



## **PLANNING BOARD AGENDA**

### ***Members:***

***Chairman: Mark Lane (ETJ)***

***Vice-Chairman: Debbie Howard (Town)***

***Doris Wallace (Town)***

***Ashley Spain (ETJ)***

***Bryan Stanley (Town)***

***Alisa Bizzell (Town)***

***Wiley Narron (Alternate)***

***Stephen Wensman, AICP, ALA, Planning Director***

***Mark Helmer, AICP, CFM, Senior Planner***

***Julie Edmonds, Administrative Assistant***

***Meeting Date: Thursday, November 3, 2022***

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

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

# PLANNING BOARD AGENDA

FOR REGULAR MEETING

NOVEMBER 3, 2022

MEETING TIME: 6:00 PM

TOWN HALL COUNCIL CHAMBERS

**Call to Order.**

**Pledge of Allegiance.**

**Identify voting members.**

**Approval of the agenda.**

**Approval of the minutes for October, 6 2022.**

**New Business.**

**SUP-22-03 Bobby Huskey:** The applicant is requesting a special use permit to construct and operate private bar on property located within the B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the east side of Venture Drive approximately 250 feet south of its intersection with Magnolia Drive and further identified as Johnston County Tax ID# 15L11009M.

**RZ-22-03 Highway 70 QOZB, LLC:** The applicant is requesting to rezone a 9.04-acre tract of land from the LI (Light Industrial) zoning district to the HI (Heavy Industrial) zoning district. The property considered for rezoning approval is located on the southeast end of Gulfstream Court and further identified as Johnston County Tax ID# 15079005D

**ZA-22-01 Town of Smithfield:** The applicant is requesting an amendment to Unified Development Ordinances, Article 10, Section 10.114 as it pertains to recreation and park dedication requirements for major subdivisions, commercial developments, and industrial parks.

**Old Business.**

Permit Report for September-October 2022

**Adjournment.**

**Town of Smithfield  
Planning Board Minutes  
Thursday, September 1st, 2022  
Town Hall Council Chambers  
6:00 PM**

Members Present:

Chairman Mark Lane  
Vice-Chairman Debbie Howard  
Ashley Spain  
Debbie Howard  
Wiley Narron  
Alisa Bizzell

Members Absent:

Doris Wallace  
Brian Stanley

Staff Present:

Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA** Debbie Howard made a motion to approve the agenda; seconded by Ashley Spain. Unanimously approved

**APPROVAL OF MINUTES for September 1st, 2022**

Debbie Howard made a motion to approve the minutes, seconded by Ashley Spain. Unanimously approved.

**NEW BUSINESS**

**ZA-22-03 Town of Smithfield: The applicant is requesting an amendment to Unified Development Ordinances, Article 8, Section 8.13.6 to allow for a maximum building height of 100 feet when located within a B-3 (Highway Entrance Business) zoning district and within 660 feet of Interstate Highway 95.**

Mark Helmer presented ZA-22-03 stating the Planning Board had requested staff to draft an amendment to the Unified Development Ordinance (UDO) so that special use permits for height greater than 40' up to 100' would no longer be required. Each zoning district has specific dimensional standards including a standard for building height in Article 8 of the UDO. Section 8.13 contains notes to the Zoning District Standards including the note:

Section 8.13.5 Building height may be increased above 40 feet up to a maximum of 100 feet through the issuance of a special use permit.

This note does not specify to which districts it applies, but the only districts that currently allow building heights of 40 feet are the commercial and industrial districts. The Town recently amended the UDO to allow buildings up to 80' in height in the Light Industrial District. All of the special use permits for height over 40 feet have been within 660 feet of I-95 and all have been for hotels. In all cases, no special conditions were placed on special use permits.

The draft UDO amendment would amend Section 8.9.1, by adding a reference to Section 8.13.6 and amending Section 8.13.6, by striking SUP requirement for buildings over 40' to 100' and allowing buildings height up to 100' within 660 feet of the I-95 corridor in the B-3 zoning district. This amendment would eliminate the ability to construct buildings over 40 feet in the other commercial districts and the heavy industrial district unless the additional building height were allowed through a conditional zoning application.

Staff finds the zoning text amendment as proposed 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. Planning Staff recommend the Planning Board recommend approval of the zoning text amendment, ZA-22-03, with a statement declaring the request consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Mark Lane asked if there was any other B-3 zone besides the hotel district?

Mark Helmer said yes there are other B-3 zones and he showed them on the map.

Debbie Howard made a motion to recommend approval of zoning text amendment, ZA-22-03, 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; seconded by Ashley Spain. Unanimously approved

**ZA-22-01 Town of Smithfield: The applicant is requesting an amendment to Unified Development Ordinances, Article 10, Section 10.114 as it pertains to recreation and park dedication requirements for major subdivisions, commercial developments and industrial parks.**

Mark Helmer stated staff is requesting the Planning Board recommend approval of an amendment to the Unified Development Ordinance, Article 10, Section 10.114 as it pertains to recreation and park dedication requirements for major subdivisions.

The Town Council directed staff to review park dedication requirements in the Unified Development Ordinance. As a result, Park Director, Gary Johnson, had the parks consultants, McAdams, to review the Town's Park dedication fee-in-lieu requirements (See attached

Report). The report found the Town's fee in lieu, currently at 1.75%, to be the lowest in a comparison with peer communities. The report also found the Town's regulation to be out of compliance with the recent 160D enabling legislation. The report suggests the need to increase fee-in-lieu requirements to address parks and recreation needs into the future and provides examples showing fee increases to 2.25% and 3%. Staff has augmented the examples showing increases up to 10% (See the attached Park Dedication Fee-in-Lieu Comparisons). Staff has drafted the ordinance with a 7% park dedication requirement. This can be amended by the Council at the public hearing changing the amount to a greater or lesser figure.

Other changes to Article 10, Section 10.114 Recreation include:

- Changed required fee-in-lieu to be based on appraised tax value. The current ordinance requires the fee to be based on an independent appraisal.
- Aligned the applicability section to more closely match the 160D as it pertains to applying park dedication funds to improvements to the "immediate area".
- Amended the exceptions section. Eliminated the subsection that pertains to land dedication less than 2000 sq. ft. Parks that small won't be able to meet recreation needs and the Town Council already has the ability to require park fee in lieu.
- Amends section 10.114.2.3 pertaining to greenway connections. The Council reviews plats and can already conditionalize connections to adjacent greenways. The dimensions in the ordinance are too rigid and the requirement should be left to the discretion of the Town Council.
- Removed all sections related to commercial park dedication or fee in lieu. Staff could find no other community in North Carolina that requires commercial park dedication.
- Off-street Parking section was deleted and now refers to the Article 10, Part I Off-Street Parking and Loading Requirements.
- In Section 10.114.7, the required recommendation by Recreation and Parks Advisory Council was deleted. Plat review by the Advisory Board has not been a town practice for a very long time.
- In Section 10.114.7 the provision that gives park dedication credit for private parks has been deleted. The 160D legislation implies that park dedication should be for the subdivision and "Immediate area" and private parks would not meet that public purpose.
- The section that allows fees to be paid 1-year after preliminary plat was deleted. The Town has no process to collect fee-in-lieu except at final plat.

Wiley Narron asked what was meant by peer communities?

Mark Helmer said we look to other communities like our size to see what they are doing. We probably checked out Knightdale, Garner and Wilson. We have the lowest fees to anyone around us.

Wiley Narron asked if 10.114.8 Payments in Lieu of Dedication is the tax value of the acreage necessary for that subdivision?

Mark Helmer said the fee-in-lieu is calculated based on what a private appraiser hired by the property owners says it's worth. But we are proposing to change it and base the fee-in-lieu on what the tax office says it is worth.

Debbie Howard said right now land values are much higher than what tax values are.

Mark Helmer said at this point and time yes, however that isn't always the case.

Wiley Narron asked if by going by the appraised tax value that it provided a happy medium?

Mark Helmer said it's just more cut and drier. It eliminates any discrepancies from multiple appraisers and is a statutory requirement.

Debbie Howard asked if a developer came in with a subdivision request would they not be required to have open space?

Mark Helmer said they would still have to meet all other development requirements. In addition, developments must dedicate property for park space or pay fee-in-lieu.

Debbie Howard said she didn't have a problem with this request other than going from 1.75 to 10%. She feels that we are making a huge jump all at one time. We want to control development and make smart development. We've had some developments come in over the last few years that we've had no control over because we had to go by the books.

Mark Helmer said the reason we go out and look at the other numbers is because we want to be competitive with other communities. They want to be sure development is paying their way. One of those ways is to make sure we have a park system that is capable of serving the community now and into the future. If we don't require these developers to help us with the infrastructure then how else are we going to pay for it. It seems like a lot because we haven't been getting what we should have.

Ashley Spain agrees that current fees are too low. If we are receiving fee-in-lieu where is the land going to be located for these parks.

Mark Helmer said the way state statutes requires that the park dedication be used for parks in the immediate area around the development.

Mark Lane suggested that Debbie Howard gather some questions about this.

Debbie Howard stated that she would like to see ZA-22-01 tabled for at least one month to allow her time to digest this request.

Mark Helmer said we've had this ordinance in place for a long time. We've increased the fees to match what other surrounding towns are doing.

Debbie Howard made a motion to table ZA-22-01 until the next Planning Board meeting on November 3, 2022; seconded by Wiley Narron. Unanimously approved

**OLD BUSINESS:** None

**Adjournment**

Being no further business, Ashley Spain made a motion seconded by Debbie Howard to adjourn the meeting. Unanimously approved.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Julie Edmonds".

Julie Edmonds  
Administrative Support Specialist



# Request for Planning Board Review

Agenda SUP-22-  
Item: 03  
Date: 11/3/22

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**Subject:** Robert Huskey special use permit  
**Department:** Planning  
**Presented by:** Mark Helmer, Senior Planner  
**Presentation:** Public meeting

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## Issue Statement

The applicant, Bobby Huskey, is requesting a special use permit to construct and operate a private bar on property located within a B-3 Zoning District.

## Financial Impact

None

## Action Needed

The Town Council is requested to hold a public hearing to review the application and make a decision whether to approve, approve with conditions or deny based on the finding of fact for special use permits.

## Recommendation

Planning Staff will recommend that Town Council approve the Special Use Permit with the condition that the applicant receive administrative site plan approval prior to constructing an outdoor seating area.

Approved:  Town Manager  Town Attorney

## Attachments:

1. Staff report
2. Site Plan and Elevations
3. Application
4. Finding of Fact





# Staff Report

Agenda SUP-  
Item: 22-03

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## REQUEST:

The applicant, Robert Huskey, is requesting a special use permit to construct and operate a private bar on property located within a B-3 (Highway entrance Business) Zoning District.

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## APPLICATION DATA:

Applicant/Owner: G3TECH, LLC  
Agents: none  
Property Identification Number: 260418-31-0201  
Town Limits/ETJ: Town Limits  
Acreage: .036 acres  
Present Zoning: B-3 (Highway Entrance Business)  
Existing Use: Retail / Office Strip Center  
Proposed Use: Private Bar  
Water Service: Town of Smithfield  
Sewer Service: Town of Smithfield  
Electrical Service: Town of Smithfield

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## PROJECT LOCATION:

The property considered for approval is known as Venture Business Park and located on the east side of Venture Drive approximately 250 feet south of its intersection with Magnolia Drive. The property is further identified as Johnston County Tax ID# 15L11009M.

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## ADJACENT ZONING AND LAND USES:

	Zoning	Existing Land Use
<b>North:</b>	B-3 (Highway Entrance Business)	Undeveloped Lot
<b>South:</b>	B-3 (Highway Entrance Business)	Dental Office
<b>East:</b>	B-3 (Highway Entrance Business)	Carolina Premium Outlet
<b>West:</b>	B-3 (Highway Entrance Business)	Venture Pointe shopping Center

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**ENVIRONMENTAL:** there are no environmental issues.

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**STAFF ANALYSIS AND COMMENTARY:**

The applicant is requesting a special use permit for a private bar within the Venture Office Park in accordance with the Town of Smithfield Unified Development Ordinance, Article 6, Section 6, Tables of Uses and Activities. The UDO has no additional supplemental standards for private bars. Venture Business Park is constructed to modern zoning standards and designed with adequate parking to accommodate a wide range of uses that are often found in shopping centers. The applicant has expressed the desire for an outdoor seating area in the future. Staff recommends that any future proposed outdoor seating receive administrative site plan approval and permitting prior to the applicant beginning construction.

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**FINDINGS OF FACT (*Staff findings in Bold Italic*)**

4.9.4.5.1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare. The project will not be detrimental to or endanger the public health, safety or general welfare. ***The proposed private bar at this location will not endanger the public and is a common use within the B-3 district zoning district. All public health and safety standards to include fire codes and building codes can and will be met. Therefore, staff believes the special use will not be a deterrent to the public, health, safety or welfare.***

4.9.4.5.2. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. ***The project will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.***

4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided. The development will provide adequate utilities, drainage, parking and necessary facilities. ***The development will have adequate utilities, drainage, parking and necessary facilities.***

4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. ***The use will not create such nuisances.***

4.9.4.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. Proper ingress and egress will be provided. ***Adequate ingress and egress will be provided as required.***

4.9.4.5.6. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property. ***The use will have no adverse impacts on the abutting or adjoining properties.***

4.9.4.5.7. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. ***The proposed bar is adjacent to other retail shopping centers and will be in harmony with the area.***

4.9.4.5.8. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located. ***The proposed project will be in conformance with the UDO requirements.***

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**RECOMMENDATION:**

Planning Staff will recommend to Town Council that the proposed Special Use Permit request be approved with the condition that any future outdoor seating areas receive administrative site plan approval prior to construction.

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

**Application Number:** SUP-22-03      **Name:** The Bar Association

**Request:** The applicant seeks a special use permit to utilize property located within a B-3 (Highway Entranceway Business District) zoning district for a private bar. The property considered for approval is located on the east side of Venture Drive approximately 250 feet south of its intersection with Magnolia Drive and further identified as Johnston County Tax ID# 15L11009M.

In approving an application for a special use permit in accordance with the principles, conditions, safeguards, and procedures specified herein, the Town Council may impose reasonable and appropriate conditions and safeguards upon the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council shall include in its comments a statement as to the consistency of the application with the Town's currently adopted Comprehensive Plan. The applicant has the burden of producing competent, substantial evidence tending to establish the facts and conditions which the below requires.

The Town Council shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

- 4.9.4.5.1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.
- 4.9.4.5.2. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided.
- 4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
- 4.9.4.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 4.9.4.5.6. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property.
- 4.9.4.5.7. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.
- 4.9.4.5.8. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.

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

**Motion to Approve:** *Based upon satisfactory compliance with the above stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to approve Special Use Permit Application # SUP-22-03 with the following condition(s):*

1. \_\_\_\_\_

**Motion to Deny:** *Based upon failure to meet all of the above stated findings and for reasons stated therein, I move to deny Special Use Permit Application # SUP-22-03 for the following stated reason:*

1. \_\_\_\_\_

**Record of Decision:**

**Based on a motion and majority vote of the Town of Smithfield Town Council for the Special Use Permit Application Number SUP-22-03 is hereby:**

\_\_\_\_\_ **approved upon acceptance and conformity with the following conditions:**

1. \_\_\_\_\_

\_\_\_\_\_ **denied for the noted reasons.**

1. \_\_\_\_\_

**Decision made this 6th day of December, 2022, while in regular session.**

\_\_\_\_\_  
**M. Andy Moore, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Shannan L. Parrish, Town Clerk**

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# The Bar Association

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10/20/2022

In my Statement of Justification I noted that I would be having food trucks from time to time and outdoor games such as cornhole. This would be my phase II of the business in the future but not necessarily what I wish to do upon opening. My main goal is to get opened as simply as possible and working my way to begin phase II.

Sincerely,

Robert Huskey



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

## SPECIAL USE PERMIT APPLICATION

*Pursuant to Article 4, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town Council to allow a Special Use. Special Uses are uses that may be appropriate in a particular district, but has the potential to create incompatibilities with adjacent uses.*

*Special Use Permit applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans and one (1) digital copy of all required documents, an Owner's Consent Form (attached) and the application fee.*

### SITE INFORMATION:

Name of Project: The Bar Association Acreage of Property: 1.000  
 Parcel ID Number: 15-L-11-009-M Tax ID: 15L11009M  
 Deed Book: 06005 Deed Page(s): 0020  
 Address: 447 Suit H Venture Dr.  
 Location: SMITHFIELD N.C. 27577

Existing Use: Vacant Proposed Use: Bar  
 Existing Zoning District: B-3

Is project within a Planned Development: Yes  No   
 Planned Development District (if applicable): N/A  
 Is project within an Overlay District: Yes  No   
 Overlay District (if applicable): \_\_\_\_\_

FOR OFFICE USE ONLY			
File Number: <u>507-22-03</u>	Date Submitted: <u>10-6-22</u>	Date Received: <u>10-6-22</u>	Amount Paid: <u>\$400</u>

## OWNER INFORMATION:

Name: 63Tech, LLC  
Mailing Address: 199 Settlement Dr. Apex 27523  
Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email Address: www.505n.c.gov/series

## APPLICANT INFORMATION:

Applicant: Robert Huskey  
Mailing Address: 102 West Rose St Smithfield N.C.  
Phone Number: 919-427-7211 Fax: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Email Address: HuskeyBunt@outlook.com

## STATEMENT OF JUSTIFICATION

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

I would like an opportunity to provide this community with an upscale type place to go have a few drinks with family or pets and FEEL safe and relaxed and have fun

I will serve liquor/martinis wine and beer plan to have food trucks games/corn hole also will have a few tv's for game day Sunday

This place will have more of a chill atmosphere instead of a party place with zero tolerance for trouble and ruckus!



## REQUIRED SITE PLAN INFORMATION

*Article 5 of the Town of Smithfield Unified Development Ordinance requires a site plan 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:*

- ✓ 1) A key map of the site with reference to surrounding areas and existing street locations.
- ✓ 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.
- ✓ 3) Parcel Identification Numbers (PIN) for site and adjacent properties.
- ✓ 4) Deed book and page reference demonstrating ownership of property.
- ✓ 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.
- ✓ 6) Building setback, side line, and rear yard distances.
- ✓ 7) Location of watercourses, ponds, flood zones, water supply watershed areas, and riparian buffers.
- 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.
- 9) Topography showing existing and proposed contours at no greater than ten (10) foot intervals. All reference benchmarks shall be clearly designated.
- ✓ 10) The zoning of the property, including zoning district lines where applicable.
- 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).
- 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.
- 13) Types of surfaces for drives, sidewalks, and parking areas.
- 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.
- 15) Other utility lines both under- and above-ground, including electric power, telephone, gas, cable television.
- 16) Location of all US Clean Water Act Section 404 wetland areas, located or 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.
- 17) The location of all common areas.
- 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.
- 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.
- 20) Proposed site lighting.

# OWNER'S CONSENT FORM

Name of Project: 447 Venture Dr. Suite H Submittal Date: \_\_\_\_\_

## OWNERS AUTHORIZATION

I hereby give CONSENT to Robert Huskey (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Smithfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

[Signature] P. GHOSH FOR G3TECH, LLC Oct. 6, 2022  
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.

[Signature] P. GHOSH FOR G3TECH, LLC Oct. 6, 2022  
Signature of Owner/Applicant Print Name Date

Robert Huskey Robert Huskey 10/6/22

## FOR OFFICE USE ONLY

File Number: \_\_\_\_\_ Date submitted: \_\_\_\_\_ Date received: \_\_\_\_\_

## REQUIRED FINDING OF FACT

Article 4 of the Town of Smithfield Unified Development Ordinance requires applications for a Special Use Permit to address the following findings. The applicant has the burden of producing competent, substantial evidence tending to establish the facts and conditions which this section requires. The Town Council shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

- 1) The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.

*RAT* unit/Suite H is at the far end of the Building. All activity will be inside of the bar with no loud noises

- 2) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

*RAT* no it will not

- 3) Adequate utilities, drainage, parking, or necessary facilities have been or are being provided.

*RAT* There's at least 25 parking spots during daylight hours and about 60 available after 5pm. We have one unisex bathroom

- 4) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

*RAT* my business is at the end of building with 2 vacant units beside me between me and the other businesses

- 5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

*RAT* Paved parking with adequate entrance and exit points

- 6) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property.

*RAT* see #4

- 7) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.

*RAT* no noise/trash nor outside partying will be going on.

- 8) The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.

*RAT* see #7

# 400 Block of Venture Drive

File Number:  
SUP-22-03

Project Name:  
The Bar  
Association

Request:  
Private Bar  
With No Food Service

Existing Zoning:  
B-3 (Business)

Existing Land Use:  
Retail / Office  
Strip Center

Tax ID#  
15L11008R

Owner:  
Heritage IV  
Smithfield LLC

Applicant:  
Bobby Huskey



1 in = 100 ft

Map created by the Mark E. Helmer, AICP  
Senior Planner, GIS Specialist on 10/27/2022

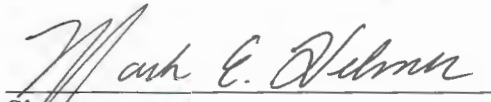




**PLANNING DEPARTMENT**  
Mark E. Helmer, AICP, Senior Planner

**ADJOINING PROPERTY OWNERS CERTIFICATION**

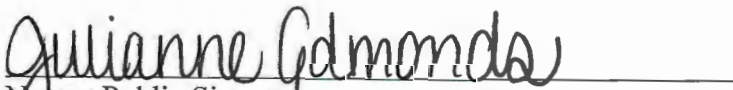
I, **Mark E. Helmer**, hereby certify that the property owner and adjacent property owners of the following petition, **SUP-22-03**, were notified by First Class Mail on **10-21-22**.

  
Signature

Johnston County, North Carolina

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

21<sup>st</sup> day of October, 2022

  
Notary Public Signature

Julianne Edmonds  
Notary Public Name

My Commission expires on January 15, 2023  
(Seal)



Adjacent Property Owners of  
SUP-22-03

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15L11008R	260418-21-9248	HERITAGE IV SMITHFIELD LLC	PO BOX 3342	CHAPEL HILL	NC	27515-3342
15L11009M	260418-31-0201	G3TECH, LLC	199 SETTLEMENT DR	APEX	NC	27523-6731
15L11009P	260418-20-7817	MCLAMB, THERON LEE	111 MARIAH DR	FOUR OAKS	NC	27524-8433
15L11008Q	260418-20-9952	SPARKS MCLAMB INVESTMENTS LLC	111 MARIAH DR	FOUR OAKS	NC	27524-8433
15008045U	260418-21-5330	MOHAMED AND SONS INC	P O BOX 1236	SMITHFIELD	NC	27577-0000
15008046P	260418-20-6807	PARTNERS EQUITY GROUP	P O BOX 1524	SMITHFIELD	NC	27577-0000
15L11008P	260418-20-7990	CDM PROPERTIES LLC	PO BOX 7794	ROCKY MOUNT	NC	27804-0000
15L11009L	260418-21-9271	ALLIED DEVELOPMENT INC	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15L11009G	260418-21-8157	WEAVER, E FRANK III	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15L11009J	260418-21-9139	WEAVER, E FRANK III	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15L11009F	260418-21-8136	WEAVER, E FRANK III	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15L11009K	260418-21-9250	WEAVER, E FRANK III	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15L11009H	260418-21-8188	WEAVER, E FRANK III	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15L11008S	260418-21-8355	ALLIED DEVELOPMENT INC	350 WAGONER DRIVE STE 100	FAYETTEVILLE	NC	28303-0000
15L11009I	260418-21-9109	WEAVER, E FRANK III	350 WAGONER DRIVE	FAYETTEVILLE	NC	28303-0000
15074012L	260418-31-6044	CAROLINA PREMIUM OUTLETS LLC	PO BOX 6120	INDIANAPOLIS	IN	46206
		Robert Huskey	102 West Rose Street	Smithfield	NC	27577



# Request for Planning Board Action

Agenda  
Item: RZ-22-05  
Date: 11/03/22

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**Subject:** Zoning Map Amendment  
**Department:** Planning  
**Presented by:** Stephen Wensman, Planning Director  
**Presentation:** Public meeting

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## Issue Statement

Sanderson Engineering is requesting the rezoning of a 9.04-acre property at the end of Gulf Stream Court from Light Industrial to Heavy Industrial for food (protein) manufacturing use proposed for the site.

## Financial Impact

None.

## Action Needed

The Planning Board is respectfully requested to hold a public meeting to review the rezoning and to make a recommendation to the Town Council to approve or deny the request.

## Recommendation

Planning Staff recommends approval of the rezoning RZ-22-05 with a statement declaring the request consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the request is reasonable and in the public interest.

Approved:  Town Manager  Town Attorney

## Attachments:

1. Staff report
2. Consistency Statement
3. Application



# Staff Report

Agenda RZ-  
Item: 22-05

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## REQUEST:

Sanderson Engineering is requesting the rezoning of a 9.04-acre property at the end of Gulf Stream Court from Light Industrial to Heavy Industrial for food (protein) manufacturing use proposed for the site.

## PROPERTY LOCATION:

The property is located at the end of Gulf Stream Court off Citation Lane near the Johnston County Regional Airport.

## SITE DATA:

Tax ID#	15079005D
Acreage:	0.47
Present Zoning:	9.04
Proposed Zoning:	HI (Heavy Industrial)
Existing Use:	LI (Light Industrial)
Proposed Use	Food (Protein) Manufacturing
Town/ETJ:	ETJ
Fire District:	Wilsons Mills
School Impacts:	None
Parks and Recreation:	None
Water Provider:	Johnston County
Sewer Provider:	Johnston County
Electric Provider:	Duke

## EXISTING CONDITIONS/ENVIRONMENTAL:

The property is not located within a floodplain.

## ADJACENT ZONING AND LAND USES: (see attached map for complete listing)

	Zoning	Existing Land Uses
North	HI	Concrete Plan
South	LI	Vacant
East	LI	Vacant
West	LI	Industrial use



## **ANALYSIS:**

The Town updated the UDO Article 6 Table of Uses in 2021 with the 160D updates and at that time made food manufacturing a Heavy Industrial use. At times, food manufacturing can emit odors that are unpleasant to adjacent properties. In this case, the proposed use is a company that manufactures protein, and the manufacturing process is expected to emit minimal odors. Furthermore, the use of the site will not create any nuisance issues because the site is surrounded by other industrial properties.

The request for heavy industrial zoning in a light industrial area raises the concern about spot zoning, however, on 12/5/17, a Heavy Industrial Zone was created adjacent to this site to accommodate the Thomas Concrete site development. This current request for rezoning will result in a larger Heavy Industrial Zoning District.

- **Comprehensive Plan.** The comprehensive plan identifies this property for Industrial/Employment.

## **CONSISTENCY STATEMENT (Staff Opinion):**

With approval of the rezoning, the Planning Board/Town Council is required to adopt a statement describing whether the action is consistent with adopted comprehensive plan and other applicable adopted plans and that the action is reasonable and in the public interest. Planning Staff considers the action to be consistent and reasonable:

- **Consistency with the Comprehensive Growth Management Plan - *The Comprehensive Plan guides the area for Industrial/Employment.***
- **Consistency with the Unified Development Code – *the site will be developed in conformance with the UDO.***
- **Compatibility with Surrounding Land Uses - *The property considered for rezoning will be compatible with the surrounding land uses which are all industrial and will result in a larger Heavy Industrial area.***

## **RECOMMENDATION:**

Planning Staff recommends approval of RZ-22-05 with a statement declaring the request 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 following motion:

“move to recommend approval of zoning map amendment, RZ-22-05, finding it 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  
ZONING MAP AMENDMENT CONSISTENCY STATEMENT  
BY THE SMITHFIELD PLANNING BOARD  
RZ-22-05**

**Whereas** the Smithfield Planning Board, 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 Planning Board, 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 PLANNING BOARD AS APPROPRIATE:**

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

That the final action regarding zoning map amendment RZ-22-05 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 Planning Board and information provided at the public meeting; and

It is the objective of the Town of Smithfield Planning Board 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 Planning Board and information provided at the public meeting. 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-22-05 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 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.*

Name of Project: Highway 70 QOZB, LLC      Acreage of Property: 9.04  
 Parcel ID Number: 168510-47-8027      Tax ID: 15079005D  
 Deed Book: 5912      Deed Page(s): 59-62  
 Address: Gulfstream Court Smithfield NC 27577  
 Location: Gulfstream Court

Existing Use: Vacant      Proposed Use: Food Processing Facility  
 Existing Zoning District: IL  
 Requested Zoning District: IH  
 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): Airport Height Hazard District; WS-IV-PA Protected Area District

### FOR OFFICE USE ONLY

File Number: _____	Date Received: _____	Amount Paid: _____
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**APPLICANT AFFIDAVIT**

*I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Smithfield to approve the subject zoning map amendment. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.*

Steven S. Sanderson  
Print Name

  
Signature of Applicant

9-28-2022  
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: Highway 70 QOZB, LLC      Submittal Date: 9-28-22

**OWNERS AUTHORIZATION**

I hereby give CONSENT to Sanderson Engineering, Inc. (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Smithfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

[Signature]      Norman Thompson      9-28-2022  
 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.

[Signature]      Steven S. Sanderson      9-28-2022  
 Signature of Owner/Applicant      Print Name      Date

**FOR OFFICE USE ONLY**

File Number:	Date Received:	Parcel ID Number:
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# 100 Block of Gulfstream Court

File Number:  
RZ-22-05

Project Name:  
Hwy 70  
QOZB, LLC

Existing Zoning:  
LI (Light Industrial)

Proposed Zoning:  
HI (Heavy Industrial)

Existing Land Use:  
Vacant / Undeveloped

Tax ID#  
15079005J

Owner:  
Hwy 70  
QOZB, LLC

Applicant:  
Hwy 70  
QOZB, LLC



1 in = 250 ft

Map created by the Mark E. Helmer, AICP  
Senior Planner, GIS Specialist on 10/27/2022





PLANNING DEPARTMENT  
Mark E. Helmer, AICP, Senior Planner

ADJOINING PROPERTY OWNERS CERTIFICATION

I, Mark E. Helmer, hereby certify that the property owner and adjacent property owners of the following petition, RZ-22-05, were notified by First Class Mail on 10-21-22.

*Mark E. Helmer*

Signature

Johnston County, North Carolina

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

21st day of October, 2022

*Julianne Edmonds*

Notary Public Signature

*Julianne Edmonds*

Notary Public Name

My Commission expires on January 15th, 2023  
(Seal)





Adjacent Property Owners of  
RZ-22-05

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15079005D	168510-47-8027	HIGHWAY 70 QOZB, L.L.C.	442 1/2 E MAIN ST	CLAYTON	NC	27524-8433
15079006B	168511-57-4009	WARRICK, SUE U	145 LITTLE CREEK CHURCH RD	CLAYTON	NC	27524-8433
15079006	168511-46-9039	WOOD, ANN U.	286 LITTLE CREEK CHURCH RD	CLAYTON	NC	27577-0000
15079005B	168510-47-1066	SCA VENTURES LLC	132 CITATION LN	SMITHFIELD	NC	27577-0000
15079005J	168510-47-7447	THOMAS CONCRETE	2500 CUMBERLAND PKWY SE STE 200	ATLANTA	GA	27804-0000
		Sanderson Engineering	PO Box 2018	Wendell	NC	28303-0000



# Request for Planning Board Action

Agenda  
Item: ZA-22-01  
Date: 10/06/2022

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

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## Issue Statement

Request to amend the Unified Development Ordinance, Article 10, Section 10.114 as it pertains to recreation and park dedication requirements for major subdivisions.

## Financial Impact

The ordinance would increase the fees-in-lieu of park land dedication collected with major subdivisions.

## Action Needed

Planning Board is respectfully requested to review the zoning text amendment and to decide whether to recommend approval, approval with changes or to recommend denial of the request.

## Recommendation

Planning Staff recommend the Planning Board recommend approval of the zoning text amendment ZA-22-01 with a statement declaring the request 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. Draft Zoning Text Amendment
2. Consistency Statement
3. Smithfield Fee Assessment Report
4. Park Dedication Fee-in-Lieu Comparisons
5. Application



# Staff Report

Agenda ZA-  
Item: 22-01

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## REQUEST:

Staff is requesting the Planning Board recommend approval of an amendment to the Unified Development Ordinance, Article 10, Section 10.114 as it pertains to recreation and park dedication requirements for major subdivisions.

## ANALYSIS:

The Town Council directed staff to review park dedication requirements in the Unified Development Ordinance. As a result, Park Director, Gary Johnson, had the parks consultants, McAdams, to review the Town's park dedication fee-in-lieu requirements (See attached Report). The report found the Town's fee in lieu, currently at 1.75%, to be the lowest in a comparison with peer communities. The report also found the Town's regulation to be out of compliance with the recent 160D enabling legislation. The report suggests the need to increase fee-in-lieu requirements to address parks and recreation needs into the future and provides examples showing fee increases to 2.25% and 3%. Staff has augmented the examples showing increases up to 10% (See the attached Park Dedication Fee-in-Lieu Comparisons). Staff has drafted the ordinance with a 7% park dedication requirement. This can be amended by the Council at the public hearing changing the amount to a greater or lesser figure.

Other changes to Article 10, Section 10.114 Recreation include:

- Changed required fee-in-lieu to be based on appraised tax value. The current ordinance requires the fee to bases on an independent appraisal.
- Aligned the applicability section to more closely match the 160D as it pertains to applying park dedication funds to improvements to the "immediate area".
- Amended the exceptions section. Eliminated the subsection that pertains to land dedication less than 2000 sq. ft. Parks that small won't be able to meet recreation needs and the Town Council already has the ability to require park fee in lieu.
- Amends section 10.114.2.3 pertaining to greenway connections. The Council reviews plats and can already conditionalize connections to adjacent greenways. The dimensions in the ordinance are too rigid and the requirement should be left to the discretion of the Town Council.

- Removed all sections related to commercial park dedication or fee in lieu. Staff could find no other community in North Carolina that requires commercial park dedication.
- Off-street Parking section was deleted and now refers to the Article 10, Part I Off-Street Parking and Loading Requirements.
- In Section 10.114.7, the required recommendation by Recreation and Parks Advisory Council was deleted. Plat review by the Advisory Board has not been a town practice for a very long time.
- In Section 10.114.7 the provision that gives park dedication credit for private parks has been deleted. The 160D legislation implies that park dedication should be for the subdivision and "immediate area" and private parks would not meet that public purpose.
- The section that allows fees to be paid 1-year after preliminary plat was deleted. The Town has no process to collect fee-in-lieu except at final plat.

**CONSISTENCY STATEMENT (STAFF OPINION):**

Staff finds the zoning text amendment as proposed 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 recommend the Planning Board recommend approval of the zoning text amendment ZA-22-01 with a statement declaring the request consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

**RECOMMENDED MOTION:**

Staff recommends the following motion:

*"Move to recommend approval of zoning text amendment, ZA-22-01, 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  
AMENDMENT CONSISTENCY STATEMENT  
BY THE SMITHFIELD PLANNING BOARD  
ZA-22-01**

**Whereas** the Smithfield Planning Board, upon acting on a zoning ordinance 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 Planning Board, upon acting on a zoning ordinance 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 PLANNING BOARD AS APPROPRIATE:**

**IN THE EVENT THAT THE MOTION TO RECOMMEND APPROVAL OF THE ORDINANCE AMENDMENT,**

That the final action regarding zoning ordinance amendment, ZA-22-01, 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 Planning Board and information provided at the regularly scheduled meeting of Planning Board; and

It is the objective of the Town of Smithfield Planning Board to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning ordinance 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 Planning Board at their regularly scheduled meeting. Therefore, the ordinance amendment is reasonable and in the public interest.

**IN THE EVENT THAT THE MOTION TO RECOMMEND APPROVAL OF THE ORDINANCE FAILS,**

That the final action regarding zoning ordinance amendment, ZA-22-01, 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 zoning ordinance amendment does not promote this and therefore is neither reasonable nor in the public interest.

**DRAFT ORDINANCE # ZA-22-01**  
**AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD**  
**UNIFIED DEVELOPMENT ORDINANCE**  
**ARTICLE 10, SECTION 10.114 RECREATION.**

**WHEREAS**, the Smithfield Town Council wishes to amend certain provisions in the Town of Smithfield Unified Development Ordinance by making changes to Unified Development Ordinance Section 10.114 as it pertains to Recreation.

**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:

[Revise Article 10, Section 10.114. Makes required 160D changes, amends exceptions, Eliminates Park dedication credit for private recreation, removes park dedication for commercial subdivisions, amends the time fee in lieu is paid and other minor changes.]

**PART 1**

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

**SECTION 10.114 RECREATION.**

***10.114.1. Applicability.***

Every person, firm, or corporation who subdivides land for residential and/or nonresidential purposes shall be required to dedicate a portion of such land for the purpose of public recreation/open space, including the preservation of natural and cultural resources, servicing residents of the development or subdivision or more than one subdivision or development within the immediate area ~~to serve the leisure needs of the residents of the subdivision~~ and the Town of Smithfield ~~(if recreation area is publicly dedicated).~~

***10.114.2. Exceptions.***

~~**10.114.2.1.** If dedicated land is to be less than 2,000 square feet, and where that area cannot be combined with an existing or planned recreation area, then provision or dedication of that area will not be required. and a fee in lieu of land dedication will be required in accordance with Section 10.114.8.~~

~~**10.114.2.2.** If the Town Council determines that assembling a piece of land to meet the requirements of this section, either (a) would create undue hardships, or (b) is not necessary because the needs of the subdivision are already being met by dedicated land, or the proposed land dedication does not meet the recreational needs of the area, it may waive any requirements of that subsection. require fee in lieu of land dedication in accordance with Section 10.114.8.~~

**10.114.2.3.** If the site abuts designated greenways or future greenways on the Town's Land Use Plan, ~~then provision or dedication of land will not be required.~~ The Planning Board may recommend, and the Town Council may require, the dedication of a connecting path to the designated or future greenway. ~~Where a connection path is necessary, a path of up to 50 feet may be required, but in no case shall the path be less than 30 feet in length.~~ Also, the path must connect with an existing street that is accessible to all residents of the subdivision.

**10.114.3. Dimensional Requirements.**

At least ~~one fifty-seventh~~ seven percent of an acre (~~1/57~~) (.07%) shall be dedicated for each dwelling unit planned or provided for in the subdivision plan, except where land is located in the flood plain of a stream or river as indicated by the flood plain maps of the Federal Insurance Administration and/or is characterized by steep slopes (15% or greater), then at least ten percent ~~one twentieth (1/20)~~ (10%) of an acre of such land shall be dedicated for each dwelling unit.

~~The total land area dedicated as part of a nonresidential subdivision shall be determined by an analysis of the site, the use(s) to be located thereon, and the designation of recreation and/or open space sites as shown on the adopted Land Use Plan. The site analysis shall be prepared by the applicant and shall identify in written and graphic form those areas characterized by steep slopes (15% or greater), flood plains and wetlands, rock outcroppings, mature woodlands (trees of 18 inches or greater in diameter), existing structures and cemeteries, and lakes, ponds, rivers and other water sources. A written and graphic description shall also be submitted by the applicant which identifies the proposed use of each lot in the subdivision, the approximate amount of building and parking coverage for each lot, and the approximate number of employees associated with each use.~~

**10.114.4. Site Suitability.**

Land provided or dedicated for active recreational purposes shall be of a character, slope, and location suitable for use as play areas, tennis courts, multi-purpose courts, picnic areas, ball fields, and other similar recreation uses. Active recreation areas shall be located on land that is relatively flat (0 to 7-1/2% slopes), free of wetlands and/or flood plains, free of easements for public utility transmission lines, and is otherwise capable of accommodating active recreation uses.

Land provided or dedicated for passive recreation and open space purposes shall be of a character, slope, and location suitable for use for walking, jogging, reading, and similar quiet activities, and the preservation of natural features and cultural resources such as steep slopes, rock outcrops, native plant life and wildlife cover, mature woodlands, and water resources.

In all cases, active and passive recreation sites as well as open space areas designated on the adopted Land Use Plan shall be incorporated into the design of the subdivision. Criteria for evaluating the suitability of proposed recreation areas shall include, but not be limited to, the following:

**10.114.4.1. Location.** Land dedicated for recreation purposes shall be located so as to serve the needs of the residents of the subdivision and the residents of the immediate

neighborhood within which the subdivision is located. Recreation areas shall be located where more land better suited for recreational purposes due to shape, level slopes, and/or dry soil conditions is present. Where proposed park sites are shown on the adopted Land Use Plan, and a subdivision contains a portion of the park site, then the developer may be required to locate the recreation area in accordance with the park site as shown thereon.

**10.114.4.2. Unity.** Land dedicated for recreation purposes shall be a single parcel except where it is determined that two or more parcels are suited to the needs of a particular subdivision. The Planning Board may recommend, and the Town Council may require, the dedication of a connecting path in addition to other land as may be required by this Ordinance. Where a connecting path is necessary, a path of up to 50 feet in width may be required, but in no case shall the path be less than 30 feet in width.

**10.114.4.3. Accessibility.** Land dedicated for recreational purposes shall have at least 50 feet of frontage on at least one street within the subdivision. Where a recreation area is not accessible due to lot arrangement, the Planning Board may recommend, and the Town Council may require, the dedication of connecting paths which link the recreation area with other streets within the subdivision. Connecting paths so required shall be in addition to other land as may be required by this Ordinance. Connecting paths of up to 50 feet in width may be required, but in no case shall the paths be less than 30 feet in width.

**10.114.4.4. Usability.** The dedicated land shall be usable for recreation. Lakes may not be included in computing dedicated land area unless acceptable to the Planning Board. Where the Planning Board determines that recreation needs are being adequately met, either by other dedicated parcels or existing recreation facilities, then land that is not used for recreation may be dedicated as open space.

#### **10.114.5. Recreation Facilities.**

Private recreation facilities, either required or provided at the option of the applicant, shall meet the standards for site improvements contained herein. When choosing improvements for a recreational area, the anticipated characteristics and needs of the residents shall be considered in conjunction with the size of the development, any physical constraints posed by the site, and the availability of other improvements within the same general area as the subdivision. As an example, the existence of a public multi-purpose court in an adjacent, existing subdivision and the availability of the facility for use by residents of the proposed subdivision may indicate to the applicant that another facility, such as a tennis court, would be more appropriate. Recreation facilities which are suitable for various age groups include, but are not limited to, those shown on the following pages. Trash receptacles shall be provided for all recreational areas regardless of the number and type of other improvements located thereon. The owner/developer may choose from the following recreational facilities. Other recreational facilities such as disk golf may be approved by the UDO Administrator. Dedicated public recreational facilities shall adhere to these standards.



## RESIDENTIAL RECREATION FACILITY DEVELOPMENT STANDARDS

### FACILITY REQUIREMENTS PER DWELLING UNIT

Facility	Recommended Space Requirements	Recommended Size and Dimensions	Recommend Orientation
<p>Tot Lot.</p> <ol style="list-style-type: none"> <li>1. Enclosed play area with play apparatus and sand box.</li> <li>2. Open, turfed area for active play.</li> <li>3. Shaded area for quiet activity.</li> </ol>	2,000 - 4,000 sq. ft.	Enclosed play area of 21 sq. ft. per family. Turfed area and shaded area of at least 40 sq. ft. each.	None specified.
Basketball Court	4,400 - 8,000 sq. ft.	46' x 74' to 50' x 94' Court dimensions with 5' unobstructed space on all sides.	Long axis north - south.
Badminton Court	1,500 -2,600 sq. ft.	Singles-17' x 44' Doubles- 20' x 44' with 5' unobstructed space on all sides.	Long axis north - south.
Tennis Courts	6,200 -8,400 sq. ft.	36' x 78' with 12' clearance on both sides; 21' at both ends.	Long axis north - south.
Volleyball Court	2,800 - 4,000 sq. ft.	30' x 60' with 10' clearance on all sides.	Long axis north-south.
Softball Field	1.5 - 2.0 acres.	Baselines-65'. Pitching distance 40'-46'. Field radius from plate 275' between foul lines.	Locate home plate so pitcher throwing across sun and batter not facing it. Line from home plate through pitchers mound runs east-north-east.
Soccer Field	1.7-2.1 acres	195' to 225' x 300' to 360' with 10' minimum clearance on all sides.	Fall season-long axis northwest to southeast; for longer periods, north to south.

Facility	Recommended Space Requirements	Recommended Size and Dimensions	Recommend Orientation
Handball Court (3-Wall)	1,000 sq. ft.	20' x 40'- Minimum of 10' to rear. Minimum 20' overhead clearance.	Long axis north south. Front wall at north end.
Swimming Pool	0.5-2.0	Minimum of 27 sq. ft. of water surface per swimmer. Ratio of 2:1 deck vs. water.	None-although care must be taken in siting of lifeguard stands in relation to afternoon sun.
Pedestrian Paths	None	Well defined head room with maximum 10' width. Maximum average grade 5%, not to exceed 15%. Path width 6'-8'.	None
Shuffleboard	570 sq. ft.	10' x 52' with 2.5' clearance at both ends. 2' clearance on both sides.	Long axis north-south.
Horseshoes	240 sq. ft.	6' square pitchers box. Steel stakes 1" diameter, 14" above ground, spaced 40' apart.	Long axis north-south.
Croquet Court	1,800 sq. ft.	25' x 55' playing area with 2.5' clearance on all sides.	Long axis north-south.
Park bench, picnic tables and grills, and trash receptacles.	One picnic table per 50 residents 50 sq. ft. of land per table.	Minimum table dimensions- 36"W x 72"L x 30"H. Tables, benches, and other similar facilities securely anchored to ground.	None other than provision of shading for picnic tables and benches.
Picnic shelter structure.	One open shelter per 60 residents.	Minimum shelter dimensions - 20' x 30' with minimum of 10 picnic tables and accompanying benches located therein and securely anchored to	None.

Facility	Recommended Space Requirements	Recommended Size and Dimensions	Recommend Orientation
		ground. Fire place shall be installed at one end.	

In addition to land provided or dedicated for active recreation purposes, sufficient area shall be provided to make available a minimum of five off-street parking spaces for the first two acres of each recreation site and one space for each additional acre thereafter.

Where any of the following facilities are also provided, off-street parking as required shall be provided in addition to the general standard above.

Swimming pool	One space for each five patrons
Soccer and ball fields	Eight spaces per acre
Tennis/handball courts	Two spaces per court
Picnic Shelter area	One space for each ten patrons
Basketball courts	Five spaces per court

Off-street parking shall comply with UDO Part I.

~~Each off-street parking space shall be a minimum of nine feet in width and 18 feet in length. A minimum back-up aisle of 24 feet in width shall be provided for access to and from each space. Bay parking is prohibited, and entrance to and exit from each parking area shall be by forward motion of the vehicle. One of the parking spaces provided must be barrier-free and identified for use by individuals with physical disabilities. Handicapped spaces shall be at least 12 feet in width and shall be designed as follows:~~

~~**10.114.5.1.** So that handicapped individuals are not compelled to wheel or walk behind parked cars;~~

~~**10.114.5.2.** So that handicapped individuals can get into and out of an automobile onto a level surface, suitable for wheeling and walking; and~~

~~**10.114.5.3.** In conjunction with sidewalk cut-ways and/or ramps, not exceeding 5% slope.~~

**10.114.6. Flexibility in Administration Authorized.**

~~**10.114.6.1.** The requirements set forth in this article concerning the amount, size, location and nature of recreational facilities and open space to be provided in connection with multi-family residential, manufactured home park developments, and subdivisions are established by the Council as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Council recognizes, however, that due to the may be deviated from due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, if: the underlying objectives of this article may be achieved~~

~~even though the standards are not adhered to with mathematical precision. Therefore, the Town Council may permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.~~

**10.114.6.2.** Whenever the permit issuing board authorizes some deviation from the standards set forth in this section pursuant to subsection 10.114.6.1, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

#### **10.114.7. Method of Provision or Dedication.**

Land dedicated for public recreation area as required by this Ordinance shall be designated on both the preliminary and final plat(s) of the subdivision and must be dedicated to an appropriate unit of local government. Determination of the appropriate unit of local government shall be made by the Town Council, ~~upon recommendation from the Recreation and Parks Advisory Council and the Planning Board.~~ Acceptance of the dedication may be one in trust if deemed appropriate by the Town Council.

~~Land provided for private recreation purposes must be conveyed to the trustees provided in an indenture establishing an association of homeowners. The recreation area must be conveyed to the trustees subject to covenants and easements to be approved by the Planning Board and Town Council and which provide for the continued maintenance and control of the recreation area in a manner which assures its continuing use for its intended purpose. Where the recreation area is conveyed to a homeowners' association, the subdivider shall file a declaration of covenants and restrictions in accordance with the provisions of Section 5.8 Subdivision Procedures of this Ordinance.~~

#### **10.114.8. Payments in Lieu of Dedication.**

Any subdivider required to dedicate recreation area pursuant to this Ordinance may, with the approval of the Town Council, make a payment in lieu of dedication or make a combination of land dedicated and payment. Before approving a payment in lieu of dedication, the Town Council shall find that no recreation and/or open space sites have been designated on the adopted Land Use Plan for the property in question.

The payment in lieu of dedication shall be equal to the appraised tax value of the required acreage of land within the subdivision. ~~based on an appraisal prepared by a licensed appraiser and submitted by the developer. If the Town disagrees with the submitted appraisal, it may have a second appraisal prepared. If the appraisals are within 15% of each other, the developer's appraisal will be utilized to establish value. If the appraisals differ by more than 15%, the value will be based on the average of the two appraisals.~~

Where a combination of land dedication and payments in lieu are approved, the subdivider shall be given a credit equivalent to the appraised tax value per acre of land dedicated for recreation purposes. The credit amount shall be determined by multiplying the number of acres to be

dedicated by the appraised tax value per acre. If the total payment in lieu as determined above is larger than the credit amount, the subdivider shall pay the difference between the two amounts. If the credit amount is larger than the total payment in lieu as determined above, no additional payment in lieu is required. However, the subdivider may not transfer the excess credit from one subdivision to another.

Upon approval by the Town Council, payment in lieu of dedication shall be made at the time of final subdivision plan approval ~~or within one year of approval of the preliminary subdivision plan, whichever occurs first~~. All monies received by the Town of Smithfield pursuant to these requirements shall be used only for the acquisition and development of recreation, park, and open space sites to serve the residents of the development and the residents of other developments in the immediate area ~~neighborhood~~ within which the development is located. The Town Council shall also have the authority to sell land dedicated pursuant to these provisions with the proceeds of any such sale used solely for the acquisition of other recreation, park, or open space sites within the immediate area ~~neighborhood~~ within which the development is located.

**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.

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

Duly adopted this the \_\_\_\_ day of November 1, 2022.

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M. Andy Moore, Mayor

ATTEST

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Shannan L. Parrish, Town Clerk



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 Planning Dept.	<b>350 E Market St</b>
Petitioner's Name	Address or PO Box
<b>Smithfield 27577</b>	<b>919-934-2116, ext 1114</b>
City, State, Zip Code	Telephone

Proposed amendment to the Town of Smithfield Unified Development Ordinance:  
to amend Sect. 10.114 Recreation to change fee in lieu requirements, align with 160D, to  
strike commercial/indust. park dedication requirements and other changes.

(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.

	<b>9/1/22</b>
Signature of Petitioner	Date

**FOR OFFICE USE ONLY**

File Number: _____	Date Received: _____	Amount Paid: _____
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## PLANNING DEPARTMENT

Mark E. Helmer, AICP  
Senior Planner

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### **Notice of Public Meeting**

Notice is hereby given that a public meeting will be held before the Planning Board of the Town of Smithfield, N.C., on Thursday, November 3, 2022 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following requests:

**ZA-22-01 Town of Smithfield:** The applicant is requesting an amendment to Unified Development Ordinances, Article 10, Section 10.114 as it pertains to recreation and park dedication requirements for major subdivisions, commercial developments, and industrial parks.

**SUP-22-03 Bobby Huskey:** The applicant is requesting a special use permit to construct and operate private bar on property located within the B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the east side of Venture Drive approximately 250 feet south of its intersection with Magnolia Drive and further identified as Johnston County Tax ID# 15L11009M.

**RZ-22-03 Highway 70 QOZB, LLC:** The applicant is requesting to rezone a 9.04-acre tract of land from the LI (Light Industrial) zoning district to the HI (Heavy Industrial) zoning district. The property considered for rezoning approval is located on the southeast end of Gulfstream Court and further identified as Johnston County Tax ID# 15079005D

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

Run Legal ad in the Johnstonian on October 19 and October 26, 2022.