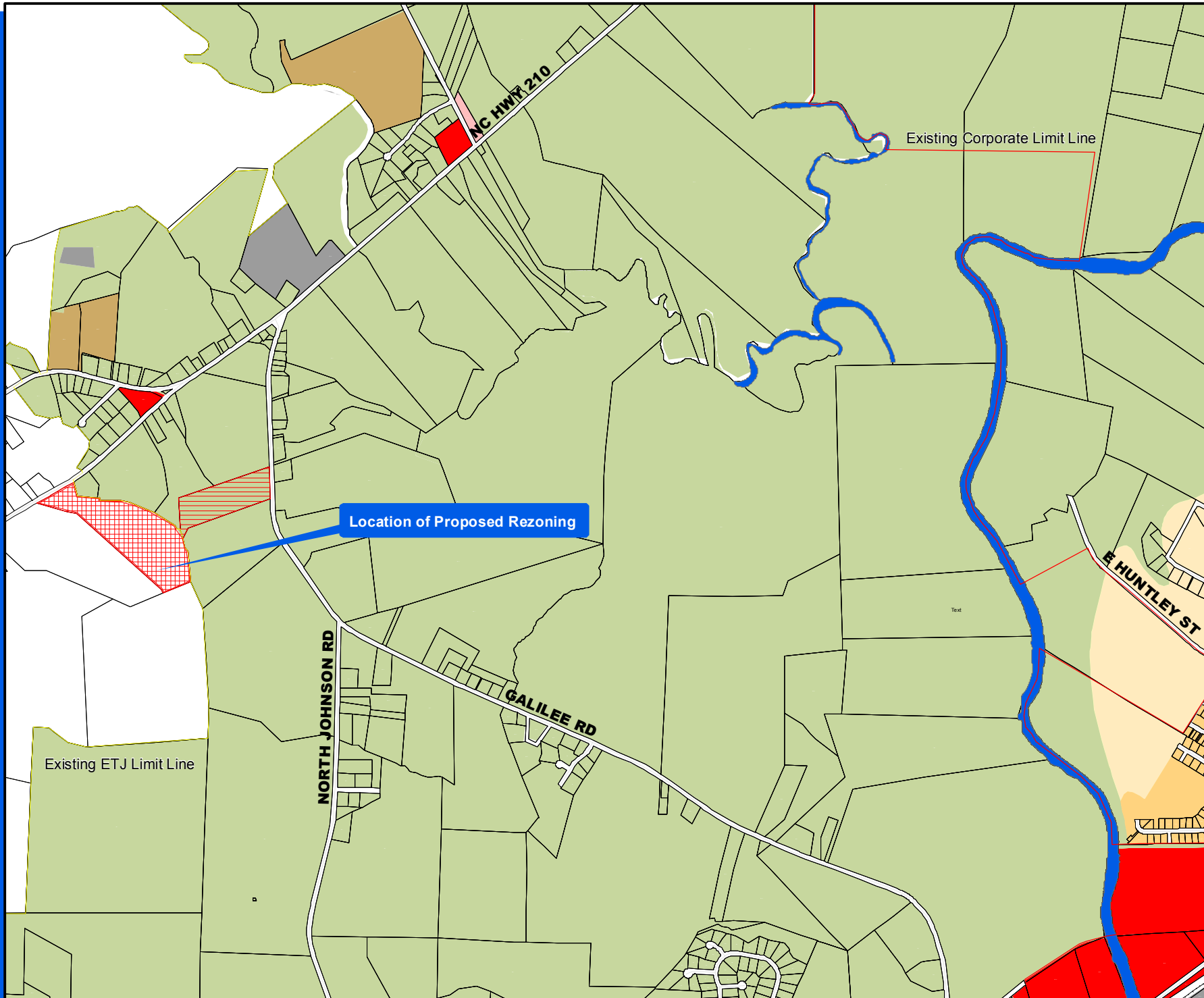
Zoning District:
Johnston County
AR (Agriculture
-Residential)

Map created by the
Mark E. Helmer, AICP
Senior Planner,
GIS Specialist
on 8/28/2018

- Legend
- Corporate Limit Line
 - ETJ Limit Line
 - Subject Parcel



1 inch = 1,600 feet





Request for Planning Board Action

**Application
for Zoning
Map
Amendment
RZ-18-09
Date: (01/03/10)**

Subject: Zoning Map Amendment
Department: Planning
Presented by: Stephen Wensman, Planning Director
Presentation: Business Item

Issue Statement

To rezone a 3.12 acre portion of a 9.92 acre tract of land from the B-3(Highway Entrance Business) and R-20A (Residential-Agricultural) to the LI (Light Industrial) zoning district.

Financial Impact

There will be no financial impact to the Town.

Action Needed

To review the application for rezoning, and make a recommendation to the Town Council.

Recommendation

The Planning Department recommends approval of the Zoning Map Amendment; and recommend that the Town Council approve a consistency statement declaring the request to be consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Approved: City Manager City Attorney

Attachments:

1. Staff Report
2. Planning Application



Staff Report

(Application for Zoning Presentations: Map Amendment RZ-18-09)

Application Number: RZ-18-09
Project Name: Studio TK
TAX ID numbers: 17J08001A
Town Limits / ETJ: ETJ
Applicant: McGills Associates
Owners: Teknion North America LLC
Agents: none
Neighborhood Meeting: none

PROJECT LOCATION: The property considered for rezoning is located on the east side of US 70 Business West approximately 200 feet north of its intersection with Cloverdale

REQUEST: The applicant is requesting to rezone a 3.12 acre portion of a 9.92 acre tract of land from the B-3(Highway Entrance Business) and R-20A (Residential-Agricultural) to the LI (Light Industrial) zoning district

SITE DATA:

Acreage: 3.12 of 9.92 acres
Present Zoning: B-3 (Highway Entranceway Business) & R-20A (Residential-Agricultural)
Proposed Zoning: Light Industrial District
Existing Use: Warehousing / Light Manufacturing
Proposed Use: Warehousing / Light Manufacturing

School Impacts: NA
Parks and Recreation: NA
Fire District: Town of Wilson's Mills
Water and Sewer Provider: Johnston County
Electric Provider: Duke Progress Energy

ENVIRONMENTAL: The property considered for rezoning is not located within a floodplain and no delineated wetlands exist on or near the property considered for rezoning.

ADJACENT ZONING AND LAND USES:

North:	Zoning:	B-3 & R-20A
	Existing Use:	Agriculture
South:	Zoning:	LI
	Existing Use:	Warehousing
East:	Zoning:	LI
	Existing Use:	Undeveloped / Woodlands
West:	Zoning:	R-20A
	Existing Use:	Agriculture

STAFF ANALYSIS AND COMMENTARY:

The property considered for rezoning is currently split zoned with 6.88 acres being zoned for light industrial endeavors. A .35 acre portion is zoned B-3 (Highway Entrance Business) and a 2.77 acre portion is zoned R-20A (Residential-Agricultural). Rezoning the property will serve to correct inconsistencies created when properties lines were moved and lots recombined and a rezoning of the new parcel did not occur. No non-conformities will be created by this rezoning since all existing uses on the property are currently permitted within the Light Industrial zoning district.

In order to approve the rezoning, the Town Council must find the rezoning consistent with Town Plans and Policies:

- **Consistency with the Strategic Growth Plan**

The subject property is beyond the limits of the Future Land Use Map but the rezoning is consistent with adjacent land uses that include industrial zoning and land uses to the south. The rezoning will serve to more accurately reflect existing land uses on the site.

- **Consistency with the Unified Development Code**

The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance as all current land uses and site improvements appear to meet minimum development standards of the Town of Smithfield Unified Development Ordinance.

- **Compatibility with Surrounding Land Uses**

The property considered for a rezoning is small portion of an existing industrial site that is currently zoned light Industrial. The subject property is adjacent to an existing LI zoning district and land use. The proposed rezoning will not have negative impacts on adjacent land uses and no change in uses are proposed as a result of this rezoning classification.

PLANNING DEPARTMENT RECOMMENDATION:

The Planning Department recommends approval of the Zoning Map Amendment; and recommend that the Town Council approve a consistency statement declaring the request to be consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

PLANNING BOARD RECOMMENDED ACTION:

The Planning Board is respectfully requested to review the petition and make a recommendation to the Town Council whether to approve or deny the rezoning of the 3.12 acre portion of a 9.92 acre tract of land from the B-3(Highway Entrance Business) and R-20A (Residential-Agricultural) to the LI (Light Industrial) zoning district.

**THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP AMENDMENT CONSISTENCY STATEMENT
BY THE SMITHFIELD TOWN COUNCIL
RZ-18-09**

Whereas the Smithfield Town Council, upon acting on a zoning map amendment to the *Unified Development Ordinance* and pursuant to NCGS §160A-383, is required to approve a statement describing how the action is consistent with the Town of Smithfield *Comprehensive Growth Management Plan*; and

Whereas the Smithfield Town Council, upon acting on a zoning map amendment to the *Unified Development Ordinance* and pursuant to NCGS §160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE SMITHFIELD TOWN COUNCIL AS APPROPRIATE:

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE IS ADOPTED,

That the final action regarding zoning map amendment RZ-18-09 is based upon review of and consistency with, the Town of Smithfield *Comprehensive Growth Management Plan* and any other officially adopted plan that is applicable, along with additional agenda information provided to the Town Council and information provided at the public hearing; and

It is the objective of the Town of Smithfield Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning map amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the Town of Smithfield as supported by the staff report and attachments provided to the Town Council and information provided at the public hearing. Therefore, the amendment is reasonable and in the public interest.

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE FAILS,

That the final action regarding zoning map amendment RZ-18-09 is based upon review of, and consistency, the Town of Smithfield *Comprehensive Growth Management Plan* and other officially adopted plans that are applicable; and

It is the objective of the Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning map amendment does not promote this and therefore is neither reasonable nor in the public interest.



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), (1) electronic submittal and the application fee. The application fee is \$300.00 for the first 5 acres and \$10.00 for each additional 10 acres or portion thereof.

Name of Project: Studio TK Acreage of Property: 9.92
 Parcel ID Number: 17J08001A Tax ID: 17J08001A
 Deed Book: 4330 Deed Page(s): 402
 Address: 3940 US HWY 70 BUS Clayton, NC 27520
 Location: Northeast side of US HWY 70 West past Whitley Heights

Existing Use: Manufacturing Proposed Use: Manufacturing
 Existing Zoning District: R-20A & B3 - 3.12 acres of the overall 9.92 acre tract
 Requested Zoning District: LI
 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: _____
--------------------	----------------------	--------------------

OWNER INFORMATION:

Name: Teknion North America LLC
Mailing Address: 3940 US HWY 70 BUS, Clayton, NC 27520
Phone Number: 919-938-2004 **Fax:** _____
Email Address: craig.edwards@studiotk.com

APPLICANT INFORMATION:

Applicant: McGill Associates
Mailing Address: 211 Tyler Drive, Smithfield, NC 27577
Phone Number: 919-209-9955 **Fax:** _____
Contact Person: Dan Simmons
Email Address: dan.simmons@mcgillengineers.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

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

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

STATEMENT OF JUSTIFICATION


Please provide detailed information concerning all requests. Attach additional sheets if necessary.
The property was purchased from Girsberger Industries, Inc. in July 2013 and is a furniture manufacturing facility called Studio TK. Studio TK is investigating expanding the furniture manufacturing facility and discovered the parcel had split zoning. The zoning needs to be made uniform to allow for the expansion design and construction to proceed.

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.

Dan Simmons

Print Name



Signature of Applicant

12-3-18
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: Studio TK

Submittal Date: 11/29/18

OWNERS AUTHORIZATION

I hereby give CONSENT to Dan Simmons (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.

Charles C. Bell
 Signature of Owner

Charles C. Bell
 Print Name

11/29/2018
 Date

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

[Signature]
 Signature of Owner/Applicant

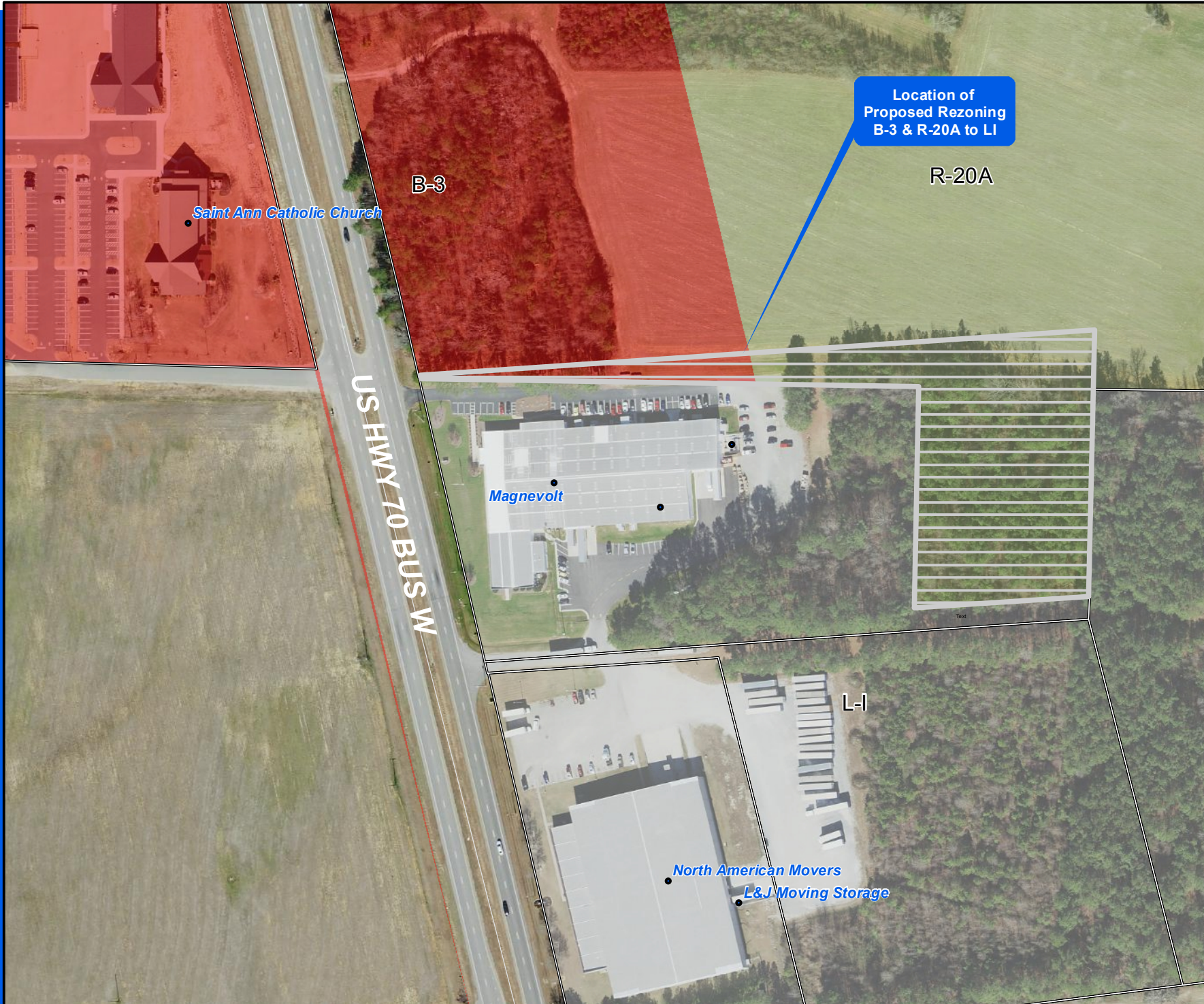
Dan Simmons
 Print Name

12-3-18
 Date

FOR OFFICE USE ONLY

File Number:	Date Received:	Parcel ID Number:
--------------	----------------	-------------------

3900 Block of US Hwy 70 Business West



Project Name:
Studio TK

File Number:
RZ-18-09

Existing
Zoning District:
B-3 (Highway
Entrance Business) &
R-20A (Residential-
Agriculture)

Proposed
Zoning District:
LI (Light Industrial)

Location:
3940 US Hwy 70
Business West

Tax ID#
17J08001A

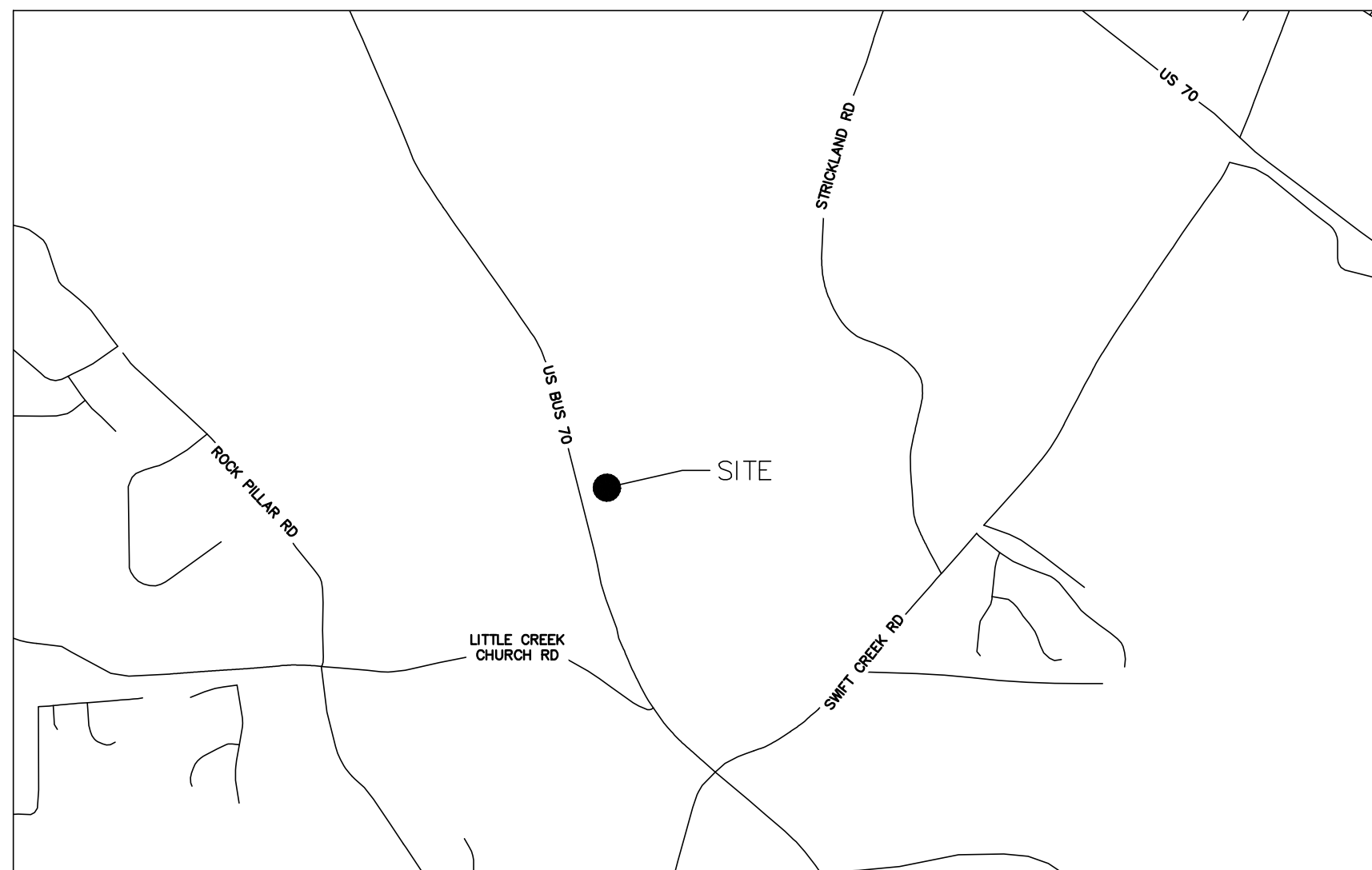
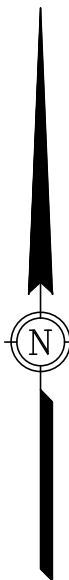
Applicant:
Teknion
North America, LLC

Property Owner:
McGill Associates

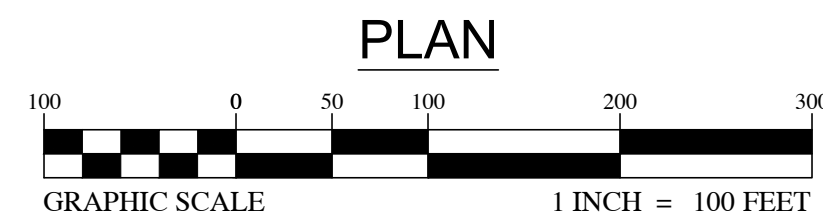
Map created by the
Mark E. Helmer, AICP
Senior Planner,
GIS Specialist
on 12/7/2018



1 inch = 200 feet



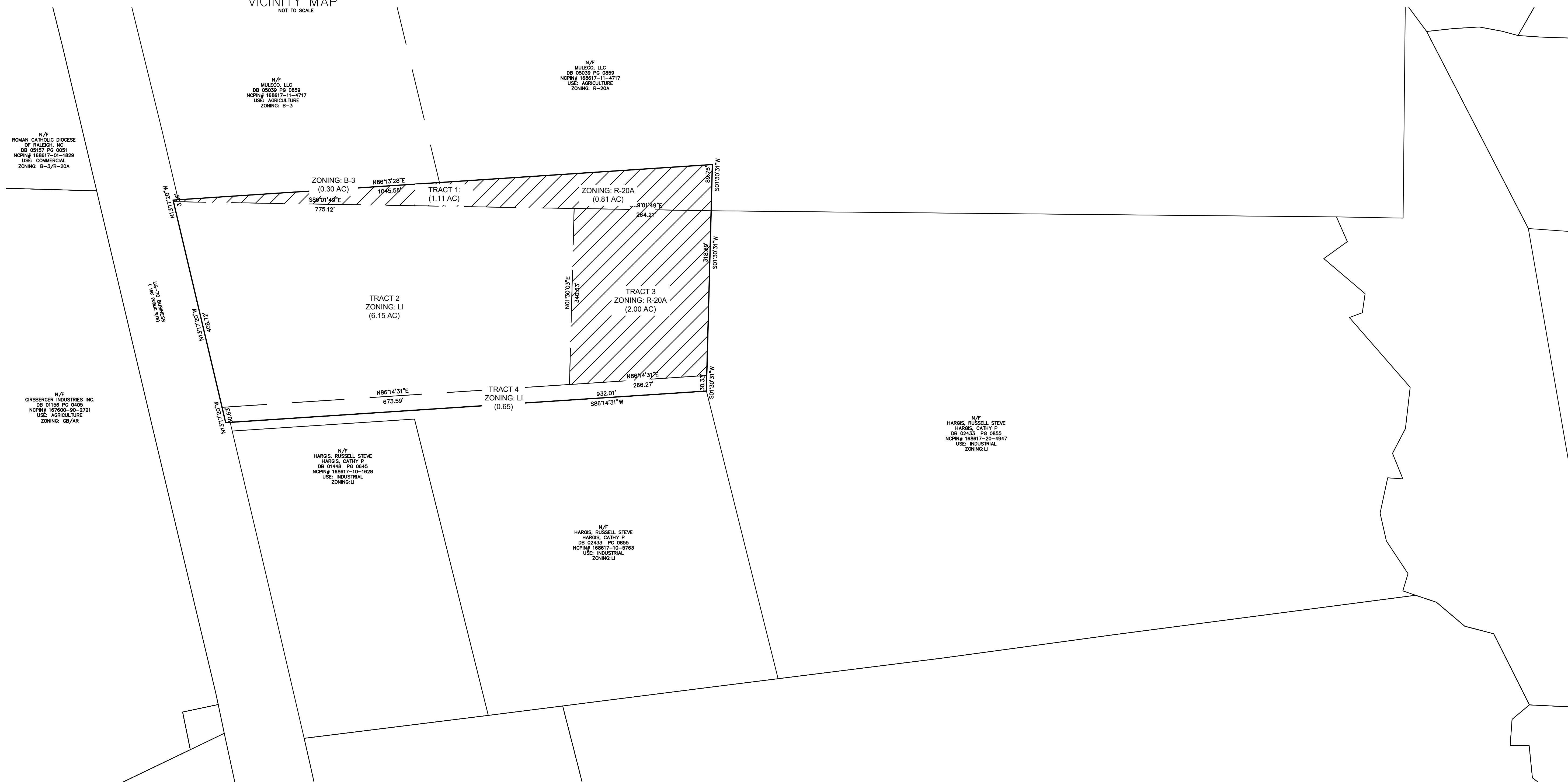
VICINITY MAP
NOT TO SCALE



SITE DATA

- OWNER: TEKNION NORTH CAROLINA LLC
3940 US HWY 70 BUS
CLAYTON, NC
04330, 0402
168617-11-2283
INDUSTRIAL
SMITHFIELD
 - DEED BOOK, PAGE:
 - NCPIN #:
 - USE:
 - TOWNSHIP:
 - ZONING:
 - FEMA DESIGNATED FLOODPLAIN:
- VARIES, SEE SHEET
FIRM #3720168600K

LEGEND:



S:\Projects\2018\18-01852 StudioTK - Studio TK02_Design Phase\Drawing_Data\Sheets\STUDIO TK Zoning map.dwg 12/26/2018 9:32 AM REBECCA BENNETT



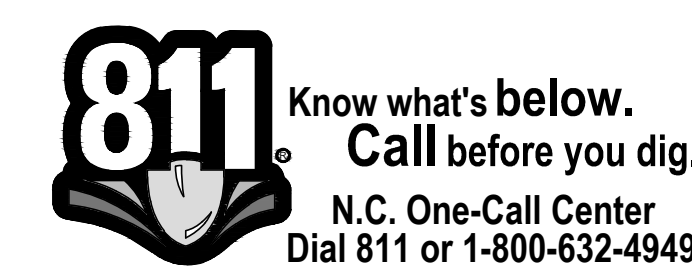
PRELIMINARY DESIGN
FOR REVIEW
FOR CONSTRUCTION

TOWN OF SMITHFIELD
STUDIO TK
JOHNSTON COUNTY, NORTH CAROLINA

JOB NO.: PROJECT NUMBER
DATE: MONTH YEAR
DESIGNED BY:
CADD BY:
DESIGN REVIEW:
CONST. REVIEW:
FILE NAME:
STUDIO TK Zoning map.dwg

STUDIO TK ZONING MAP

SHEET
C-00X



NO.	DATE	BY	REVISION DESCRIPTION



Request for Planning Board Action

Application
Agenda for
Item: Zoning Text
Amendment
Date: 01/03/2019

Subject: Unified Development Ordinance Text Amendment

Department: Planning

Presented by: Stephen Wensman, Planning Director

Presentation: Business Item

Issue Statement

The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to update the development review process contained in Article 5.

Financial Impact

None

Action Needed

To review the zoning text amendment, ZA-18-06, and make a recommendation to the Town Council

Recommendation

Planning Staff recommends the Planning Board recommend approval of zoning text amendment ZA-18-06 with a consistency statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Approved: Town Manager Town Attorney

Attachments:

1. Staff Report
2. Consistency Statement
3. Draft Ordinance Amendment
4. Draft Article 5



Staff Report

**Agenda
Item:**
Date:

**Application
for Zoning
Text
Amendment
01/03/2019**

REQUEST:

The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to update the development review process contained in Article 5.

HISTORY:

- January 2, 2018 – The Town of Smithfield approved an ordinance amendment to allow for administrative approval by the UDO Administrator when major site plans and final plats are found to meet or exceed minimum development standards.
- Additional amendments are needed and these were reviewed with the UDO Subcommittee on December 5, 2018 and recommended for approval.

ANALYSIS:

The January 2, 2018 amendment to Article 5 removed the requirement for Planning Board review and Town Council approval for major site plans, returning the process to the pre-UDO update process.

Additional amendments needed include:

- Section 5.6, 5.6.5 and 5.6.6 - Clarify Town Council review of final plats without Planning Board review.
- Section 5.8.2.1.3 – Clarifies that the Town of Smithfield will hold public hearings at the Town Council and provide notification for preliminary plats (Note: public notification of preliminary plats is not required by State Statutes, however it is a practice apparently practiced in the Town of Smithfield in the past and still desired).
- Section 5.8.2.2 – Clarifies the final plat are sent to the Town Council for final approval (Note: the final plat process is to verify that the final plat is generally conforming to the preliminary plat and to provide for public dedication of streets, parks and other public amenities).

CONSISTENCY STATEMENT:

The zoning text amendment as proposed is consistency with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest.

RECOMMENDATION:

Planning Staff recommends the Planning Board recommend approval of zoning text amendment ZA-18-06 with a consistency statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest with the following motion:

"Move to recommend the Town Council approve ZA-18-06 amending the Town of Smithfield Unified Development Code, Article 5 to amend the development review process, finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest."

DRAFT ORDINANCE # ZA-18-06
AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE ARTICLE 5

WHEREAS, the Smithfield Town Council wishes to amend certain provisions in the Unified Development Ordinance by making changes to Article 5 as it pertains to the development review process.

WHEREAS, it is the objective of the Smithfield Town Council to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that the following Articles are amended to make the following changes set forth in the deletions (strikethroughs) and additions (double underlining) below:

PART 1

[Revise Article 5, to correct development review processes.]

5.4.2. The applicant may schedule a pre-application meeting with the UDO Administrator to review a Sketch Plan of the proposed development, including minor and major subdivisions and ~~minor and major~~ site plans. The Sketch Plan shall meet the requirements of Section 5.4.4. The UDO Administrator will advise the applicant of all applicable Town regulations and policies, may suggest development alternatives, and will discuss application procedures and fees (see Section 2.7). The UDO Administrator may submit the Sketch Plan to other departments or agencies, as appropriate, for input and recommendations. Within fifteen (15) days of receipt of the sketch plan, the UDO Administrator shall forward all appropriate comments to the applicant. This timeframe may be extended if comments are requested from other agencies.

...

5.5.5. Approval. (AMENDED 1/2/2018)

All required local, state, and/or federal permits must be obtained prior to the approval of the site plan or minor subdivision. If the site plan or final plat is found to meet all applicable regulations of this Ordinance, then the UDO Administrator shall issue a certificate of zoning compliance.

...

SECTION 5.6 TOWN COUNCIL APPROVAL UPON PLANNING BOARD REVIEW AND RECOMMENDATION - MAJOR SUBDIVISION PRELIMINARY AND TOWN COUNCIL APPROVAL OF MAJOR SUBDIVISION FINAL PLATS. (AMENDED 1/2/2018)

Town Council Approval Upon Planning Board Review and Recommendation applies to the following:

- Major Subdivision Preliminary Plats. Includes all subdivisions not meeting the requirements for a minor subdivision.

Town Council Approval without Planning Board Review and Recommendation applies to the following:

- Major Subdivision Final Plats. Includes all subdivisions not meeting the requirements for a minor subdivision.

...

5.6.5. Major Subdivision Final Plat Review and Approval by the Town Council Without Planning Board Recommendation.

5.6.5.1. Following a complete review by the staff, the UDO Administrator shall schedule the application for review by the Town Council at the next regularly scheduled meeting.

5.6.5.2. The Town Council may take the following actions:

5.6.5.2.1. Approve the application if it substantially agrees with the preliminary plat; or

5.6.5.2.2. Deny the application and require a new preliminary plat.

5.6.56. Approval. (Amended 1/2/2018)

All required local, state, and/or federal permits must be obtained prior to the approval of the ~~site plan or~~ final plat. If the final plat is found to meet all of the applicable regulations of this Ordinance, then the UDO Administrator shall ~~issue a certificate of zoning compliance for site plans or~~ submit final subdivision plats to the ~~Planning Board/~~Town Council for approval.

...

5.8.2.1.3. After the UDO Administrator determines that the preliminary plat meets the requirements of this Ordinance, it shall be submitted to the Planning Board for review and recommendation to the Town Council. At least ten (10) days prior to the ~~Planning Board~~ Town Council meeting, the Town shall prominently post a notice on the site proposed for subdivision or on an adjacent public street or ~~highway right-of-way~~ public right-of-way not less than ten calendar days prior to the Town Council meeting. In addition, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than ten (10) nor more than twenty-five (25) days prior to the hearing. The Planning Board shall forward its recommendation to the Town Council within forty-five (45) days after first consideration by the Planning Board. If the Planning Board fails to act within the 45-day period, the subdivision will be placed on the next available Town Council agenda. The Town Council shall consider the preliminary plat and approve, approve with conditions acceptable to the applicant, or disapprove the plat.

...

5.8.2.2.2. Within 24 months after approval of the preliminary plat by the Town Council, the subdivider shall submit a final plat showing that he or she has completed the subdivision according to the preliminary plan and phasing plan (if applicable). The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plat, provided that all required improvements have been installed as called for in the approved preliminary plat or a surety bond or similar financial instrument has been approved by the Town Council, in accordance with Section 5.8.2.6.

The UDO Administrator shall determine whether or not the final plat substantially agrees with the approved preliminary plan and submit to the ~~Planning Board~~/Town Council for approval. If substantial differences exist, the Town Council may deny the final plat and require that a new preliminary plat be submitted. If the plat substantially agrees with the preliminary plat, the Town Council ~~upon recommendation of the Planning Board~~ shall approve the final plat within thirty (30) days after first consideration, if the Town Council has accepted the publicly dedicated improvements or approved a performance bond agreement. Only after the final plat has been approved and recorded at the Johnston County Register of Deeds office shall any lots be transferred or conveyed. The plat must be recorded within 30 days after approval.

PART 2

That the Unified Development Ordinance shall be page numbered and revision dated as necessary to accommodate these changes.

PART 3

That these amendments of the Unified Development Ordinance shall become effective upon adoption.

Duly adopted this the ___ day of _____, 2019.

M. Andy Moore, Mayor

ATTEST

Shannan L. Parrish, Town Clerk

**ARTICLE 5.
DEVELOPMENT REVIEW PROCESS**

Section 5.1 Applicability5-2

Section 5.2 Application Not Required; Waiver5-2

Section 5.3 Zoning Verification5-2

Section 5.4 Pre-Application Meeting and Sketch Plan5-2

Section 5.5 Administrative Approval --Site Plan, Minor Subdivision,
or Major Subdivision Final Plat.....5-4

Section 5.6 Town Council Approval Upon Planning Board Review and Recommendation -
Major Subdivision Preliminary Plat.....5-8

Section 5.7 Site Plan Requirements5-10

Section 5.8 Subdivision Procedures5-12

Section 5.9 Construction Drawing Review Requirements5-18

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

SECTION 5.1 APPLICABILITY.

The purpose of this Article is to establish an orderly process to develop land within the Town of Smithfield. It is also the intent of this Article to provide a clear and comprehensible development process that is fair and equitable to all interests, including the petitioners, affected neighbors, Town staff, related agencies, the Planning Board, and the Town Council. Approved plans shall be the guiding documents for final approval and permitting.

The development review process applies to all development actions within the planning jurisdiction except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this Article shall be applicable for all Minor and Major Subdivisions, and Site Plans, except as provided in Section 5.2.

SECTION 5.2 APPLICATION NOT REQUIRED; WAIVER.

The UDO Administrator may waive the required development review process when he determines that the submission of a development plan in accordance with this Article would serve no useful purpose. The UDO Administrator may grant such a waiver only in the following cases:

5.2.1. Accessory structures.

5.2.2. Any enlargement of a principal building by less than 20% of its existing size provided such enlargement is less than 7,000 square feet and will not result in required parking or landscaping improvements.

5.2.3. A change in principal use where such change would not result in a change in zoning, lot coverage, parking, vehicular access, signage, or other site characteristics.

SECTION 5.3 ZONING VERIFICATION.

Zoning compliance must be verified by the UDO Administrator. If the zoning is in compliance, the applicant may proceed with submittal of site plan, plats, or drawings. If the proposed development is not zoning compliant, the applicant must request a rezoning (see Section 4.6) or a variance(s) (see Section 4.10.2) before proceeding with site plan, plat, or drawing submittal.

SECTION 5.4 PRE-APPLICATION MEETING AND SKETCH PLAN.

5.4.1. The recommended pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of Smithfield, and does not confer upon the applicant any development rights. The sketch plan is only a courtesy intended to inform the applicant of the approval criteria prior to

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

submittal of the development plan; furthermore, sketch plan review does not constitute approval of the development plan and may not be substituted for any required approvals.

5.4.2. The applicant may schedule a pre-application meeting with the UDO Administrator to review a Sketch Plan of the proposed development, including minor and major subdivisions **and minor and major** site plans. The Sketch Plan shall meet the requirements of Section 5.4.4. The UDO Administrator will advise the applicant of all applicable Town regulations and policies, may suggest development alternatives, and will discuss application procedures and fees (see Section 2.7). The UDO Administrator may submit the Sketch Plan to other departments or agencies, as appropriate, for input and recommendations. Within fifteen (15) days of receipt of the sketch plan, the UDO Administrator shall forward all appropriate comments to the applicant. This timeframe may be extended if comments are requested from other agencies.

5.4.3. The applicant is encouraged to incorporate the recommendations of the UDO Administrator or authorized staff reviewer into the development plan before submittal.

5.4.4. To ensure an appropriate level of review, applicants are encouraged to submit as much information as possible. At a minimum, three copies of the sketch plan, drawn to scale, should be submitted, including the following:

5.4.4.1. A scale, preferably the same scale as required for development plan submittal.

5.4.4.2. Property boundaries and total acreage, including NC PINs for all properties.

5.4.4.3. Major topographical and physical features including water bodies, creeks, wetlands, buildings, streets, and the like.

5.4.4.4. Proposed streets, rights-of-way, buildings, and/or lot arrangements, including proposed lot sizes, common areas, and the buffers required by Article 10, Part II.

5.4.4.5. Existing and proposed land use, drawn to scale, with brief project description including proposed structures, yard setbacks, building sizes, unit sizes, lot sizes, open space, amenities, the amount of impervious surfaces in square feet and the percentage of impervious surface of the entire development and the like.

5.4.4.6. Name, address, and telephone number of applicant, owner, and persons (firm) preparing the development plan.

5.4.4.7. Adjacent street names, numbers, and right-of-way widths.

5.4.4.8. Zoning district classification of site and surrounding properties, including zoning of properties located across adjacent streets.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.4.4.9. The boundaries of any proposed phasing.

5.4.4.10. Sites, if any, for schools, parks, churches, and playgrounds.

5.4.4.11. Acreage in public uses.

5.4.4.12. Approximate number of lots.

5.4.4.13. Sketch vicinity map showing the relation of the proposed site to existing uses of the land.

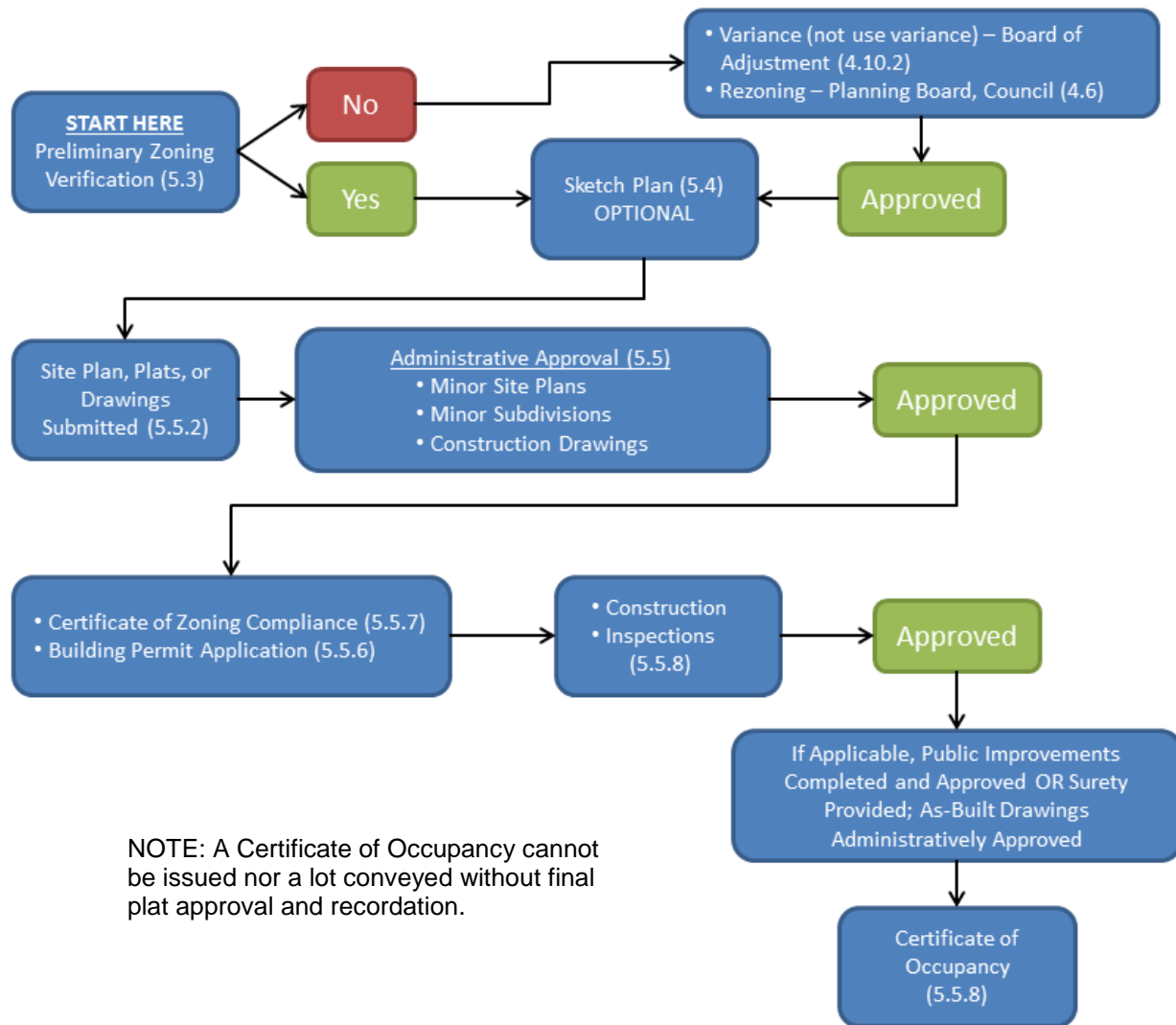
SECTION 5.5 ADMINISTRATIVE APPROVAL - SITE PLAN MINOR SUBDIVISION.

Administrative approval includes the following types of development and permits:

- Site Plans.
- Minor Subdivisions. A subdivision that does not involve any of the following: (i) the creation of more than a total of five (5) lots; (ii) the creation of any new public streets; (iii) the extension of a public water or sewer system; or (iv) the installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.
- Construction and As-Built Drawings.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.5.1. Administrative Approval Flowchart.



5.5.2. Site Plan, Minor Subdivision Plat, or Construction Drawings Submitted for Review.

A plan of the proposed development shall be submitted in accordance with Sections 5.7 through 5.9, as applicable, and shall be accompanied by the completed application and payment of a fee as adopted by the Town Council (see Section 2.7).

5.5.3. Preliminary Zoning Approval.

If the site plan, construction drawings, as-built drawings, or final plat is found to meet all of the applicable regulations of this Ordinance, then the UDO Administrator shall issue a zoning permit for site plans or approve minor subdivision plats.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.5.4. Staff Review.

The UDO Administrator may circulate the plan or plat to relevant governmental agencies and officials. The reviewing government agencies and officials may include, but not necessarily be limited to, the following:

- UDO Administrator
- Town Manager
- Police Department
- Fire Department
- Building Inspections Department
- Recreation Department
- Town Engineer
- Town Attorney
- Other Town reviewers designated by the Town Manager
- Utilities Providers
- Johnston County Health Department
- Johnston County Board of Education
- Upper Coastal Plain Rural Planning Organization
- NC Department of Transportation
- NC Department of Environment and Natural Resources
- US Army Corps of Engineers

5.5.5 Approval. (Amended 1/2/2018)

All required local, state and/or federal permits must be obtained prior to the approval of the site plan or minor subdivision. If the site plan or final plat is found to meet all applicable regulations of this Ordinance, then the UDO Administrator shall issue a certificate of zoning compliance.

5.5.6. Appeal of Administrative Denial.

Administrative denial of an application for approval of a site plan, minor subdivision plat, or construction drawings may be appealed by the applicant to the Board of Adjustment within thirty (30) days following written notification of denial by the UDO Administrator.

5.5.7. Building Permit Required.

5.5.7.1. No building or other structure shall be erected, moved, added to, demolished, or structurally altered without a building permit issued by the Building Inspector and a zoning permit issued by the UDO Administrator. No building permit shall be issued by the Building Inspector except in conformity with the provisions of the NC State Building Code and this Ordinance, unless he or she receives a written order from the Board of Adjustment in the form of a variance to this Ordinance as provided for by this Ordinance.

5.5.7.2. Application for Building Permit. All applications for building permits shall be accompanied by plans, including a survey not more than one (1) year old, as specified by the NC State Building Code. The application shall include other information as lawfully may be required by the Building Inspector, including existing or proposed building or

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

alteration; existing or proposed uses of the building and land; the number of families, dwelling units or rental units the building is designed to accommodate; conditions existing on the lot; floodplain development permit; and any other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. A minimum of two (2) copies of the plans shall be required. One copy of the plans shall be returned to the applicant by the Building Inspector, after he shall have marked the copy either as approved or disapproved, and attested to same by his signature on the copy. One copy of the plans, similarly marked, shall be retained by the Building Inspector.

5.5.8. Certificate of Zoning Compliance.

5.5.8.1. No land shall be used or occupied and no building hereafter constructed, structurally altered, erected, or moved or its use changed until a certificate of zoning compliance shall have been issued by the UDO Administrator, or his designee, which may include the Building Inspector, stating that the building or the proposed use thereof complies with the provisions of this Ordinance.

5.5.8.2. A certificate of zoning compliance, either for the whole or a part of a building, shall be applied for prior to the application for a building permit and shall be issued together with the building permit.

5.5.9. Inspections and Certificates of Occupancy.

No new building, or part thereof, shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance, and shall be issued within five (5) business days after the erection or structural alteration of such building or part shall have been completed in conformance with the provisions of this Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal.

For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to Town standards.

The Town Council must have accepted the offer of dedication for all publicly dedicated improvements, including roadways, contingent upon the recordation of the final plat or provision of performance guarantees approved by the Town Council as specified in Section 5.8.2.6.

For Site Plans and Minor Subdivision Final Plats, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation(s) to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied (see Section 1.8).

SECTION 5.6 TOWN COUNCIL APPROVAL UPON PLANNING BOARD REVIEW AND RECOMMENDATION - MAJOR SUBDIVISION PRELIMINARY AND TOWN COUNCIL APPROVAL OF MAJOR SUBDIVISION FINAL PLATS. (AMENDED 1/12/2018)

Town Council Approval Upon Planning Board Review and Recommendation applies to the following:

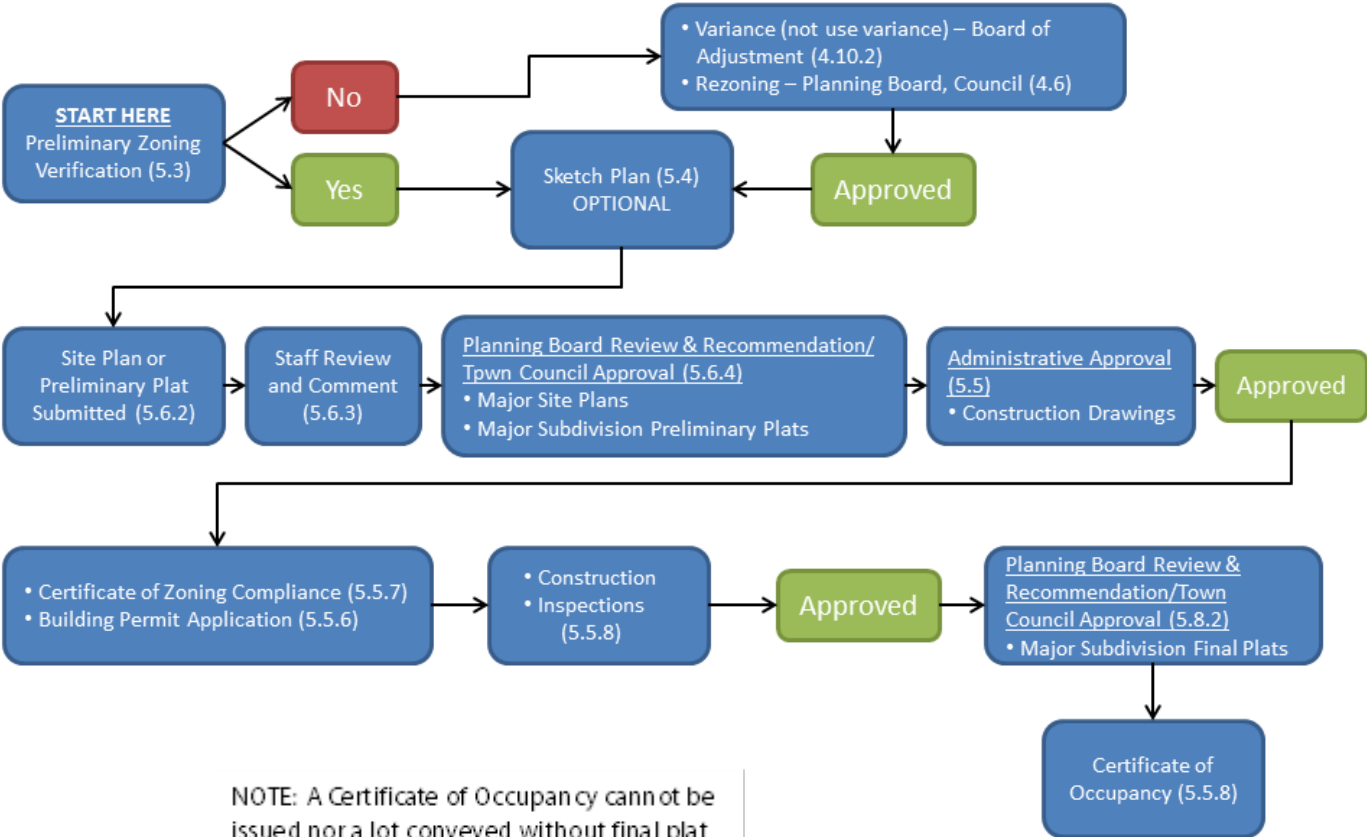
- Major Subdivision Preliminary and Final Plats. Includes all subdivisions not meeting the requirements for a minor subdivision.

Town Council Approval without Planning Board Review and Recommendation applies to the following:

- Major Subdivision Final Plats. Includes all subdivisions not meeting the requirements for a minor subdivision.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.6.1. Town Council Review and Approval Flowchart.



5.6.2. Major Subdivision Preliminary Plat, or Construction Drawings Submitted for Review.

All major subdivision preliminary plats shall be submitted in accordance with Sections 5.7 through 5.9, as applicable, and shall be accompanied by the completed application and payment of a fee as adopted by the Town Council (see Section 2.7). All major subdivision preliminary plats shall be submitted twenty-one (21) days in advance of the Planning Board meeting at which they are to be reviewed.

5.6.3. Staff Review.

The UDO Administrator will circulate the plan to relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but not necessarily be limited to, those listed in Section 5.5.4.

5.6.4. Review and Approval by the Town Council Upon Planning Board Recommendation.

5.6.4.1. Following a complete review by the staff, the UDO Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.6.4.2. The Planning Board shall forward its recommendation to the Town Council within forty-five (45) days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the Town Council without a recommendation from the Planning Board.

5.6.4.3. Once the comments of the Planning Board have been made, or the 45-day period elapses without a recommendation, the Town Council shall consider the application at its next regularly scheduled meeting.

5.6.4.4. The Council may take the following actions:

5.6.4.4.1. Approve the application;

5.6.4.4.2. Approve the application with conditions acceptable to the applicant;

5.6.4.4.3. Deny the application;

5.6.4.4.4. Table the application for a specific number of days. The Town Council may also request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request.

5.6.4.4.5. Return the application to the Planning Board for further consideration. This deferral does not restart the initial Planning Board 45-day review period. The Town Council may direct that the Planning Board return a recommendation by a certain date.

5.6.5. Major Subdivision Final Plat Review and Approval by the Town Council Without Planning Board Recommendation.

5.6.5.1. Following a complete review by the staff, the UDO Administrator shall schedule the application for review by the Town Council at the next regularly scheduled meeting.

5.6.5.2. The Town Council may take the following actions:

5.6.5.2.1. Approve the application if it substantially agrees with the preliminary plat; or

5.6.5.2.2. Deny the application and require a new preliminary plat.

5.6.5.6. Approval. (Amended 1/2/2018)

All required local, state, and/or federal permits must be obtained prior to the approval of the site plan or final plat. If the site plan or final plat is found to meet all of the applicable regulations of

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

this Ordinance, then the UDO Administrator shall ~~issue a certificate of zoning compliance for site plans or~~ submit final subdivision plats to the Planning Board/Town Council for approval.

5.6.6 7. Town Council Denial.

Following denial by the Town Council, the applicant may file a new application and associated fee. Unless the Town Council explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Town Council unless the application is (i) significantly different from the previously denied application or (ii) the applicant pays a double fee. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Town Council for reapplication.

SECTION 5.7 SITE PLAN REQUIREMENTS.

5.7.1. Information to be Shown on Site Plan. The site plan shall be prepared by a professional engineer, registered land surveyor, or licensed architect and shall be drawn to scale of not less than one inch equals 30 feet. The site plan shall be based on the latest tax map information and shall be of a size as required by each individual site plan. The site plan shall contain the following information, if applicable as determined by the UDO Administrator:

5.7.1.1. A key map of the site with reference to surrounding areas and existing street locations.

5.7.1.2. The name and address of the owner and site plan applicant, together with the names of the owners of all contiguous land and of property directly across the street as shown by the most recent tax records.

5.7.1.3. Parcel Identification Numbers (PIN) for site and adjacent properties.

5.7.1.4. Deed book and page reference demonstrating ownership of property.

5.7.1.5. Location of all existing and proposed structures, including their outside dimensions and elevations, streets, entrances, and exits on the site, on contiguous property, and on property directly across the street.

5.7.1.6. Building setback, side line, and rear yard distances.

5.7.1.7. Location of watercourses, ponds, flood zones, water supply watershed areas, and riparian buffers.

5.7.1.8. All existing physical features, including existing trees greater than eight (8) inches in diameter measured four and one-half (4.5) feet above ground level, and significant soil conditions.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.7.1.9. Topography showing existing and proposed contours at no greater than ten (10) foot intervals. All reference benchmarks shall be clearly designated.

5.7.1.10. The zoning of the property, including zoning district lines where applicable.

5.7.1.11. Lot line dimensions and property lines of the tract to be developed (with dimensions identified), adjacent property lines (including corporate limits, Town boundaries, and county lines).

5.7.1.12. Parking, loading, and unloading areas shall be indicated with dimensions, traffic patterns, access aisles, and curb radii per the requirements of Article 10, Part I.

5.7.1.13. Types of surfaces for drives, sidewalks, and parking areas.

5.7.1.14. Location and design of existing and proposed sanitary waste disposal systems, water mains and appurtenances (including fire hydrants) on or adjacent to the parcel.

5.7.1.15. Other utility lines both under- and above-ground, including electric power, telephone, gas, cable television.

5.7.1.16. Location of all US Clean Water Act Section 404 wetland areas, located of detention/retention ponds (Best Management Practices), riparian buffers and impervious surface areas with area dimensions, and ratios of impervious surface to the total size of the lot.

5.7.1.17. The location of all common areas.

5.7.1.18. The location and dimensions of all areas intended as usable open space, including all recreational areas. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.

5.7.1.19. Landscaping and buffering plan showing what will remain and what will be planted, indicating names of plants, trees, and dimensions, approximate time of planting, and maintenance plans per the requirements of Article 10, Part II. The plan shall include the tree line of wooded areas and individual trees eight (8) inches in diameter or more, identified by common or scientific name.

5.7.1.20. Proposed site lighting.

5.7.1.21. Location, dimensions, and details of signs per the requirements of Article 10, Part III.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.7.1.22. The method of refuse disposal and storage and the location of dumpsters and screening as required by Article 10, Part II.

5.7.1.23. North arrow or compass rose.

5.7.1.24. Building elevations, except for single- and two-family homes and townhouses designed under the NC Residential Building Code.

5.7.2. Certificate of Zoning Compliance/Building Permit.

An application for a certificate of zoning compliance may be requested in advance of or concurrently with an application for a building permit in accordance with Sections 5.5.6 and 5.5.7.

5.7.3. Inspections and Certificates of Occupancy.

No new building, or part thereof, shall be occupied; no addition or enlargement of any existing building shall be occupied; no existing building after being altered or moved shall be occupied; and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy as provided in Section 5.5.8, above.

SECTION 5.8 SUBDIVISION PROCEDURES.

5.8.1. Review Procedure for Minor Subdivisions.

5.8.1.1. The developer may submit a sketch development plan, as specified in Section 5.4, to the UDO Administrator. At this stage, the UDO Administrator and the developer shall informally review the proposal.

5.8.1.2. After this initial review has been completed, the subdivider or his authorized representative shall prepare a final plat as specified in Section 10.97 and submit it to the UDO Administrator. At the time of submission, the subdivider shall pay to the Town an application fee as established by the Town Council in accordance with Section 2.7. Refer to Section 10.98 for plat requirements.

5.8.1.3. The UDO Administrator shall approve or disapprove the final plat, as provided in Section 5.5.

5.8.2. Review Procedure for Major Subdivisions.

5.8.2.1. Preliminary Plat.

5.8.2.1.1. At the time of submission of the preliminary plat and phasing plan (if applicable), the subdivider shall pay to the Town an application fee as established by the Town Council in accordance with Section 2.7. Refer to Section 10.98 for plat requirements.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.8.2.1.2. The subdivider or his or her authorized agent shall submit five (5) copies of the preliminary plat to the UDO Administrator who shall evaluate the plan to determine whether or not it meets the requirements of this Ordinance. The UDO Administrator will solicit and receive comments from other persons or agencies before making its final recommendations. If the application is complete, the UDO Administrator will submit it to the Planning Board according to the schedule established in Section 5.6.4.

5.8.2.1.3. After the UDO Administrator determines that the preliminary plat meets the requirements of this Ordinance, it shall be submitted to the Planning Board for review and recommendation to the Town Council. At least ten (10) days prior to the ~~Planning Board~~ meeting, the Town shall prominently post a notice on the site proposed for subdivision or on an adjacent public street or ~~highway right-of-way~~ public right-of-way not less than ten calendar days prior to the Town Council meeting. In addition, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than ten (10) nor more than twenty-five (25) days prior to the hearing.

The Planning Board shall forward its recommendation to the Town Council within forty-five (45) days after first consideration by the Planning Board. If the Planning Board fails to act within the 45-day period, the subdivision will be placed on the next available Town Council agenda. The Town Council shall consider the preliminary plat and approve, approve with conditions acceptable to the applicant, or disapprove the plat.

5.8.2.2. Final Plat.

5.8.2.2.1. At the time of submission of the final plat, the subdivider or his or her authorized agent shall pay the Town an application fee as established by the Town Council in accordance with Section 2.7. Refer to Section 10.98 for plat requirements.

5.8.2.2.2. Within 24 months after approval of the preliminary plat by the Town Council, the subdivider shall submit a final plat showing that he or she has completed the subdivision according to the preliminary plan and phasing plan (if applicable). The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plat, provided that all required improvements have been installed as called for in the approved preliminary plat or a surety bond or similar financial instrument has been approved by the Town Council, in accordance with Section 5.8.2.6.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

The UDO Administrator shall determine whether or not the final plat substantially agrees with the approved preliminary plan and submit to the ~~Planning Board~~/Town Council for approval. If substantial differences exist, the Town Council may deny the final plat and require that a new preliminary plat be submitted. If the plat substantially agrees with the preliminary plat, the Town Council ~~upon recommendation of the Planning Board~~ shall approve the final plat within thirty (30) days after first consideration, if the Town Council has accepted the publicly dedicated improvements or approved a performance bond agreement. Only after the final plat has been approved and recorded at the Johnston County Register of Deeds office shall any lots be transferred or conveyed. The plat must be recorded within 30 days after approval.

5.8.2.2.3. Five (5) copies of the final plat shall be submitted: the original, two mylar copies, and two paper copies. The mylar shall be three mil, suitable for reproduction. The three reproducible copies shall each have original signature. The original copy shall be returned to the subdivider, one mylar copy shall be recorded at the Johnston County Register of Deeds office, and one mylar copy of the recorded plat shall be returned to the UDO Administrator.

5.8.2.2.4. The final plat shall be prepared by a surveyor licensed and registered to practice in the state. It shall conform to the provisions of plats, subdivisions, and mapping requirements as set forth in GS 47-30, as amended, and the *Standards of Practice of Land Surveying in North Carolina*.

5.8.2.2.5. The final plat shall depict or contain the information specified in Section 10.98. Plats not illustrating or containing the information required in Section 10.98 shall be returned to the subdivider or his or her authorized agent for completion and resubmission.

5.8.2.2.6. For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

5.8.2.3. Time Limitation/Approval of Preliminary Plat. Preliminary plat approval shall be valid for two (2) years unless a greater time period is granted through a Vested Rights request. If final plat approval has not been obtained within said two-year period, preliminary plat approval is void. A new preliminary plat shall be required to be submitted and such plat shall be in conformance with all current and applicable standards in this Ordinance. Notwithstanding, the developer may submit a request to the UDO Administrator for a time extension for up to one (1) year for final plat submittal. Said request must be submitted to the UDO Administrator thirty (30) days prior to the original plat expiration date. No more than one (1) such extension may be granted by the UDO Administrator per subdivision. The developer may submit a final plat for one or more phases of a subdivision given preliminary plat approval. Said submission shall extend

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

the expiration date for the remaining phases of the subdivision for an additional two (2) years past the date of said final plat approval or approval of one or more phases.

5.8.2.4. As-Built Drawing Submittal. Prior to final plat approval or release of performance guarantees, As-Built Drawings shall be submitted and administratively approved.

5.8.2.5. Property Owners Association Covenants Review. Prior to approval of any final plat for a major subdivision, the UDO Administrator shall review the covenants of the Property Owners Association to ensure compliance with Town requirements. The covenants shall include provisions for the ownership and maintenance of all privately-held facilities. The UDO Administrator will refer the covenants to the Town Attorney for review and approval.

5.8.2.6. Performance Guarantees. In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the Town of Smithfield may enter into an agreement with the subdivider whereby the subdivider shall agree to complete any remaining required improvements as specified by the approved preliminary plat for that portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period not to exceed one (1) year. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Town Council, if all other requirements of this Ordinance are met. The Town shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.

5.8.2.6.1. The subdivider shall provide one of the following Performance Guarantees, elected at the subdivider's discretion, in lieu of installation:

5.8.2.6.1.1. Surety bond issued by any company authorized to do business in this State.

5.8.2.6.1.2. Letter of credit issued by any financial institution licensed to do business in this State.

5.8.2.6.1.3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

5.8.2.6.2. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the Town that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.

5.8.2.6.3. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

5.8.2.6.4. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

5.8.2.6.5. For subdivisions which are underwritten or constructed with federal funds and for which the specifications for facilities or improvements are equal to or of a higher standard than those required by the Town, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.

5.8.2.7. *Transfer of Lots in Unapproved Subdivision Plats, Conveyance of Unapproved Lot Subject to this Ordinance.* After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this Ordinance.

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town, thereafter subdivides his land in violation of applicable Town ordinances or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under applicable Town ordinances and recorded in the office of the Johnston County Register of Deeds, or who transfers land otherwise subject to this Ordinance by reference to metes-and-bounds description shall be guilty of a Class 1 misdemeanor and in violation of this Ordinance, and are subject, upon conviction, to fine and/or imprisonment as provided by NCGS 14-4.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

The Town Council, through its attorney or other official so designated, may take any action to enforce this Ordinance as provided in Section 1.8. Civil penalties may be issued in accordance with Section 1.8. The Town Council may direct the enforcement of this Ordinance by any method listed in NC General Statutes 160A-174, including enjoining the transfer or sale of land in an illegal subdivision. Building permits required pursuant to NCGS 160A-417 may be denied for lots that have been illegally subdivided.

5.8.3. Procedure for Plat Recordation.

After the effective date of this Ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate agencies, and until this approval is entered in writing on the face of the plat by the chairperson or head of that agency. All publicly dedicated improvements must be accepted by the Town Council contingent upon final plat recordation or acceptance of an approved performance bond.

A plat shall not be filed or recorded by the Johnston County Register of Deeds of any subdivision located within the Town's jurisdiction that has not been approved in accordance with this Ordinance, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the requirements of this Ordinance.

5.8.4. Issuance of Permits

Zoning permits and building permits may be issued by the Town of Smithfield for the erection of any building on any lot within a proposed subdivision prior to the final plat of said subdivision being approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds office, provided an improvements permit has been issued by the Johnston County Health Department, if required. **A certificate of occupancy may not be issued until the final plat has been approved and recorded.**

5.8.5. School Site Reservation.

In accordance with NCGS 160A-372, if the Town Council and the Johnston County Board of Education have jointly determined the specific location and size of any school sites to be reserved in accordance with the Town of Smithfield Comprehensive Plan, staff shall immediately notify the Board of Education in writing whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

5.8.6. Dedication of Land for Park, Recreation, and Open Space.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

A developer may provide funds to the Town whereby the Town may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the Town pursuant to this paragraph shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this paragraph shall be based on the value of the development or subdivision for property tax purposes. A combination or partial payment of funds and partial dedication of land when the governing body of the Town determines that this combination is in the best interests of the citizens of the area to be served. Refer to Article 10, Part X.

SECTION 5.9 CONSTRUCTION DRAWING REVIEW REQUIREMENTS.

5.9.1. Applicability and Process.

The Construction Drawings for Site Plans, and Major Subdivision Preliminary Plats shall be submitted with the site plan or preliminary plat. The construction drawings shall be reviewed concurrent with the major site plan or major subdivision preliminary plat. Construction drawings shall be approved administratively prior to the issuance of a zoning permit.

5.9.2. Submittal Requirements.

Construction Drawings shall include the following:

- Site Plan or Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Details
- Lighting Plan
- Street Details, if applicable
- Infrastructure Details
- Stormwater Control Plan

NOTE: Improvements such as roads, curbs, bumpers, and sidewalks shall be indicated with cross-sections, design details, and dimensions.



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

Petition for Amendment to the Unified Development Ordinance

Pursuant to Article 4 of the Town of Smithfield 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. The application for any amendment shall contain a description of the proposed zoning regulation.

APPLICANT INFORMATION:

Town of Smithfield	350 East Market Street
Petitioner's Name	Address or PO Box
Smithfield, NC 27577	919-934-2116
City, State, Zip Code	Telephone

Proposed amendment to the Town of Smithfield Unified Development Ordinance:

Update/make corrections to the development review process contained in Article 5.

(Attach additional sheets as necessary)

This application must be accompanied by a Statement of Justification which addresses the following:

1. How the amendment proposed would serve the public interest or correct an obvious error in the existing ordinance.
2. How the amendment proposed will enhance or promote the purposes and goals of the adopted plans and policies of the governing body.

The undersigned hereby authorizes the filing of this petition and certifies that the information contained herein stands alone based on the merits of this request and is accurate to the best of their knowledge and belief.

Signature of Petitioner

6/1/18

Date

FOR OFFICE USE ONLY

File Number: ZA-18-06 Date Received: 6/1/18 Amount Paid: \$00.00



Request for Planning Board Action

**Application
Zoning Text
Amendment
ZA-18-08**

Date: 01/03/2019

Subject: Unified Development Ordinance Text Amendment
Department: Planning
Presented by: Mark E. Helmer, AICP, CZO Senior Planner
Presentation: Business Item

Issue Statement

The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to amend and incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, Article 3, and to make certain amendments to other sections as they pertain to the UDO Administrator's duties, the Board of Adjustments, the Planning Board, and the Town Council.

Financial Impact

There will be no financial impact to the Town.

Action Needed

To review the requested application and to make a recommendation to the Town Council for the proposed Unified Development Ordinance text amendment.

Recommendations

The Planning Department recommends approval of the proposed amendment to Article 3 of the UDO and recommends that the Planning Board approve a statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Approved: City Manager City Attorney

Attachments:

1. Staff Report
2. Ordinance
3. Full draft amendment to Article 3
4. Application and Petition for Amendment to the UDO



Staff Report

Application
Public Meeting: Zoning Text
Amendment
ZA-18-08

Purpose:

The proposed ordinance amendment to the Unified Development Ordinance (UDO) will:

- 1) Incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission (HPC) into the Unified Development Ordinance, Article 3 with a few minor changes:
 - Title of the Historic Properties Commission is recommended to be renamed to Historic Preservation Commission. Renaming the Commission will be consistent with the title of the Town of Smithfield Historic Preservation Design Guidelines manual and more accurately reflect the intent and mission of the Commission as defined by Section 3.5.1.
 - To define types of work considered as normal maintenance for contributing and noncontributing properties, and work requiring certificates of appropriateness.
 - And to update the ordinance as it pertains to demolitions of historic landmarks and buildings.
- 2) Provide needed corrections and clarifications including:
 - Minor edits to UDO Administrator's duties to reflect code changes.
 - Add Historic Preservation Commission throughout Article 3 as needed.
 - Make certain corrections to Section 3.3 Planning Board.
 - Make certain corrections to Section 3.4 Board of Adjustments including quorum and voting procedure (3.4.2.4.1) to reflect state statutes.
 - Minor additions and deletions as needed to reflect Town operations and code changes, (i.e., eliminating reference to Town Building Inspector as secretary for boards).
 - To renumber Section 3.5 Town Council to 3.6 and to amend the procedural requirement for Town Council approval of site-specific development plan.

Legislative History:

The Planning Board reviewed ZA-18-08 as it pertains to moving the HPC regulations into Article 3 at the July 2018 Planning Board meeting. Since that time, Staff has found other needed amendments to Article 3. The UDO Subcommittee met to review these changes and recommends approval.

Consistency Statement:

The zoning text amendment as proposed is consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest.

Recommended Motion:

Staff recommends the Planning Board make the following affirmative motion:

“Move to recommend the Town Council approve ZA-18-08, amending Article 3 to amend and move the Historic Properties Commission into the Unified Development Ordinance and to make certain amendments to other sections as they pertain to the UDO Administrator’s duties, the Board of Adjustments, the Planning Board, and the Town Council, finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest.”

**THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
TEXT AMENDMENT CONSISTENCY STATEMENT
BY THE SMITHFIELD PLANNING BOARD
ZA-18-08**

Whereas the Smithfield Town Council, upon acting on a text amendment to the *Unified Development Ordinance* and pursuant to NCGS §160A-383, is required to approve a statement describing how the action is consistent with the Town of Smithfield *Comprehensive Growth Management Plan*; and

Whereas the Smithfield Town Council, upon acting on a text amendment to the *Unified Development Ordinance* and pursuant to NCGS §160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT RECOMMENDED FOR ADOPTION BY THE SMITHFIELD TOWN COUNCIL AS APPROPRIATE:

IN THE EVENT THAT THE MOTION TO RECOMMEND APPROVAL OF THE ORDINANCE IS ADOPTED,

That the recommended approval of text amendment ZA-18-08 is based upon review of and consistency with, the Town of Smithfield *Comprehensive Growth Management Plan* and any other officially adopted plan that is applicable, along with additional agenda information provided to the Town Council and information provided at the public meeting; and

It is the objective of the Town of Smithfield Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The text amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the Town of Smithfield as supported by the staff report and attachments provided to the Town Council and information provided at the public meeting. Therefore, the amendment is reasonable and in the public interest.

IN THE EVENT THAT THE MOTION RECOMMEND APPROVAL THE ORDINANCE FAILS,

That the recommended approval of text amendment ZA-18-08 is based upon review of, and consistency, the Town of Smithfield *Comprehensive Growth Management Plan* and other officially adopted plans that are applicable; and

It is the objective of the Planning Board to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The text amendment does not promote this and therefore is neither reasonable nor in the public interest.

**DRAFT ORDINANCE # ZA-18-08
AN ORDINANCE TO AMEND ARTICLE 3
OF THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
TO INCLUDE THE HISTORIC PRESERVATION COMMISSION.**

WHEREAS, the Smithfield Town Council wishes to amend certain provisions in the Unified Development Ordinance by making changes to the Town of Smithfield Unified Development Ordinance to incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, to change the Board of Adjustments voting procedures to reflect statutory requirements , amending the UDO Administrator’s duties, and other minor amendments.

WHEREAS, it is the objective of the Smithfield Town Council to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that the following Articles are amended to make the following changes set forth in the deletions (strikethroughs) and additions (double underlining) below:

Part 1

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to amend Section 3.1 as it pertains to UDO Administrator’s duties.]

3.1.2.5. Review and approve zoning permit applications, ~~minor~~ site plans, minor subdivisions, and engineering drawings, ~~and final plats.~~

...

3.1.2.7. Provide nonconformity determinations, ~~including expansions of nonconforming uses and structures.~~

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to amend Section 3.2 as it pertains to the Planning Board.]

3.3.3.2. Organization, Rules, Meetings and Records. A Chair and Vice-Chair shall be nominated from among the board membership and shall be appointed by majority vote of the board. Chair and Vice-Chair term shall be for two (2) years. Upon completion of a two-year term, the board shall make nominations and appoint new officers or reappoint existing officers. The ~~Town Building Inspector and~~ UDO Administrator shall serve as Secretary and advisor to the Planning Board and shall be responsible for keeping the record of minutes of the Planning Board. The Board shall adopt rules for transaction of its business subject to review and approval by the Town Council and shall keep a record of its member attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. Except as otherwise stated in Section 3.3.3.4

below, the Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of four (4) members for the purpose of taking any official motion required by this Ordinance.

...

3.3.4.11. To review and make recommendations to the Town Council on major site plans and major subdivisions in accordance with Section 5.6.

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to amend Section 3.2 as it pertains to the Board of Adjustments.]

3.4.2.1. The Zoning Board of Adjustment shall be governed by the terms of the General Statutes of North Carolina (160A - 388).

...

3.4.2.4.1. The concurring vote equal to four-fifths of the full membership of the board present at a meeting and not excused from voting (a quorum being present), shall be necessary to grant any variance. All other actions of the board, including decisions relating to special use permits, shall be taken by majority vote of those present and not excused from voting, a quorum being present. A quorum shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats).

...

3.4.2.5.3. Secretary. The Zoning UDO Administrator shall serve as Secretary.

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to create a section titled Section 3.5, Historic Preservation Commission. All text is carried over from the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III. Historic Properties Commission with the exception of the commission's formal name to be changed to Historic Preservation Commission and add references to the Historic Preservation Commission throughout the Article as needed.]

3.1.2.9. Maintain the public records of the Planning Board, and Board of Adjustment and Historic Preservation Commission.

...

SECTION 3.2 CONFLICTS OF INTEREST.

Members of the Town Council, Planning Board, **and** Board of Adjustment **and Historic Preservation Commission**, must act in the public interest and not to advance their own financial interests. A member of an elected board, planning board, **or** board of adjustment **or Historic Preservation Commission**, may not vote on a UDO action where there is a potential financial conflict of interest. A board or council member with a financial interest in the outcome of the decision may not participate in making rezonings and other legislative zoning decisions. With quasi-judicial zoning decisions, board members may not participate in a matter involving someone with whom they have a close family or business relationship, nor may they participate if they have a bias (defined as fixed opinion that is not susceptible to change upon hearing the facts at the hearing). When a member is disqualified for a conflict of interest, that member must not participate in the hearing in any way, neither asking questions, nor debating, nor voting on the case. If an objection is raised to a member's participation or the member states a conflict of interest, the remaining members shall by majority vote to decide if the member is excused from participation.

...

3.3.4.11. To review and make recommendations to the Town Council on **major site plans** **and** major subdivisions in accordance with Section 5.6.

...

3.4.2.1. The **Zoning** Board of Adjustment shall be governed by the terms of the General Statutes of North Carolina (160A - 388).

...

3.4.2.4.1. The concurring vote equal to four-fifths of the **full membership** of the board **present at a meeting** and not excused from voting (a quorum being present), shall be necessary to grant any variance. All other actions of the board, including decisions relating to special use permits, shall be taken by majority vote of those present and not excused from voting, a quorum being present. A quorum shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats).

...

SECTION 3.5 HISTORIC PRESERVATION COMMISSION.

3.5.1. Intent. The purpose of this district is to promote and provide for land use activities which will reflect and preserve the heritage of the district through the cultural, educational, architectural and economic elements of the district.

3.5.2. Commission Designated. The State of North Carolina authorizes cities to safeguard the heritage of the town by preserving any historic site therein that embodies important elements of its cultural, social, economic, political, archaeological or architectural history and to promote the use and conservation of such site for the education, pleasure and enrichment of the residents of the town, county, and state as a whole. Pursuant to G.S. chapter 160A, article 19, part 3C, and the provisions of this chapter, the Town Council of Smithfield designates a commission to be known as the Smithfield Historic Preservation Commission.

3.5.3. Qualification of Members; Terms, Appointments, and General Duties.

3.5.3.1. Effective May 3, 2005, the commission shall consist of seven (7) members appointed by the Town Council. All members shall reside within the Town limits. In addition, all members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The commission shall serve without compensation except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

3.5.3.2. Commission members shall serve overlapping terms of two (2) years. The terms of office for all initial reappointments after the adoption of this section shall be configured as follows:

3.5.3.2.1 Three (3) commissioners, with terms to expire on June 30 of odd years.

3.5.3.2.2. Four (4) commissioners, with terms to expire on June 30 of even years. Thereafter, all appointments shall be for three-year terms.

3.5.3.3. The commission shall select from among its members a chairperson and vice-chairperson who shall be elected annually by the commissioners.

3.5.3.4. Upon its first formal meeting, and prior to performing any duties under this article or under G.S. chapter 160A, article 19, part 3C, the commission shall adopt rules of procedure governing the commission's actions which are not governed by this article or the General Statutes. The commission shall also adopt principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic landmarks and properties in historic districts. The guidelines may be amended by the Historic Preservation Commission. All guidelines and amendments shall be subject to approval by the Town Council.

3.5.4. Attendance at Meetings. Any member of the commission who misses more than three (3) consecutive regular meetings or more than four (4) meetings in a calendar year shall lose his or her status as a member and shall be replaced or reappointed by the Town Council. The council shall act within sixty (60) days to fill vacancies on the commission. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the commission, except that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

3.5.5. Meetings. The commission shall establish a meeting time and shall meet at least quarterly and more often as it shall determine and require.

3.5.6. Minutes. The commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of commission members and the commission's resolutions, findings, recommendations and actions.

3.5.7. Receipt of Gifts and Authority to Acquire Historic Properties. The Town Council shall have the right to accept gifts and donations in the name of the town for historic preservation purposes. It is authorized to make appropriations to the commission in any amount necessary for the expenses of the operation of the commission, and acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed.

3.5.8. Role of Council. The designation of a historic landmark or district shall be effected through the adoption of an ordinance by the Town Council. No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistoric, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association. The landmark or district must lie within the planning and zoning jurisdiction of the town.

3.5.8. Overlay District Established; Boundaries; Permitted Uses. An overlay district is hereby established to overlap with other zoning districts established by this Code. The boundaries of the historic district are established as indicated on the official zoning map of the town, which is on file for public inspection in the office of the department of planning and development. All uses permitted within zoning districts established by the town, whether by permitted use or by special use, shall be permitted within this overlay district according to procedures established by this section. No historic district or districts shall be designated until:

3.5.8.1. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and

3.5.8.2. The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the Town Council within thirty (30) calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the municipality of any responsibility for awaiting such analysis, and said council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The Town Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection (1) shall be prepared by the commission and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions of section 3.5.8.2. Upon receipt of these reports and recommendations, the town may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

3.5.9. Designation of Landmarks. Upon complying with the landmark designation procedures as set forth in this article, the Town Council may adopt and from time to time amend or repeal an ordinance designation one or more historic landmarks.

3.5.9.1. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistoric, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

3.5.9.2. The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property

that are integral to its historical, architectural, or prehistoric value, including the land areas of the property so designated and any other information the Town Council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. part 3C be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

3.5.10. Required Landmark Designation Procedures. As a guide for the identification and evaluation of landmarks, the commission shall undertake at the earliest possible time, and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistoric and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history. No ordinance designating an historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or the Town Council, until all of the following procedural steps have been taken:

3.5.10.1. The Historic Preservation Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this part [article], for altering, restoring, moving, or demolishing properties designated as landmarks.

3.5.10.2. The commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

3.5.10.3. The department of cultural resources, acting through the state historic preservation officer, shall either upon request of the department or at the initiative of the Historic Preservation Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this part [article]. Any comments shall be provided in writing. If the department does not submit its comments or recommendation in connection with any designation within thirty (30) days following its receipt of the investigation and report of the commission, the commission and the Town Council shall be relieved of any responsibility to consider such comments.

3.5.10.4. The Historic Preservation Commission and the Town Council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public in accordance with the North Carolina Open Meetings Law.

3.5.10.5. Following the joint public hearing or separate public hearings, the Town Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

3.5.10.6. Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such ordinance and all amendments thereto shall be filed by the commission in the office of the register of deeds of the county in which the landmark or landmarks are located, and the copy shall be made available for public inspection at any reasonable time. Each designated landmark shall

be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be given the town building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the town for such period as the designation remains in effect.

3.5.10.7. Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes.

3.5.11. Powers of the Commission. The commission shall be authorized, within the planning and zoning jurisdiction of the town, to:

3.5.11.1. Undertake an inventory of properties of historical, prehistoric, architectural and/or cultural significance;

3.5.11.2. Recommend to the Town Council structures, buildings, sites, areas or objects to be designated by ordinance as "historic landmarks" and areas to be designated by ordinance as "historic districts;"

3.5.11.3. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

3.5.11.4. Restore, preserve and operate historic properties;

3.5.11.5. Recommend to the Town Council that designation of any area as a historic district or part thereof, of any building, structure, site, area or object as a historic landmark be revoked or removed;

3.5.11.6. Conduct an educational program with respect to historic landmarks and district within its jurisdiction;

3.5.11.7. Cooperate with the state, federal and local government in pursuance of the purpose of this article; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Town Council, or the commission when authorized by the council, may contract with the state or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;

3.5.11.7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof;

3.5.11.8. Prepare and recommend the official adoption of a preservation element as part of the town's comprehensive plan;

3.5.11.9. Review and act upon proposals for alterations, demolition, or new construction

within historic districts, or for the alteration or demolition of designated landmarks pursuant to this section;

3.5.12.10 Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate; and

3.5.11.11. Approve all design plans and sketches so insure that they meet the guidelines of the Historic Preservation Commission as established by the Smithfield Town Council.

3.5.12. Certificate of Appropriateness Required. From and after September 6, 2005, no exterior architectural features of any building or structure shall be altered, restored, erected or moved within the district until a certificate of appropriateness is issued by the Historic Preservation Commission; or under special circumstances, its staff person. For the purposes of this article, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such "exterior features" may, at the discretion of the Town Council, include historic signs, color and significant landscape, archaeological, and natural features of the area.

3.5.12.1. Except as provided in subsection (2) below, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, or outdoor advertising signs or other significant features in the district of the landmark which would be incongruous with the special character of the landmark or district.

3.5.12.2. Notwithstanding subsection (1) above, the jurisdiction of the commission over interior space shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county and indexed according to the name of the owner and the specific nature of the commission's jurisdiction over the interior.

All of the provisions of this article are applicable to the construction, alteration, moving, and demolition by the state, its political subdivisions, agencies and instrumentalities, provided however that they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the local commission. The decision of the North Carolina Historical Commission shall be binding upon both the state and the Historic Preservation Commission.

3.5.12.3. The town and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating work in a historic district for any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the town or public utility companies.

3.5.13. Requirements for Issuance of Certificate of Appropriateness. An application for a certificate of appropriateness shall be obtained from, and when completed, filed with the responsible staff person.

3.5.14. Contents of Application for Certificate of Appropriateness. The application shall, in accordance with the commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted. Applications shall be considered by the commission at its next regular meeting, provided the applications have been filed, complete in form and content, at least fifteen (15) calendar days before the regularly scheduled meeting of the commission. Otherwise, they shall be deferred until the next meeting or considered at a special called meeting of the commission. Nothing shall prevent the applicant from filing, with the application, additional relevant information bearing on the application.

3.5.15. Notification of Commission and Affected Property Owners. Upon receipt of an application the responsible staff person shall notify the commission at least seven (7) days before the regularly scheduled meeting. Prior to any action taken on a certificate of appropriateness application, the owners of any property likely to be materially affected by the application shall be notified in writing, and the applicant and such owners shall be given an opportunity to be heard.

3.5.16. Public Hearing. When an application is presented to the commission a public hearing may be held when deemed necessary. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. chapter 143, article 33C.

3.5.17. Action on an Application. The action on an application shall be approval, approval with amendments, or denial.

3.5.17.1. Prior to any final action on an application, the review criteria in subsection (m) shall be used to make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district or landmark.

3.5.17.2. All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure, and not exceeding ninety (90) days from the date the application is filed. As part of its review procedure, the commission may view the premises and seek the advice of the department of cultural resources or other such experts as it may deem necessary under the circumstances.

3.5.18. Appeals. An appeal may be taken to the board of adjustment from the commission's action in granting or denying any certificate, which appeal:

3.5.18.1. May be taken by any aggrieved party.

3.5.18.2. Shall be taken within times prescribed by the commission in the rules of procedure, and

3.5.18.3. Shall be in the nature of certiorari.

Any appeal from the board of adjustment's decision in any such case shall be heard by the Superior Court of Johnston County.

3.5.19. Submission of New Applications. If a certificate of appropriateness is denied, a new application affecting the same property may be submitted only if substantial change is made in

plans for the proposed construction, reconstruction, alteration, restoration, or moving.

3.5.20. Review Criteria for Certificates of Appropriateness. To provide reasonable standards to assist in the review of the application for a certificate of appropriateness, the commission shall take into account the following elements to ensure that they are consistent with the historic or visual character or characteristics of the district:

3.5.20.1. The height and width of the building in relation to the height and width of adjacent, opposite and surrounding buildings.

3.5.20.2. The setbacks and placement of the building in relation to the setback of adjacent, opposite and surrounding buildings.

3.5.20.3. Exterior construction materials, including textures, but not to include color.

3.5.20.4. Architectural detailing such as lintels, cornices, brick bond and foundation materials.

3.5.20.5. Roof shapes, forms and materials.

3.5.20.6. Proportions, shapes, positions and locations, patterns and sizes of any elements of fenestration.

3.5.20.7. General form and proportions of buildings and structures.

3.5.20.8. Appurtenant fixtures and other features such as lighting and fencing.

It is the intention of these regulations to insure, so far as possible, that buildings or structure shall be in harmony with other buildings or structures located herein. It is not the intent of these regulations to require the reconstruction or restoration of individual or original buildings.

~~**3.5.21. Minor Works.** A certificate of appropriateness application, when determined to involve a minor work, may be reviewed and approved by the responsible staff person in the department of planning and development according to specific review criteria and guidelines. Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or the district as a whole. Such minor works shall be limited to those listed in the commission's rules of procedure. No application involving a minor work may be denied without the formal action of the commission.~~

3.5.21 Classification of Approvals

The following lists classify the types of approvals required for work in a local historic district or landmark. Classifications are based on the scope of work, project scale, and amount of deviation from historic materials and methods.

3.5.21.1 Normal Maintenance

The Commission considers the following activities to be routine maintenance of historic properties. The following activities do not require a Certificate of Appropriateness. However, other Town permits may be necessary.

3.5.21.1.1 For All Properties:

3.5.21.1.1.1. All interior work as long as it has no exterior impact (i.e., window replacement is not considered interior work for these purposes).

3.5.21.1.1.2. Minor repairs to windows, including caulking or reglazing and replacement

of window glass as long as window size and style are not altered.

3.5.21.1.1.3. Minor repairs to doors, siding, trim, gutters, flooring, steps, fences, and walls, as long as the replacements match existing materials in scale, style, design, and materials.

3.5.21.1.1.4. Roofing, foundation, and chimney work, if no change in appearance occurs;

3.5.21.1.1.5. Replacement of roofing material with matching material.

3.5.21.1.1.6. Removing screen doors or storm doors.

3.5.21.1.1.7. Caulking and weather stripping.

3.5.21.1.1.8. Exterior painting of a previously painted surface, including when a change of color is proposed.

3.5.21.1.1.9. Replacement of existing mechanical equipment (including vents).

3.5.21.1.1.10. Repairing or repaving of flat paved areas, such as driveways, walkways, and patios, if the material used is the same or similar in appearance

3.5.21.1.1.11. Installing landscaping, including vegetable, flower, and rain gardens, shrubs, and trees.

3.5.21.1.1.12. Landscape maintenance, including pruning trees and shrubs (this does not include removal of landscaping required to screen mechanical equipment or utilities).

3.5.21.1.1.13. Curb, gutter, and pavement work involving granite curbs requires public works approval.

3.5.21.1.1.14. Non-fixed elements (that can be moved without the use of heavy equipment) such as rain barrels, planters, dog houses, bird baths, and similar decorative or functional items.

3.5.21.1.2 For Noncontributing Properties:

3.5.21.1.2.1. Painting of nonhistoric material, whether previously painted or not

3.5.21.1.2.2. Installation of prefabricated outbuilding or outbuilding of 80 square feet or less when located in the rear yard

3.5.21.1.2.3. Modifications to or demolition of outbuildings

3.5.21.1.2.4. Addition of new rear decks or porches

3.5.21.1.2.5. Modification, installation, or replacement of windows and doors not facing the street

3.5.21.1.2.6. Addition of screen doors or storm windows

3.5.21.1.2.7. Alteration or replacement of roof materials

3.5.21.1.2.8. Installation of skylights and solar panels not visible from the street

3.5.21.1.2.9 Installation of gutters

3.5.21.1.2.10. Alterations to ornamentation or to cladding material

3.5.21.2. Work Requiring a Certificate of Appropriateness

3.5.21.2.1 Minor Works. Certain activities are considered by the Commission to not have a significant impact on the exterior appearance of the historic structures, and are delegated to the appropriate staff person for administrative approval.

3.5.21.2.2. Major Works. Major Works consist of modifications which significantly alter the appearance of the structure or site. These projects are required to be reviewed by the Commission. The Commission shall hold public hearings for these cases.

DRAFT

3.5.21.2.3. Classification of Approvals by Scope of Work The following chart indicates the level of approval required for various types of work.

Type of Work	Minor Work Staff Approved	Major Work HPC Approved
Architectural Work		
New Construction		
Installation of new pre-fabricated outbuilding or new structure 80 sq. ft. or less.	✓	
New structure greater than 80 sq. ft. and less than 144		✓
New structure greater than 144 sq. ft.		✓
Relocation of Structures		
Outbuilding less than 144 sq. ft.	✓	
Outbuilding greater than 144 sq. ft.		✓
Primary structure		✓
Demolition		
Contributing primary structure		✓
Non-contributing primary structure		✓
Contributing outbuilding		✓
Non-contributing outbuilding	✓	
Additions to Primary Structures		
Addition of substantial spaces such as rooms		✓
Addition of front or side decks or porches		✓
Addition of new rear decks or porches	✓	
Additions to Accessory Structures		
Addition to contributing accessory structure		✓
Addition to non-contributing accessory structure	✓	
Windows and Doors		
Replacement of original windows		✓
Replacement of non-original windows	✓	
Modification or installation of windows and doors facing the street		✓
Modification or installation of windows and doors not facing the street	✓	
Modification, installation, or replacement of storm windows or storm doors	✓	
Alteration or new construction of storefronts	✓	
Restoration of original window or door openings where doors and windows match original or existing	✓	
Installation of window air conditioning units not visible from the street	✓	
Roofs		
Alteration of roof material	✓	

Alteration of roof form (including alteration, removal, or construction of dormers)		✓
Installation of skylights or solar panels visible on front facade		✓
Installation of skylights and solar panels not visible on front facade	✓	
Construction of new or modification of character-defining chimneys		✓
Installation of gutters	✓	
Other Building Alterations		
Alterations or construction of building elements (including columns, railings, stairs, landings, ramps and	✓	
Alterations or construction of architectural details (including molding, brackets, or decorative woodwork)	✓	
Change in original cladding material or style		✓
Change in non-original cladding material or style	✓	
Painting of previously unpainted surface on contributing structure		✓
Changes to any non-contributing outbuilding	✓	
Building additions, porches, or other extant features		✓
Character defining building elements or details without reconstruction		✓
Non-character defining building elements or details without reconstruction	✓	
Site Work		
Parking areas		
New residential driveways or changes to existing residential driveways	✓	
Changes to existing parking lots	✓	
New surface parking lots	✓	
Fences or Walls		
Within the street yard (between the facade of the structure and the ROW)		✓
Within the rear or side yard	✓	
Planting or removal of trees and planting of shrubs in the street yard	✓	
Light fixtures and poles (new or replacement)	✓	
Walkways, patios or other paving	✓	

ADA Compliance		
Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will have a significant impact on the		✓
Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will not have a significant impact on the character of the structure	✓	
Installation, relocation, or removal of mechanical	✓	
Additional site work or structure not described above	✓	
Minor modifications within the right-of-way	✓	
Modifications within the right-of-way deemed significant by staff		✓
Other Work		
Renewal of Expired COA	✓	
Minor Amendments	✓	
Substantial amendments		✓
Any project for which the State Historic Preservation Office has approved the scope of work through the state and/or federal tax credit process	✓	
Work items not listed here for which a clear citation can be made for conformance with the local review criteria	✓	
Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the local review criteria, or not in conformance with the criteria		✓
Installation of temporary features to protect a historic resource that do not permanently alter the resource. Six month duration with in-kind reconstruction or an approved COA.	✓	

3.5.22. Certain Changes Not Prohibited. Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. Nothing in this ordinance shall be construed to prevent (1) the maintenance or (2) in the event of an emergency, the immediate restoration of any existing

above-ground utility structure without approval by the commission.

3.5.23. Conflict with Other Laws. Whenever any ordinance adopted for the designation of landmarks or districts requires a longer waiting period or imposes higher standards with respect to a designated landmark or district than are established under any other statute, Charter provision, or regulation, this article shall govern. Whenever the provisions of any other statute, Charter provision or regulation require a longer waiting period or impose higher standards than are established under this article, such other statute, Charter provision, ordinance, or regulation shall govern.

3.5.24. Enforcement and Remedies. Compliance with the terms of the certificate of appropriateness shall be enforced by the responsible staff person. Failure to comply with the certificate of appropriateness shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations.

3.5.24.1. A certificate of appropriateness shall expire one (1) year after the date of issuance if the work authorized by the certificate has not commenced.

3.5.24.2. If after commencement, the work is discontinued for a period of six (6) months the permit shall immediately expire.

3.5.24.3. No work authorized by any certificate which has expired shall thereafter be performed until a new certificate has been secured.

In case any building, structure, site area or object designated as a historic landmark or located within a historic district established pursuant to this article is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the article, the town, the commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such a building, structure, site, area or object. Such remedies shall be in addition to any others authorized for violation of a municipal ordinance.

3.5.25. Delay in Demolition of Landmarks and Buildings.

3.5.25.1. An application for a certificate of appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in subsection (3) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building or site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Town

Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to three hundred sixty-five (365) days or until the Town Council takes final action on the designation, whichever occurs first.

3.5.25.2. The Town Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

3.5.25.3. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the state historic preservation officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to relocate the text of Section 3.5 Town Council to a new section titled Section 3.6 Town Council and to amend the procedural requirements for site-specific development plans to reflect changes in the UDO.]

SECTION 3.6 TOWN COUNCIL.

3.6.1. The Town Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Sections 4.11.1 through 4.11.4.

3.6.2. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Section 4.10.1.

3.6.3. Unless otherwise specifically provided in this Article, in acting upon special use permit requests or in considering amendments to this Article or the zoning map, the council shall follow the regular, voting, and other requirements as set forth in other provisions of the Town code, the Town charter, or general law.

3.6.4. The Town Council, in considering the approval of a site-specific development plan (as defined in Section 4.7, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 4.69 ~~for the issuance of a special use permit.~~

PART 2

That the Unified Development Ordinance shall be page numbered and revision dated as necessary to accommodate these changes.

PART 3

That these amendments of the Unified Development Ordinance shall become effective upon adoption.

Duly adopted this the ____ day of _____, 2019.

M. Andy Moore, Mayor

ATTEST

Shannan L. Parrish, Town Clerk

DRAFT

**ARTICLE 3.
ADMINISTRATIVE/LEGISLATIVE/
QUASI-JUDICIAL AUTHORITY**

Section 3.1 UDO Administrator3-2
Section 3.2 Conflicts of Interest3-3
Section 3.3 Planning Board3-3
Section 3.4 Board of Adjustment3-8
Section 3.5 Town Council3-12

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

SECTION 3.1 UDO ADMINISTRATOR.

3.1.1. The UDO Administrator, to be designated by the Town Manager, is hereby authorized and it shall be his/her duty to enforce the provisions of this Ordinance. This official shall have the right to enter upon any premises regulated by this Ordinance at any reasonable time necessary to carry out his/her duties. If the suspected violation involves areas which cannot be viewed from public areas, an administrative search warrant must be obtained from a magistrate or judge authorizing a reasonable inspection. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the UDO Administrator. Appeal from his/her decision may be made to the Board of Adjustment. The UDO Administrator may be assisted by other Town staff in performing the duties herein.

3.1.2. In administering the provisions of this Ordinance, the UDO Administrator shall:

3.1.2.1. Make and maintain records of all applications for permits, special uses, and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved.

3.1.2.2. File and safely keep copies of all plans submitted, and the same shall form a part of the records of his/her office and shall be available for inspection at reasonable times by any interested party.

3.1.2.3. Conduct pre-application and sketch plan meetings with applicants for development approval as necessary or appropriate in accordance with Section 5.4.

3.1.2.4. Transmit to the Planning Board, Town Council, and/or the Board of Adjustment all applications and plans for which their review and approval is required along with a report of his/her recommendations as may be required.

3.1.2.5. Review and approve zoning permit applications, ~~minor~~ site plans, minor subdivisions, ~~and engineering drawings, and final plats.~~

3.1.2.6. Provide administrative interpretations of the UDO.

3.1.2.7. Provide nonconformity determinations, ~~including expansions of nonconforming uses and structures.~~

3.1.2.8. Conduct inspections of premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The UDO Administrator shall order discontinuance of illegal use of land, buildings or structures; inform the building inspections department designated by the

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

Smithfield Town Council of illegal buildings or of additions, alterations, or structural changes thereto which are not compliant with the UDO; order discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

3.1.2.9. Maintain the public records of the Planning Board, ~~and~~ Board of Adjustment ~~and~~ Historic Preservation Commission.

3.1.2.10. Perform site inspections.

SECTION 3.2 CONFLICTS OF INTEREST.

Members of the Town Council, Planning Board, ~~and~~ Board of Adjustment ~~and~~ Historic Preservation Commission must act in the public interest and not to advance their own financial interests. A member of an elected board, Planning Board, ~~or~~ Board of Adjustment, ~~or~~ Historic Preservation Commission may not vote on a UDO action where there is a potential financial conflict of interest. A board or council member with a financial interest in the outcome of the decision may not participate in making rezonings and other legislative zoning decisions. With quasi-judicial zoning decisions, board members may not participate in a matter involving someone with whom they have a close family or business relationship, nor may they participate if they have a bias (defined as fixed opinion that is not susceptible to change upon hearing the facts at the hearing). When a member is disqualified for a conflict of interest, that member must not participate in the hearing in any way, neither asking questions, nor debating, nor voting on the case. If an objection is raised to a member's participation or the member states a conflict of interest, the remaining members shall by majority vote to decide if the member is excused from participation.

SECTION 3.3 PLANNING BOARD.

3.3.1. Creation.

The Planning Board for the Town of Smithfield is created under the authority of NCGS 160A-361 to serve the public interest by promoting the public health, safety, and general welfare of the residents of the Town of Smithfield and its extraterritorial jurisdiction. It is the intent of the Town to have representation of a broad cross-section of community interests.

3.3.2. Purpose.

The Planning Board shall act in an advisory capacity to the Town Council in the matter of guiding and accomplishing a coordinated and harmonious development of the area within the Town jurisdiction.

3.3.3. Creation and Organization.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.1. Composition and Vacancies. The Planning Board shall consist of seven (7) members and two (2) alternate members. Five (5) members and one (1) alternate member shall be citizens and residents of the Town and shall be appointed by the Town Council. Two (2) members and one (1) alternate member shall be citizens and residents of the extraterritorial jurisdiction of the Town as described pursuant to GS § 160A-360 et seq. and shall be appointed by the Board of County Commissioners, upon receipt of a resolution from the Town Council requesting that such appointments be made. If the Board of County Commissioners fails to make the appointments requested within ninety (90) days of receipt of the resolution, the Town Council shall make the appointments. The Town Council will ensure that proportional representation on the Planning Board shall be maintained in accordance with NCGS 160A-362, as amended. Alternate members shall not be entitled to vote on matters before the Planning Board except when a regular Planning Board member is absent from a duly called meeting. In that situation, the alternate shall have the same privileges as the regular members and may count for quorum purposes and vote if a regular member is absent.

The terms of the members shall be for three (3) years. Vacancies, occurring for reasons other than expiration of terms shall be filled as they occur by the entity appointing them for the period of the unexpired term.

Faithful attendance of the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Planning Board. Failure to attend three (3) consecutive meetings shall be deemed adequate reason for termination of membership on the Planning Board by the Town Council.

3.3.3.2. Organization, Rules, Meetings and Records. A Chair and Vice-Chair shall be nominated from among the board membership and shall be appointed by majority vote of the board. Chair and Vice-Chair term shall be for two (2) years. Upon completion of a two-year term, the board shall make nominations and appoint new officers or reappoint existing officers. The ~~Town Building Inspector and~~ UDO Administrator shall serve as Secretary and advisor to the Planning Board and shall be responsible for keeping the record of minutes of the Planning Board. The Board shall adopt rules for transaction of its business subject to review and approval by the Town Council and shall keep a record of its member attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. Except as otherwise stated in Section 3.3.3.4 below, the Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of four (4) members for the purpose of taking any official motion required by this Ordinance.

3.3.3.3. Offices and Duties.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.3.1. Chair. A Chair shall be elected by the voting members of the Planning Board. The Chair shall decide all matters of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the Board.

3.3.3.3.2. Vice-Chair. A Vice-Chair shall be elected by the Board from among its citizen members in the same manner and for the same term as the chair. He/She shall serve as acting chair in the absence of the chair, and at such times he shall have the same powers and duties as the chair.

3.3.3.3.3. Secretary. The secretary, subject to the direction of the Chair and the Board, shall keep all records, shall conduct all correspondence of the Board and shall generally supervise the clerical work of the Board. The secretary shall keep the minutes of each meeting of the Board. These shall show the record of all important facts pertaining to every meeting and hearing, every resolution acted upon by the Board and all votes of members of the Board upon any resolution or other matter, indicating the names of members absent or failing to vote.

3.3.3.3.4. Member Responsibilities. A member shall request to be excused from discussion of or voting on any matter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable impact on the member. A member shall represent him or herself as a board member and not undermine board recommendations at any other public meetings that address planning issues.

3.3.3.4. Meetings.

3.3.3.4.1. Regular Meetings. Regular meetings of the Board shall be held in the Council Chambers of Town Hall in accordance with a schedule as established by the Planning Board.

3.3.3.4.2. Special Meetings Special meetings of the Board may be called at any time by the Chair, or in his absence, the Vice-Chair. At least twenty-four (24) hours' notice of the time and place of special meetings shall be given, by the secretary or by the Chair, to each member of the Board; provided, that this requirement may be waived by a majority of all the members.

3.3.3.4.3. Cancellation of Meetings. Whenever there is no business for the Board, the Chair may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.3.4.4. Quorum. A quorum shall consist of four (4) members of the Board for zoning changes and amendments.

3.3.3.4.5. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

3.3.3.4.5.1. Roll call

3.3.3.4.5.2. Reading of minutes of previous meetings

3.3.3.4.5.3. Reports of committees

3.3.3.4.5.4. Unfinished business

3.3.3.4.5.5. New business

3.3.3.4.6. Vote. Except as otherwise specified herein, the vote of a majority of those members present shall be sufficient to decide matters before the Board, provided a quorum is present.

3.3.3.5. Expenditures; Gifts and Donations. The expenditures of the Planning Board, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the Town Council and no indebtedness for which the Town shall be liable shall be contracted or incurred by the Planning Board unless an appropriation is made by the Town Council for such purpose, as authorized by law, and then only to the extent of such appropriation. The Planning Board shall have the right to accept gifts and donations for the exercise of its functions and may expend the money received from such gifts and donations in a manner, which in the judgment of the Planning Board is consistent with the best interests of the planning program.

3.3.4. General Powers and Duties.

The general powers and duties of the Planning Board are:

3.3.4.1. To make studies of the area within its jurisdiction and present recommendations to the Town Council.

3.3.4.2. To determine objectives to be sought in the development of the study area and present recommendations to the Town Council.

3.3.4.3. To prepare and recommend plans for achieving these objectives.

3.3.4.4. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.4.5. Advise the Town Council concerning the use and amendment of means for carrying out plans;

3.3.4.6. Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct.

3.3.4.7. Perform any other related duties that the Town Council may direct.

3.3.4.8. To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area and present recommendations to the Town Council for consideration.

3.3.4.8.1. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the Planning Board's recommendation to the Town Council for the development of the area, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, and aviation fields; and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, power, gas, sanitation, transportation, communication and other purposes; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, properties, utilities, or terminals.

3.3.4.8.2. The comprehensive plan and any ordinances or other measures to effectuate the plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the Town and its environs which will, in accordance with present and future needs, best promote health, safety, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, the wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

3.3.4.9. To prepare and recommend ordinances promoting orderly development along lines indicated in the Comprehensive Plan and advise concerning proposed amendments of such ordinances.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.3.4.10. To determine whether proposed developments conform to the principles and requirements of the Comprehensive Plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan.

3.3.4.11. To review and make recommendations to the Town Council on **major site plans** and major subdivisions in accordance with Section 5.6.

3.3.4.12. To keep the Town Council and the general public informed and advised as to these matters.

3.3.4.13. To perform any other duties that may lawfully be assigned to it.

3.3.5. Planning Board Initiated UDO Amendments.

The Planning Board may initiate from time to time proposals for amendments of the UDO and Zoning Map, based upon its studies and plans. It shall review and make recommendations to the Town Council concerning all proposed amendments to the UDO and Zoning Map. The Planning Board and Planning Department shall meet once per quarter to discuss the UDO, its application, any problems, and any changes that may be needed. This meeting can occur as part of a regularly scheduled meeting.

3.3.6. Advisory Committees.

3.3.6.1. From time to time, Town Council may appoint one (1) or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider thoroughfare plan(s), bikeway plan(s), housing plans, and economic development plans, etc.

3.3.6.2. Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the Town Council shall be made by the Planning Board.

3.3.6.3. Nothing in this Article shall prevent the Council from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Council.

SECTION 3.4 BOARD OF ADJUSTMENT.

3.4.1. Powers and Duties.

3.4.1.1. The Board of Adjustment shall hear and decide:

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.4.1.1.1. Appeals of decisions of administrative officials charged with enforcement of this Ordinance (as provided in Section 4.10.1) and requests for variances (as provided in Section 4.10.2). As used in this subsection, the term “decision” includes any final and binding order, requirement, or determination. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use and development.

3.4.1.1.2. Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines (as provided in Section 2.4.6).

3.4.1.1.3. Any other matter the Board is required to act upon by any other Town ordinance.

3.4.1.2. The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Article.

3.4.2. Creation and Organization.

3.4.2.1. The Zoning Board of Adjustment shall be governed by the terms of the General Statutes of North Carolina (160A - 388).

3.4.2.2. Membership and Vacancies. The Board of Adjustment shall consist of seven (7) regular members and two (2) alternate members. Five (5) members and one (1) alternate member shall be citizens and residents of the town and shall be appointed by the Smithfield Town Council. Two (2) members and one (1) alternate member shall be citizens and residents of the extraterritorial jurisdiction surrounding the Town of Smithfield, and shall be appointed by the Board of Commissioners of Johnston County. Alternate members shall not be entitled to vote on matters before the Board of Adjustment except when a regular Board of Adjustment member is absent from a duly called meeting. In that situation, the alternate shall have the same privileges as the regular members and may count for quorum purposes and vote if a regular member is absent.

The term of office of the members of the Board shall be for three (3) years. All members shall be subject to any appointee policy in effect by the Town of Smithfield during the term of appointment. Any vacancy which may occur will be filled according to this Ordinance and any appointee policy in effect at that time. Members may be paid or reimbursed as current Town of Smithfield policy allows.

3.4.2.3. Meetings of the Board of Adjustment.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.4.2.3.1. Regular Meetings. Regular meetings of the Board shall be held in Town Hall in accordance with a schedule as established by the Board of Adjustment; provided, however, that meetings may be held at some other convenient place in the Town if directed by the Chair in advance of the meeting, and provided further that if no business needing the attention of the Board has arisen since the last meeting and no unfinished business is pending, then the Chair may notify 24 hours in advance the other members through the Secretary that the meeting for that month will not be held.

3.4.2.3.2. Special Meetings. Special meetings of the Board may be called at any time by the Chair, or in his absence, the Vice-Chair. At least twenty-four (24) hours written notice of the time and place of special meetings shall be given by the Secretary or the Chair to each member of the Board.

3.4.2.3.3. The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Sections 4.11.1 through 4.11.4.

3.4.2.3.4. Conflicts on Quasi-Judicial Matters. A member of the Board of Adjustment or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to member's participation and that member does not recuse himself or herself, the remaining members shall, by majority vote, rule on the objection.

3.4.2.3.5. All meetings of the Board shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

3.4.2.4. Quorum and Voting.

3.4.2.4.1. The concurring vote equal to four-fifths of the **full membership** of the board **present at a meeting** and not excused from voting (a quorum being present), shall be necessary to grant any variance. All other actions of the board, including decisions relating to special use permits, shall be taken by majority vote of those present and not excused from voting, a quorum being present. A quorum shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats).

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.4.2.4.2. Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection 3.4.2.3.4 or 3.4.2.4.3 or has been allowed to withdraw from the meeting in accordance with Subsection 3.4.2.4.4.

3.4.2.4.3. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

3.4.2.4.3.1. If the matter at issue involves the member's own official conduct; or

3.4.2.4.3.2. If the participation in the matter might violate the letter or spirit of the member's code of professional responsibility.

3.4.2.4.4. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at the meeting.

3.4.2.4.5. A roll call vote shall be taken upon the request of any member.

3.4.2.5. Board of Adjustment Officers and Duties.

3.4.2.5.1. Chair. The Chair shall be elected by majority vote of the membership of the Board from among its members. His term of office shall be for one year, and until his successor is elected, beginning on July 1st, and the Chair shall be eligible for re-election. Subject to these rules, the Chair shall decide upon all points of order and procedure, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matter before the Board.

3.4.2.5.2. Vice-Chair. A Vice-Chair shall be elected by the Board from among its members in the same manner and for the same term as the Chair. He shall serve as acting Chair in the absence of the Chair, and at such times he shall have the same powers and duties as the Chair.

3.4.2.5.3. Secretary. The **Zoning UDO** Administrator shall serve as Secretary.

3.4.3. Rules of Procedure.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

All meetings held by the Board of Adjustment shall be held in accordance with NCGS Chapter 143A, Article 33B, or as may be amended, and should be recorded. The Board shall keep accurate minutes of its proceedings suitable for review in Court showing:

3.4.3.1. The record of all procedural requirements of the meeting including number and names of all Board members present, names of witnesses heard, whether parties were represented by council, whether subpoenas were issued and to who, whether cross-examination of witnesses was requested and allowed, and any other event at the hearing that had any effect on the outcome.

3.4.3.2. The factual evidence presented to the Board of Adjustment by all parties concerned.

3.4.3.3. The findings of fact and the reasons for the determinations by the Board of Adjustment.

3.4.3.4. The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the Town Clerk.

3.4.3.5. The Board may issue subpoenas. If there is noncompliance with the subpoena, the Board may apply to the courts for an order to comply.

SECTION 3.5 HISTORIC PRESERVATION COMMISSION.

3.5.1. Intent. The purpose of this district is to promote and provide for land use activities which will reflect and preserve the heritage of the district through the cultural, educational, architectural and economic elements of the district.

3.5.2. Commission Designated. The State of North Carolina authorizes cities to safeguard the heritage of the town by preserving any historic site therein that embodies important elements of its cultural, social, economic, political, archaeological or architectural history and to promote the use and conservation of such site for the education, pleasure and enrichment of the residents of the town, county, and state as a whole. Pursuant to G.S. chapter 160A, article 19, part 3C, and the provisions of this chapter, the Town Council of Smithfield designates a commission to be known as the Smithfield Historic Preservation Commission.

3.5.3. Qualification of Members; Terms, Appointments, and General Duties.

3.5.3.1. Effective May 3, 2005, the commission shall consist of seven (7) members appointed by the Town Council. All members shall reside within the Town limits. In addition, all members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The commission shall serve without compensation except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.5.3.2. Commission members shall serve overlapping terms of two (2) years. The terms of office for all initial reappointments after the adoption of this section shall be configured as follows:

3.5.3.2.1 Three (3) commissioners, with terms to expire on June 30 of odd years.

3.5.3.2.2. Four (4) commissioners, with terms to expire on June 30 of even years. Thereafter, all appointments shall be for three-year terms.

3.5.3.3. The commission shall select from among its members a chairperson and vice-chairperson who shall be elected annually by the commissioners.

3.5.3.4. Upon its first formal meeting, and prior to performing any duties under this article or under G.S. chapter 160A, article 19, part 3C, the commission shall adopt rules of procedure governing the commission's actions which are not governed by this article or the General Statutes. The commission shall also adopt principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic landmarks and properties in historic districts. The guidelines may be amended by the Historic Preservation Commission. All guidelines and amendments shall be subject to approval by the Town Council.

3.5.4. *Attendance at Meetings.* Any member of the commission who misses more than three (3) consecutive regular meetings or more than four (4) meetings in a calendar year shall lose his or her status as a member and shall be replaced or reappointed by the Town Council. The council shall act within sixty (60) days to fill vacancies on the commission. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the commission, except that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

3.5.5. *Meetings.* The commission shall establish a meeting time and shall meet at least quarterly and more often as it shall determine and require.

3.5.6. *Minutes.* The commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of commission members and the commission's resolutions, findings, recommendations and actions.

3.5.7. *Receipt of Gifts and Authority to Acquire Historic Properties.* The Town Council shall have the right to accept gifts and donations in the name of the town for historic preservation purposes. It is authorized to make appropriations to the commission in any amount necessary for the expenses of the operation of the commission, and acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed.

3.5.8. *Role of Council.* The designation of a historic landmark or district shall be effected through the adoption of an ordinance by the Town Council. No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistoric, architectural or cultural importance, and to possess integrity of design,

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

setting, workmanship, materials, feeling and/or association. The landmark or district must lie within the planning and zoning jurisdiction of the town.

3.5.8. Overlay District Established; Boundaries; Permitted Uses. An overlay district is hereby established to overlap with other zoning districts established by this Code. The boundaries of the historic district are established as indicated on the official zoning map of the town, which is on file for public inspection in the office of the department of planning and development. All uses permitted within zoning districts established by the town, whether by permitted use or by special use, shall be permitted within this overlay district according to procedures established by this section. No historic district or districts shall be designated until:

3.5.8.1. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and

3.5.8.2. The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the Town Council within thirty (30) calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the municipality of any responsibility for awaiting such analysis, and said council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The Town Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection (1) shall be prepared by the commission and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions of section 3.5.8.2. Upon receipt of these reports and recommendations, the town may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

3.5.9. Designation of Landmarks. Upon complying with the landmark designation procedures as set forth in this article, the Town Council may adopt and from time to time amend or repeal an ordinance designation one or more historic landmarks.

3.5.9.1. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistoric, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

3.5.9.2. The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

that are integral to its historical, architectural, or prehistoric value, including the land areas of the property so designated and any other information the Town Council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. part 3C be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

3.5.10. Required Landmark Designation Procedures. As a guide for the identification and evaluation of landmarks, the commission shall undertake at the earliest possible time, and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistoric and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history. No ordinance designating an historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or the Town Council, until all of the following procedural steps have been taken:

3.5.10.1. The Historic Preservation Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this part [article], for altering, restoring, moving, or demolishing properties designated as landmarks.

3.5.10.2. The commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

3.5.10.3. The department of cultural resources, acting through the state historic preservation officer, shall either upon request of the department or at the initiative of the Historic Preservation Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this part [article]. Any comments shall be provided in writing. If the department does not submit its comments or recommendation in connection with any designation within thirty (30) days following its receipt of the investigation and report of the commission, the commission and the Town Council shall be relieved of any responsibility to consider such comments.

3.5.10.4. The Historic Preservation Commission and the Town Council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public in accordance with the North Carolina Open Meetings Law.

3.5.10.5. Following the joint public hearing or separate public hearings, the Town Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

3.5.10.6. Upon adoption of the ordinance, the owners and occupants of each designated

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

landmark shall be given written notification of such ordinance and all amendments thereto shall be filed by the commission in the office of the register of deeds of the county in which the landmark or landmarks are located, and the copy shall be made available for public inspection at any reasonable time. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be given the town building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the town for such period as the designation remains in effect.

3.5.10.7. Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes.

3.5.11. Powers of the Commission. The commission shall be authorized, within the planning and zoning jurisdiction of the town, to:

3.5.11.1. Undertake an inventory of properties of historical, prehistoric, architectural and/or cultural significance;

3.5.11.2. Recommend to the Town Council structures, buildings, sites, areas or objects to be designated by ordinance as "historic landmarks" and areas to be designated by ordinance as "historic districts;"

3.5.11.3. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

3.5.11.4. Restore, preserve and operate historic properties;

3.5.11.5. Recommend to the Town Council that designation of any area as a historic district or part thereof, of any building, structure, site, area or object as a historic landmark be revoked or removed;

3.5.11.6. Conduct an educational program with respect to historic landmarks and district within its jurisdiction;

3.5.11.7. Cooperate with the state, federal and local government in pursuance of the purpose of this article; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Town Council, or the commission when authorized by the council, may contract with the state or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.5.11.7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof;

3.5.11.8. Prepare and recommend the official adoption of a preservation element as part of the town's comprehensive plan;

3.5.11.9. Review and act upon proposals for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks pursuant to this section;

3.5.12.10 Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate; and

3.5.11.11. Approve all design plans and sketches so insure that they meet the guidelines of the Historic Preservation Commission as established by the Smithfield Town Council.

3.5.12. Certificate of Appropriateness Required. From and after September 6, 2005, no exterior architectural features of any building or structure shall be altered, restored, erected or moved within the district until a certificate of appropriateness is issued by the Historic Preservation Commission; or under special circumstances, its staff person. For the purposes of this article, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such "exterior features" may, at the discretion of the Town Council, include historic signs, color and significant landscape, archaeological, and natural features of the area.

3.5.12.1. Except as provided in subsection (2) below, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, or outdoor advertising signs or other significant features in the district of the landmark which would be incongruous with the special character of the landmark or district.

3.5.12.2. Notwithstanding subsection (1) above, the jurisdiction of the commission over interior space shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county and indexed according to the name of the owner and the specific nature of the commission's jurisdiction over the interior.

All of the provisions of this article are applicable to the construction, alteration, moving, and demolition by the state, its political subdivisions, agencies and instrumentalities,

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

provided however that they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the local commission. The decision of the North Carolina Historical Commission shall be binding upon both the state and the Historic Preservation Commission.

3.5.12.3. The town and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating work in a historic district for any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the town or public utility companies.

3.5.13. Requirements for Issuance of Certificate of Appropriateness. An application for a certificate of appropriateness shall be obtained from, and when completed, filed with the responsible staff person.

3.5.14. Contents of Application for Certificate of Appropriateness. The application shall, in accordance with the commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted. Applications shall be considered by the commission at its next regular meeting, provided the applications have been filed, complete in form and content, at least fifteen (15) calendar days before the regularly scheduled meeting of the commission. Otherwise, they shall be deferred until the next meeting or considered at a special called meeting of the commission. Nothing shall prevent the applicant from filing, with the application, additional relevant information bearing on the application.

3.5.15. Notification of Commission and Affected Property Owners. Upon receipt of an application the responsible staff person shall notify the commission at least seven (7) days before the regularly scheduled meeting. Prior to any action taken on a certificate of appropriateness application, the owners of any property likely to be materially affected by the application shall be notified in writing, and the applicant and such owners shall be given an opportunity to be heard.

3.5.16. Public Hearing. When an application is presented to the commission a public hearing may be held when deemed necessary. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. chapter 143, article 33C.

3.5.17. Action on an Application. The action on an application shall be approval, approval with amendments, or denial.

3.5.17.1. Prior to any final action on an application, the review criteria in subsection (m) shall be used to make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district or landmark.

3.5.17.2. All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure, and not exceeding ninety (90) days from the date the application is filed. As part of its review procedure, the commission may view the premises and seek the advice of the department of cultural

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

resources or other such experts as it may deem necessary under the circumstances.

3.5.18. Appeals. An appeal may be taken to the board of adjustment from the commission's action in granting or denying any certificate, which appeal:

3.5.18.1. May be taken by any aggrieved party.

3.5.18.2. Shall be taken within times prescribed by the commission in the rules of procedure, and

3.5.18.3. Shall be in the nature of certiorari.

Any appeal from the board of adjustment's decision in any such case shall be heard by the Superior Court of Johnston County.

3.5.19. Submission of New Applications. If a certificate of appropriateness is denied, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

3.5.20. Review Criteria for Certificates of Appropriateness. To provide reasonable standards to assist in the review of the application for a certificate of appropriateness, the commission shall take into account the following elements to ensure that they are consistent with the historic or visual character or characteristics of the district:

3.5.20.1. The height and width of the building in relation to the height and width of adjacent, opposite and surrounding buildings.

3.5.20.2. The setbacks and placement of the building in relation to the setback of adjacent, opposite and surrounding buildings.

3.5.20.3. Exterior construction materials, including textures, but not to include color.

3.5.20.4. Architectural detailing such as lintels, cornices, brick bond and foundation materials.

3.5.20.5. Roof shapes, forms and materials.

3.5.20.6. Proportions, shapes, positions and locations, patterns and sizes of any elements of fenestration.

3.5.20.7. General form and proportions of buildings and structures.

3.5.20.8. Appurtenant fixtures and other features such as lighting and fencing.

It is the intention of these regulations to insure, so far as possible, that buildings or structure shall be in harmony with other buildings or structures located herein. It is not the intent of these regulations to require the reconstruction or restoration of individual or original buildings.

3.5.21. Minor Works. A certificate of appropriateness application, when determined to involve a minor work, may be reviewed and approved by the responsible staff person in the department of planning and development according to specific review criteria and guidelines. Minor works are

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or the district as a whole. Such minor works shall be limited to those listed in the commission's rules of procedure. No application involving a minor work may be denied without the formal action of the commission.

3.5.21 Classification of Approvals

The following lists classify the types of approvals required for work in a local historic district or landmark. Classifications are based on the scope of work, project scale, and amount of deviation from historic materials and methods.

3.5.21.1 Normal Maintenance

The Commission considers the following activities to be routine maintenance of historic properties. The following activities do not require a Certificate of Appropriateness. However, other Town permits may be necessary.

3.5.21.1.1 For All Properties:

3.5.21.1.1.1. All interior work as long as it has no exterior impact (i.e., window replacement is not considered interior work for these purposes).

3.5.21.1.1.2. Minor repairs to windows, including caulking or reglazing and replacement of window glass as long as window size and style are not altered.

3.5.21.1.1.3. Minor repairs to doors, siding, trim, gutters, flooring, steps, fences, and walls, as long as the replacements match existing materials in scale, style, design, and materials.

3.5.21.1.1.4. Roofing, foundation, and chimney work, if no change in appearance occurs;

3.5.21.1.1.5. Replacement of roofing material with matching material.

3.5.21.1.1.6. Removing screen doors or storm doors.

3.5.21.1.1.7. Caulking and weather stripping.

3.5.21.1.1.8. Exterior painting of a previously painted surface, including when a change of color is proposed.

3.5.21.1.1.9. Replacement of existing mechanical equipment (including vents).

3.5.21.1.1.10. Repairing or repaving of flat paved areas, such as driveways, walkways, and patios, if the material used is the same or similar in appearance

3.5.21.1.1.11. Installing landscaping, including vegetable, flower, and rain gardens, shrubs, and trees.

3.5.21.1.1.12. Landscape maintenance, including pruning trees and shrubs (this does not include removal of landscaping required to screen mechanical equipment or utilities).

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.5.21.1.1.13. Curb, gutter, and pavement work involving granite curbs requires public works approval.

3.5.21.1.1.14. Non-fixed elements (that can be moved without the use of heavy equipment) such as rain barrels, planters, dog houses, bird baths, and similar decorative or functional items.

3.5.21.1.2 *For Noncontributing Properties:*

3.5.21.1.2.1. Painting of nonhistoric material, whether previously painted or not

3.5.21.1.2.2. Installation of prefabricated outbuilding or outbuilding of 80 square feet or less when located in the rear yard

3.5.21.1.2.3. Modifications to or demolition of outbuildings

3.5.21.1.2.4. Addition of new rear decks or porches

3.5.21.1.2.5. Modification, installation, or replacement of windows and doors not facing the street

3.5.21.1.2.6. Addition of screen doors or storm windows

3.5.21.1.2.7. Alteration or replacement of roof materials

3.5.21.1.2.8. Installation of skylights and solar panels not visible from the street

3.5.21.1.2.9 Installation of gutters

3.5.21.1.2.10. Alterations to ornamentation or to cladding material

3.5.21.2. *Work Requiring a Certificate of Appropriateness*

3.5.21.2.1 *Minor Works.* Certain activities are considered by the Commission to not have a significant impact on the exterior appearance of the historic structures, and are delegated to the appropriate staff person for administrative approval.

3.5.21.2.2. *Major Works.* Major Works consist of modifications which significantly alter the appearance of the structure or site. These projects are required to be reviewed by the Commission. The Commission shall hold public hearings for these cases.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.5.21.2.3. Classification of Approvals by Scope of Work The following chart indicates the level of approval required for various types of work.

Type of Work	Minor Work Staff Approved	Major Work HPC Approved
Architectural Work		
New Construction		
Installation of new pre-fabricated outbuilding or new structure 80 sq. ft. or less.	✓	
New structure greater than 80 sq. ft. and less than 144		✓
New structure greater than 144 sq. ft.		✓
Relocation of Structures		
Outbuilding less than 144 sq. ft.	✓	
Outbuilding greater than 144 sq. ft.		✓
Primary structure		✓
Demolition		
Contributing primary structure		✓
Non-contributing primary structure		✓
Contributing outbuilding		✓
Non-contributing outbuilding	✓	
Additions to Primary Structures		
Addition of substantial spaces such as rooms		✓
Addition of front or side decks or porches		✓
Addition of new rear decks or porches	✓	
Additions to Accessory Structures		
Addition to contributing accessory structure		✓
Addition to non-contributing accessory structure	✓	
Windows and Doors		
Replacement of original windows		✓
Replacement of non-original windows	✓	
Modification or installation of windows and doors facing the street		✓
Modification or installation of windows and doors not facing the street	✓	
Modification, installation, or replacement of storm windows or storm doors	✓	
Alteration or new construction of storefronts	✓	
Restoration of original window or door openings where doors and windows match original or existing	✓	
Installation of window air conditioning units not visible from the street	✓	

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

Roofs		
Alteration of roof material	✓	
Alteration of roof form (including alteration, removal, or construction of dormers)		✓
Installation of skylights or solar panels visible on front facade		✓
Installation of skylights and solar panels not visible on front facade	✓	
Construction of new or modification of character-defining chimneys		✓
Installation of gutters	✓	
Other Building Alterations		
Alterations or construction of building elements (including columns, railings, stairs, landings, ramps and	✓	
Alterations or construction of architectural details (including molding, brackets, or decorative woodwork)	✓	
Change in original cladding material or style		✓
Change in non-original cladding material or style	✓	
Painting of previously unpainted surface on contributing structure		✓
Changes to any non-contributing outbuilding	✓	
Building additions, porches, or other extant features		✓
Character defining building elements or details without reconstruction		✓
Non-character defining building elements or details without reconstruction	✓	
Site Work		
Parking areas		
New residential driveways or changes to existing residential driveways	✓	
Changes to existing parking lots	✓	
New surface parking lots	✓	
Fences or Walls		
Within the street yard (between the facade of the structure and the ROW)		✓

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

Within the rear or side yard	✓	
Planting or removal of trees and planting of shrubs in the street yard	✓	
Light fixtures and poles (new or replacement)	✓	
Walkways, patios or other paving	✓	
ADA Compliance		
Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will have a significant impact on the		✓
Installation of ADA compliance updates (including ramps, etc.) where staff determines that the proposal will not have a significant impact on the character of the structure	✓	
Installation, relocation, or removal of mechanical equipment	✓	
Additional site work or structure not described above	✓	
Minor modifications within the right-of-way	✓	
Modifications within the right-of-way deemed significant by staff		✓
Other Work		
Renewal of Expired COA	✓	
Minor Amendments	✓	
Substantial amendments		✓
Any project for which the State Historic Preservation Office has approved the scope of work through the state and/or federal tax credit process	✓	
Work items not listed here for which a clear citation can be made for conformance with the local review criteria	✓	
Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the local review criteria, or not in conformance with the criteria		✓

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

Installation of temporary features to protect a historic resource that do not permanently alter the resource. Six month duration with in-kind reconstruction or an approved COA.		
---	--	--

3.5.22. Certain Changes Not Prohibited. Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. Nothing in this ordinance shall be construed to prevent (1) the maintenance or (2) in the event of an emergency, the immediate restoration of any exiting above-ground utility structure without approval by the commission.

3.5.23. Conflict with Other Laws. Whenever any ordinance adopted for the designation of landmarks or districts requires a longer waiting period or imposes higher standards with respect to a designated landmark or district than are established under any other statute, Charter provision, or regulation, this article shall govern. Whenever the provisions of any other statute, Charter provision or regulation require a longer waiting period or impose higher standards than are established under this article, such other statute, Charter provision, ordinance, or regulation shall govern.

3.5.24. Enforcement and Remedies. Compliance with the terms of the certificate of appropriateness shall be enforced by the responsible staff person. Failure to comply with the certificate of appropriateness shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations.

3.5.24.1. A certificate of appropriateness shall expire one (1) year after the date of issuance if the work authorized by the certificate has not commenced.

3.5.24.2. If after commencement, the work is discontinued for a period of six (6) months the permit shall immediately expire.

3.5.24.3. No work authorized by any certificate which has expired shall thereafter be performed until a new certificate has been secured.

In case any building, structure, site area or object designated as a historic landmark or located within a historic district established pursuant to this article is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the article, the town, the commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such a building, structure, site, area or object. Such remedies shall be in addition to any others authorized for violation of a municipal ordinance.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

3.5.25. Delay in Demolition of Landmarks and Buildings.

3.5.25.1. An application for a certificate of appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in subsection (3) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building or site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Town Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to three hundred sixty-five (365) days or until the Town Council takes final action on the designation, whichever occurs first.

3.5.25.2. The Town Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

3.5.25.3. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the state historic preservation officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

SECTION 3.5 6 TOWN COUNCIL.

3.5.6.1 The Town Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Sections 4.11.1 through 4.11.4.

3.5.6.2. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Section 4.10.1.

3.5.6.3. Unless otherwise specifically provided in this Article, in acting upon special use permit

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

requests or in considering amendments to this Article or the zoning map, the council shall follow the regular, voting, and other requirements as set forth in other provisions of the Town code, the Town charter, or *general* law.

3.5.6.4. The Town Council, in considering the approval of a site-specific development plan (as defined in Section 4.7, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 4. ~~69 for the issuance of a special use permit.~~

SECTION 3.6 TOWN COUNCIL.

3.5.1. The Town Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Sections 4.11.1 through 4.11.4.

3.5.2. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Section 4.10.1.

3.5.3. Unless otherwise specifically provided in this Article, in acting upon special use permit requests or in considering amendments to this Article or the zoning map, the council shall follow the regular, voting, and other requirements as set forth in other provisions of the Town code, the Town charter, or general law.

3.5.4. The Town Council, in considering the approval of a site-specific development plan (as defined in Section 4.7, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 4. ~~69 for the issuance of a special use permit.~~



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

Petition for Amendment to the Unified Development Ordinance

Pursuant to Article 4 of the Town of Smithfield 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. The application for any amendment shall contain a description of the proposed zoning regulation.

APPLICANT INFORMATION:

<u>Town of Smithfield</u>	<u>350 East Market Street</u>
Petitioner's Name	Address or PO Box
<u>Smithfield, NC 27577</u>	<u>919-934-2116</u>
City, State, Zip Code	Telephone

Proposed amendment to the Town of Smithfield Unified Development Ordinance:

Incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance. Amends other sections as they pertain to the UDO Administrator's duties, the Board of Adjustments, the Planning Board, and the Town Council. (Attach additional sheets as necessary)

This application must be accompanied by a Statement of Justification which addresses the following:

1. How the amendment proposed would serve the public interest or correct an obvious error in the existing ordinance.
2. How the amendment proposed will enhance or promote the purposes and goals of the adopted plans and policies of the governing body.

The undersigned hereby authorizes the filing of this petition and certifies that the information contained herein stands alone based on the merits of this request and is accurate to the best of their knowledge and belief.

 Signature of Petitioner

6/1/18
 Date

FOR OFFICE USE ONLY

File Number: <u>ZA-18-08</u>	Date Received: <u>6/1/18</u>	Amount Paid: <u>\$00.00</u>
------------------------------	------------------------------	-----------------------------



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

Permit Issued for November 2018

			Permit Fees	Permits Issued
Site Plan	Minor Site Plan		175.00	4
Zoning	Land Use		\$500.00	5
Zoning	Sign		\$300.00	6
Report Period Total:			\$975.00	15
Fiscal YTD Total:			\$7,600.00	107

SP18-000044	Site Plan	Minor Site Plan	Handicap Ramp Construction	204 West Stevens Street
SP18-000045	Site Plan	Minor Site Plan	SFD Accessory Structure	619 NC 210 Highway
SP18-000046	Site Plan	Minor Site Plan	22 X 24 detached garage	107 Greenwood Circle
Z18-000197	Zoning	Land Use	Smithfield Storage	1343 West Market Street
Z18-000198	Zoning	Sign	B'annas Hair Salon Wall Sign	23 Noble Street
Z18-000201	Zoning	Sign	Smithfield Storage	1343 West Market Street
Z18-000200	Zoning	Sign	Classic Ford Dealership	1324 North Brightleaf Blvd
Z18-000202	Zoning	Sign	Arby's Restaurant	1720 East Market Street
Z18-000203	Zoning	Land Use	Spanky's Christmas Trees	404 North Brightleaf Blvd
Z18-000204	Zoning	Land Use	Soul Seafood Cafe	2110 South Brightleaf
Z18-000205	Zoning	Land Use	Verizon Wireless	110 South Fifth Street
Z18-000206	Zoning	Land Use	Jackson Hewitt Tax Service	823 North Brightleaf Boulevard
Z18-000207	Zoning	Sign	Aerie Outlet Store	1025 Outlet Center Suite Dr.
Z18-000199	Zoning	Sign	Verizon Wireless	1104 North Brightleaf Blvd
SP18-000047	Site Plan	Minor Site Plan	O'Reilly Auto Parts Addition	816 North Brightleaf Blvd



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

BOARD ACTIONS REPORT - 2018

	November	Calendar Year to date
Town Council		
Zoning Map Ammendments	1	7
Special Use Permit	1	11
Zoning Ordinance Amendments	1	9
Major Subdivisions	1	1
Annexations	1	1
Special Events	0	14
Site Plan	0	0
Planning Board		
Zoning Map Amendments	0	8
Zoning Ordinance Ammendments	0	12
Major Subdivisions	1	1
Board of Adjustment		
Variance	0	4
Admin Appeal	0	0
Historic Properties Commission		
Certificate of Appropriateness	0	0
Historic Landmarks	0	0