

The Smithfield Town Council met in regular session on Tuesday, May 7, 2019 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

Travis Scott, Mayor Pro-Tem
Marlon Lee, District 1
David Stevens, District 2
Dr. David Barbour, District 4
John A. Dunn, At-Large
Stephen Rabil, At-Large

Councilmen Absent

Emery Ashley, At-Large

Administrative Staff Present

Michael Scott, Town Manager
John Blanton, Fire Chief
Lenny Branch, Public Works Director
Ted Credle, Public Utilities Director
Gary Johnson, Parks & Rec Director
Tim Kerigan, Human Resources/PIO
Shannan Parrish, Town Clerk
R. Keith Powell, Chief of Police
Greg Siler, Finance Director
Stephen Wensman, Planning Director

Present:

Bob Spence, Town Attorney
Bill Dreitzler, Town Engineer

Administrative Staff Absent

CALL TO ORDER

Mayor Moore called the meeting to order at 7:02.

INVOCATION

The invocation was given by Mayor Pro-Tem Scott followed by the Pledge of Allegiance.

APPROVAL OF AGENDA:

Councilman Dunn made a motion, seconded by Councilman Rabil, to approve the agenda with the following amendments:

Remove from the Presentations:

Proclamation – Recognizing Anita Liverman’s dedicated service to the Appearance Commission

Add to the Consent Agenda

- Bid Award to Carolina Industrial Equipment in the amount of \$212,840.00 for the purchase of a 2020 Hook Lift truck with Leaf Box to be utilized by the Public Works- Sanitation Department.
- Consideration and request for approval to appoint a one-time three member Personnel Advisory Committee in response to an employee’s request for a grievance hearing.

Mayor Moore asked that the Presentation for Paul Worley be moved to the end of the meeting since Mr. Worley was not present. Unanimously approved

PRESENTATIONS:

1. Administering Oath of Office to Newly Promoted Police Lieutenant Jason Beyer

Mayor Moore administered the Oath of Office to newly promoted Police Lieutenant Jason Beyer.

2. Administering Oath of Office to Newly Promoted Police Sergeant William T. Lee

Mayor Moore administered the Oath of Office to newly promoted Police Sergeant William Lee.

Town Clerk Shannan Parrish administered affirmations to those that wished to testify during any of the public hearings.

PUBLIC HEARINGS:

1. **Special Use Permit Request – Daniel Evans (SUP-19-02):** The applicant was requesting a special use permit to allow for a U-Haul rental facility on property located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval was located on the east side of South Brightleaf Boulevard, approximately 120 feet north of its intersection with Wellons Street and further identified as Johnston County Tax ID# 15052011.

Mayor Pro-Tem Scott made a motion, seconded Councilman Stevens to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman testified that the 0.663-acre property was currently zoned B-3 and contained two one-story multi-tenant office buildings and a paved parking lot with no parking lot striping. The condition of the pavement was poor. The parking lot had no curb or gutter and the paving extended to the property lines on the north and south sides with no landscape buffer yards. The property was approximately 105 feet wide and the existing driveway entrance was approximately 80 feet wide, exceeding Town and NCDOT standards. Where the driveway intersects with Brightleaf Boulevard, only right-in and right-out was permissible given the existing median in that location. The driveways on the north and south side of the building were narrow and only suitable for one-way traffic. The primary and largest building was approximately 4,000 sq. ft in size and the smaller approximately 2,000 sq. ft. in size. The largest building currently has 3 tenants: Lions Pride LLC, Lions Den Income Tax Service and Primary Health Choice Inc. It appeared as though half the larger building was currently vacant. The smaller, 2,000 sq. ft. building, was currently vacant and contained 2 units.

Mr. Wensman testify that Code enforcement discovered the U-Haul business operating without an approved special use permit from the Town Council. The business has been in operation for quite some time with no apparent complaints or issues other than the use is in violation of Article 6 of the Unified Development Ordinance (UDO) which required a special use permit for vehicle rental. The required parking for office uses was 4 parking stalls per 1000 sq. ft. The building was a little over 6,000 sq. ft. in size which required a parking lot with at least 24 parking stalls. The proposed parking lot striping showed parking for 24 vehicles, including the U-Haul parking. The plans showed 5 oversized parking stalls to accommodate U-Haul trucks. The applicant was also asking to park up to 5 U-Haul trailers on the site. If the office buildings were fully occupied, there could be a shortage of parking stalls on the site. There are no curb stops in the parking lot and the paving extends to the adjacent property line. If the special use permit was approved, Staff recommended curb stops be installed to prohibit parked vehicles from encroaching onto the adjoining property. The drive lane on the north side of the building was labeled 18' wide, however, a 5-foot-deep entrance canopy is located on that side of the building which reduces the drive lane to 13 ft. wide. The drive lane on the southwest side of the building was 10' wide with 5 feet of grass between it and the building. The required minimum drive lane width was 16 feet according to Section 10.2.4.3. If the special use permit was approved, Staff recommended relocating the oversize truck parking to the rear of the building where there was adequate paving width, or recommended removal of the entrance canopy. There were no street, side or rear landscape/buffer yards. The paving extended to the property line on the front and sides of the property. There was a small grassy area at the front of the primary building and a small one towards the rear lot line. The only trees located on the site are adjacent to and behind the rear office building. The U-Haul trucks would have no screening from adjacent properties.

Mr. Wensman reviewed staff's findings. They are as follows:

STAFF'S FINDINGS OF FACT

1. The rental use will not be detrimental or endanger the public health, safety, or general welfare. The use has been in operation for quite some time and there has been no known issues. Conditions have been added to address issues related to the parking of oversized vehicles.
2. The district is B-3 business which allows a variety of uses. The rental is in keeping with other business in the area. The building is primarily office uses and mostly vacant.
3. The use will not have any impact on the orderly development of adjacent property. The Food Lion site is fully developed and the adjacent office building is used for medical purposes and is fully occupied.
4. Adequate utilities, access, drainage and parking are all present.
5. The rental business will utilize the existing ingress and egress to the paved parking lot. The use generates a light amount of traffic, mostly on weekends and at the end of the month.
6. The use will be in conformance with regulations. The site has many nonconforming situations and the U-Haul business does not trigger conformity with the UDO, nor does it increase the nonconforming situations.
7. The use will have no impact on the public access. The site is currently underutilized and there is excess parking for the actual leased office spaces. The type of office uses that exist and are likely to exist are low traffic uses.
8. The proposed use is consistent with town plans.

The Planning Department recommends approval of the Special Use Permit, SUP-19-02, with the following condition:

- That the rental be limited to a maximum of 5 U-Haul trucks and 4 U-Haul trailers of any size and that the U-Haul trucks and trailers be parked in designated and striped parking stalls.
- That the entire parking lot be striped for parking stalls and one-way traffic flow as shown on the approved site plan.
- That the awning on the northeast side of the building be removed to allow for a minimum 16 ft. wide one-way drive aisle, or the oversized U-Haul parking stalls be relocated to the rear of the building where there is adequate space to accommodate the parking and drive lanes.
- That curb stops be installed to prohibit parked vehicles from encroaching on adjacent property.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the May 7, 2019 agenda packet.

Mayor Moore asked if there were any questions from the Council. Mayor Pro-Tem Scott questioned how the parking lot could be striped since the pavement was in such poor condition. Mr. Wensman responded the striping would not last and would have to periodically be restriped.

Mayor Moore asked if there was anyone in attendance sworn to testify in this matter. There was no one in attendance that wished to testify on the matter.

Councilman Barbour made a motion, seconded by Councilman Rabil, to close the public hearing. Unanimously approved.

The Written Finding

Councilman Barbour made a motion, seconded by Councilman Dunn, to vote in the affirmative to all of the below eight stated Finding of Fact. Unanimously approved.

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.
2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.
3. 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. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
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.
6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.
7. Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.
8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

Record of Decision: Approval of Conditional Use Permit Application Number SUP-19-02

Councilman Barbour made a motion, seconded by Councilman Dunn, based upon satisfactory compliance with the above eight stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to recommend approval of Special Use Permit Application #SUP-19-02 with the following conditions:

1. That the rental be limited to a maximum of 5 U-Haul trucks and 4 U-Haul trailers of any size and that the U-Haul trucks and trailers be parked in designated and striped parking stalls.
2. That the entire parking lot be striped for parking stalls and one-way traffic flow as shown on the approved site plan.
3. That the awning on the northeast side of the building be removed to allow for a minimum 16 ft. wide one-way drive aisle, or the oversized U-Haul parking stalls be relocated to the rear of the building where there is adequate space to accommodate the parking and drive lanes.
4. That curb stops be installed to prohibit parked vehicles from encroaching on adjacent property.

Unanimously approved.

2. **Special Use Permit Request – Xtra Mile Motors (SUP-19-06):** The applicant was requesting a special use permit to allow for an automobile dealership on properties located within a B-3 (Highway Entrance Business) zoning district. The properties considered for approval was located on the north side of West Market Street approximately 500 feet east of intersection with NC Highway 210 and further identified as Johnston County Tax ID# 15080019 and 15080055.

Councilman Dunn made a motion, seconded by Councilman Stevens to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman testified this application was reviewed by the Town Council in 2016 as CUP-16-01 and was approved, however, the project never moved forward as a result of Hurricane Matthew. The applicant and owner would now like to move forward with the sale lot; however, the CUP-16-01 has expired due to disuse. The current application was identical to the 2016 application. The proposed automobile sales lot was a permitted use within the B-3 (Business) zoning district with an approved special use permit. The site was developed with a paved parking area with 14 parking stalls to the east of the building plus a handicapped parking stall and two paved stalls to the west. A fence was installed to screen the parking lot for the auto sales from the trucking and auto storage yard in the rear of the property. The approved permit, CUP-16-01, was for an automobile sales lot to accommodate no more than ten automobiles for sale.

Mr. Wensman reviewed staff's findings. They are as follows:

STAFF'S FINDINGS OF FACT

1. The establishment or operation of a sales lot will not be detrimental to the public health, safety or welfare. Similar auto sales uses already exist nearby and they are not detrimental.
2. Similar auto sales uses already exist nearby.
3. The special use will not impede normal and orderly development and improvement of the surrounding property. The site was improved for the use in 2016 with paved parking and screening to a standard that is desired for existing nonconforming uses nearby.
4. Adequate utilities exist, access was improved with defined driveways, drainage meets requirements, and parking was improved.
5. Driveway access was improved by creating defined driveways.
6. The proposed use conforms to the minimum standards.
7. Plan conforms.
8. The comprehensive plan calls for conservation/open space in this area within the 100-year flood elevation; however, the site is already developed and the proposed use is less intensive than other potential uses.

The Planning Department recommends approval of the Special Use Permit, SUP-19-06, with the following condition:

- That no more than ten cars for sale be on the lot at any one time and that they are parked within striped parking stalls.
- That dead or damaged plantings be replaced and that the landscaping on site and on the boulevard be maintained accordance with Article 10, Section 10.11.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the May 7, 2019 agenda packet.

Mayor Moore asked if there were any questions from the Council. There were none.

Mayor Moore asked the applicant if he was in agreement with the testimony provided by Mr. Wensman. The applicant Seamus Costello of 59 Holiday Island Drive, Garner, NC testified he was in agreement with the testimony provided by Mr. Wensman. Mr. Costello further testified there would never be more than ten vehicles on the lot because most of the cars are presold. There would not be any auto repairs on site and all landscaping would be maintained.

Mayor Moore asked if there was anyone in attendance sworn to testify in this matter. There was no one in attendance that wished to speak on this matter.

Councilman Stevens made a motion, seconded by Mayor Pro-Tem Scott, to close the public hearing. Unanimously approved.

The Written Finding

Councilman Barbour made a motion, seconded by Councilman Rabil, to vote in the affirmative to all of the below eight stated Finding of Fact. Unanimously approved.

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.
2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.
3. 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. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
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.
6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.
7. Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.
8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

Record of Decision: Approval of Conditional Use Permit Application Number SUP-19-06

Mayor Pro-Tem Scott made a motion, seconded by Councilman Rabil, based upon satisfactory

compliance with the above eight stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to recommend approval of Special Use Permit Application #SUP-19-06 with the following conditions:

1. That no more than ten cars for sale be on the lot at any one time and that they are parked within striped parking stalls.
2. That dead or damaged plantings be replaced and that the landscaping on site and on the boulevard be maintained accordance with Article 10, Section 10.11.

Unanimously approved.

- 3. Special Use Permit Request – Hilce Sierra (SUP-19-07):** The applicant was requesting a special use permit to allow for a residential dwelling on property located within a B-2 (Business) zoning district. The property considered for approval was located on the east side of South Seventh Street approximately 120 feet south of its intersection with of Woodall Street and further identified as Johnston County Tax ID# 15031049.

Councilman Rabil made a motion, seconded by Councilman Barbour, to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman testified the .012-acre property was formerly a single-family residence that had been used as a salon. The property was the only building on the east side of the block fronting on 7th Street and the only building on that side of the block that does not front on Brightleaf Boulevard. The proposed single-family residential use required a special use permit approved by the Town Council. It was an old home located on a nonconforming lot (approximately 50 ft. x 100 ft.) between an existing tobacco warehouse and office retail uses. The property has frontage and driveway access off 7th Street. The existing access was currently a gravel/dirt driveway that led to a concrete pad in the back yard. Most of the back yard has been used for parking. There was no discernable boundary line between the applicant's property and other commercial properties. To prevent trespassing and other conflicts between the commercial and residential uses, Staff recommends a fence be installed along the periphery of the property.

Mr. Wensman reviewed staff's findings. They are as follows:

STAFF'S FINDINGS OF FACT

1. The use of the structure and property for single family residential is will not be detrimental or create endangerment to public health, safety or welfare as conditioned.
2. The use of the property for single family residential use is consistent with the use of the adjacent properties to the west, and those that front on 7th Street, therefore, in harmony with existing development.
3. The use will not have an impact on the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Single family residential is a special use in the district with a valid permit. Portions of the block are currently used for commercial and residential.
4. Adequate utilities are present. The use will have no impact on the utilities.
5. The single family use has adequate ingress and egress with a direct access to South 7th Street.
6. The use will be in conformance with regulations.
7. The use will have no impact on the public access.

8. The proposed use is consistent with town plans.

The Planning Department recommends approval of the Special Use Permit, SUP-19-07, with the following conditions:

- The applicant shall use the property strictly in accordance with the plans submitted and approved by the Smithfield Town Council.
- That the applicant fences the side and rear of the property.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the May 7, 2019 agenda packet.

Mayor Moore asked if there were any questions from the Council.

Mayor Pro-Tem Scott questioned where the recommended fence would be installed. Mr. Wensman responded the fencing would be constructed to the side and rear of the property. Mayor Pro-Tem Scott further questioned the required type of fencing. Mr. Wensman responded he was not specifying the type of fencing, but felt a screening fence would be better.

Mayor Moore asked the applicant if she was in agreement with the testimony provided by Mr. Wensman. The applicant, Hilce Sierra, testified she was in agreement with the testimony provided by Mr. Wensman. She further testified it was very hard to have a business in this location and wished to renovate it to serve as rental property.

Mayor Moore asked if there was anyone in attendance sworn to testify in this matter. There was no one in attendance that wished to testify on this matter.

Councilman Barbour made a motion, seconded by Councilman Dunn, to close the public hearing. Unanimously approved.

The Written Finding

Councilman Dunn made a motion, seconded by Councilman Rabil, to vote in the affirmative to all of the below eight stated Finding of Fact. Unanimously approved.

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.
2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.
3. 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. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
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.
6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.

7. Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.
8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

Record of Decision: Approval of Conditional Use Permit Application Number SUP-19-07

Mayor Pro-Tem Scott made a motion, seconded by Councilman Rabil, based upon satisfactory compliance with the above eight stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to recommend approval of Special Use Permit Application #SUP-19-07 with the following conditions:

1. The applicant shall use the property strictly in accordance with the plans submitted and approved by the Smithfield Town Council.
 2. That the applicant install a screen fence along the side and rear of the property.
- Unanimously approved.

CITIZENS' COMMENTS:

- Emma Gemmell of 204 Hancock Street addressed the Council on water and sewer distribution problems. Mrs. Gemmell expressed her concerns on excessive water loss in 2017. This information was based on a report filed with the NC Local Water Supply Commission. Mrs. Gemmell expressed her concerns about sewer leaks in Smithfield. She stated staff should expedite finding the leaks because it was costing the consumers and the Town. She questioned if the Town had prepared for when the County and Clayton built their own sewer plants.
- Emma Gemmell of 204 speaking on behalf of Pam Lampe of 415 North Second Street shared her thoughts on the water plant expansion, water tanks, and water and sewer distribution issues. Mrs. Gemmell questioned how the expansion was justified by the Town's need. Mrs. Gemmell and Mrs. Lampe requested more information be provided on the need for the finishing tank. Mrs. Gemmell stated Mrs. Lampe would like to be involved when UFS completes its water rate study. Mrs. Gemmell also asked had the Town considered how satellite annexation effects the water and sewer lines. Mrs. Gemmell stated the residents of North Smithfield would like the whole area around the water plant and operation center be better landscaped and a berm installed.
- Trevor Fraser of Johnston Family Dentistry located at 606 Buffalo Road, Smithfield informed the Council about a Free Dental Day to be held on Friday, May 17th from 8:00 am until 12:00 pm. This was a free service for anyone that currently did not have dental insurance or a dentist.
- Jud Patterson of 418 Westerman Place addressed the Council on the Third Street parking issue. He explained he had been advised the Town would need a recommendation from the DSDC board proposing the one-way street on Third Street from Market Street. Mr. Patterson questioned if a decision had been made by the Town. Town Manager Michael Scott responded the Town Council needed a formal request by the DSDC Board to make that portion of Third Street a one-way street. Once we have the request, the Town can see how that recommendation integrates into the Transportation Plan and evaluate the steps the Town would have to go through to make Third Street a one-way street. Usually if you have a one-way direction on one street, you would have a way one street going in the opposite direction a block away to create a loop.

CONSENT AGENDA:

Councilman Barbour made a motion, seconded by Councilman Dunn, to approve the following items as listed on the Consent Agenda:

1. The following minutes were approved
 - April 2, 2019 – Regular Meeting
 - April 2, 2019 – Close Session
 - April 11, 2019 – Special Session (Budget)
2. Special Event – Community Fun Day Festival: Approval was granted to allow the Greater Vision Worship Center to hold a Community Fun Day Festival at Smith Collins Park on May 25, 2019. This event will have amplified sound.
3. Special Event – Ava Gardner Festival: Approval was granted to allow the Ava Gardner Museum to hold its annual festival on May 31st and June 1st. This event required the closure of the parking lot between the Ava Gardner Museum and the adjacent building, amplified sound and alcohol consumption in the event area.
4. Career Ladder Promotion Fire Department: Approval was granted to promote a Fire Fighter I to the rank of Firefighter II
5. Approval was granted to allow employees to donate sick time to an employee in the Public Utilities Water Plant Department
6. Approval was granted to create a “No Parking Zone” on Towne Centre Drive.
7. Approval was granted to enter into a contract with Thompson, Price, Scott, Adams & Co. PA to perform the Town’s audit for fiscal year ending June 30, 2019
8. Approval was granted to adopt resolution #639 (064-2019) Supporting House Bill 396 – Municipal Local Option sales Tax

TOWN OF SMITHFIELD
RESOLUTION # 639 (06-2019)
SUPPORTING HOUSE BILL 396
MUNICIPAL LOCAL OPTION SALES TAX

WHEREAS, The Town Council of Smithfield completed a community wide survey in 2017 and the primary recommendation among citizens was additional street repairs and resurfacing; and

WHEREAS, Smithfield is located on Interstate 95, US Highway 301 and US Highway 70 and is home to retail shops, hotels, restaurants and tourist destinations, as well as the County Seat of Johnson County; and

WHEREAS, This additional visitor traffic weighs heavily upon the streets and roads and emergency services of Smithfield and increases the need for road repairs and emergency personnel; and

WHEREAS, Current sales tax revenues are divided ad valorem within the County, sending the large majority of this money to areas outside of Smithfield leaving most infrastructure repairs and cost of emergency services to the property tax payer; and

WHEREAS, House Bill 396 would allow the Town to place a referendum on the ballot to levy a one-quarter cent municipal sales and use tax for the Town of Smithfield; and

WHEREAS, voters of the Town of Smithfield would be given the opportunity to decide

if this additional revenue was in the best interest of the Town; and

WHEREAS, House Bill 396 would provide additional revenue to assist the Town with not only improvements to public infrastructure, but also to assist with public facilities, affordable housing, economic development and police, fire and rescue services.

THEREFORE, BE IT RESOLVED that the Town of Smithfield endorses and supports passage of House Bill 396 Municipal Local Option Sale Tax and urge our Representatives to support this bill.

9. Approval was granted to adopt Resolution #640 (07-2019) adopting the Smithfield South Water District's Local Water Supply Plan

TOWN OF SMITHFIELD
RESOLUTION #640 (07-2019)
APPROVING LOCAL WATER SUPPLY PLAN

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare and submit a Local Water Supply Plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for Smithfield South Water District, has been developed and submitted to the NCDEQ for approval; and

WHEREAS, the NCDEQ finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for the Smithfield South Water District, as well as useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Smithfield that the Local Water Supply Plan entitled, Smithfield South Water District dated 2018, is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Town Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

10. Approval was granted to adopt Resolution #641 (08-2019) adopting the Town's Local Water Supply Plan

TOWN OF SMITHFIELD
RESOLUTION # 641 (08-2019)
APPROVING LOCAL WATER SUPPLY PLAN

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems,

prepare and submit a Local Water Supply Plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for the Town of Smithfield, has been developed and submitted to the NCDEQ for approval; and

WHEREAS, the NCDEQ finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for the Town of Smithfield, as well as useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Smithfield that the Local Water Supply Plan entitled, Town of Smithfield dated 2018, is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Town Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

11. Approval was granted to adopt Resolution #642 (09-2019) adopting the North Carolina Department of Natural and Cultural Resources Records Retention and Disposition Schedule

TOWN OF SMITHFIELD
RESOLUTION # 642 (08-2019)

- (1) ADOPT THE 2019 GENERAL RECORDS SCHEDULE FOR LOCAL GOVERNMENT AGENCIES;
(2) REAFFIRM THAT PORTIONS OF THE PREVIOUSLY ADOPTED 2012 SCHEDULE ARE STILL IN EFFECT; AND (3) ADOPT THE TOWN OF SMITHFIELD'S RECORD RETENTION AND DISPOSITION SCHEDULE FOR MUNICIPALITIES CONCERNING WHEN ADMINISTRATIVE/REFERENCE VALUE ENDS

WHEREAS, the North Carolina Department of Natural and Cultural Resources, Division of Archives and Records, Government Records Section has published the General Records Schedule for Local Government Agencies, which supersedes parts of the Municipal Retention and Disposition Schedule which it is charged with issuing; and

WHEREAS, NCGS Section 121-5 and NCGS Section 132-3 require a municipality to approve the schedule in order to conduct routine disposal of records which must otherwise be retained without specific permission for disposal by the NC Division of Archives and Records; and

WHEREAS, the document attached to this Resolution is the form acknowledging the approval of the schedule as required by the NC Division of Archives and Records, Government Records Section; and

WHEREAS, to reduce the burden and costs of record retention and maintain efficient Town records management, the Town Council finds and determines that this Resolution should be approved;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SMITHFIELD THAT THE TOWN COUNCIL:

1. Adopt the General Records Schedule for Local Government Agencies;
2. Reaffirm that portions of the Previously Adopted 2012 Schedule are still in effect; and
3. Adopt the Town of Smithfield's Records Retention and Disposition Schedule for Municipalities Concerning when Administrative /Reference Value ends.

12. The following advisory board appointments were approved:

- Martin Lazarus was appointed to serve a first term on the Board of Adjustment
- Mary Foy Ragsdale was appointed to serve a first term on the Appearance Commission.

13. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Police Officer I	Police	10-20-5100-5100-0200	\$16.85/hr. (\$37,676.60/yr.)
Sanitation Worker	PW – Sanitation	10-40-5800-5100-0200	\$11.07/hr. (\$23,025.60/yr.)
Water Plant Trainee	PU – Water Plant	30-71-7200-5100-0200	\$13.49/hr. (\$28,059.20/yr.)
Zoning Compliance Asst.	Planning	10-10-4900-5100-0200	\$12.00/hr.

Current Vacancies

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Meter Technician	Public Utilities – Electric	31-72-7230-5100-0200
Police Officer I	Police	10-20-5100-5100-0200
Sanitation Equipment Operator	PW – Sanitation	10-40-5800-5100-0200

14. Bid was awarded to Carolina Industrial Equipment in the amount of \$212,840.00 for the purchase of a 2020 Hook Lift truck with Leaf Box to be utilized by the Public Works- Sanitation Department. Bids received were as follows:

- | | |
|---------------------------------------|--------------|
| • Carolina Industrial Equipment | \$212,840.00 |
| • Southern Vac. | \$221,825.00 |
| • Carolina Environmental Systems Inc. | \$260,082.00 |

A budget amendment for this purchase was also approved

15. Approval was granted to appoint a one-time three members Personnel Advisory Committee in response to an employee's request for a grievance hearing

Mayor Moore requested that the Proclamation honoring Mr. Worley be added to this portion of the meeting instead of waiting until the end of the meeting.

Councilman Stevens made a motion, seconded by Mayor Pro-Tem Scott to move the presentation for Mr. Worley to this portion of the meeting. Unanimously approved.

PRESENTATION:

1. Proclamation – Recognizing Paul Worley's dedicated service to the Board of Adjustment

Mayor Moore presented a Proclamation to Paul Worley for his dedicated service to the Board of Adjustment.

PROCLAMATION
In Honor of Paul Worley's Dedicated Service
To the Town of Smithfield's Board of Adjustment

WHEREAS, Paul Worley, a resident of the Town of Smithfield has dedicated his time and attention by serving on the Board of Adjustment for over fifteen years; and

WHEREAS, during his tenure, Paul Worley served as Chairman of the Board of Adjustment; and

WHEREAS, Paul Worley provided exemplary and invaluable service towards the future

development and vision of Smithfield; and

WHEREAS, the citizens are so fortunate to have had a person of such experience dedicate so many years of service to the Town of Smithfield's growth and prosperity; and

WHEREAS, The Town Council deeply appreciates the important contributions Paul Worley has made to the Town of Smithfield for its citizens.

NOW, THEREFORE, I, M. Andy Moore, Mayor of the Town of Smithfield along with the members of the Town Council, express our sincere appreciation to Paul Worley for his distinguished service to the Town of Smithfield

BUSINESS ITEMS:

1. Special Use Permit Request – Bonnie Godwin (SUP-19-05)

This item was tabled at the April 2, 2019 Regular Town Council Meeting

Planning Director Stephen Wensman reminded the Council that at the April 2, 2019 meeting, the Council tabled this special use permit request to determine if the applicant and the adjacent property owner could come to an amicable solution concerning the petition. Mr. Wensman informed the Council that since the meeting, Ms. Godwin has had a surveyor identify the location of the property line. In spite of efforts on behalf of Ms. Godwin, there appeared to be no willingness by Dr. Lee to compromise. Dr. Lee was still opposed to the residential use and Ms. Godwin still wished to move forward with the residential use. The survey Ms. Godwin had completed showed the distance from the home to the property line was 12' and the distance from Dr. Lee's building to the property line was 6' when measured from the chimney. Dr. Lee's handicapped accessible ramp accesses the driveway and would have to be rerouted to the other driveway.

Mayor Moore questioned if there was a shared driveway agreement that had been recorded. Mr. Wensman responded no agreement could be found. Mayor Moore stated technically either property owner could install a fence along the property line in accordance with the Town Ordinance. Mr. Wensman responded in the affirmative. Mayor Moore further stated that either property owner could prohibit the usage of the driveway with the installation of a fence. Town Attorney Bob Spence responded they could in part. Mr. Spence explained the character of this driveway by usage over the years could be classified as joint property as a matter of right. You could end up litigating the rights of the driveway.

Councilman Barbour questioned the Planning Board's recommendation. Mr. Wensman responded since this was a special use permit request, the Planning Board did not hear this case. Staff provided the following recommendation: the applicant shall use the property strictly in accordance with the plans submitted and approved by the Smithfield Town Council

Mayor Moore informed the applicant Bonnie Godwin and Dr. Lee that the public hearing last month was closed, but he would allow the parties to speak on the matter.

After consulting with the Town Attorney, it was determined it was in the best interest of all parties to reopen the public hearing.

Mayor Pro-Tem Scott made a motion, seconded by Councilman Dunn, to reopen the Public Hearing that was continued from the April 2, 2019 meeting. Unanimously approved.

Dr. Richard Lee submitted a petition from approximately sixty business owners who opposed the change of use from commercial to residential. Dr. Lee explained the sloped parking lot behind the property would be a hazard for children playing with any toy or sports equipment that could roll downhill. He stated his major concerns were patient safety and child safety.

Dr. Lee also stated only one vehicle could access the driveway at a time. The driveway between his property and Ms. Godwin's property had the only entrance way into his practice via the handicapped ramp. For all purposes, this has and continues to be a shared driveway. The driveway cannot be blocked because that would limit patient care. Dr. Lee stated the entire area was commercial in nature and not family friendly. Children cannot play in the backyard because they would be intermingled with vehicles. He asked the Council to give consideration to those who have been in practice in that area for many years. Town Attorney Bob Spence questioned if Ms. Godwin was not permitted to rent to those who had children, would he still object to the petition. Dr. Lee responded if it was rented for a commercial use, he would not oppose it. Anything other than a commercial use, he would possibly oppose it.

Mayor Pro-Tem Scott stated the Council postponed making a decision on this request in an effort to see if the property owners could work out their differences. He questioned if there was any written agreement for the driveway. Dr. Lee responded the driveway had always been shared. Mayor Pro-Tem Scott further stated that the applicant has a right to do what she wishes with her property with the Town's blessing as does any resident or commercial property owner. You are forcing the Town to make a decision because you can't work out your differences.

Councilman Stevens questioned the ownership of the other driveway adjacent to Dr. Lee's property. Dr. Lee responded it was owned by both he and the hospital. Dr. Lee stated he could not utilize that driveway for his patients. Mayor Moore questioned if the reason that driveway could not be used for patients was because of the way the handicapped ramp was configured and could the ramp be reconfigured to go towards the other driveway. Dr. Lee responded the ramp could not be reconfigured because he would have to build an addition onto his building or tear everything down and start again.

Councilman Barbour questioned the amount of time Dr. Lee had practiced in this building. Dr. Lee responded over twenty years. Councilman Barbour further questioned if Dr. Lee had ever had any issues with any of the other adjacent property owners/tenants and had the area always been zoned for commercial uses. Dr. Lee responded the properties surrounding his property had always been zoned for commercial uses. Councilman Barbour asked if altering the adjacent use would alter Dr. Lee's business. Dr. Lee responded he felt it would alter his practice. Dr. Lee stated he did try to contact Renee in order to speak with her Ms. Godwin.

Bonnie Godwin of 778 Napoleon Rd. Selma, NC informed the Council that after the last meeting she had a survey of the property conducted. The survey concluded that Ms. Godwin owned 12 feet of the driveway and Dr. Lee owned 6 feet at its widest point. Based on the survey results, Ms. Godwin concluded the driveway was not a shared driveway. Ms. Godwin explained the property was purchased on June 29 2017 and we have never been able to rent it. It was shown to a commercial customer, but they were not interested in using an old house for their business. There was more of a need for residential dwellings in the County than there was a need for commercial structures in the County. Ms. Godwin stated she has done everything she could do.

Councilman Stevens questioned how an ambulance would access from the back of the property to be able to drop patients off at the handicapped accessible ramp. Ms. Godwin explained there were several different access points. Councilman Stevens inquired if all the properties adjacent to Ms. Godwin's property was commercial in nature. Ms. Godwin responded the two to the left of her property were residential and the others on the right were commercial.

Dr. Renee Watson testified she was the Daughter of Bonnie Godwin and a practicing physician at Johnston Family Medicine. Her office was located one road over from Dr. Richard Lee's office. She testified she was aware of the traffic pattern at her practice and that of Dr. Lee's practice. She explained during an emergency situation at her practice, most ambulances or rescue squads accessed the office from the rear of the building because that was where our treatment areas are located. They do not remove patients via the front door or through the lobby where other patients are waiting. This was a standard practice for most physician's offices. Dr. Watson informed the Council that the telephone call to Richard was initiated by her. The focus of her call was to try to determine an amicable solution for both parties. Although Dr. Lee did mention the children safety, his main concern was how changing this use would devalue his property. Dr. Watson stated the County was in need of residential dwellings and they were simply trying to fill that need. Dr. Lee

responded that he did mention to Dr. Watson his concern about the residential use devaluing his property. He explained he invested a lot of money into his building and his patients needed to be able to get into his office. He suggested Ms. Godwin renovate her property to make it more appealing to commercial customers.

Councilman Dunn questioned if Ms. Godwin considered installing a fence to segregate the back yard area. Ms. Godwin did not feel it was necessary to install a fence at this time, but she would consider it if it was needed. Councilman Dunn stated Ms. Godwin was requesting a special use permit and not a rezoning request because she would have the option of renting it commercially if she was able to. Ms. Godwin responded in the affirmative. Councilman Dunn stated that with special use permit requests, the Council was allowed to place reasonable conditions on the permit. He questioned if Ms. Godwin was willing to install a fence from the rear of the property to the rear of the building. Ms. Godwin stated she would be in agreement with that condition.

Councilman Barbour made a motion, seconded by Councilman Dunn, to close the public hearing unanimously approved.

The Written Finding

Mayor Pro-Tem Scott made a motion, seconded by Councilman Dunn, to vote in the affirmative to all of the below eight stated Finding of Fact. Unanimously approved.

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.
2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.
3. 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. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
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.
6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.
7. Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.
8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

Record of Decision: Approval of Conditional Use Permit Application Number SUP-19-05

Councilman Dunn made a motion, seconded by Mayor Pro-Tem Scott, based upon satisfactory

compliance with the above eight stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to recommend approval of Special Use Permit Application #SUP-19-05 with the following conditions:

- That a fence be installed from the rear of the property line to the rear of the dwelling.

Unanimously approved.

Town Attorney Bob Spence questioned if the fence would be installed from the rear of the property line to the corner of the building. Councilman Dunn responded in the affirmative

(See below for additional discussion)

2. FY 2019-2020 Budget Discussion

Town Manager Michael Scott informed the Council this item was on the agenda to enable the Council to recess the meeting to at a date and time specific to conduct a budget work session. Mayor Moore questioned if the Council wished to hold a budget this week or next week. Mayor Pro-Tem Scott stated he would be on vacation, but he would be available to meet on May 16th. Mayor Moore informed the Council they still had to review the Fee Schedule, discuss the items that were added back into the budget, discuss the tax rate and review the results of the salary study.

It was the consensus of the Council to take a short recess to allow staff to gather the Fee Schedule information

Fee Schedule

Town Manager Michael Scott informed the Council that all changes to the fee schedule were in red and highlighted. These were recommended changes by the staff. In the proposed fee schedule, the tax rate remained unchanged simply because Council had not made a decision on this topic.

Parks and Recreation

Parks and Recreation Director Gary Johnson explained the proposed changes:

- Picnic Shelter Rentals: Due to software updates, classifications of the shelters were simplified. The fees for the rentals did not change.
- Sarah Yard Community Center Fees: Proposing the daily admission to be free for residents and \$1.00 a day for nonresidents. When the Center was first opened, staff believed they would be inundated with children, but that has not happened.
- Aquatic Center: Proposing to add a commercial rental fee. The total fee would be the rental fee plus 10% of admission charged. For larger events such as MMA events, it cost more to clean up after those events and more staff is needed to work those larger events

Planning and Zoning

Planning Director Stephen Wensman informed the Council he conducted a lot of research on what other communities were charging for fees. Smithfield was well below all of the other local communities. Mr. Wensman explained most fees were increased \$100. Other proposed changes are as follows:

- Elimination of the payment in lieu of fees. This was removed from the fee schedule because it is included in the subdivision ordinance.
- Removed the tiered structure for Special Use Permits
- Removed some Special zoning Permits that were not included in the Town Ordinances
- Increased the Major subdivision preliminary plat fee and added a final plat fee

Mayor Moore questioned if the total cost for preliminary plat and final plat was \$750. Mr. Wensman responded that was correct because both require a lot of staff time. Mayor Moore stated he disagreed with charging a fee when staff was receiving a salary to review these types of things

Mayor Moore questioned the \$25 driveway permit fee. Mr. Wensman responded there were a lot of driveways that were not permitted and many that were installed incorrectly. Staff would physically go on site to inspect the driveway

Mayor Moore questioned the \$100 street vendor fee. Mr. Wensman responded it was included in the Town Code, but it did not apply to Town sponsored events.

Public Utilities

Public Utilities Director Ted Credle explained some of the proposed changes to the Fee Schedule

Electric

Contingent on the rate analysis by UFS, there were no proposed changes to the electric rates. Mr. Credle explained he felt the Town could continue to absorb the 1.2% bulk rate increase.

Water/ Sewer

- **Johnston County Wholesale Rate:** The bulk water rate will increase by 10% to \$2.20. The County has been notified of this change.
- **Sewer Rate Consumption Charges:** The County is proposing a 10% increase, this will be passed on to the consumer.
- **System Development Fees:** Mr. Credle explained these fees were in response to HB 436. As mandated by the law, the Town hired Envirolink to perform an economic analysis to determine what fees the Town could charge. The proposed fees were the recommended maximum, but the Council could reduce or eliminate the fees. System development fees were a one-time charge to new developments which helped pay for utility infrastructure. If system development fees were not collected, the fees would be born by existing customers. A ¾ inch standard residential line would cost \$650 for water and \$350 for sewer for a total cost of \$1,000 per lot. This could be collected at the time of plan approval or plat recordation. The County charges in excess of \$6,000 and the Town of Clayton charges in excess of \$5,000 for a ¾ residential line.

Continued Discussion on Special Use Permit Request – Bonnie Godwin (SUP-19-05)

Town Attorney Bob Spence asked to have clarification as to the order and location of the fence. Mr. Spence stated he did not see the purpose of the fence other than to protect children and divide the use. Councilman Dunn responded that was his intent. Mr. Spence stated he did not see any reason why the location would be as to block the driveway thus getting the Town into the middle of a driveway dispute. The fence could be constructed to go from the corner of Ms. Godwin's dwelling to the back of the property. Mr. Spence stated there was a substantial legal issue as to whether the driveway was a sole or shared driveway. The ambulances should not be hindered from accessing the driveway. Mayor Pro-Tem Scott stated the intent was to isolate a safe zone for children who lived in the residence.

Mayor Pro-Tem Scott made a motion, seconded by Councilman Barbour, to direct staff, in regard to the fencing, to create a safe zone for children with the recommendation by the Town to not hinder the flow of traffic in the driveway. Unanimously approved.

Councilmembers Comments:

- Mayor Moore expressed his appreciation to DSDC Executive Director for all her hard work on the Ham and Yam Festival. He also expressed his appreciation to all the staff that participated.

Town Manager's Report:

Town Manager Michael Scott gave a brief update to the Council on the following items:

- Movie in the Park will take place at Johnson Park on June 2nd beginning at dusk.
- End of the School Year Party will be held on May 31st at the Sarah Yard Community Center.
- The annual walk to school event for South Smithfield Elementary was scheduled for tomorrow, Wednesday at 7:30 am. Meet at Civitan Park to begin the walk to South Smithfield Elementary
- A highlight of each department's monthly activities was given to the Council

Close Session pursuant to NCGS 143-318.11 (a) (6): To discuss a personnel matter
The Council chose to postpone the close session until the budget meeting if it was deemed necessary.

Recess

Being no further business, Councilman Dunn made a motion, seconded by Councilman Rabil, to recess the meeting until May 16, 2019 at 6:30 pm. Unanimously approved. The meeting recessed at approximately 9:41 pm.

ATTEST:

M. Andy Moore, Mayor

Shannan L. Parrish, Town Clerk