

The Smithfield Town Council met in regular session on Tuesday, July 9, 2019 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

Marlon Lee, District 1  
Dr. David Barbour, District 4  
Emery Ashley, At-Large  
John A. Dunn, At-Large  
Stephen Rabil, At-Large

Councilmen Absent

Travis Scott, Mayor Pro-Tem  
David Stevens, District 2

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 7:00.

**INVOCATION**

The invocation was given by Councilman Dunn followed by the Pledge of Allegiance.

**APPROVAL OF AGENDA:**

Councilman Dunn made a motion, seconded by Councilman Ashley, to approve the agenda with the following amendment:

*Remove Public Hearing 1. SUP-19-08 W. Frank Lee: The applicant is requesting a special use permit to allow for a greenhouse for plant cultivation on property located within a B-3 (Business) zoning district. The property considered for approval is located on the east side of the intersection with South Brightleaf Boulevard and Holding Street. The property is further identified as Johnston County Tax ID# 15060025*

Unanimously approved.

**PRESENTATION:**

**1. Administering Oath of Office to New Police Officer Adriane Stone**

Mayor Moore administered the Oath of Office to new Police Officer Adriane Stone and welcomed her to the Town of Smithfield.

Town Clerk Shannan Parrish administered affirmations to those that wished to testify during the public hearing.

**PUBLIC HEARING:**

- 1. Special Use Permit Request – Bonnie Godwin (SUP-19-09):** The applicant was requesting a special use permit to allow for a two-family residential dwelling on property

located within a B-2 (Business) zoning district. The property considered for approval was located on the southwest side of the intersection on East Market Street and South Ninth Street and further identified as Johnston County Tax ID# 15027026.

Councilman Ashley made a motion, seconded by Councilman Lee, to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman testified the property consisted of an old 3,600 sq. ft. house built in 1912 that sits prominently on the corner of 9<sup>th</sup> Street and East Market. The house was one of two remaining residential properties on commercial block. Also, on the property was a roughly 2,000 square foot- 2 story commercial-residential building also fronting on Market Street. In 2016, Special Use Permit 16-04 was issued for a production studio (Grod Productions), which currently occupies the ground floor. The upper floor has been used as a residential apartment for some time. No record has been found indicating any special use permit for the 2<sup>nd</sup> floor residential apartment. Buildings occupy most of the property with the exception of some front, side and rear yard area and a few parking stalls behind the commercial/apartment building. Paved parking for the property is in the rear and is shared with the adjacent single-family home located at 104 S. 9<sup>th</sup> Street (also owned by the applicant). The parking is accessed from a paved alley/driveway shared with R.L. Sanders funeral home. The adjacent single-family home is a newer two-story home with attached garage fronting on 9<sup>th</sup> Street. If approved, there will be 3 residential units and a 1,000 sq. ft. commercial office. Residential uses require 2-offstreet parking stalls per unit. The roughly 1000 sq. ft. commercial space requires 1 space per 200 sq. ft., or 5 parking stalls. The total parking required for the property is 11 parking stalls. Between this property and the adjacent residential property sharing the parking lot, a total 13 parking stalls are required. Between the two properties, owned by the applicant, there is adequate parking when considering the attached garage and driveway at 104 S. 9<sup>th</sup> Street and the shared parking in the rear of the properties. The lack of parking on the block has been an issue for the owner. The shared paved parking in the rear of the properties has often been occupied by clients of the Sander's Funeral Home. In the past, the applicant has blocked the parking area off from the shared driveway access to prohibit the funeral home clients from using the parking. This has resulted in the required parking being blocked off from use, including the handicapped parking stall in the rear of the property. The existing commercial tenant, Grod Productions, has mostly utilized street parking. The applicant may want to consider installing parking signs limiting parking to those occupying the applicant's properties. Access to the paved parking is from what appears to be an alley. This alley appears to be public based on County GIS data, however, it also appears as though the commercial building encroaches into the alley. If for some reason, the alley was vacated in the past, it is likely that the applicant would have prescriptive rights to the shared driveway as it has been shared between properties for a great many years. No change to the access is being proposed.

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

#### **STAFF'S FINDINGS OF FACT**

1. The use of the property for multi-family and commercial (using both buildings) will not be detrimental. The use will not change the outward appearance of the properties and the additional parking needs can be met on the property.
2. There will be no noticeable change to the property, therefore it will be harmonious.
3. The current block is fully developed with a mix of lower value commercial and residential properties. The use will allow the property to be utilized, but will not prohibit redevelopment. For redevelopment to occur, many other actions would be required including recombining lots, vacating street rights-of-way, demolition of buildings, etc
4. These exist currently.
5. There is adequate access and no change to the access is being proposed.
6. The structures on the property contain many nonconformities that appear to be legal at this time.

7. There is adequate access and no change to the access is being proposed.
8. The proposed use is in conformance

The Planning Department recommends approval of Special Use Permit, SUP19-09, with the following condition:

1. The applicant shall complete the development strictly in accordance with the plans submitted and approved by the Smithfield Town Council, a copy of which is filed in the Planning Department office.
2. That access to the parking in the rear of the property remain accessible from the shared driveway/alley.
3. That the special use permit shall include the use of the property for a production studio, a second-floor apartment and two residential units in the former single-family home.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the July 9, 2019 agenda packet.

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

Councilman Ashley requested that parking be allowed only in designated parking spaces.

Mayor Moore asked the applicant if she was in agreement with the testimony provided by Mr. Wensman. The applicant, Bonnie Godwin, stated she was in agreement with the testimony provided by Mr. Wensman. She further stated it was her intent to divide the current structure into two apartments and make it more esthetically pleasing.

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

### **The Written Finding**

Councilman Ashley 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-19-09**

Councilman Ashley 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-19-09 with the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted and approved by the Smithfield Town Council, a copy of which is filed in the Planning Department office.
2. That access to the parking in the rear of the property remain accessible from the shared driveway.
3. That the special use permit shall include the use of the property for a production studio, a second-floor apartment and two residential units in the former single-family home.
4. Parking shall be in designated parking areas only.

Unanimously approved.

**CITIZENS' COMMENTS: None**

**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
  - May 18, 2019 – Special Session (Budget)
  - June 4, 2019 – Regular Meeting
  - June 4, 2019 – Close Session
2. Special Event - Community Outreach Day: Approval was granted to allow First Missionary Baptist Church to hold a community outreach day on June 29, 2019 from 9:00 am until 3:00 pm. This event had amplified sound and required the closure of Caswell Street between Fourth and Fifth Streets
3. Special Event – Vendor Event: Approval was granted to allow the Clayton General Store to hold a vendor event to benefit Mason Fannin at the Carolina Premium Outlets on June 22, 2019 from 9:00am until 7:00pm.

4. Approval was granted to allocate \$1,000 to the Innovation Academy, Neuse Charter School, South Smithfield Elementary School, West Smithfield Elementary School, Smithfield Middle School and Smithfield Selma High School for FY 2019-2020
5. Approval was granted to enter into an Interlocal Agreement with Johnston County for Fire Services
6. Approval was granted to adopt Resolution #644 (11-2019) for submission of a Community Development Block Grant application for neighborhood revitalization to benefit southeast Smithfield

TOWN OF SMITHFIELD  
RESOLUTION # 644 (11-2019)

APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE  
PHASE 1 SOUTHEAST SMITHFIELD NEIGHBORHOOD REVITALIZATION PROJECT

WHEREAS, the Town of Smithfield's Town Council has previously indicated its desire to assist in community revitalization within the Town; and,

WHEREAS, the Town Council has held two public hearings concerning the proposed application for Community Development Block Grant funding to benefit low- and moderate-income residents located in Southeast Smithfield and,

WHEREAS, the Town Council wishes the Town to pursue a formal application for Community Development Block Grant funding to benefit Southeast Smithfield, and

WHEREAS, the Town Council certifies it will meet all federal regulatory and statutory requirements of the State of North Carolina Community Development Block Grant Program,

NOW, THEREFORE BE IT RESOLVED, by the Town of Smithfield Town Council that:

The Town is authorized to submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant for the North Carolina Neighborhood Program to benefit Southeast Smithfield.

The Mayor Andy Moore, and successors so titled, is hereby authorized to execute and submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant.

That Michael Scott, Manager, and successors so titled, is hereby authorized and directed to furnish such information as the North Carolina Department of Commerce may request in connection with an application or with the project proposed; to make assurances as contained in the application; and to execute such other documents as may be required in connection with the application.

7. Approval was granted to adopt Resolution #645 (12-2019) supporting the submission of an NCDOT Pedestrian Planning grant Application

RESOLUTION #645 (12-2019)  
SUPPORTING THE SUBMISSION OF A BICYCLE AND PEDESTRIAN PLANNING GRANT  
APPLICATION TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

WHEREAS, the Town Council has indicated its desire to place more emphasis on providing facilities for biking and walking in the Town of Smithfield and to encourage a healthy lifestyle for all its residents and visitors; and

WHEREAS, comprehensive planning documents are an integral part of developing bicycle and pedestrian transportation systems in the Town of Smithfield; and

WHEREAS, to encourage the development of comprehensive local bicycle and

pedestrian plans, the North Carolina Department of Transportation, Division of Bicycle and Pedestrian Transportation and Transportation Planning Branch have created a matching grant program to fund plan development; and,

WHEREAS, if awarded, NCDOT will contribute 80% of the planning grant funds and the Town will contribute 20%; and

WHEREAS, the Town Council wishes to pursue a formal application for the Bicycle and Pedestrian Planning Grant Initiative.

NOW, THEREFORE BE IT RESOLVED, by the Town of Smithfield's Town Council that the Town of Smithfield is authorized to submit a formal application to the North Carolina Department of

8. Approval was granted to adopt resolution #646 (13-2019) authorizing the disposition of certain surplus property and auctioning of that property by the electronic auction service of GovDeals.com

**TOWN OF SMITHFIELD RESOLUTION # 646 (13-2019)  
AUTHORIZING THE SALE OF CERTAIN  
PERSONAL PROPERTY AT PUBLIC AUCTION**

WHEREAS, the Town Council of the Town of Smithfield desires to dispose of certain surplus property of the Town in accordance with NC GS 160A-270; and

WHEREAS, the Town Council of the Town of Smithfield desires to utilize the auction services of a public electronic auction service.

NOW, THEREFORE, BE IT RESOLVED by the Town Council that:

1. The following described property is hereby declared to be surplus to the needs of the Town:

<b>Dept.</b>	<b>Vin/Ser.#</b>	<b>Description</b>
Police	2B3AA4CT0AH217531	2010 Dodge Charger
Police	2B3CL1CT5BH556480	2011 Dodge Charger
Police	2B3CL1CT5BH556481	2011 Dodge Charger
Police	2B3CL1CT9BH556476	2011 Dodge Charger
Police	2G1WS553181267144	2008 Chevrolet Impala
Police	2G1WS553681266930	2008 Chevrolet Impala
Public Works	3862080	1994 Scag Turf Tiger
Public Works	4310878	1998 Scag Turf Tiger
Public Works	8731665	2004 Scag Turf Tiger
Public Works	A6200146	2005 Scag Turf Tiger
Public Works	C770066	2008 Scag Turf Tiger
Public Works	2929601641	Scag Mower
Public Works	4040548933	Heavy Duty Tire Changer
Public Works	601062132	2001 Hustler Z Mower

2. The Town Manager or his designee is authorized to receive, on behalf of the Town Council, bids via public electronic auction for the purchase of the described property.
3. The public electronic auction will be held beginning no earlier than July 19, 2019.
4. The Town Council further authorizes the disposal of Town surplus property by use of a public electronic auction system provided by GovDeals Inc. The property for sale can be viewed at [www.govdeals.com](http://www.govdeals.com). Citizens wanting to bid on property may do so at

www.govdeals.com. The terms of the sale shall be: All items are sold as is, where is, with no express or implied warranties; All items will be sold for cash or certified check only; Payment must be received for all items sold before they may be removed from the premises; All items sold must be paid for and removed from the site of the sale within 5 business days of the sale, or they will be subject to resale.

5. The Town Clerk shall cause a notice of the public auction for surplus property to be noticed by electronic means in accordance with G.S. 160A-270(c), available on the Town of Smithfield website [www.smithfield-nc.com](http://www.smithfield-nc.com)

6. The highest bid, if it complies with the terms of the sale, may be accepted by the Finance Director or his designee and the sale consummated.

**9. New Hire Report**

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Pump Station Mechanic	Public Utilities – W/S	30-71-7220-5100-0200	\$14.17/hr. (\$29,473.00/yr.)
P/T Scorekeeper	P&R – SRAC	10-60-6200-5100-0210	\$10.00/hr.
P/T SRAC Instructor	P&R – SRAC	10-60-6200-5100-0230	\$10.00/hr.
P/T Pool Staff/Lifeguard	P&R – SRAC	10-60-6200-5100-0220	\$7.50/hr.
P/T Pool Staff/Lifeguard	P&R – SRAC	10-60-6200-5100-0220	\$7.50/hr.
P/T Pool Staff/Lifeguard	P&R – SRAC	10-60-6200-5100-0220	\$7.50/hr.
P/T Pool Staff/Lifeguard	P&R – SRAC	10-60-6200-5100-0220	\$7.50/hr.
Utility Line Mechanic	Public Utilities – W/S	30-71-7220-5100-0200	\$14.88/hr. (\$30,950.40/yr.)

**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
Payroll/Accounting Technician	Finance	10-10-4200-5100-0200
	Public Utilities – W/S	30-71-7220-5100-0200
	Public Utilities - Electric	31-72-7230-5100-0200

Unanimously approved

**Business Items:**

**1. Stormwater Management Action Plan Update**

Planning Director Stephen Wensman explained to the Council the Town of Smithfield has had significant flooding issues over the years, and in particular with recent hurricane events. In late 2017, the Town received a Golden LEAF Foundation Grant in the amount of \$70,000 for the preparation of the Stormwater Management Plan. In late 2017, the Town issued a Request for Proposals for the Plan and received several proposals, but selected Jewell Engineering to prepare the Plan. The purpose of the Stormwater Management Action Plan was to identify, prioritize and plan to address flooding and stormwater quality problems throughout the community. The preparation of the Plan is the first step in the development of a comprehensive, long-term stormwater program. Mr. Wensman introduced Doug Jewell from Jewell Engineering. Mr. Jewell provide a presentation to the Town Council explaining the benefits of the Stormwater Management Plan.

Mr. Wensman asked the council to consider adopting the plan and forming a stormwater committee as the first step in the action plan.

Councilman Barbour made a motion, seconded by Councilman Ashley, to accept the Stormwater Management Action Plan. Unanimously approved.

*{Attached hereto by reference and made a part of these official minutes is the Stormwater Management Action Plan which is on file in the office of the Town Clerk}*

## 2. Annexation Request – Reid Smith (ANX-19-01)

Planning Director Stephen Wensman informed the Council the Town had received a petition by Reid Smith to annex approximately 68.16 acres at 1899 Buffalo Road. Mr. Wensman explained annexation will increase the tax base and the town will provide adequate services. The first step in the annexation process was to adopt Resolution #647(14-2019) directing the Town Clerk to certify the sufficiency of the annexation petition.

Councilman Ashley made a motion, seconded by Councilman Barbour, to adopt Resolution # 647 (14-2019) directing the Town Clerk to investigate the sufficiency of the annexation petition. Unanimously approved.

TOWN OF SMITHFIELD  
RESOLUTION # 647 (14-2019)  
DIRECTING THE CLERK TO INVESTIGATE A PETITION  
RECEIVED UNDER G.S. 160A-58.1

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on July 9, 2019 by the Smithfield Town Council; and

**WHEREAS**, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

**WHEREAS**, the Town Council of the Town of Smithfield deems it advisable to proceed in response to this request for annexation:

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

The Town Clerk is hereby directed to investigate the sufficiency of the attached petition and to certify as soon as possible to the Town Council the result of her investigation

## 3. Zoning Text Amendment – Town of Smithfield (ZA-19-02)

This item was tabled at the June 2019 regular Town Council Meeting

Planning Director Stephen Wensman addressed the Council on the zoning text amendment as was presented at the June Town Council meeting. Mr. Wensman explained the Planning Department was requesting an amendment to the Town of Smithfield Unified Development Ordinance (UDO) Article 6, Section 6.5 Table of Uses and Activities to allow Food Trucks in the O/I District, B-1 District, and B-2 District as a permitted use with supplementary standards and to update the supplementary standards for food trucks, Section 7.5. At the June 2019 Council meeting, the Council had questions concerning Food Trucks selling alcoholic beverages near churches and desired a minimum buffer be inserted into the location requirements for food trucks. Staff researched the issue and found that Food Trucks selling alcoholic beverages are permitted in NC. They are treated the same as a restaurant serving alcohol, needing designated seating, 50' distance to a church and other requirements. Most often food trucks serving alcohol are allowed with Limited Special Occasion Permits (one-time permit), most often issued to a nonprofit or political organizations, or onto the premises of a business with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, wedding, party or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held. The One Time Permit from the ABC Board would be required in order for the Town to issue a zoning permit for a food truck serving alcohol. The draft ordinance, Section 7.25.3 Food Truck Location has been changed to include a minimum buffer distance of 50 feet from a place of worship (consistent with ABC regulations for restaurants serving alcohol) for food trucks serving alcoholic beverages. Staff also amended Section 7.25.9.1, to allow food trucks at flea markets, but require them to be regulated under an approved special use permit (striking zoning permit). Regulating under the Special Use Permit is the



most appropriate way to set limits, location, hours of operation, etc. for food trucks at flea markets.

Mr. Wensman explained that Pam Lampe and Emma Gemmel expressed concerns about the proposed 90 days a food truck is permitted to remain in one location. Their concern was that it could potentially hurt the downtown brick and mortar restaurants. Mr. Wensman stated he spoke with the DSDC Executive Director Sarah Edwards and she stated it would not be an issue. Mr. Wensman further explained the 90 days would be easier for staff to administer and regulate.

Councilman Ashley questioned section 7.25.2. He asked if the Town allowed a temporary event permit for 90 days. Mr. Wensman responded that the Town has a special event permit and a zoning permit. The special event permit would limit the food truck to that specific event and the zoning permit would allow the food truck to operate on private property for 90 days. The point of allowing a food truck to stay in one location for 90 days is to allow the food truck to have a presence in the Town. The food truck would have to be moved every evening, but it could return to its approved location during the 90 day period. If the food truck wanted to continue to operate after the 90 days, they would have to reapply for another zoning permit and change locations.

Councilman Barbour stated that a food truck can operate within that 90 day period. He questioned if the Downtown Smithfield Development Corporation had concerns about the impact food trucks would have on the downtown restaurants. Mr. Wensman responded he spoke with Sarah Edwards about this. She stated food trucks are mostly in the downtown area during special events and during these events, all businesses in the downtown benefit. She also stated food trucks would not be an issue because the proposed ordinance limited them to private property which was limited in downtown. Mr. Wensman reminded the Council if the proposed 90 days proved to be a problem, Council could always amend the ordinance.

Councilman Dunn questioned how a food truck would benefit the downtown business if it was in regular operation and not during a special event. Mr. Wensman responded that a food truck had to be in operation on private property and not simply along a Town street. Sarah Edwards stated that sometimes food trucks turn into brick and mortar restaurants in the downtown areas where they were allowed to operate.

Councilman Barbour made a motion, seconded by Councilman Lee, to adopt UDO text amendment ZA-19-02 stating the request was consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request was reasonable and in the public interest. Councilman Barbour, Councilman Lee and Councilman Ashley voted in favor of the motion. Councilman Dunn and Councilman Rabil voted against the motion. the motion passed 3 to 2.

**ORDINANCE # ZA-19-02**  
**AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD**  
**UNIFIED DEVELOPMENT ORDINANCE**  
**ARTICLE 6, SECTION 6.5, TABLE OF USES AND ACTIVITIES**  
**AND ARTICLE 7.25 FOOD TRUCKS**

**WHEREAS**, the Smithfield Town Council wishes to amend certain provisions in the Unified Development Ordinance by making changes to the Town of Smithfield Unified Development Ordinance to allow for expanded use of Food Trucks in all the O/I (Office Institutional) B-1 (Business) and B-2 (Business) and other Town sponsored events and other special events.

**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 6, Section 6.5, to allow for the expanded use of Food Trucks in all the O/I (Office Institutional) B-1 (Business) and B-2 (Business) zoning districts and revise Article 7.25 Food Trucks that allow for the permitting of Food Trucks at Town sponsored events, Town Council approved special events and refinements to the supplemental standards for Food Trucks]

**PART 1**

**SECTION 6.5 TABLE OF USES AND ACTIVITIES.**

Uses	O/I	B-1	B-2	B-3	Supplemental Regulations
Food Trucks	<u>PS</u>	<u>PS</u>	<u>PS</u>	PS	Section 7.25

**PART 2**

**SECTION 7.25 FOOD TRUCKS.**

Food trucks shall be permitted in accordance with Section 6.5 and subject to the following standards:

**7.25.1.** Food trucks may conduct sales while parked on a public street when the Town Council has approved a temporary street closing or on property owned by the Town for a Town-sponsored or civic event such as a street festival/fair, or Town Council approved special event.

**7.25.2.** Food trucks may operate on an individual private property for a maximum of 90 days<sub>±</sub> each calendar year when utilizing a temporary event permit for each individual parcel on which the food truck is located.

**7.25.3. Food Truck Location.**

Food trucks must be located at least 100 feet from the front door of any restaurant and outdoor dining area during restaurant business hours and at least 50 feet from any permitted mobile food vending cart location. Additionally, food trucks are prohibited from parking closer than 15 feet of a fire hydrant, and closer than 5 feet of a driveway, utility box or vault, handicapped ramp, building entrance or exit, or emergency call box. Food Trucks serving alcoholic beverages shall be no closer than 50 feet from any place of worship. These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered point, or in the case of a restaurant measured from the closest point of the restaurants main entrance. If a zoning permit is issued and a restaurant or place of worship subsequently opens within buffered distance (measured from the restaurants/place of worship main entrance) of the approved food truck location, the food truck may continue to operate until the permit expires.

**7.25.4. Zoning Permit.**

A zoning permit is required for each site and must be signed by the property owner, and completed and submitted along with a site plan or plot plan. If a property owner has a property large enough to accommodate more than one food truck, only one zoning permit is required to be submitted showing the location of all food trucks. The plot plan must show the limits of the property, the location(s) of the proposed food truck, and label adjoining uses on neighboring properties. The applicant must also submit a copy of a valid permit for a Mobile Food Unit, NC Sales and Use Certificate, NC Department of Agriculture Permit, and/or ABC Permit when applicable, location of approved grease disposal facility, proof of food truck storage location and a copy of the vehicle or trailer registration.

**7.25.5. Parking.**

Food trucks may not occupy any required parking stall for the primary use while the primary use is open to the public. Food trucks and the primary use may share parking spaces when having separate hours of operation. Parking stalls that are overflow or extra according to the regulations in the UDO may be used to park a food truck; however, parking stalls leased to another business or adjacent use may not be used unless the food truck is operating under separate hours of operation. Food trucks may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles. The approved location for the parking trucks, as shown on the zoning permit, must be physically marked. The food truck parking space can be marked with paint, tape or other easily identifiable material. Food trucks may not be parked in an approved location after hours of operation.

**7.25.6. Hours of Operation.**

Food trucks may operate between the hours of 6 a.m. and 10 p.m., unless the food truck is located within 150 feet of a property with a single- or two-family residential dwelling. When located within 150 feet of this residential dwelling, the hours of operation shall be between 7 a.m. and 6 p.m. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.

**7.25.7. Prohibitions.**

Food trucks may not use audio amplification. ~~or~~ Freestanding signage shall be limited to a single sandwich board sign of a maximum height of four (4) feet and a maximum length of three (3) feet. All equipment and signage associated with the food trucks must be located within three (3) feet of the food truck. The food truck operator is responsible for disposing of all trash associated with the operation of the food truck. Town trash receptacles may not be used to dispose trash or waste. All areas within fifteen (15) feet of the food truck must be kept clean. Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets. Food trucks are all subject to the Town-wide noise ordinance.

**7.25.8. Maximum Number of Trucks Per Property.**

**7.25.8.1.** Maximum of two (2) food trucks on lots of one-half acres or less.

**7.25.8.2.** Maximum of three (3) food trucks on lots between one-half acre and 1 acre.

**7.25.8.3.** Maximum of four (4) food trucks on lots greater than 1 acre.

**7.25.8.4.** Outdoor seating associated with a food truck is only permitted on lots at least two acres in size or greater.

**7.25.9. Exceptions.**

**7.25.9.1.** Food Trucks when located at outdoor flea markets are exempt from Section 7.25.2 and Section 7.25.4. Food trucks at outdoor flea markets shall operate under a valid special use permit for the flea market and are permitted to operate under the same hours of operation.

**7.25.9.2.** The number and location of Food Trucks operating with a Town-sponsored or civic event such as a street festival/fair, or Town Council approved special event shall be regulated with the permit.

**PART 3**

That the Unified Development Ordinance shall be page numbered and revision dated as

necessary to accommodate these changes.

#### **PART 4**

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

#### **Councilmembers Comments:**

- Councilman Lee questioned the street repairs on Futrell Way and throughout the Belmont community. He expressed concerns because residents were unaware of any roadway improvement taking place in their neighborhoods. Public Utilities Director Ted Credle apologized for the lack of notification but explained that emergency repairs to collapsed sewer lines were needed on Futrell Way, Fayetteville Street, Durham Street and Collier Streets. Mr. Credle further explained the contractor should have all repairs completed by the end of the week weather permitting. Councilman Lee informed the Council that National Night Out was to be held on the same night as the August Town Council Meeting. He questioned if the August meeting could be changed to allow the Town Council and Town Staff to attend and support this event. Councilman Lee expressed his appreciation to Town Clerk Shannan Parrish for her efforts to provide books for children in the East Smithfield Community.

#### **Town Manager's Report:**

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

- River Rat Regatta is scheduled for Saturday, July 13<sup>th</sup> at 4:00 pm. A band will follow at 7:00. We will be coordinating with the Corps of Engineers to take into consideration the releases from Falls Lake and the impacts on the Regatta.
- July 8 to 15 – Local Tarheel League Tournament for Boys Baseball
- July 25<sup>th</sup> to 28<sup>th</sup> State Tarheel League Tournament for Boys Baseball. Opening ceremonies will be held at the SSS Football Field at 1:00. Please attend if you can.
- Fun in the Park at Smith Collins is schedule for July 20<sup>th</sup>.
- 600 automated electric meters have arrived and are being installed. We estimate that all electric meters in Town should be converted to NexGrid meters within 18 months.
- A highlight of each department's monthly activities was given to the Council

#### **Other Business:**

Councilman Barbour questioned if the August Town Council meeting could be moved from August 6<sup>th</sup> to August 13<sup>th</sup> to allow for the Council and staff to participate in National Night Out.

Councilman Ashley made a motion, seconded by Councilman Barbour, to hold the August Town Council meeting on Tuesday, August 13, 2019 at 7:00 pm. Unanimously approved.

#### **Adjournment**

Being no further business, Councilman Barbour made a motion, seconded by Councilman Rabil, to adjourn the meeting. Unanimously approved. The meeting adjourned at approximately 8:42 pm.

ATTEST:

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M. Andy Moore, Mayor

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Shannan L. Parrish, Town Clerk