

TOWN OF SMITHFIELD PLANNING BOARD AGENDA PACKET



Chairman: Eddie Foy

Vice-Chairman: Stephen Upton

Members:

Mark Lane	Gerald Joyner (Alt.)
Jack Matthews	Daniel Sanders
Ashley Spain	Teresa Daughtry

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

Meeting Date: *Thursday, March 3, 2016*
Meeting Time: *6:00 p.m.*
Meeting Place: *Council Chambers, Smithfield Town Hall*

**AGENDA
PLANNING BOARD
REGULAR MEETING
MARCH 3, 2016
MEETING TIME: 6:00 PM
TOWN HALL**

Call to Order.

Identify voting members

Approval of the minutes for February 4, 2016

Public Hearings

CUP-16-01 Extra Mile Motors: The applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the north side of West Market Street approximately 500 feet east of its intersection with NC Hwy 210. The property is further identified as Johnston County Tax ID# 15080019.

Old Business

New Business

Adjournment

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

Members Present:

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

Members Absent:

Teresa Daughtry

Staff Present:

Mark Helmer, Senior Planner
Veronica Hardaway, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

APPROVAL OF MINUTES FROM JANUARY 7, 2016.

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

Public Hearings:

After all persons giving testimony were duly sworn.

RZ-16-01 Royal Property: Mr. Foy opened the public hearing.

Mr. Helmer stated the applicant is requesting to rezone approximately a .18 acre tract of land from R-8 (Residential) zoning district to the B-3 (Highway Entrance Business) zoning district. The property considered for rezoning is located on the east side of Waddel Drive approximately 120 feet north of its intersection with North Bright Leaf Boulevard. The property is further identified as Johnston County Tax ID# 15005031.

Mr. Helmer stated all uses within the B-3 (Highway Entrance Business) zoning district may be considered for future site plan approval. The property considered for rezoning does not appear to contain environmentally sensitive areas such as regulated streams or designated wetlands. The property is currently being used for residential purposes. The property contains one single family dwelling and one accessory structure. The property is served with city water and sewer located within the right-of-way of Waddel Drive. The rezoning to B-3 (Highway Entrance Business) zoning district is not consistent with the Strategic Growth Plan which recommends the property be utilized for high density residential development and office and institutional land uses. However the property is adjacent to an existing B-3 (Highway Entrance Business)

zoning district and the proposed rezoning is a logical extension of this district. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance (UDO) provided that all proposed future land uses and developments are constructed in accordance with minimum development standards.

Mr. Helmer stated the property considered for a rezoning is fronting on a residential street but is immediately adjacent to property fronting on Bright Leaf Boulevard which is zoned B-3 (Highway Entrance Business). Rezoning this property from a residential zoning district to a commercial zoning district will not create compatibility issues with the adjacent residential uses to the north provided that adequate buffers are installed as part of any future site development plan to include landscaping, fencing, earthen berm or any combination thereof. The Town of Smithfield will provide fire protection as well as water/sewer, and electric services.

Mr. Helmer stated the Planning Department recommends approval of the request to rezone approximately .18 acres of land from the R-8 (Residential) zoning district to B-3 (Highway Entrance Business) zoning district.

The Planning Board is requested to review the rezoning proposal and make a recommendation to Town Council in accordance with the approval criteria for a rezoning request.

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

Mark Lane asked if the applicant was buying or renting the property.

Mr. Helmer stated it was in consequential but that may be a question best answered by the applicant.

Mark Lane asked if this property was to be changed to B-3, would it stay changed.

Mr. Helmer stated the zoning would remain as rezoned but the structure could continue to be used for residential purposes. If the applicant changed the use of the structure to commercial then revert back to a residential use, a conditional use permit would be required given that it would be a B-3 (Highway Entrance Business) zoning district.

Mike McLamb, of Four Oaks, stated he is the applicant for the proposed project and owns Sun Auto Wash. He stated the purpose in purchasing this property and having it rezoned is to create an area suitable for expansion on his existing business. His intention is to tear down the residential building structure.

Daniel Sanders asked if there were any concerns from adjacent property owners.

Mr. Helmer stated he was not aware of any and no one is present to give sworn testimony.

Stephen Upton stated that due to the condition of the residential structure, having it torn down would add benefit the surrounding properties and area in general.

Mr. Foy closed the public meeting for RZ-16-01.

Stephen Upton made a motion, seconded by Jack Matthews, to move to the Finding of Fact.

Article 13 Section 13-17 of the Town of Smithfield Unified Development Ordinance requires all applications for a zoning map amendment to address the following eight findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application.

The governing body has the responsibility to determine if the zoning map amendment is warranted. The Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this rezoning application by motion and vote on each of the following eight findings of fact. Any motion to find against the application must be supported by statement of specific reason or conclusions reached in support of the motion.

1. *The zoning petition is in compliance with all applicable plans and policies of the Town of Smithfield:*

The rezoning request from a residential zoning district to a commercial zoning district meets all of the Town's plans and policies and will blend in well with the adjacent land uses. The Comprehensive Land Use Plan directly indicates the subject property is adjacent to land identified as best suited for commercial land uses.

All members stated true.

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

Although no known compatibility issues with adjacent land uses have occurred in the past, rezoning the property to the B-3 (Business) zoning district will allow for wider range of land uses to include professional offices, retail sales, and car washes.

All members stated true.

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

Rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning because the North Bright Leaf Boulevard corridor is a heavily traveled corridor considered ideal for intense commercial endeavors. Most of the lots that existed from many years ago were very small and it is not uncommon for multiple lots to be rezoned and recombined into larger lots to accommodate modern commercial endeavors.

All members stated true.

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

The rezoning will allow for a wider range of commercial and office uses and provide additional office space and services for the residents of Smithfield. The development that will occur from the rezoning will increase the tax base as an additional benefit.

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

Since adjacent nearby properties are presently zoned B-3 (Business) then it is unlikely an argument could be made for "spot zoning" or "small scale" zoning.

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

The property is currently zoned R-8 (Residential). The R-8 zoning district allows for single family dwellings and rezoning the property to B-3 (Business) will not create a nonconformity since single family dwellings are permitted in the B-3 (Business) zoning district as well. However, additional office and commercial uses such as those permitted in the B-3 (Business) zoning district cannot occur unless the property is rezoned.

All members stated true.

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

In addition to public water and sewer being available to the site, the property is served by Town of Smithfield with electricity. CenturyLink and Time Warner also serve the area with phone and cable respectively.

All members stated true.

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

There are no physical restraints to the area considered for rezoning such as wetlands, stream buffers, potential flood hazard areas and storm water. There is no limiting geological and hydrological formation that would prohibit development (rock outcrops, lakes, etc.).

All members stated true.

Based upon satisfactory compliance with the above stated eight findings and fully contingent upon full incorporation of all statements entered into the record by the testimony of the applicant and applicant's representative;

Stephen Upton made a motion, seconded by Ashley Spain to recommend approval requesting a to rezone approximately .18 acre tract of land from the R-8 (Residential) zoning district to the B-3 (Highway Entrance Business) zoning district. Unanimous

CUP-16-01 Extra Mile Motors: Mr. Foy opened the public hearing.

Mr. Helmer stated the applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the north side of West Market Street approximately 500 feet east of its intersection with NC Hwy 210. The property is further identified as Johnston County Tax ID# 15080019.

Mr. Helmer stated the applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district. There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use Permit to include flood plains or designated wetlands. The proposed automobile sales lot is a permitted use within the B-3 (Business) zoning district with a Town Council approved conditional use permit. The applicant has provided a sketch plan of the .76 acre site showing improvements to the property to include a paved parking area for 9 automobiles and 8 required parking spaces. The site plan also indicates that an unpaved area in the rear of the existing building will be used for parking of automobiles. The only landscape improvements shown on the site plan are those provided by the proposed NCDOT corridor improvement plan. The proposed automobile sales lot is inconsistent with the recommendations of the Comprehensive Growth Management Plan which calls for Conservation/Open Space land uses in areas where there is the potential for flooding (100 year floodplain) or the need to become conflicting land uses. The future land use map indicates areas having the potential existence of wetlands. Any development in these areas should be at low density and closely coordinated with regulations governing wetlands development.

Mr. Helmer stated an automobile sales lot is a permitted use within the B-3 (Highway Entrance Business) zoning district with a valid conditional use permit. The applicant will be responsible for submitting a preliminary site plan that shows all applicable minimum development standards can and will be met prior to site plan approval and issuance of a valid zoning permit to include paved parking and paved vehicular storage with screening. An automobile sales lot at this location will pose a compatibility issue with surrounding land uses and may contribute to the urban blight found throughout this portion of the entrance corridor. Signs shall be permitted in accordance with the UDO which will allow for a maximum height of 6 feet and 75 square feet in area for all ground signs located within the B-3 (Highway Entrance Business) zoning district. The Town of Smithfield will provide fire protection as well as water/sewer, and electric services.

Mr. Helmer stated the Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces are paved and screening of the storage yard is

installed in accordance with the minimum development standards of the Town of Smithfield UDO.

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

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

Mr. Foy asked if this property was on the right side after the going over the bridge in West Smithfield, and if it was near the flood plain.

Mr. Helmer stated that the property is located within the 100 year flood plain of the Neuss River.

Daniel Sanders asked if there were wetlands.

Mr. Helmer stated that the comprehensive land use plan has identified the area as generally being wet. However, no wetland study exists that identifies this property as containing delineated wetlands.

Daniel Sanders asked if the applicant will be doing any automobile repairs.

Mr. Helmer stated that is a question for the applicant; however it was not requested specifically for auto repair.

Stephen Upton asked why the plan states parking area for 9 automobiles and 8 required parking spaces.

Mr. Helmer stated the staff report was written based on the first copy of the plan that was submitted which did not include all of the details. However, the employee parking will be shared between the existing tenant and the new tenant. When the final zoning permit is written it will be based on the final plan submitted.

Ashley Spain asked if the storage area in the rear needs to be paved.

Mr. Helmer stated the area would have to be paved if there is more than a total of 5 total parking spaces.

Ashley Spain asked if the vehicles being displayed or stored are drivable.

Mr. Helmer stated that's a question for the applicant but that the permit for automobile sales does NOT include the storage of automobiles that are not operable and able to run on their own power.

Ashley Spain stated he was concerned for the environmental sensitive areas near the property considered for automobile sales and truck parking.

Mr. Foy asked where the fence with fabric would be on the property.

Mr. Helmer stated the fence is shown around the storage yard but it was unclear from the plan submitted for board review as to how the screening from view of the public-right-way would be accomplished.

Mr. Foy asked if cars will be displayed in the front of the building.

Mr. Helmer stated the applicant is proposing employee parking as well as cars for sale to the side of the existing building but the plan has not labeled which is which.

Mark Lane asked if there is a need for landscaping.

Mr. Helmer stated that NCDOT has approved the landscaping improvement plan within the right-of-way of this corridor. The applicant has not showed any proposed landscaping within the boundaries of the site including screening of the storage area.

Mark Lane asked how many vehicles the applicant plans on storing in area labeled as storage.

Mr. Helmer stated that is a question for the applicant but parking of vehicles in the "storage area" was only being paved to accommodate 5 vehicles.

Jack Matthews asked if the property will look better than it does at this present time.

Mr. Helmer stated the screening of existing and proposed storage yards as required by the Town of Smithfield Unified Development Ordinance would go a long way in improving the appearance of this corridor.

Stephen Upton asked if this property has grandfather status.

Mr. Helmer stated the building is considered existing but the proposed parking and storage areas would need to meet modern standards as required by the UDO for the health, welfare and safety of the public.

Daniel Sanders asked that since the parking will be shared with the existing tenant, how many tractor trailer trucks will be parked there at one time.

Mr. Helmer agreed that the plan does not appear to address the number of tractor trailer the lot can accommodate and does not adequately demonstrate safe tractor trailer movements.

Roy Willard Whitley, Hatteras, stated he has managed this property for the last 15 years. The show room area in the front of the building will be office space. Mr. Whitley stated there

cannot be more than 10 cars on the lot at one time. The tenant usually has 5 vehicles or less out for display and does this through internet sales. He stated he is interested in improving the property. The existing tenant, PTI, has been renting for about 3 years and has approximately 7 trucks. The trucks that are parked there are either waiting for new assignment or repair. The fence on the side of the building will be moved to the rear storage for screening.

Mr. Foy asked if there's 10 parking spaces and one is handicapped, that will only give you 9 spaces that doesn't include customer parking. In reality there will only be about 7 spaces for cars on display.

Mr. Helmer stated resulting permit will allow for 10 spaces for cars for sale. This is minimum parking spaces required for the applicant to secure a dealers licensed by the DMV. Adequate parking for employees for both businesses would need to be included on the plan.

Mr. Whitley stated the storage in the rear is for vehicles that are not ready to be displayed for sale.

Daniel Sanders asked where the trucks are getting repaired.

Mr. Whitley stated they are repaired inside the building.

Gerald Joyner asked if any of the vehicles being sold will be worked on premise.

Mr. Whitley stated PTI could do the repairs but that is something both tenants would have to work out. Cars on display come and go very quickly.

Be no further questions Daniel Sanders made a motion, seconded by Jack Matthews to continue the hearing at the March meeting to allow more time for the applicant to develop a plan drawn to scale that adequately addresses parking requirements, adequate screening of the storage yard and tractor trailer parking and movement. Unanimous

CUP-16-02 Run Right Auto: Mr. Foy opened the public hearing.

Mr. Helmer stated the applicant is requesting a conditional use permit to allow an outdoor storage yard of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the south side of Whitley Farm Road approximately 5200 feet southwest of its intersection with Brogden Road. The property is further identified as Johnston County Tax ID# 15K11026H.

Mr. Helmer stated the applicant is requesting a conditional use permit to allow an outdoor storage yard of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The southwest property is the centerline of a regulated stream with an existing 50 foot undisturbed riparian buffer. Run Right Auto received administrative site plan approval on February 21, 2014 with a condition that no outdoor

storage was permitted. The applicant is now requesting a conditional use permit to allow for outdoor storage. The applicant has submitted a revised site plan showing a paved and screened parking lot designed to accommodate 16 automobiles. Outdoor storage is consistent with the Comprehensive Land Use Plan and permitted at most locations providing screening requirements are met.

Mr. Helmer stated that outdoor storage is a permitted use within the B-3 (Highway Entrance Business) zoning district with a valid conditional use permit. The applicant has submitted a preliminary site plan that shows all applicable screening requirements being met. Outdoor storage at this location will not pose a compatibility issue with surrounding land uses due to screening requirements of the UDO being met. Sign permits have been issued for this site and no additional signs are requested or permitted. The Town of Smithfield will provide fire protection, Johnston County will provide water/sewer, and Duke Energy Progress will provide electric services.

Mr. Helmer stated the Planning Department recommends approval of the proposed storage yard of automobiles providing that all parking spaces are paved and screening of the storage yard is installed in accordance with the minimum development standards of the Town of Smithfield UDO.

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

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

Mark Lane asked if the property is currently in compliance with the UDO.

Mr. Helmer stated that after some time, the violations have been abated.

Ashley Spain asked if everything on the plan conforms.

Mr. Helmer stated that the applicant has submitted a revised site plan showing paved parking area in the rear for the storage of automobiles awaiting repair.

Mr. Foy asked if the storage area would include cars for sale.

Mr. Helmer stated the Mr. Purmul does not have a permit for automobile sales.

Stephen Upton asked if this storage was in the rear of the building and wanted to know if that area will be paved.

Mr. Helmer stated that the UDO defines a parking space as any space where an automobile is kept and 5 or more spaces triggers an improved dustless surface such as concrete or asphalt.

Stephen Upton stated guidelines regulating automobile parking and storage needed to be followed by all.

Mohammad Purmul, 106 Muirfield Lane, Clayton, stated he started this project about 3 years ago. It took 2 years to build the shop. When the application was submitted, he stated he had already bought a building. He stated he's been in front of the board before for the rezoning of the property. He stated Mr. Embler told him he could use gravel in the rear of the building, but now is being told he needs to have it paved. He feels as though he doesn't need to do concrete because he has about 6" of gravel and you cannot see the cars from the road. He stated he doesn't know what he's done to Mr. Helmer because he is always driving by and taking pictures of his property. He stated he doesn't know why he was told he could use gravel and spend \$3,000-\$4,000 on gravel and is now being told to do something else and every time he turns around money is coming out of his pocket. He feels he does not have to do the paving when gravel is already put down.

Mark Lane asked how long concrete has been written in the UDO.

Mr. Helmer stated that current parking standards have been in place since the UDO was adopted in 2008. Mr. Helmer stated the approved plan showed a gravel area for storage and is not identified as parking for automobiles.

Ashley Spain stated maybe there was a miscommunication between what is considered storage and what is considered parking.

Mr. Purmul agreed and stated he was in disagreement with the UDO and did not consider cars awaiting repairs as storage. Mr. Purmul also stated he did not appreciate the Town coming by his property.

Mr. Helmer stated the applicant had as many as 25 vehicles on the property and was using drive isles, customer and employee parking, handicap parking and graveled areas for the storage of automobiles awaiting repair and the site had become a major safety concern because the site was designed and constructed with only 6 parking spaces.

Ashley Spain stated he appreciated the applicant coming to the Board to get the appropriate permits required for a storage yard for automobiles.

Mark Lane asked if there have been any complaints coming from the neighbors.

Mr. Helmer stated he was not aware of any complaints from the neighbors and that no one was present to speak in opposition to the request.

Mr. Helmer stated that he consulted with Mr. Purmul early in the plan review process and recommended a conditional use permit if more than 6 vehicles in connection with the business would be stored on the property. The applicant stated an expedited process was preferred and

that no more than six vehicles awaiting repair would be on the site. Mr. Helmer stated that as the reviewing planner, he routinely conducted inspection before, during and after construction noting discrepancies between what was approved and what was constructed as well as use violations. The Town Zoning Enforcement Officer began formal communication with the applicant soon after a certificate of occupancy was granted. The applicant is now requesting the Conditional Use Permit to allow for a screened automotive storage yard.

Being no further questions, Mr. Foy closed the public meeting for CUP-16-02.

Stephen Upton made a motion, seconded by Jack Matthews, to move to the Finding of Fact.

Article 13 Section 13-17 of the Town of Smithfield Unified Development Ordinance requires all applications for a zoning map amendment to address the following eight findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application.

The governing body has the responsibility to determine if the zoning map amendment is warranted. The Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this rezoning application by motion and vote on each of the following eight findings of fact. Any motion to find against the application must be supported by statement of specific reason or conclusions reached in support of the motion.

1. *That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved:*

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

All members stated true.

2. *That the use meets all required conditions and specifications:*

The proposed automobile storage lot at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances. The revised site plan shows a screened parking area designed to accommodate 16 vehicles and meets all other parking requirements of the Town of Smithfield Unified Development Ordinance.

All members stated true.

3. *That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and:*

The proposed automobile storage lot at this location will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses providing required landscape buffers, street yards and screening are maintained in accordance with minimum development standards and that no more than 16 automobiles awaiting repair are on site at any given time and are located in the designated parking area.

All members stated true.

4. *That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b):*

The proposed automobile storage lot at this location will not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development proving all minimum development standards are met to include landscaping, lighting, paved parking and all other minimum development standards.

All members stated true.

Based upon satisfactory compliance with the above stated eight findings and fully contingent upon full incorporation of all statements entered into the record by the testimony of the applicant and applicant's representative;

Stephen Upton made a motion, seconded by Daniel Sanders to recommend approval requesting a conditional use permit to allow an outdoor storage lot of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance Business) zoning district.

Old Business:

Mr. Helmer distributed the 2016 Planning Board Calendar.

Stephen Upton made a motion, seconded by Daniel Sanders to approve the 2016 Planning Board Calendar.

New Business:

Mr. Helmer reviewed legislative updates; Architectural Design Standards and Rezoning Protest Petitions.

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

Submitted this 4th day of February, 2016.

Veronica Hardaway
Administrative Support Specialist
Planning Department



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

STAFF REPORT

Application Number: CUP-16-01
Project Name: Extra Mile Motors
TAX ID number: 15080019 and 15080055
Town Limits/ETJ: Town Limits
Applicant: Seamus Ian Costello
Owners: Roy Willard Whitley
Agents: N/A

PROJECT LOCATION: West Market Street approximately 500 feet east of its intersection with NC Hwy 210.

REQUEST: The applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district.

SITE DATA:

Acreage: A portion of a 1.04 acre parcel
Present Zoning: B-3 (Highway Entrance Business)
Proposed Zoning: N/A
Existing Use / Previous: PTI Transportation / Retail sales and service

DEVELOPMENT DATA:

Proposed Use: Automobile Sales Lot

ENVIRONMENTAL: There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use Permit to include flood plains or designated wetlands.

ADJACENT ZONING AND LAND USES:

North:	Zoning:	R-20A (Residential-Agricultural)
	Existing Use:	Cox Auto Repair with nonconforming automobile storage lot
South:	Zoning:	B-3 (Highway Entrance Business)
	Existing Use:	Plan B Private Nightclub
East:	Zoning:	B-3 (Highway Entrance Business)
	Existing Use:	Whitley's Grocery and Supply
West:	Zoning:	B-3 (Highway Entrance Business)
	Existing Use:	Cox Auto Repair with nonconforming automobile storage lot

STAFF ANALYSIS AND COMMENTARY: The proposed automobile sales lot is a permitted use within the B-3 (Business) zoning district with a Town Council approved conditional use permit. The applicant has provided a revised sketch plan on February 26, 2016 showing improvements to the property to include a paved parking area for 13 automobiles and a designated area for the parking of tractor trailers. The site plan also indicates that an unpaved area in the rear of the existing building that is not being improved for the parking of automobiles. Landscape improvements shown on the site plan include screening of the storage area, screening of the tractor trailers and loading zoning. NCDOT right-of-way improvements are properly addressed on the sketch plan.

- **Consistency with the Strategic Growth Plan**

The proposed automobile sales lot is inconsistent with the recommendations of the Comprehensive Growth Management Plan which calls for Conservation / Open Space land uses in areas where there is the potential for flooding (100-year floodplain) or the need for buffering. Buffering is used to separate areas that may have the potential to become conflicting land uses. The future land use map indicates areas having the potential existence of wetlands. Any development in these areas should be at low density and closely coordinated with regulations governing wetlands development.

- **Consistency with the Unified Development Code**

An automobile sales lot is a permitted use within the B-3 (Highway Entrance Business) zoning district with a valid conditional use permit. The applicant will be responsible for submitting a preliminary site plan that shows all applicable minimum development standards can and will be met prior to site plan approval and issuance of a valid zoning permit to include paved parking and non-vehicular storage with screening.

- **Compatibility with Surrounding Land Uses**

An automobile sales lot at this location will pose a compatibility issue with surrounding land uses and may contribute to the urban blight found throughout this portion of the entrance corridor.

- **Signs**

Signs shall be permitted in accordance with the Town of Smithfield Unified Development

Ordinance which will allow for a maximum height of 6 feet and 75 square feet in area for all ground signs located within the B-3 (Highway Entrance Business) zoning district.

OTHER:

FIRE PROTECTION: Town of Smithfield
SCHOOL IMPACTS: NA
PARKS AND RECREATION: NA
ACCESS/STREETS: West Market Street
WATER/SEWER PROVIDER: Town of Smithfield
ELECTRIC PROVIDER: Town of Smithfield

Planning Department Recommendations:

The Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces are paved and screening of the storage yard is installed in accordance with the minimum developments standards of the Town of Smithfield Unified Development Ordinance.

Planning Board Actions:

The Planning Board, at its February 4, 2016 meeting, unanimously voted to continue the hearing until their March 3, 2016 meeting in order to give the applicant time to submit a revised plan showing the screening of the proposed storage yard and a further refined parking lot layout plan.

Planning Board Recommendations:

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

Town of Smithfield
Conditional Use Permit Application
Finding of Fact / Approval Criteria

Application Number: CUP-16-01 **Name:** Extra Mile Motors

Request: Applicant seeks a CUP for automotive sales with outdoor storage of automobiles.

The Smithfield Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

1. Finding One of Four:

Circle One

A. Approval:

Based on the evidence and testimony presented it is the finding of the **Planning Board** that the application, if approved, will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.

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

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

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

The proposed automobile sales lot at this location may endanger the public were shown if more automobiles exist on the lot than what the site is designed to safely hold resulting in automobiles parking within the public right-of-way and within designated landscape yards and required buffer yards.

Finding Two of Four:

Circle One

A. Approval:

Based on the evidence and testimony presented it is the finding of the **Planning Board** that the application, if approved, meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances providing the applicant submits a detailed site plan for planning staff approval that shows required landscaping and paved parking prior to issuance of site plan approval and issuance of a valid zoning permit for an automobile sales lot.

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

Based on the evidence and testimony presented it is the finding of the **Planning Board** that the application, fails to meet all required specifications or fails to conform to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations in the following ways or for the following reasons:

The proposed automobile sales lot at this location does not conform to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances because the applicant is proposing parking within the required 15 foot street yard that is measured from the property line.

3. Finding Three of Four:

CUP-16-01

A. **Approval:**

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

The proposed automobile sales lot at this location will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses providing required landscape buffers and street yards are installed and maintained in accordance with minimum development standards and that no more than 10 automobile sales for sale are on the lot at any given time.

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

Based on the evidence and testimony presented it is the finding of the **Planning Board** that the application, if approved, will substantially injure the value of adjoining or abutting property and/or will be detrimental to the use or development of adjacent properties or other neighborhood uses in the following ways or for the following reasons.

The proposed automobile sales lot at this location may be detrimental to the adjacent land uses due to increased traffic and noise generated by activities associated with automobiles sales. Increased blight will be created by the over represented used car sales industry in a corridor in need of rehabilitation and redevelopment.

4. Finding Four of Four:

Circle One

A. **Approval:**

Based on the evidence and testimony presented it is the finding of the **Planning Board** that the application, if approved, would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location will not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development proving all minimum development standards are met to include landscaping, lighting, paved parking and all other minimum development standards.

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

Based on the evidence and testimony presented it is the finding of the **Planning Board** that the application, if approved, would adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties in the following ways or for the following stated reasons: (Applicant fails to meet the criteria necessary for approval.)

The proposed automobile sales lot at this location will adversely affect the adopted plans and policies of the Town of Smithfield, and violate the character of existing standards for development if automobile sales occur without minimum development standards being met to include paved parking, landscaping and lighting.

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

Motion to Approve: *Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant’s representative I move to recommend approval of Conditional Use Permit Application # CUP-16-01*

Motion to Deny: *Based upon failure to meet all of the above four stated findings and for reasons stated therein, I move to recommend denial of Conditional Use Permit Application # CUP-16-01 for the following stated reason:*

5. Record of Decision:

Based on a motion and majority vote of the Town of Smithfield Planning Board Conditional Use Permit Application Number CUP-16-01 is hereby:

_____ recommended for approval upon acceptance and conformity with the following conditions; or,

_____ recommended for denial for the noted reasons.

Decision made this ____ day of _____, 20__ while in regular session.

Eddie Foy, Planning Board Chairman

ATTEST:

Mark E. Helmer, AICP, CZO
Senior Planner



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

CONDITIONAL USE PERMIT APPLICATION

Pursuant to Article 13, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town Council to allow a Conditional Use. Conditional Uses are uses that may be appropriate in a particular district, but has the potential to create incompatibilities with adjacent uses.

Conditional Use Permit applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee. The application fee is \$300.00. All fees are due when the application is submitted.

SITE INFORMATION:

Name of Project: Extra Mile Motors Acreage of Property: 1.04 acres
 Parcel ID Number: 15080019/15080055 Tax ID: N/A
 Deed Book: 1813 Deed Page(s): 359
 Address: 528-A West Market Street, Smithfield, NC 27577
 Location: Less than 1 mile west of Neuse River bridge on Hwy 70 Business.

Existing Use: PTI Transport, Inc. (trucking) Proposed Use: Additional Internet Auto Sales
 Existing Zoning District: B-3
 Requested Zoning District: N/A
 Is project within a Planned Development: Yes No
 Planned Development District (if applicable): _____
 Is project within an Overlay District: Yes No
 Overlay District (if applicable): Highway overlay district

FOR OFFICE USE ONLY

File Number: CUP-16-01 Date Received: 1/4/16 Amount Paid: \$300.⁰⁰

OWNER INFORMATION:

Name: Roy Willard Whitley
Mailing Address: P.O. Box 777, Hatteras, NC 27943
Phone Number: 252-996-0199 **Fax:** 252-986-4000
Email Address: wwhtley@embarqmail.com

APPLICANT INFORMATION:

Applicant: Seamus Ian Costello
Mailing Address: 59 Holiday Island Drive, Garner, NC 27529
Phone Number: 919-675-9100 **Fax:** 214-543-4867
Contact Person: Seamus Costello
Email Address: seamus_200@msn.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

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

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

STATEMENT OF JUSTIFICATION

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

I am seeking approval to add an internet auto sales business to my premises at 528 West Market Street. The property is 1.04 acres and has an office/warehouse space of 7,560 square feet. the current tenant, PTI Transport, Inc., operates a trucking business out of a portion of the building basically performing maintenance and providing storage for his trucks and equipment when not in use. The additional tenant, Extra Mile Motors, would require office space and parking for a maximum of ten vehicles. We have a lease agreement in place for 2016 granting the auto sales business 1600 square feet of office space and ten exterior vehicle parking spaces in two separate areas of the property.

This property was originally a Studebaker dealership owned and operated by my father, James W. Whitley. It consists of a glass enclosed showroom with office/storage/bathroom (1600 sq. ft.), a large service area with bathroom (3200 sq. ft.), a smaller two bay service area (870 sq. ft.), a prep bay and paint booth (1350 sq. ft.) and an office/storage space with bathroom (540 sq. ft.). Uses over the years since have been mostly automotive related with few exceptions. We have plans to make improvements to building and parking areas to coincide with the upcoming NCDOT improvement project.

REQUIRED FINDINGS OF FACT

Article 13, Section 13-17 of the Town of Smithfield Unified Development Ordinance requires applications for a Conditional Use Permit to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

- 1. That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;

Ingress and egress to and from property would be unchanged and conform to NCDOT criteria. No planned changes would have any adverse effect on visibility or general traffic safety.

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

The use will be subject to Conditional Use Permit criteria and approval by the associated processes.

- 3. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and

Property use will not change in any appreciable or noticeable way. Improvement and rearrangement of parking scheme would only redistribute and relocate vehicles for safety and efficiency. No additions or objectionable changes are planned for the exterior of the property. Type and placement of signage would be subject to approval of the appropriate entities.

- 4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b).

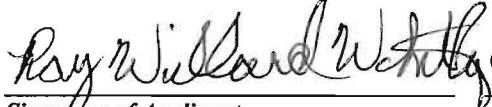
This property was originally designed for express use as an auto sales and service dealer and has existed amicably through the years with adjacent businesses.

APPLICANT AFFIDAVIT

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

Roy Willard Whitley

Print Name



Signature of Applicant

01/04/2016

Date



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

OWNER'S CONSENT FORM

Name of Project: Extra Mile Motors Submittal Date: January 4th, 2016

OWNERS AUTHORIZATION

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

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

Roy Willard Whitley Roy Willard Whitley 01/04/2016
Signature of Owner *Print Name* *Date*

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

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

Roy Willard Whitley Roy Willard Whitley 01/04/2016
Signature of Owner/Applicant *Print Name* *Date*

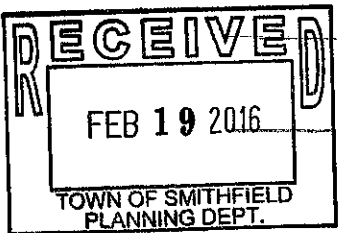
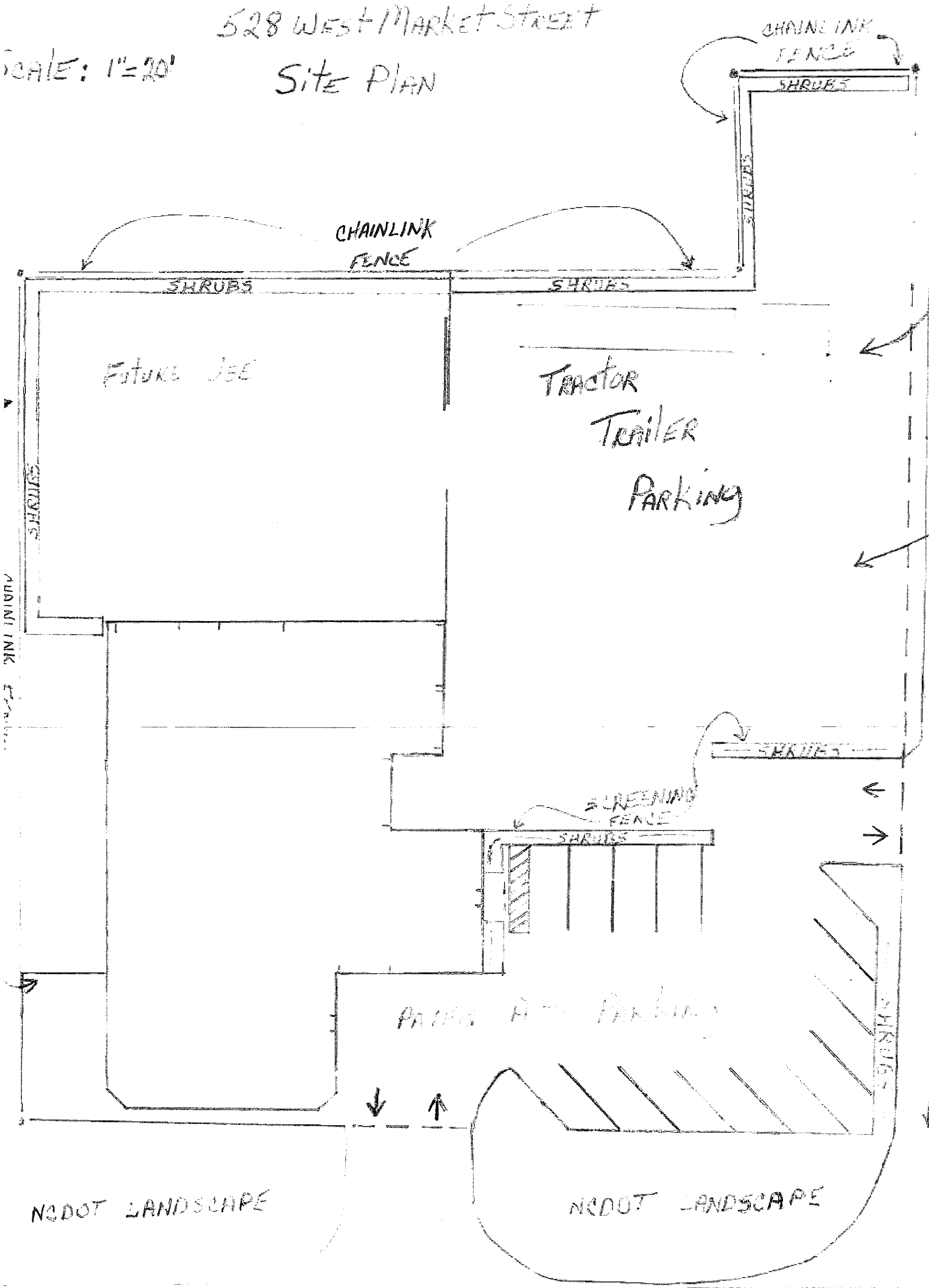
FOR OFFICE USE ONLY

File Number: CUP-16-01 Date Received: 1/4/16 Parcel ID Number: 15080019/15080055

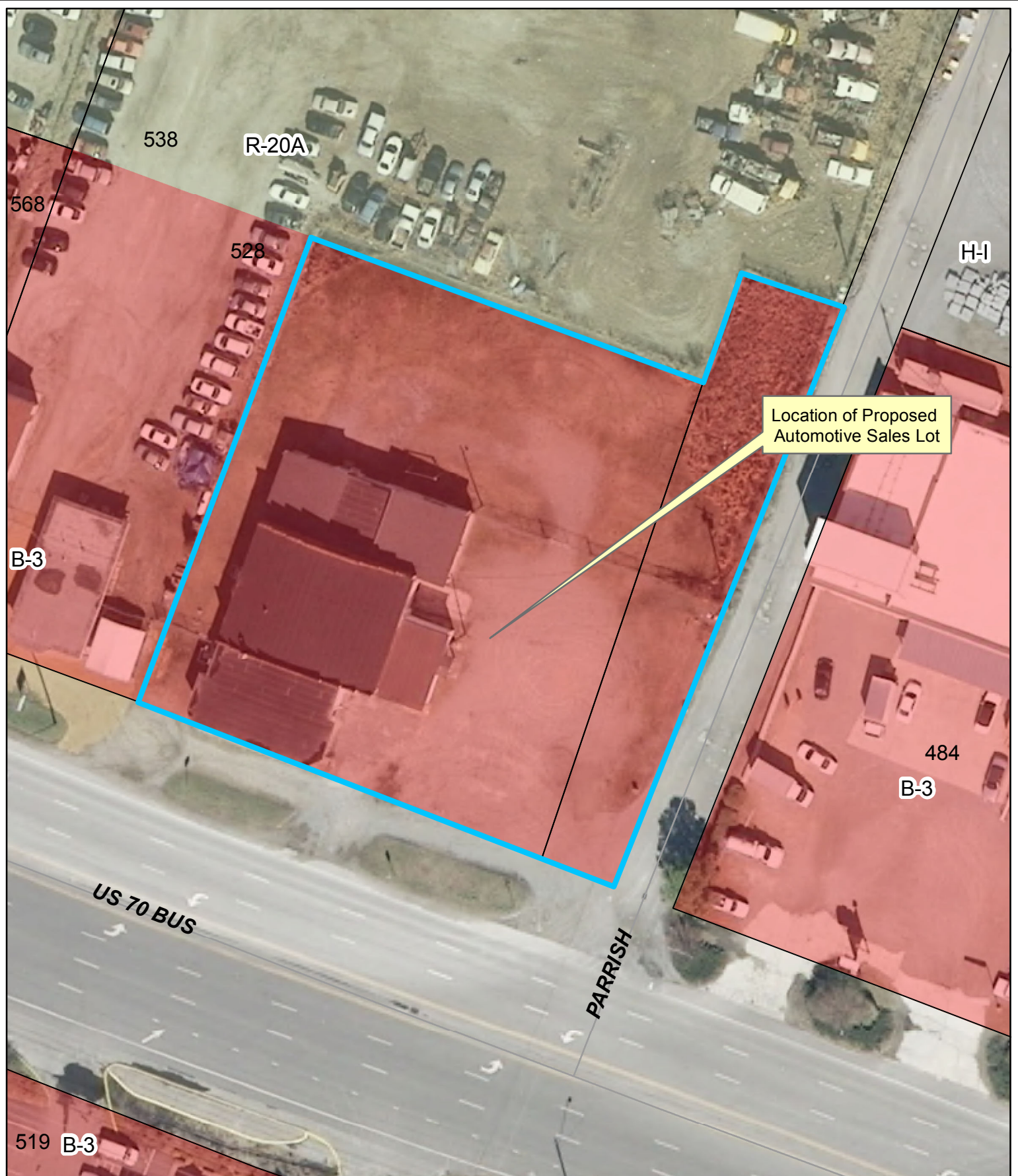
528 WEST MARKET STREET

SITE PLAN

SCALE: 1"=20'



US TO BUSINESS



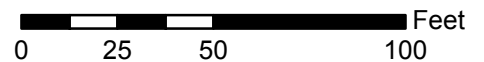
Vicinity Map for:
CUP-16-01
Applicant:
Extra Mile Motors



Map Created by The
Town of Smithfield
Geographic Information Services



1 inch = 50 feet



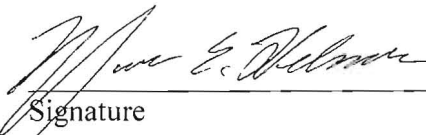


PLANNING DEPARTMENT

Paul C. Embler, Jr., Director

ADJOINING PROPERTY OWNERS CERTIFICATION

I, **Mark E. Helmer**, hereby certify that the property owner and adjacent property owners of the following petition, CUP-16-01, were notified by First Class Mail on 2-16-16.



Signature

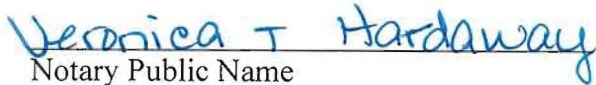
Johnston County, North Carolina

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

16th day of February, 2016

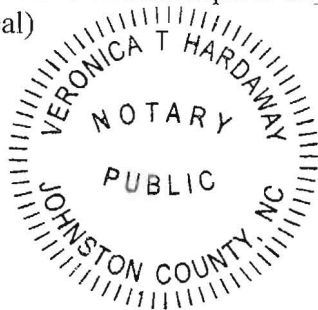


Notary Public Signature



Notary Public Name

My Commission expires on 11-4-18
(Seal)



Adjacent Property Owners of
CUP-16-01

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15080019	169413-13-5475	WHITLEY, ROY WILLARD	P O BOX 777	HATTERAS	NC	27943-0000
15080016	169413-13-8670	MITCHELL, JAMES NELSON	P O BOX 585	SMITHFIELD	NC	27577-0000
15080017	169413-13-7490	JOHNSON, JAMES RANDY	1671 GALILEE RD	SMITHFIELD	NC	27577-7713
15080019A	169413-13-6606	COX REPAIR SERVICE	568 W MARKET STREET	SMITHFIELD	NC	27577-0000
15080020	169413-13-3553	COX, LLOYD J	568 W MARKET ST	SMITHFIELD	NC	27577-0000
15080012B	169413-13-4742	COX, LLOYD J & ALVIN E COX	568 WEST MARKET STREET	SMITHFIELD	NC	27577-0000
15080062	169413-12-6816	TWIN STATES FARMING INC	P O BOX 1352	SMITHFIELD	NC	27577-1352
15080055	169413-13-6484	WHITLEY, ROY WILLARD	P O BOX 777	HATTERAS	NC	27943-0000
15080062A	169413-13-2025	GODWIN LLP	PO BOX 607	SELMA	NC	27576-0000
15080065	169413-13-4136	GODWIN LLP A LIMITED LIABILITY	PO BOX 607	SELMA	NC	27576-0000



PLANNING DEPARTMENT

Paul C. Emblar, Jr., Director

Notice Of Public Hearing

Notice is hereby given that a public hearing will be held before the Planning Board of the Town of Smithfield, N.C., on Thursday, March 3, 2016 at 6:00 P.M., in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

CUP-16-01 Extra Mile Motors: The applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the north side of West Market Street approximately 500 feet east of its intersection with NC Hwy 210. The property is further identified as Johnston County Tax ID# 15080019.

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

Run "Legal Ad" in the Smithfield Herald on 2/17/16 and 2/24/16



PLANNING DEPARTMENT

Paul C. Emblar, Jr., Director

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You have been identified as a property owner in the area specified above and are being advised of this meeting as you may have interest in this matter. You are welcome to attend; however, you are not required to in order for the Board to act on this request. Additional information may be obtained by contacting the Town of Smithfield Planning Department at 919-934-2116.