

# TOWN OF SMITHFIELD PLANNING BOARD AGENDA PACKET



**Chairman:** Stephen Upton

**Vice-Chairman:** Daniel Sanders

## **Members:**

Mark Lane

Ashley Spain

Michael Taylor

Eddie Foy

Teresa Daughtry

Oliver Johnson (Alt)

Stephen Wensman, AICP, ALA, Planning Director

Mark Helmer, AICP, CZO, Senior Planner

Julie Edmonds, Administrative Assistant

**Meeting Date:** *Thursday, March 1, 2018*

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

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

**AGENDA  
PLANNING BOARD  
REGULAR MEETING  
MARCH 1, 2018  
MEETING TIME: 6:00 PM  
TOWN HALL**

**Call to Order.**

**Identify voting members**

**Approval of the agenda**

**Approval of the minutes for February 1, 2018**

**New Business**

**ZA-18-02 Town of Smithfield:** The Planning Department is requesting adoption of the revised Flood Insurance Study (FIS) for Johnston County and an amendment to the Town of Smithfield Unified Development Ordinance, Article 10, Part VII, Flood Damage Prevention Ordinance, Non-Coastal Regular Phase and Appendix A. Definitions.

**Old Business**

**ZA-17-06 Town of Smithfield:** The Planning Department is requesting amendments to Town of Smithfield Unified Development Ordinance (UDO), to establish clear standards for maximum cul-de-sacs lengths and concise minimum lot standards for flag shaped lots.

**Discussion on required consistency statements**

**Administrative Actions report**

Land Use Permit Report for January 1, 2017 through February 22, 2018

Site plans currently in review or approved as of March 1, 2018.

- Dollar General, West Market Street
- Penn Compression Molding, Inc., Components Drive
- Ample Storage, West Market Street
- Panera Bread, East Market Street
- Ford Dealership, North Brightleaf Boulevard

**Adjournment**

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

**Members Present:**

Chairman Stephen Upton  
Oliver Johnson  
Michael Taylor  
Eddie Foy  
Teresa Daughtry  
Ashley Spain

**Members Absent:**

Daniel Sanders  
Mark Lane

**Staff Present:**

Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Assistant  
Stephen Wensman, Planning Director  
Mike Scott, Town Manager

**Staff Absent:**

**CALL TO ORDER**

Mr. Upton identified Town Manager, Michael Scott as well as former Planning Director, Paul Embler in attendance. The Planning Board members were also identified as well as, Planning Staff. Mr. Upton announced February 6, 2018 as the next Town Council meeting.

**AMENDMENTS TO THE AGENDA**

Eddie Foy made a motion to change the agenda, seconded by Teresa Daughtry. Unanimous

**APPROVAL OF MINUTES from December 7, 2017**

Eddie Foy made a motion, seconded by Teresa Daughtry to approve the minutes as written.  
Unanimous

**APPROVAL TO OPEN THE PUBLIC HEARING**

Ashley Spain made a motion, seconded by Eddie Foy to open the Public Hearing.  
Unanimous

**New Business:**

**ZA-17-07 Steve Bryant:**

Mark Helmer stated that Mr. Bryant is requesting a text amendment to Town of Smithfield Unified Development Ordinance (UDO), article 6 and activities to allow for a restaurant within the O/I zoning district. The proposed zoning ordinance amendment will allow an additional use in the Office/Institutional District that: The proposed zoning ordinance amendment will allow an additional use in the

Office/Institutional District that:

- Supports the O/I District;
- Provides another option for reuse of existing structures within the District, thus preserves the historically significant structures which reflect the town's heritage;
- Preserves the character of the neighborhood (old period homes);
- Supportive of the Central Business District; and
- Creates no land use conflicts.

The current comprehensive land use plan, guides Office/Institutional land uses in areas that already have been developed or require buffering to prevent potential conflicting land uses.

The O/I District is intended to buffer residential areas from commercial ones. The Comprehensive Land Use Plan provides caution about commercial infringement into established residential neighborhoods. The plan states the infringement, "can damage the appearance of the neighborhood, diminish community pride, and cause unsafe traffic conditions for both motorists and pedestrians. Rezoning adjacent to residential uses, particularly those in conflict with the future land use map contained in this plan, should be done with great caution". Staff also believes that allowing restaurants in the O/I District will not create a nuisance or create traffic that is detrimental to the area. The district is well served with roads, on-street parking, sidewalks and other urban amenities, such that the use will blend in with the current mix of land uses. In order to approve the zoning text amendment, the planning board must find that the rezoning is consistent with the town plans and policies. Staff finds that the applicant is consistent with the town plans and policies. The zoning text amendment will support the Comprehensive Growth Management Plan for the town. It will be consistent with the Town of Smithfield Unified Development Ordinance. The Planning Department does recommend approval to the proposed amendment to article 6 in the UDO. Mr. Helmer stated he would be happy to answer any questions.

Mr. Upton asked if anyone had questions for Mr. Helmer.

Mr. Foy asked if anyone had opposition to this.

Mr. Helmer stated no

Mr. Upton asked if anyone else present had questions and would like to speak.

No one else wanted to speak.

Mr. Johnson made a motion to approve the consistency statement with staff recommendations, seconded by Ashley Spain.

Mr. Wensman asked Mr. Upton if you approve the findings as staff has found them or had you rather issue your own support of a consistency statement.

Mr. Upton stated he didn't see any finding of fact but would make the announcement.

Mr. Wensman said it is the three consistency statements that Mark stated, that staff finds them consistent. You're required to state how they're consistent in your motion. You can reference staffs findings or issue your own.

Mr. Johnston made a motion to approve ZA-17-07 and adopt the consistency statement with staff recommendations. Unanimous

**RZ-18-01 Tom Medlin:**

Mr. Foy made a motion to open RZ-18-01. Unanimous

Mr. Helmer stated Stephen T. Medlin is requesting approval of a zoning map amendment to rezone approximately 1.02 acres of land from O/I (Office / Institutional) zoning district to the B-2 (General Business) zoning district. The property is located on southeast side of the intersection of North Brightleaf Boulevard and Hancock Street. In 2001, Stephen Medlin received site plan approval for the construction of Brightleaf Business Center which is a multi-phased project spanning across two properties. The properties contain two free standing buildings with a combined total of 8,800 square feet of leasable space. The property was developed as a strip center using modern zoning standards that were in place at the time of plan approval. It includes 33 parking spaces with standard landscape yards.

A variance was issued from the Town of Smithfield Board of Adjustment to allow for a reduction of minimum building setbacks on North Brightleaf Boulevard. With the existing configuration there are 6 leasable units between the two buildings with three of them currently occupied by Allstate Insurance, LabCorp and Avada Hearing Care Center. Most professional office uses are permitted within the requested B-2 (General Business) zoning district and no nonconformities will be created if the property is rezoned. However, retail uses are not permitted uses in the existing OI (Office-Institutional) zoning district. The applicant is seeking to attract a wider range of tenants and uses that are permitted within B-2 (General Business) zoning district in hopes of reducing vacancy rates. Some of the permitted uses in the requested B-2 (General Business) zoning districts as identified by Article 6 of the Town of Smithfield Unified Development Ordinance include; convenience stores, floral and gift shops, hardware stores, barber and beauty shops, and restaurants.

The Future Land Use Map has identified this property as guided for industrial uses, however, the area is zoned a mix of O/I and B-2, none of which are consistent with the land use plan. Similar rezoning's occurred in the area despite of the land use designation. Adjacent properties within this corridor are currently zoned and developed as commercial, so the use of this site for commercial is contextually consistent and appropriate. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance as all existing land uses on the subject property are permitted in the B-2 (General Business) and, all future land uses will be permitted in accordance with Article 6 of the Town of Smithfield Unified Development Ordinance.

The property considered for a rezoning is immediately adjacent to other B-2 (General Business) zoned properties. Compatibility issues are unlikely provided that any future redevelopment occur in the area.

The Planning Department has determined that the application is consistent with applicable adopted plans, policies and ordinances and recommends approval of the rezoning request.

Mrs. Daughtry asked how the increased traffic through the area would impact the safety of the proposed site.

Mr. Helmer said we're only talking about 6,000 square feet of retail which is small. Mr. Medlin could get a high traffic use in there such as a restaurant, but most retail places aren't considered to generate high traffic.

Mr. Wensman wanted to add that the access to the parking lot is actually off of Hancock Street. The traffic would turn off onto to a side street to get access into the parking lot, so it's a pretty safe situation compared to others.

Mr. Upton stated there are other exits to the site if others learned them.

Mr. Upton asked if the board members or any guests had questions. No one spoke up.

Mr. Foy made a motion to approve the zoning amendment with the consistency statement with the staffs findings and support. Unanimous

Mr. Upton wanted to point out to everyone that the Planning Board is making recommendations to the Town Council not approving anything.

Ashley Spain made a motion to close RZ-18-01, seconded by Teresa Daughtry. Unanimous

**ZA-18-01 Town of Smithfield:**

The Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) that will correct inconsistencies with minimum development size of a Planned Unit Development (PUD) and allow for additional flexibility in the required mix of uses. The proposed zoning ordinance amendment will redefine and clarify development standards as they pertain to a PUD by:

- Eliminating inconsistent standards concerning minimum PUD size;
- Removing the requirement that a PUD must contain a mix of residential and nonresidential land uses. The definition for PUDS is left over from the previous code set at a minimum of 25 acres. The UDO has been updated and the new minimum size is 5 acres. We had two different minimum size requirements for that code. Planning staff believes that 5 acres is the direction the UDO was meant to go because the new language in the code is 5 acres. Furthermore, 25 acres are geared toward residential development only. A mixed use PUD is likely to occur on smaller properties that are tougher to develop. Our new code requires that a PUD be a mix of residential and non-residential. Another portion of the code doesn't reinforce that and to be flexible staff thinks a mix of residential and non-residential makes sense in many cases. There are also cases where you have a zoning district that may benefit from a planned unit

development that's not a mixed use scenario. A lot of residential districts can't have commercial and those zoning districts would be completely off limits for any PUD without this change. By removing the requirement of it being mixed use, it allows more flexibility in our code, so a developer can vary from our specific standards, such as setbacks and lot size, to increase the ability to come up with a creative project. A PUD is a negotiated zoning district. In order to utilize the PUD code, you do need to have higher standards for streets, pedestrian conductivity. As a project gets more high density there may be need for buffering or some landscaping to mitigate some of that or storm water requirements that need to be addressed. Staff is recommending this change, encouraging mixed use but not mandating it which will allow greater flexibility. Staff believes the text amendment is consistent with the land use plan because PUDS are a flexible zoning district that reflects the land use guidance of a plan. If it's an R-8 property now and you want to do a PUD, it would be rezoned to an R-8 PUD. The uses in that district are the same uses you would find in an underlying zoning district. The only difference is the map is now the guide for setbacks and lot sizes. We are suggesting the Planning Board review this and adopt a consistency statement with their findings as how it is consistent.

Mrs. Daughtry asked why it was set at 5 acres. She feels that takes away flexibility from the developer and putting more into the hands of the town to control.

Mr. Wensman said a developer can have a 5 acre site and use this tool, where if 25 acres, only large land owners could take advantage of this PUD as a tool. It actually makes it more flexible.

Mrs. Daughtry asked what makes it 5 acres though.

Mr. Wensman said the UDO was updated; there was a long process in which the town updated it. I don't know the discussions; I do know there are best practices out there. In Minnesota where I am from, the minimum is 5 acres. Each city determines what they want. Our PUD section prior to the last UDO update was primarily geared toward residential open space PUD. It really was meant for mixed use development, most mixed use sites tend to be smaller, more intensely developed sites. Whether it is 5 or 10 acres it is a community decision. It was already in our code at 5 acres, there's just the conflict between 5 acres and 25 acres.

Mrs. Daughtry asked with a PUD, can the Town have more of a say so on what goes in there than in a B-3.

Mr. Wensman said the land uses are the same that would be in the zoning district that existed before the tool. The tool is an overlay. You've got your B-3; now you want to do a B-3 PUD all that does is say you can vary from dimensional standards. There's a plan that is presented with that PUD, it shows the Town how you're going to vary from those standards then the town gets to say that makes sense. If it makes sense and there is a plan that shows that it does, the Town and Staff can adopt it. That plan becomes the zoning ordinance that establishes setbacks, lot size and anything that differs from the UDO.

Mrs. Daughtry said so tonight we're basically changing the text from 25 to 5 acres and making that recommendation.

Mr. Wensman said yes that is it.

Mrs. Daughtry said she disagrees with the board recommending 5 acres as a minimum. She is looking for 7 to 10 acres as a minimum.

Mr. Wensman stated there must be some confusion. The 5 acres is the minimum requirement. No one can use that tool until they have 5 acres. Most commercial sites will never have a 25 acre site. They're going to have 5 to 10 acres. They have to have a plan that is approvable to go along with that rezoning before it can be approved.

Ashley Spain made a motion to approve the development on tracts as small as 5 acres; it allows a range of uses without mandating a mixed residential, non-residential use on that particular site of land and staff's recommendations. Eddie Foy seconded the motion. Approved by Steve Upton, Eddie Foy, Ashley Spain, Oliver Johnson, opposed by Teresa Daughtry.

Eddie Foy made a motion to close ZA-18-01, seconded by Oliver Johnson. Unanimous

**RZ-18-04 and SUP-18-02:**

Eddie Foy made a motion to open RZ-18-04 and SUP-18-02, seconded by Ashley Spain. Unanimous

Mr. Wensman wanted to point out that the boards last motion allows RZ-18-04 to move forward. Adams and Hodge Engineering, PC is requesting a Rezoning from R8 to R8 Planned Unit Development (PUD) Special Use District and a Special Use Permit (SUP) for a PUD master plan for a proposed 298-lot residential subdivision at 1899 Buffalo Road. This property is owned by Frank Lee and sits on 67.88 acre tract of land. It is within the watershed district, an overlay district that has some additional rules, governing various storm water aspects primarily to address protection to the watershed. The developer has shown on their site plan 298 homes but requesting flexibility to go up to 315 homes. Water and electricity would be provided by Town of Smithfield which would require annexation. The proposed lot sizes are roughly 3,145 sq. feet for single family detached home, 2,000 sq. feet for Tri-plex Units and 1,400 sq. feet for townhomes. They're proposing 9 phases somewhere close to 40 units per phase.

On October 3, 2017, the Town of Smithfield approved a new Unified Development Ordinance (UDO). The new UDO allows PUDs, but as a Special Use District rezoning. The new UDO also only allows PUDs if they are mixed use. This application for special use rezoning arrived at staff's door on December 1, 2017; planning staff deemed it incomplete for lack of information. They provided more information so we accepted the application on January 5, 2018.

Ashley Spain stated if you look at a project no less than 5 acres and this one in question is 67, it doesn't right to include every single house within that 67 acres as a separate unit.



Mr. Wensman said the whole project is the unit. You're adopting the plan for the whole development. Small changes can be made but the overall plan as a whole should hold together throughout the whole project.

Mrs. Daughtry asked why the developer did not want to put that land in commercial.

Mr. Wensman said the underlying zoning district here is R-8, it doesn't allow commercial. Even if you use a PUD tool you can't introduce new uses. It has to be uses that were already allowed in the underlying district.

Mr. Wensman explained the street requirements. This plan is lacking two things, one it needs another street running down the middle as suggested on the map before everyone. Currently our code states 1000 feet as minimum block sizes, their block sizes exceed 1000 feet. They aren't currently meeting the UDO requirements. A PUD is looking for a higher standard, which means more Interconnectivity. Our code is requiring connection to adjacent development. As the road develops into a four lane road, we don't want each development to have two accesses. It could be hazardous for traffic and safety. By having interconnected streets people don't have to get on the main road to visit a neighbor or pick up a child from a birthday party. The watershed district is an overlay; it's intended to enhance storm water management because you're in a sensitive watershed district. It allows for reduced lot sizes in the watershed but you need to follow the clustering provisions. This proposal meets the open space requirement under the clustering provision under watershed rules. The state had comments where they didn't think it did enough, that it should be further cluttered away. As they increase density from 298 to 315 more open space will be required. The only way to achieve that is to move lots away further from the river.

Mr. Foy asked if those were retention ponds or existing bodies of water on the plan.

Mr. Wensman said there are existing bodies of water. There will be a layer of storm water requirements. It's not on the plan yet.

Mr. Wensman stated minimum lot widths are 40 feet wide, they are requesting PUD flexibility. Side yard setbacks are 6 feet and building separations are 12 feet. NCDOT will have a number of requirements and will want a traffic impact study. That is a condition of approval, required in our UDO.

Mr. Spain asked how it would be permissible for this development to be 50 feet from the river.

Mr. Wensman said that is why we made conditions of approval. There will be a review process, but so far there isn't enough information.

Mr. Foy asked if basically the Planning Board was being asked to give the green light to at least start this process.

Mr. Wensman answered yes

Mr. Foy said he thinks the board at least owes the applicant a chance to see if this can be done. He asked if the town would annex the property. Mr. Wensman answered yes, in order for the developer to move forward the town would have to voluntarily annex the property.

Mr. Foy asked how much the County would be involved in a project like this if it's in the town limits of Smithfield.

Mr. Wensman said he would think very little because this property is in our ETJ.

Mrs. Daughtry asked if this project would come back before the Planning Board again.

Mr. Wensman answered we don't know yet. It would come back to you as a preliminary plat, and at that point the plat will have to be consistent with the master plan.

Mrs. Daughtry suggested the board vote to move forward.

Mr. Upton asked if anyone that came as a guest would like to speak.

Reed Smith from 114 W. Main Street Clayton, NC came forward to speak. He said along with Donnie Adams of Adams & Hodge Engineering and James Lipscomb with Hometown Realty, they're very excited about this project. They're residential developers in the area. Just to name a few, they developed Riverwood, Parkview and various phases of Lionsgate. He said he would like to give a brief vision for the project. They are aware of all the hurdles ahead of them to take on a project of this size. The proposed community is modeled after their Clayton project called Parkview with the same floor plans and concept. They put a lot of pride in their exteriors. They use upgraded siding and stone. They offer ranch plans, 3 bedroom master down stair plans. In working with the Town of Clayton once you get your masterplan approval it doesn't have to go back before the Planning Board and Town Council. With the Town of Smithfield it is more complicated. Once you get your master plan you have to come back before staff, Planning Board and Town Council for every phase. These boards will get another look at this plan as we proceed on. We put this product down for flexibility and to handle different market conditions.

Mr. Upton asked for the address of the development in Clayton.

Mr. Smith said 114 Parkview Drive

Donnie Adams from 314 E. Main Street Clayton, NC came forward. He is from Adams & Hodge Engineering. He commented on a previous buffer question. On the plan before the board they showed where the riparian buffer was. He said they were probably 200 foot from the river. They have a few conditions of approval that they would like to disagree on, First one being the connection over to adjacent property. He agreed problems can occur when developers are required to provide a stub then the next project comes in and the neighborhood comes out in full force and refuses it.

Mr. Spain asked Mr. Helmer if this information wasn't beyond their scope of information.

Mr. Wensman spoke up and said it is pertinent because you guys are going to be making a recommendation whether you agree with staff's conditions or not.

Mr. Adams continued saying out of the 10 conditions of approval, they were ok with all but 4. He already mentioned one, being the connection over to adjacent property. The second one is the east to west connection. They really focused on making this a walkable community. Adding another connector breaks up their continual open space. They break it up with pedestrian trails where the staff is recommending having a road connection. Another condition is the request for sidewalks along Buffalo Road. They aren't against them but already have a greenway trail proposed on both sides. They prefer the trails but if the Town had rather have sidewalks they will comply. Lastly the 4<sup>th</sup> condition is asking where everything is going. They have already shown plans for the single family detached layout and townhomes but the flexibility part is the Triplex units. They're the same single family units, but three of them put together. They've requested that flexibility; they've identified the maximum number of units they would require.

Mr. Foy made a motion to make a recommendation to the Town Council to rezone the property from R-8 to R-8 PUD based on the fact that it is consistent with the strategic growth plan, consistent with the UDO and compatible with surrounding land uses. The Town of Smithfield Planning Board agrees with staff's findings. Unanimous

#### **SUP-18-02**

Mr. Wensman stated he had recommended 10 conditions and they are to present some of the issues presented. The applicant objects to four of them. PUD is essentially a conditional district rezoning; ultimately they have to agree to the conditions. If they don't agree to the conditions, and the city insist on them then it's probably not a project you want to improve. That will be a decision of the council, the conditions they want to put on the project, what are relevant conditions. Staff has made a presentation with 10 conditions that it felt were relevant, four of which the applicant objects to.

Mr. Foy asked which conditions the applicant objected to.

Mr. Wensman said the applicant objects to the following conditions:

- 4) That an additional east-West Street be incorporated into the site plan on the west side of the development consistent with the PUD requirements of the UDO.
- 5) That lateral connections to adjacent developable parcels be incorporated into the PUD masterplan.
- 6) That public sidewalks along Buffalo Road be incorporated into the PUD Master Plan
- 8) That the PUD master plan be updated to identify the type and placement of each unit type on a lot.

Mr. Upton asked the board to reference each condition that needs to be changed and reference them.

Mrs. Daughtry said she would like to change number 5 and recommend the applicant not be expected to connect to the adjoining property.

Mr. Johnson asked what the staff's rationale was for including that provision.

Mr. Wensman said it's a provision in the UDO. He is fine with that condition being struck because it's actually a requirement to the UDO. The reason it was pointed out was to make the board aware of the deficiency in the plan.

Mr. Spain asked if it had to be a special use permit is some changes.

Mr. Wensman said yes that is correct. They would have to amend their special use permit.

Mr. Spain said according to number 9 it covers everything and it is the Planning staff's job to make sure the UDO is followed correctly. He thinks the Board should vote.

Mr. Foy stated given the UDO you don't really need number 5.

Mr. Wensman said this is true, essentially I don't want to fight with a developer in the next phase. I want some clarity that the board understands this plan and the UDO. If they don't show those connections it will come back before you to specifically say we don't want those connections. If the Town Council agrees with you I am not going to push it.

Mr. Taylor stated that as a former firefighter he knows many of these adjacent connections to develop are for future potential issues related to adverse weather conditions, as well as fire safety, personal safety. In the event there is a significant fire at the entrance or multiple fires which is on one end would be an issue. I want to make sure we aren't tying ourselves in future Development that is adjacent to it into the inability to protect our citizens and property.

Mr. Spain asked if the UDO says this has to be done then for it not to be done, the UDO has to be changed.

Mr. Wensman said town council has to approve the plan ultimately. Technically yes, sometimes certain things don't get emphasized as much as others. The process is if you don't like a code, you amend it or appeal to the Board of Adjustments. Staff is going to support the UDO because that is his job.

Mr. Foy made a motion to recommend to Town Council 9 of the 10 conditions, with the exception being number 5. Unanimous

Mr. Foy made a motion to close SUP-18-02

Mrs. Daughtry was excused from the meeting due to a conflict of interest.

**RZ-18-02 TIMA LLC:**

Oliver Johnson made a motion to open, seconded by Mr. Foy.

Mr. Helmer stated that Frank Lee is requesting approval of a zoning map amendment to rezone approximately 26.57 acres of land from B-3 Highway Entranceway Business District to HI Heavy Industrial Zoning. The properties proposed for the rezoning are located at the Northwest corner of Wal-Pat Road and Brogden Road. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance as all proposed future land uses and site specific development plans must meet the minimum development standards of the Town of Smithfield Unified Development Ordinance. The property considered for a rezoning is adjacent to heavy industrial uses on the North and West and land zoned as B-3, but guided as industrial across Brogden Road. There could be some compatibility issues in the short term between the proposed industrial zoned properties and the existing residential properties along Brogden Road until the time they redevelop to industrial uses as guided.

Mr. Taylor asked Mr. Helmer if the land across from Brogden Rd was already zoned B-3.

Mr. Helmer answered yes, properties adjacent are zoned. As the corridor redevelops all uses within the B-3 zoning district can be considered.

Mr. Foy asked if anyone across from Brogden Rd has had anything to say.

Mr. Helmer said no.

Mr. Foy made a motion that the Planning Board recommends the rezoning to the Town Council based on the fact that there is already industrial Jerry Williams on one side; Frank Lee's Industrial on the other side and I-95 on the other side. There doesn't currently seem to be any opposition from any neighbors, seconded by Oliver Johnson. Unanimous

Ashley Spain made a motion to close RZ-18-02, seconded by Eddie Foy. Unanimous

**RZ-18-03 W. Frank Lee:**

Eddie Foy opened, seconded by Ashley Spain. Unanimous

Frank Lee is requesting approval of a zoning map amendment to rezone approximately 6.8 acres of land, from R20A Residential-Agricultural to B-3 Highway Entranceway Business District Zoning. The property is located approximately 160 feet southeast of the intersection of Buffalo Road and Booker Dairy Road. The Future Land Use Map guides this property and the surrounding properties as a Commercial Service Node. In the Comprehensive Growth Management Plan, a Commercial Service Node is envisioned as a mixed use - limited commercial focus area to service the neighborhood. The Town has no "mixed use district", but does allow PUD zoning to allow for mixed use development (a form of conditional zoning). In order to ensure consistency with the Comprehensive Growth Management Plan, only a mixed

use PUD rezoning with a master plan should be approved for these nodes. A B-3 PUD would likely be consistent with the Comprehensive Growth Management Plan. The Growth Management Plan guides these Commercial Service Nodes as follows:

- Are intended to be buffered from surrounding areas by office/institutional/high density residential land uses. The exact size of the required buffer should be determined when the ultimate extent of the commercial node is known.
- Shall have Pedestrian connections developed between sites within.
- Shall be compatible in size and scale with surrounding development.
- Shall encourage shared vehicular access between adjacent commercial businesses.
- Shall have specific area development plans prepared prior to the initiation of development.

The Comprehensive Growth Management Plan's Implementation Strategies also provide guidance relevant to this rezoning request:

Objective 3: Preserve and enhance Smithfield's land use form. Implementation Strategy b) Establish a mixed use district. A Mixed Use District is intended to provide for the coordinated development of office, commercial, and residential uses and their necessary support functions in the vicinity of key highway intersections in Smithfield. They should be designed to facilitate stated public policies, to encourage design which emphasizes lively, people oriented environments and compatible, visually interesting development. This district provides areas where moderate scale mixed use centers can locate with an emphasis on development of a balance of residential, office, and commercial uses. It is further intended that the Mixed Use Districts shall encourage development within which mutually supporting residential, commercial, and office uses are scaled, balanced, and located to reduce general traffic congestion by providing housing close to principal destinations, and convenient pedestrian circulation systems and mass transit to further reduce the need for private automobile usage. Mixed Use Districts are intended to encourage development that allows multiple destinations to be achieved with a single trip. When such districts adjoin residential development or residential zoning districts, it is intended that arrangement of buildings, uses, open space, and vehicular or pedestrian access shall provide appropriate transition and reduce potentially adverse effects. The service nodes which are delineated on the Future Land Use Map (Map 18) should be mixed use districts. Implementation Strategy h) Office/Institutional/Multi-family development should be used as a buffer between light industrial and commercial development and adjacent residential land uses.

Objective 4: Discourage strip commercial development on major and minor thoroughfares that allows each lot to have direct vehicular access to the highway. Implementation Strategy c) Commercial development should be encouraged at the intersections of major roads (i.e., in a nodal fashion) consistent with the town's future land use map. The Comprehensive Growth Management Plan also provides an illustration of a Commercial Service Node. The Comprehensive Growth Management Plan also discourages strip development in these node areas. Therefore, the proposed rezoning will be inconsistent with the Town of Smithfield's Growth Management Plan. A straight B-3 zoning will allow all the commercial uses within a B-3

district, but will not ensure the commercial node's serve the neighborhood, buffers the adjacent residential, nor provide for the access or connectivity envisioned in the Comprehensive Growth Management Plan.

Mr. Wensman said Planning Department staff does find the plan to be consistent with the UDO. The Planning Department recommends denial of the Zoning Map Amendment; and recommends that the Town Council approve a consistency statement declaring the request to be inconsistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is not reasonable and not in the public interest. The Planning Board is respectfully requested to review the petition and make a recommendation to the Town Council whether to approve or deny the rezoning of approximately 6.8 acres from R20A Residential-Agricultural to B-3 Highway Entranceway Business District Zoning.

Mr. Spain asked if this proposed location wouldn't be considered spot zoning a reason for denial. I think if you do a B-3 it opens the door for a gas station or other businesses that operate 24 hours a day.

Mr. Wensman stated he didn't think it would be considered spot zoning. You have the Credit Union zoning to the North. Land use as a whole is saying this can be a business use in this area but with a plan. The Comp Plan is saying it can be B-3 but on the appropriate scale with the requirements associated. Like with the Credit Union to the North, they've left some land around it that could be developed. We have no idea how that is going to be redeveloped.

Mr. Taylor asked if the vision for this plan was similar to the Booker Dairy Plantation location, where it's an office park and shared parking area.

Mr. Helmer said the O/I stuff there; doctor offices and such are a range of uses and would fit the recommendations of the comp plan.

Mr. Taylor asked if that would be appropriate based on the current zoning.

Mr. Wensman said it's not that B-3 uses are an issue here; it's how they are arranged on the site. We're in the process of revising our Land Use Plan and this is a key piece. Whether it survives it to the next rendition of our Land Use map we don't know.

Mr. Paul Embler came forward to speak about concept and entitlement. Entitlement is value that the land has, be it zoning or physical arrangement of the land. Mr. Frank Lee is trying to obtain the entitlement out of the land. As Mr. Wensman said, the Comp Plan entitles it to be commercial. When you read the Comp Plan it does push mixed use development very hard. Mixed use as you can see in the verbiage he put up on the board, it speaks of residential, Office and Institutional and commercial all on 6.8 acres. I dare would say that residential would be a viable use for that corner unless it was high density residential. To say it's going to be a mixed use would be logical, but to come forward now with a plan on a 6.8 acres piece of land, of how it's going to be developed there are too many questions out there that can't be answered right now. We know Booker Dairy Rd is going to what NCDOT refers to as a super road. It has a

median in it, two movement lanes East and West and bunch of turn lanes. The only place you're going to cross those turn lanes is at signalized intersections. One will be at Kellie Drive, one at Booker Dairy and those will be the crossovers. There will be one crossover at the SRAC this isn't signalized. As you come onto Buffalo Road NCDOT through the RPO (Regional Planning Organization) has already designated that Buffalo Road will also be a super road. NCDOT is already building a connector from Kellie Drive looping back around to Buffalo Road. My contention with staff when asking for a PUD rezoning for this, there's no way to do a valid plan that we say DOT is going to buy at the current time. That's why we just asked for a straight B-3 rezoning, rather than tying it to a specific plan. If the plan changes you have to come back through the whole process again. If we were to do a plan for you to evaluate, there's no assurance that the plan could go forward in the future. NCDOT will be one of the big driving forces. That is one thing to take into consideration. Another thing is the size of the site, 6.8 acres in downtown Raleigh is a good viable opportunity for mixed use development, such as North Hills. In Smithfield there could be some mixed use in there, such as commercial and office but no one has done a market study yet. We're just looking for entitlement for a B-3 land use. We're just approaching this from a different angle than what staff has suggested, rather than go with a specific plan for the rezoning; we're looking at it in general terms and that there will be a development plan to come back to the town. If you do a development plan now, it indicates you're doing a subdivision and that may not necessarily be the case. It may possibly be developed as one piece of land. With this things under consideration we would like you to make a recommendation to the Town Council of a straight B-3 rezoning.

Mr. Wensman stated with a straight B-3 zoning as requested by Mr. Embler any development that meets the UDO, staff is going to review it against the UDO and we basically have to approve it.

Oliver Johnson made a motion that the Planning Department recommend the Town Council approve a consistency statement declaring the request to be inconsistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is not reasonable and not in the public interest, seconded by Ashley Spain. Stephen Upton, Oliver Johnson, Ashley Spain and Michael Taylor voted yes, Eddie Foy voted in opposition.

Eddie Foy made a motion to close RZ-18-03. Unanimous

Oliver Johnson made a motion to adjourn, seconded by Eddie Foy. Unanimous

### **Old Business:**

#### **ZA-17-06 Town of Smithfield**

The Planning Department is requesting text amendments to Appendix A, Article 7 and Article 10 of the Town of Smithfield Unified Development Ordinance (UDO) that removes inconsistencies within the text and clarifies development standards as they pertain to flag lots and cul-de-sac streets.



**Next Planning Board Meeting:**

Our next Planning Board Meeting is scheduled for March 1, 2018 at 6:00 pm.

Submitted this 5th day of February, 2018

Julie Edmonds  
Administrative Assistant  
Planning Department

DRAFT



# Request for Planning Board Action

Application for  
Unified  
Development  
Ordinance Text  
Amendment ZA-  
18-02

Date: 03/01/2018

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

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## Issue Statement

The Planning Department is requesting adoption of the Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for Johnston County and associated amendment to the Unified Development Ordinance (UDO) Flood Damage Prevention Ordinance.

## Financial Impact

There will be no financial impact to the Town.

## Action Needed

To review the requested amendment and to make a recommendation to the Town Council for the adoption of the Flood Insurance Study (FIS) for Johnston County and proposed UDO amendment.

## Recommendations

The Planning Department recommends adopting the Flood Insurance Study (FIS) for Johnston County and the proposed ordinance amendment to Article 10 and Appendix A of the UDO. Planning Staff also recommends the Planning Board approve a statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Approved:  City Manager  City Attorney

## Attachments:

1. Staff Report
2. Ordinance
3. Application and Petition for Amendment to the UDO



## Staff Report

Application for  
Unified  
Development  
Ordinance  
Text  
Amendment  
ZA-18-02

Public  
meeting:

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The Town of Smithfield is required to adopt the Federal Emergency Management Agency (FEMA) revised Flood Insurance Study (FIS) for Johnston County which includes both the revised Digital Flood Insurance Rate Map (DFIRM) and North Carolina Model Flood Damage Prevention Ordinance as developed by the North Carolina Department of Public Safety.

Adoption of the FIS and mandatory revisions to the Town of Smithfield's existing Flood Damage Prevention Ordinance must occur no later than June 20, 2018. Failure to adopt the FIS and make the mandatory revisions to the Town of Smithfield Unified Development Ordinance (UDO) within the time allotted will result in the Town of Smithfield being suspended from the Nation Flood Insurance Program (NFIP) and all flood insurance policies within the Town of Smithfield's planning and zoning jurisdiction will be canceled.

The Planning Department is requesting adoption of revised Flood Insurance Study (FIS) for Johnston County and amendments to the Town of Smithfield Flood Damage Prevention Ordinance for continued participation and compliance with the National Flood Insurance Program.

### **Staff Analysis:**

Many of the changes to the Town of Smithfield's existing Flood Damage Prevention Ordinance are mandatory, while others are recommended changes not necessarily required to participate in National Flood Insurance Program. For usability and enforcement purposes, the proposed ordinance amendment generally mirrors proposed changes that will be adopted by Johnston County. Modifications to the existing ordinance are represented by double underline for new text, strikethrough for deleted text. In addition, blue text represents text that is changed from the existing ordinance, green text represents new text and, red text represents items to be deleted.

## **Summary of Mandatory Changes:**

- Required determination by UDO Administrator of market value, repair value and make a determination as to whether substantial damages or substantial improvement thresholds are met and to notify the applicant of the findings.
- Required time period for use in establishing substantial damages and substantial improvements.
- Failure to comply with UDO Administrator orders for correction of violation will be classified as a Class 1 misdemeanor pursuant to NC G.S 143-215.58.
- Penalties for violations are increasing from \$50 to \$100 per day
- All electrical, heating, air conditioning and ventilation for new construction will be required to be 2 feet above base flood elevations or be water tight.
- Alteration and repairs are no longer classified as new construction.
- Non-residential structures with basements shall be no lower than 2 feet above base flood elevation or be constructed of robust material and flood proofed.
- All above ground fuel tanks must be elevated two (2) feet above base flood elevation or be strapped down.
- Use of NAVD 1988 vertical datum will replace the use of mean sea level tidal datum
- Minor text changes design to clarify existing regulations.
- Additional definitions of commonly used terms.

## **Summary of Voluntary Changes:**

- Prohibit fill within a special food hazard area which is currently allowed. Staff recommends no change.
- Increase in freeboard which is currently set at two (2) feet. Staff recommends no change.
- Fully enclosed area of new construction or substantially improved structure which is below the lowest floor shall not be temperature controlled. (staff recommended)
- A statement is placed on the permit stating that all material below the base flood elevation must be made from flood resistant material. (staff recommended)
- Property owner requirement to execute and record a non-conversion agreement for spaces below the lowest floor and agree to annual inspections by Town staff. (staff does not recommend)
- Required time period for establishing substantial damages and substantial improvements. Time period language required but period can vary based on community needs. Staff recommends 1 year for substantial improvements and 10 years for substantial damages. The substantial damage threshold is more stringent to avoid repetitive loss penalties to property owners that include ineligibility for Increased Cost of Compliance (ICC) benefits that are often needed for required elevating of flood damaged structures.

## **DFIRM Analysis:**

- Over 1,200 properties within the Town of Smithfield Planning and Zoning Jurisdiction are affected by Special Flood Hazard Areas.
- Sandy Run and surrounding area will have approximately 86 properties 66 structures removed from the 100 year floodplain.
- FIS now includes a detailed study area of Buffalo Creek from North Brightleaf Boulevard to US 70 Bypass.
- Spring Branch 100 year floodplain and floodway appears to be smaller in area.
- Neuse River floodway appears to have increased in area in most places.
- The majority of other changes appear to be from the natural meandering of the creeks and streams and can be seen through the subtle shifting of its floodway and floodplain from one side to the other.

## **PLANNING DEPARTMENT FINDINGS AND RECOMMENDATIONS:**

Planning staff finds the Flood Insurance Study (FIS) for Johnston County and ordinance amendment is consistent with the Comprehensive Land Use Plan which identifies and recommends areas within the floodway as Conservation Districts.

Planning staff finds the Flood Insurance Study (FIS) for Johnston County and proposed ordinance amendment is reasonable and in the public interest because they reduce the loss of life and property damage caused by flooding.

The Planning Department recommends adoption of the Flood Insurance Study (FIS) for Johnston County and approval of proposed ordinance amendment to the Town of Smithfield Unified Development Ordinance, Article 10, Part VII, Flood Damage Prevention Ordinance, Non-Coastal Regular Phase and Appendix A. Definitions.

## **PLANNING BOARD ACTION REQUESTED:**

To review the Flood Insurance Study (FIS) for Johnston County and make a recommendation to Town Council for the adoption of the flood study and proposed ordinance amendment to the Town of Smithfield Unified Development Ordinance, Article 10, Part VII, Flood Damage Prevention Ordinance, Non-Coastal Regular Phase and Appendix A. Definitions.

And to adopt a consistency statement describing how the action is consistent with the Town of Smithfield Comprehensive Growth Management Plan and how it is reasonable and in the public's best interest.

**THE TOWN OF SMITHFIELD  
UNIFIED DEVELOPMENT ORDINANCE  
AMENDMENT CONSISTENCY STATEMENT  
BY THE SMITHFIELD PLANNING BOARD  
ZA-18-02**

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

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

**NOW THEREFORE, BE IT ADOPTED BY THE SMITHFIELD PLANNING BOARD AS APPROPRIATE:**

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

That the final action regarding zoning ordinance amendment ZA-18-02 is based upon review of and consistency with, the Town of Smithfield *Comprehensive Growth Management Plan* and any other officially adopted plan that is applicable, along with additional agenda information provided to the Planning Board and information provided at the regularly scheduled meeting of Planning Board; and

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

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

That the final action regarding zoning ordinance amendment ZA-18-02 is based upon review of, and consistency, the Town of Smithfield *Comprehensive Growth Management Plan* and other officially adopted plans that are applicable; and

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

**DRAFT ORDINANCE # ZA-18-02**  
**AN ORDINANCE TO AMEND**  
**THE TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE**  
**ARTICLE 10, PART VII, FLOOD DAMAGE PREVENTION, AND**  
**APPENDIX A. DEFINITIONS**  
**TO REFLECT STATE MANDATED CHANGES**

**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 adopt the revised Flood Damage Prevention Ordinance.

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

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

**Part 1**

[Revise ARTICLE 10, PART VII, FLOOD DAMAGE PREVENTION and APPENDIX A DEFINITIONS content to reflect changes in the 2017 Revised North Carolina Model Flood Damage Prevention Ordinance for Non-Coastal Regular Phase Regions.]

**PART VII. FLOOD DAMAGE PREVENTION, NON-COASTAL REGULAR PHASE.**

**DIVISION I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

**SECTION 10.56 STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council of Smithfield, North Carolina, does ordain as follows.

**SECTION 10.57 FINDINGS OF FACT.**

**10.57.1.** The flood prone areas within the jurisdiction of the Town of Smithfield are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**10.57.2.** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

#### **SECTION 10.58 STATEMENT OF PURPOSE.**

It is the purpose of these regulations to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

**10.58.1.** Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

**10.58.2.** Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

**10.58.3.** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

**10.58.4.** Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

**10.58.5.** Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **SECTION 10.59 OBJECTIVES.**

The objectives of this ordinance are to:

**10.59.1.** Protect human life, safety, and health;

**10.59.2.** Minimize expenditure of public money for costly flood control projects;

**10.59.3.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

**10.59.4.** Minimize prolonged business losses and interruptions;

**10.59.5.** Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

**10.59.6.** Minimize damage to private and public property due to flooding;



[10.59.7. Make flood insurance available to the community through the National Flood Insurance Program:](#)

[10.59.8. Maintain the natural and beneficial functions of floodplains:](#)

[10.59.6-9.](#) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

[10.59.7-10.](#) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## **DIVISION II. GENERAL PROVISIONS.**

### **SECTION 10.60 LANDS TO WHICH THESE REGULATIONS APPLY.**

These regulations shall apply to all Special Flood Hazard Areas within the jurisdiction, including extraterritorial jurisdictions (ETJs), of the Town of Smithfield and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

### **SECTION 10.61 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Johnston County dated December 2, 2005, which are adopted by reference and declared to be a part of this ordinance. [Dated December 20, 2017 for Johnston County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Smithfield are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions \(LOMRs\) and/or Physical Map Revisions \(PMRs\) shall be adopted within 3 months.](#)

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Johnston County Unincorporated Area, dated September 30, 1983, and Town of Smithfield, dated April 1, 1982.

### **SECTION 10.62 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A Floodplain Development Permit shall be required in conformance with the provisions of these regulations prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 10.61.

### **SECTION 10.63 COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of these regulations and other applicable regulations.

#### **SECTION 10.64 ABROGATION AND GREATER RESTRICTIONS.**

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **SECTION 10.65 INTERPRETATION.**

In the interpretation and application of these regulations, all provisions shall be:

**10.65.1.** Considered as minimum requirements;

**10.65.2.** Liberally construed in favor of the governing body; and

**10.65.3.** Deemed neither to limit nor repeal any other powers granted under State statutes.

#### **SECTION 10.66 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Smithfield or by any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

#### **SECTION 10.67 PENALTIES FOR VIOLATION.**

Violation of the provisions of these regulations or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a [Class 1](#) misdemeanor [pursuant to NC G.S. § 143-215.58](#). Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than ~~\$50.00~~ [\\$100.00](#) or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Smithfield from taking such other lawful action as is necessary to prevent or remedy any violation.

## **DIVISION III. ADMINISTRATION.**

### **SECTION 10.68 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The UDO Administrator, or his/her designee, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of these regulations. [In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.](#)

### **SECTION 10.69 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

#### ***10.69.1. Application Requirements.***

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

**10.69.1.1.** A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

**10.69.1.1.1.** The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

**10.69.1.1.2.** The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 10.61, or a statement that the entire lot is within the Special Flood Hazard Area;

**10.69.1.1.3.** Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 10.61;

**10.69.1.1.4.** The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 10.61;

**10.69.1.1.5.** The Base Flood Elevation (BFE) where provided as set forth in Section 10.61, Section 10.70, or Section 10.75;

**10.69.1.1.6.** The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

**10.69.1.1.7.** The certification of the plot plan by a registered land surveyor or professional engineer.

**10.69.1.2.** Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

**10.69.1.2.1.** Elevation in relation to ~~mean sea level~~ [NAVD 1988](#) of the proposed reference level (including basement) of all structures;

**10.69.1.2.2.** Elevation in relation to ~~mean sea level~~ [NAVD 1988](#) to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

**10.69.1.2.3.** Elevation in relation to ~~mean sea level~~ [NAVD 1988](#) to which any proposed utility systems will be elevated or floodproofed.

**10.69.1.3.** If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

**10.69.1.4.** A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of these regulations are met. These details include but are not limited to:

**10.69.1.4.1.** The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

**10.69.1.4.2.** Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 10.74.4.3 when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

**10.69.1.5.** Usage details of any enclosed areas below the lowest floor.

**10.69.1.6.** Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

**10.69.1.7.** Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

**10.69.1.8.** Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections 10.74.6 and 10.74.7 of these regulations are met.

**10.69.1.9.** A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both

upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

### **10.69.2. Permit Requirements.**

The Floodplain Development Permit shall include, but not be limited to:

**10.69.2.1.** A complete description of all the development to be permitted under the floodplain development permit. (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

**10.69.2.2.** The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 10.61.

**10.69.2.3.** The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

**10.69.2.4.** The Regulatory Flood Protection Elevation required for the protection of all public utilities.

**10.69.2.5.** All certification submittal requirements with timelines.

**10.69.2.6.** A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, ~~as applicable.~~ unless the requirements of Section 10.77, have been met.

**10.69.2.7.** The flood openings requirements, if in Zones A, AO, AE or A1-30.

**10.69.2.8.** Limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only).

**10.69.2.9** A statement, that all materials below BFE / RFPE must be flood resistant materials

### **10.69.3. Certification Requirements.**

#### **10.69.3.1. Elevation Certificates.**

**10.69.3.1.1.** An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to

submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

**10.69.3.2.** An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

**10.69.3.3.** A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

**10.69.3.2. Floodproofing Certificate.** If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form ~~81-65~~ [086-0-3481-65](#)), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to ~~mean sea level~~ [NAVD 1988](#). Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

10.69.3.3 A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

**10.69.3.3.4.** If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 10.74.3.2.

**10.69.3.4.5.** If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

**10.69.3.4.5.6. Certification Exemptions.** The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in Sections 10.69.3.1 and 10.69.3.2.

**10.69.3.5.6.1.** Recreational Vehicles meeting requirements of Section 10.74.6.1;

**10.69.3.5.6.2.** Temporary Structures meeting requirements of Section 10.74.7;  
and

**10.69.3.5.6.3.** Accessory Structures less than 150 square feet meeting requirements of Section 10.74.8.

#### **10.69.4 Determinations for existing buildings and structures.**

10.69.4.1 For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and

structures, the Floodplain Administrator, in coordination with the Building Official, shall:

10.69.4.1.1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

10.69.4.1.2 Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

10.6.4.1.3 Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

10.69.4.1.4 Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

## **SECTION 10.70 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

**10.70.1.** Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of these regulations have been satisfied.

**10.70.2.** Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

**10.70.3.** Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

**10.70.4.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

**10.70.5.** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 10.77 are met.



**10.70.6.** Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 10.69.3.

**10.70.7.** Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 10.69.3.

**10.70.8.** Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 10.69.3.

**10.70.9.** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sections 10.69.3 and 10.74.2.

**10.70.10.** Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

**10.70.11.** When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 10.61, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 10.75.2.2, in order to administer the provisions of these regulations.

**10.70.12.** When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 10.61 obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of these regulations. **10.70.13.** When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

**10.70.14.** Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

**10.70.15.** Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain

Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

**10.70.16.** Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

**10.70.17.** Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

**10.70.18.** Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**10.70.19.** Follow through with corrective procedures of Section 10.71.

**10.70.20.** Review, provide input, and make recommendations for variance requests.

**10.70.21.** Maintain a current map repository to include, but not limited to, [historical and effective](#) the FIS Report, [historical and effective](#) FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 10.61 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

**10.70.22.** Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

## **SECTION 10.71 CORRECTIVE PROCEDURES.**

### ***10.71.1. Violations to be Corrected.***

When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

### ***10.71.2. Actions in Event of Failure to Take Corrective Action.***

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

**10.71.2.1.** That the building or property is in violation of the floodplain management regulations;

**10.71.2.2.** That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

**10.71.2.3.** That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

### ***10.71.3. Order to Take Corrective Action.***

If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

### ***10.71.4. Appeal.***

Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

### ***10.71.5. Failure to Comply with Order.***

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a [Class 1](#) misdemeanor [pursuant to NC G.S. § 143-215.58](#) and shall be punished at the discretion of the court.

## **SECTION 10.72 VARIANCE PROCEDURES.**

**10.72.1.** The Town Council as established by the Town of Smithfield, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of these regulations.

**10.72.2.** Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

**10.72.3.** Variances may be issued for:

**10.72.3.1.** The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

**10.72.3.2.** Functionally dependent facilities if determined to meet the definition as stated in Appendix A of this ordinance, provided provisions of Sections 10.72.9.2, 10.72.9.3, and 10.72.9.5 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

**10.72.3.3.** Any other type of development, provided it meets the requirements of this Section.

**10.72.4.** In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

**10.72.4.1.** The danger that materials may be swept onto other lands to the injury of others;

**10.72.4.2.** The danger to life and property due to flooding or erosion damage;

**10.72.4.3.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner; **10.72.4.4.** The importance of the services provided by the proposed facility to the community;

**10.72.4.5.** The necessity to the facility of a waterfront location as defined under Appendix A of this ordinance as a functionally dependent facility, where applicable;

**10.72.4.6.** The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

**10.72.4.7.** The compatibility of the proposed use with existing and anticipated development;

**10.72.4.8.** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

**10.72.4.9.** The safety of access to the property in times of flood for ordinary and emergency vehicles;

**10.72.4.10.** The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

**10.72.4.11.** The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

**10.72.5.** A written report addressing each of the above factors shall be submitted with the application for a variance.

**10.72.6.** Upon consideration of the factors listed above and the purposes of these regulations, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of these regulations.

**10.72.7.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

**10.72.8.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

**10.72.9.** Conditions for Variances:

**10.72.9.1.** Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

**10.72.9.2.** Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

**10.72.9.3.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**10.72.9.4.** Variances shall only be issued prior to development permit approval.

**10.72.9.5.** Variances shall only be issued upon:

**10.72.9.5.1.** A showing of good and sufficient cause;

**10.72.9.5.2.** A determination that failure to grant the variance would result in exceptional hardship; and

**10.72.9.5.3.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**10.72.10.** A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

**10.72.10.1.** The use serves a critical need in the community.

**10.72.10.2.** No feasible location exists for the use outside the Special Flood Hazard Area.

**10.72.10.3.** The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

**10.72.10.4.** The use complies with all other applicable Federal, State and local laws.

**10.72.10.5.** The Town of Smithfield has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

#### **DIVISION IV. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

##### **SECTION 10.73 GENERAL STANDARDS.**

In all Special Flood Hazard Areas the following provisions are required:

**10.73.1.** All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

**10.73.2.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

**10.73.3.** All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

**10.73.4.** All new ~~E~~ electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or

~~accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electrical meter, panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches .units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.~~

10.73.4.1 Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

10.73.4.2 Replacements that are for maintenance and not part of a substantial improvement may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

**10.73.5.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

**10.73.6.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

**10.73.7.** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

~~**10.73.8.** Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of these regulations, shall meet the requirements of "new construction" as contained in this ordinance.~~

**10.73.9.8.** Nothing in these regulations shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

~~**10.73.10.9.**~~ New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 10.72.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or

floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 10.69.3.

**10.73.11-10.** All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

**10.73.12-11.** All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

**10.73.13-12.** All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**10.73.14-13.** All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**10.73.15-14.** When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

**10.73.16-15.** When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

## **SECTION 10.74 SPECIFIC STANDARDS.**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 10.61, or Section 10.75, the following provisions, in addition to the provisions of Section 10.73, are required:

### ***10.74.1. Residential Construction.***

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this ordinance. **10.74.2.**

### ***10.74.2 Non-Residential Construction.***

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this ordinance. Structures located in [Zones](#) A, AE, AO, and A1-30 [A99 Zones](#) [and](#) may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using



structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 10.78.2. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 10.69.3, along with the operational plan and the inspection and maintenance plan.

### **10.74.3. Manufactured Homes.**

**10.74.3.1.** New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this ordinance.

**10.74.3.2.** Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

**10.74.3.3.** All enclosures or skirting below the lowest floor shall meet the requirements of Section 10.74.4.

**10.74.3.4.** An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

### **10.74.4. Elevated Buildings.**

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

**10.74.4.1.** Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

**10.74.4.2 Shall not be temperature-controlled or conditioned;**

**10.74.4.2.3.** Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

**10.74.4.3.4.** Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

**10.74.4.3.4.1.** A minimum of two flood openings on different sides of each enclosed area subject to flooding;

**10.74.4.3.4.2.** The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

**10.74.4.3.4.3.** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

**10.74.4.3.4.4.** The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

**10.74.4.3.4.5.** Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

**10.74.4.3.4.6.** Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

#### **10.74.5. Additions/Improvements.**

**10.74.5.1.** Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

**10.74.5.1.1.** Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

**10.74.5.1.2.** A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

**10.74.5.2.** Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

**10.74.5.3.** Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

**10.74.5.3.1.** Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

**10.74.5.3.2.** A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

10.74.5.4. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

10.74.5.4.1 Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

10.74.5.4.1 Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**10.74.6. Recreational Vehicles.**

Recreational vehicles shall either:

~~10.74.6.1. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or~~

~~10.74.6.2. Meet all the requirements for new construction.~~

#### 10.74.6.1. Temporary Placement

10.74.6.1.1. Be on site for fewer than 180 consecutive days; or

10.74.6.1.2. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.

10.74.6.2. Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction

#### **10.74.7. Temporary Non-Residential Structures.**

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

**10.74.7.1.** A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

**10.74.7.2.** The name, address, and phone number of the individual responsible for the removal of the temporary structure;

**10.74.7.3.** The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

**10.74.7.4.** A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

**10.74.7.5.** Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

#### **10.74.8. Accessory Structures.**

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

**10.74.8.1.** Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

**10.74.8.2.** Accessory structures shall not be temperature-controlled;

**10.74.8.3.** Accessory structures shall be designed to have low flood damage potential;

**10.74.8.4.** Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

**10.74.8.5.** Accessory structures shall be firmly anchored in accordance with the provisions of Section 10.73.1;

**10.74.8.6.** All service facilities such as electrical shall be installed in accordance with the provisions of Section 10.73.4; and

**10.74.8.7.** Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 10.74.4.3.

10.74.9. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with Section 10.69.3.

10.74.9.1. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

10.74.9.2. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or

10.74.9.3. lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

10.74.9.4 Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

10.74.9.5 Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of section 10.73.2 of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tanks during design flood conditions.

10.74.9.6. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

10.74.9.6.1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

10.74.9.6.2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

#### 10.74.10 Other Development.

10.74.10.1 Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 10.65 of this ordinance.

10.74.10.2 Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 10.65 of this ordinance.

10.74.10.3 Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 10.65 of this ordinance.

### **SECTION 10.75 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 10.61, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 10.73, shall apply:

**10.75.1.** No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**10.75.2.** The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

**10.75.2.1.** When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 10.73 and 10.74.

**10.75.2.2.** When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 10.74 and 10.77.

**10.75.2.3.** All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 10.61 and utilized in implementing this ordinance.

**10.75.2.4.** When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of Section 10.74 shall also apply.

#### **SECTION 10.76 STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

**10.76.1.** Standards of Sections 10.73 and 10.74; and

**10.76.2.** Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

#### **SECTION 10.77 FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 10.61. The floodways and non-encroachment areas are

extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 10.73 and 10.74, shall apply to all development within such areas:

**10.77.1.** No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

**10.77.1.1.** it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

**10.77.1.2.** A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

**10.77.2.** If Section 10.77.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

**10.77.3.** No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

**10.77.3.1.** The anchoring and the elevation standards of Section 10.74.3; and

**10.77.3.2.** The no encroachment standard of Section 10.77.1

## **SECTION 10.78 STANDARDS OF AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in Section 10.61, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 10.73 and 10.74, all new construction and substantial improvements shall meet the following requirements:

**10.78.1.** The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade plus a freeboard of two (2) feet if no depth number is specified.

**10.78.2.** Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 10.78.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and



hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Sections 10.69.3 and 10.74.2.

**10.78.3.** Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

### **SECTION 10.79 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).**

Located within the Special Flood Hazard Areas established in 10.61, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent -annual -chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to 10.73 and 10.74, all new construction and substantial improvements shall meet the following requirements:

10.79.1 Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

## **DIVISION V. LEGAL STATUS PROVISIONS.**

### **SECTION 10.79.80 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING REGULATIONS.**

These regulations in part come forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance, adopted May 2, 1982, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Smithfield enacted on May 2, 1982, as amended, which are not reenacted herein are repealed.

### **SECTION 10.80.81 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of these regulations.

### **SECTION 10.82 SEVERABILITY.**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**SECTION 10.81-83 EFFECTIVE DATE.** These regulations shall become effective upon adoption of the Town of Smithfield Unified Development Ordinance.

**AND**, be it ordained that Appendix A is amended to make the following changes set forth in the deletions (strikethroughs) and additions (double underlining) below.

**Alteration of a watercourse**

A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Area of future-conditions flood hazard**

The land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

**Design flood**

See "Regulatory Flood Protection Elevation."

**Development activity**

Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

**Digital Flood Insurance Rate Map (DFIRM)**

The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**Existing building and existing structure**

Building and/or structure for which the "start of construction" commenced before date the community's first floodplain management ordinance was adopted.

**Flood-resistant material**

Building product [material, component or system capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above- grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

## ***Floodway***

The channel of a river or other watercourse, [including the area above a bridge or culvert when applicable](#), and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

### ***Floodway encroachment analysis***

[An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.](#)

### ***Letter of Map Change (LOMC)***

[An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:](#)

(1) [Letter of Map Amendment \(LOMA\):](#)

[An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation . A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.](#)

(2) [Letter of Map Revision \(LOMR\):](#)

[A revision based on technical I data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.](#)

(3) [Letter of Map Revision Based on Fill \(LOMR-F\):](#)

[A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.](#)

(4) [Conditional Letter of Map Revision \(CLOMR\):](#)

[A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.](#)

### ***Light duty truck***

[Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:](#)

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

### **Lowest Adjacent Grade (LAG)**

The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

### ***Mean Sea Level***

~~For purposes of this ordinance, the North American Vertical Datum (NAVD) as corrected 1988, to which Base Flood elevations (BFEs) shown on a DFIRM are referenced. North Carolina uses NAVD 1988.~~

### **Recreational Vehicle**

A vehicle which is;

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck;
- (4) ~~Not~~ Not ~~designed primarily not~~ for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, ~~and is fully licensed and ready for highway use.~~

### **Substantial Damage**

Damage of any origin sustained by a structure during any ten-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

### **Substantial Improvement**

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any 1-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This item includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 10.72 of this ordinance.

**Technical bulletin and technical fact sheet**

A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

**PART 2**

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

**PART 3**

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

Duly adopted this the 3<sup>th</sup> day of April, 2018.

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M. Andy Moore, Mayor

ATTEST

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Shannan L. Parrish, Town Clerk

## FLOOD DAMAGE PREVENTION ORDINANCE SUMMARY OF CHANGES

The following colored text identifies the changes from the 2007 model Flood Damage Prevention Ordinance to the Current 2017 model Flood Damage Prevention Ordinance:

- **Blue text = Changes from 2007 version to 2017 version**
- **Green text = Additions that are new to the 2017 version**
- **Red text = Deleted from the 2017 version**

### FLOOD DAMAGE PREVENTION ORDINANCE

#### Non-Coastal Regular Phase

#### **ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

#### **SECTION A. STATUTORY AUTHORIZATION.**

***Municipal:*** The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

***County:*** The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of Community Name, North Carolina, does ordain as follows:

#### **SECTION B. FINDINGS OF FACT.**

- (1) The flood prone areas within the jurisdiction of Community Name are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

## **SECTION C.      STATEMENT OF PURPOSE.**

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

## **SECTION D.      OBJECTIVES.**

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## **ARTICLE 2.      DEFINITIONS.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology (*OPTIONAL*).

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before date the community’s first floodplain management ordinance was adopted.



“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please

refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.

- (d) **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**“Light Duty Truck”** means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

**“Lowest Adjacent Grade (LAG)”** means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**“Lowest Floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**“Manufactured Home”** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**“Manufactured Home Park or Subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“Market Value”** means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

~~**“Mean Sea Level”** means, for purposes of this ordinance, the North American Vertical Datum (NAVD) as corrected in 1988, to which Base Flood Elevations (BFEs) shown on a DFIRM are referenced. North Carolina uses NAVD 1988.~~

**“New Construction”** means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

**“Non-Conversion Agreement”** means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed. **(OPTIONAL)**

**“Non-Encroachment Area (NEA)”** means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

**“Post-FIRM”** means construction or other development for which the “start of construction” occurred on or after insert date of community’s first FIRM (OPTIONAL), the effective date of the initial Flood Insurance Rate Map.

**“Pre-FIRM”** means construction or other development for which the “start of construction” occurred before insert date of community’s first FIRM (OPTIONAL), the effective date of the initial Flood Insurance Rate Map.

**“Principally Above Ground”** means that at least 51% of the actual cash value of the structure is above ground.

**“Public Safety”** and/or **“Nuisance”** means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner,

of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

*(OPTIONAL For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)*

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

*(Alternative acceptable language for Reference Level) “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.*

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE *plus* Insert freeboard [two (2) feet (Two feet is the state recommended minimum)] feet *freeboard*. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least Insert feet [Two (2) feet is a state-recommended minimum, greater than two (2) feet is OPTIONAL] feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Repetitive loss language

Cumulative Substantial Damage language

“**Structure**” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“**Substantial Damage**” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. *[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:*

- min 1 year
- 1.) *By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
  - 2.) *By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*
  - 3.) *By adding the following text for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses: Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.]*

“**Substantial Improvement**” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

*[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:*

- 1.) *By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
- 2.) *By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*

“**Technical Bulletin and Technical Fact Sheet**” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area. **(OPTIONAL)**

“**Temperature Controlled**” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“**Variance**” is a grant of relief from the requirements of this ordinance.

“**Violation**” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

ETJ Bonatide Farms are Regulated by County FP Regs

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of ~~coastal~~ or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**ARTICLE 3. GENERAL PROVISIONS.**

**SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, *including Extra-Territorial Jurisdictions (ETJs), [if applicable] of Community Name.*

**SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated Insert effective date shown on FIS for County Name County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Community Name are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

**SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

**SECTION D. COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

**SECTION E. ABROGATION AND GREATER RESTRICTIONS.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**SECTION F. INTERPRETATION.**

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION G. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted

within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Community Name or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**SECTION H. PENALTIES FOR VIOLATION.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. . Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Community Name from taking such other lawful action as is necessary to prevent or remedy any violation.

**ARTICLE 4. ADMINISTRATION.**

**SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Staff Title, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

**SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
  - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
  - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
  - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
  - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - (vii) *The certification of the plot plan by a registered land surveyor or professional engineer. (OPTIONAL)*
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but

not limited to:

- (i) Elevation in relation to [NAVD 1988](#) of the proposed reference level (including basement) of all structures;
  - (ii) Elevation in relation to [NAVD 1988](#) to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
  - (iii) Elevation in relation to [NAVD 1988](#) to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
  - (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
    - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
    - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
  - (e) Usage details of any enclosed areas below the lowest floor.
  - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
  - (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
  - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
  - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) [A complete description of all the development to be permitted under the floodplain development permit \(e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.\).](#)
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) [A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.](#)



- (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- (h) *Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only). (OPTIONAL)*
- (i) *A statement, that all materials below BFE/RFPE must be flood resistant materials. (OPTIONAL)*

(3) **Certification Requirements.**

(a) Elevation Certificates

- (i) *An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. (STATE RECOMMENDED BUT OPTIONAL)*
- (ii) *An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project. (STATE RECOMMENDED BUT OPTIONAL)*
- (iii) *A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable. (OPTIONAL) (THE FEMA ELEVATION CERTIFICATE IS OPTIONAL FOR FLOODPLAIN MANAGEMENT ELEVATION DATA, BUT RECOMMENDED. THE USE OF THE FEMA ELEVATION CERTIFICATE IS REQUIRED FOR THE PURCHASE OF FLOOD INSURANCE AND MANDATORY FOR CRS PARTICIPATION, AND THIS LANGUAGE SHOULD BE INCLUDED IN ITS ENTIRETY.)*

(b) Floodproofing Certificate

- (i) *If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and*

certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. ***(OPTIONAL) (THE FEMA FLOODPROOFING CERTIFICATE IS OPTIONAL AT THE TIME OF PERMITTING THE STRUCTURE BUT RECOMMENDED TO ENSURE COMPLIANCE WITH THIS ORDINANCE AND PROPERLY PERMIT THE STRUCTURE.)***

- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
  - (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
  - (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
  - (iii) Accessory Structures that are Insert square foot (150 recommended) square feet or less or Insert Cost of Structure ((\$3,000 recommended) or less and meeting requirements of Article 5, Section B(8).

**(4) Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial

damage; and

- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

### **SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) *When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.*

***(OPTIONAL)***

- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) **Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.**
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

**SECTION D. CORRECTIVE PROCEDURES.**

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - (a) That the building or property is in violation of the floodplain management regulations;
  - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

- (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least Insert Calendar Days (One-hundred-eighty (180) calendar days or less is recommended) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

**SECTION E. VARIANCE PROCEDURES.**

- (1) The Insert appeal board name (The Board of Adjustment is the recommended appeal board) as established by Community Name, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
  - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally

dependent facility, where applicable;

- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - (i) A showing of good and sufficient cause;
    - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
    - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- (a) The use serves a critical need in the community.
- (b) No feasible location exists for the use outside the Special Flood Hazard Area.
- (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (d) The use complies with all other applicable federal, state and local laws.
- (e) The Community Name has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

**ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

**SECTION A. GENERAL STANDARDS.**

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
  - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- ~~(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.~~
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the

other requirements of this ordinance.

- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F). **(maximum 280 CRS points possible)** **(OPTIONAL) Note: This should be consistent with Article 5, Section G (11)(e) in coastal areas.**

## **SECTION B. SPECIFIC STANDARDS.**

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) **Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.
- (3) **Manufactured Homes.**
  - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.



- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
  - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
  - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
  - (b) Shall not be temperature-controlled or conditioned; (*OPTIONAL, strongly encouraged*)
  - (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
  - (d) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
    - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
    - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
    - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
    - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
    - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
    - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
  - (e) Fill/Grading (*OPTIONAL*)
    - (i) Fill is prohibited in the SFHA (*maximum 280 CRS points possible*) (*OPTIONAL*) Note: this should be consistent with Article 5, Section A(16).
  - (f) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space (*30 CRS points*); Community Name will have the right to inspect the enclosed area

(30 CRS points). Community Name will conduct annual inspections (30 CRS points). This agreement shall be recorded with the County Name County Register of Deeds and shall transfer with the property in perpetuity. **(OPTIONAL for a maximum total of 90 CRS points)**

- (g) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation. **(OPTIONAL)**

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and *must not be any more non-conforming than the existing structure. (non-conforming language is OPTIONAL).*
  - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
  - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a Insert number of years (One (1) year minimum is required) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the Insert number of years (One (1) year minimum is required) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. *(The repetitive loss portion is OPTIONAL, but will be required for flood insurance policy holders to be eligible for Increased Cost of Compliance (ICC) benefits for repetitive losses.)* If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
  - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
  - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

- (a) Temporary Placement

- (i) Be on site for fewer than 180 consecutive days; or
  - (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
- (b) **Permanent Placement.** Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) **Temporary Non-Residential Structures.** Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
  - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) **Accessory Structures.** When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  - (b) Accessory structures shall not be temperature-controlled;
  - (c) Accessory structures shall be designed to have low flood damage potential;
  - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
  - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
  - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than Insert square foot (150 recommended) or that is a minimal investment of Insert Cost of Structure ((\$3,000 recommended) or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

- (9) **Tanks.** When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) **Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or

lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this Article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
  - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

**SECTION C.      RESERVED.**

**SECTION D.      STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in

accordance with standards in Article 5, Sections A and B.

- (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
- (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
- (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

**SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

**SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
  - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
  - (a) The anchoring and the elevation standards of Article 5, Section B(3); and

- (b) The encroachment standards of Article 5, Section F(1).

**SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of Insert freeboard [two (2), (feet of freeboard selected for Regulatory Flood Protection Elevation definition)] feet, above the highest adjacent grade; or at least Insert feet [Two (2), (A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided)] feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**SECTION H. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**ARTICLE 6. LEGAL STATUS PROVISIONS.**

**SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.**

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted insert adoption date of the community's initial Flood Damage Prevention Ordinance as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Community Name enacted on insert adoption date of the community's initial Flood Damage Prevention Ordinance, as amended, which are not reenacted herein are repealed.

***Municipal:*** The date of the initial Flood Damage Prevention Ordinance for County Name County is insert adoption date of the community's initial Flood Damage Prevention Ordinance.

***County:*** The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within County Name County is as follows:

***List each municipality within the County with its initial ordinance date.***

**SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

**SECTION C. SEVERABILITY.**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**SECTION D. EFFECTIVE DATE.**

This ordinance shall become effective insert upon adoption or a specific date.

**SECTION E. ADOPTION CERTIFICATION.**

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the governing body of Community Name, North Carolina, on the Day (number or text) day of Month, Year.

WITNESS my hand and the official seal of insert Name, Title, this the Day (number or text) day of Month, Year.

\_\_\_\_\_  
(signature)

*Replace*

**DRAFT ORDINANCE # ZA-18-02**  
**AN ORDINANCE TO AMEND**  
**THE TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE**  
**ARTICLE 10, PART VII, FLOOD DAMAGE PREVENTION, AND**  
**APPENDIX A. DEFINITIONS**  
**TO REFLECT STATE MANDATED CHANGES**

**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 adopt the revised Flood Damage Prevention Ordinance.

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

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

**Part 1**

[Revise ARTICLE 10, PART VII, FLOOD DAMAGE PREVENTION and APPENDIX A DEFINITIONS content to reflect changes in the 2017 Revised North Carolina Model Flood Damage Prevention Ordinance for Non-Coastal Regular Phase Regions.]

**PART VII. FLOOD DAMAGE PREVENTION, NON-COASTAL REGULAR PHASE.**

**DIVISION I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

**SECTION 10.56 STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council of Smithfield, North Carolina, does ordain as follows.

**SECTION 10.57 FINDINGS OF FACT.**

**10.57.1.** The flood prone areas within the jurisdiction of the Town of Smithfield are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.



**10.57.2.** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

#### **SECTION 10.58 STATEMENT OF PURPOSE.**

It is the purpose of these regulations to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

**10.58.1.** Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

**10.58.2.** Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

**10.58.3.** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

**10.58.4.** Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

**10.58.5.** Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **SECTION 10.59 OBJECTIVES.**

The objectives of this ordinance are to:

**10.59.1.** Protect human life, safety, and health;

**10.59.2.** Minimize expenditure of public money for costly flood control projects;

**10.59.3.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

**10.59.4.** Minimize prolonged business losses and interruptions;

**10.59.5.** Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

**10.59.6.** Minimize damage to private and public property due to flooding;

10.59.7. Make flood insurance available to the community through the National Flood Insurance Program;

10.59.8. Maintain the natural and beneficial functions of floodplains;

10.59.6-9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

10.59.7.10. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## **DIVISION II. GENERAL PROVISIONS.**

### **SECTION 10.60 LANDS TO WHICH THESE REGULATIONS APPLY.**

These regulations shall apply to all Special Flood Hazard Areas within the jurisdiction, including extraterritorial jurisdictions (ETJs), of the Town of Smithfield and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

### **SECTION 10.61 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Johnston County dated December 2, 2005, which are adopted by reference and declared to be a part of this ordinance. Dated December 20, 2017 for Johnston County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Smithfield are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Johnston County Unincorporated Area, dated September 30, 1983, and Town of Smithfield, dated April 1, 1982.

### **SECTION 10.62 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A Floodplain Development Permit shall be required in conformance with the provisions of these regulations prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 10.61.

### **SECTION 10.63 COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of these regulations and other applicable regulations.

#### **SECTION 10.64 ABROGATION AND GREATER RESTRICTIONS.**

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **SECTION 10.65 INTERPRETATION.**

In the interpretation and application of these regulations, all provisions shall be:

**10.65.1.** Considered as minimum requirements;

**10.65.2.** Liberally construed in favor of the governing body; and

**10.65.3.** Deemed neither to limit nor repeal any other powers granted under State statutes.

#### **SECTION 10.66 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Smithfield or by any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

#### **SECTION 10.67 PENALTIES FOR VIOLATION.**

Violation of the provisions of these regulations or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than ~~\$50.00~~ \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Smithfield from taking such other lawful action as is necessary to prevent or remedy any violation.

## **DIVISION III. ADMINISTRATION.**

### **SECTION 10.68 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The UDO Administrator, or his/her designee, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of these regulations. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

### **SECTION 10.69 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

#### ***10.69.1. Application Requirements.***

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

**10.69.1.1.** A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

**10.69.1.1.1.** The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

**10.69.1.1.2.** The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 10.61, or a statement that the entire lot is within the Special Flood Hazard Area;

**10.69.1.1.3.** Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 10.61;

**10.69.1.1.4.** The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 10.61;

**10.69.1.1.5.** The Base Flood Elevation (BFE) where provided as set forth in Section 10.61, Section 10.70, or Section 10.75;

**10.69.1.1.6.** The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

**10.69.1.1.7.** The certification of the plot plan by a registered land surveyor or professional engineer.

**10.69.1.2.** Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

**10.69.1.2.1.** Elevation in relation to ~~mean sea level~~ NAVD 1988 of the proposed reference level (including basement) of all structures;

**10.69.1.2.2.** Elevation in relation to ~~mean sea level~~ NAVD 1988 to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

**10.69.1.2.3.** Elevation in relation to ~~mean sea level~~ NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

**10.69.1.3.** If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

**10.69.1.4.** A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of these regulations are met. These details include but are not limited to:

**10.69.1.4.1.** The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

**10.69.1.4.2.** Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 10.74.4.3 when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

**10.69.1.5.** Usage details of any enclosed areas below the lowest floor.

**10.69.1.6.** Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

**10.69.1.7.** Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

**10.69.1.8.** Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections 10.74.6 and 10.74.7 of these regulations are met.

**10.69.1.9.** A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both

upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

### **10.69.2. Permit Requirements.**

The Floodplain Development Permit shall include, but not be limited to:

**10.69.2.1.** A complete description of all the development to be permitted under the floodplain development permit. (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

**10.69.2.2.** The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 10.61.

**10.69.2.3.** The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

**10.69.2.4.** The Regulatory Flood Protection Elevation required for the protection of all public utilities.

**10.69.2.5.** All certification submittal requirements with timelines.

**10.69.2.6.** A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, ~~as applicable.~~ unless the requirements of Section 10.77, have been met.

**10.69.2.7.** The flood openings requirements, if in Zones A, AO, AE or A1-30.

**10.69.2.8.** Limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only).

**10.69.2.9** A statement, that all materials below BFE / RFPE must be flood resistant materials

### **10.69.3. Certification Requirements.**

#### **10.69.3.1. Elevation Certificates.**

**10.69.3.1.1.** An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to

submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

**10.69.3.2.** An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

**10.69.3.3.** A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

**10.69.3.2. Floodproofing Certificate.** If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form ~~81-65~~ 086-0-3481-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to ~~mean sea level~~ NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

10.69.3.3 A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

**10.69.3.3.4.** If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 10.74.3.2.

**10.69.3.4.5.** If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

**10.69.3.4.5.6. Certification Exemptions.** The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in Sections 10.69.3.1 and 10.69.3.2.

**10.69.3.5.6.1.** Recreational Vehicles meeting requirements of Section 10.74.6.1;

**10.69.3.5.6.2.** Temporary Structures meeting requirements of Section 10.74.7;  
and

**10.69.3.5.6.3.** Accessory Structures less than 150 square feet meeting requirements of Section 10.74.8.

#### **10.69.4 Determinations for existing buildings and structures.**

10.69.4.1 For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and



structures, the Floodplain Administrator, in coordination with the Building Official, shall:

10.69.4.1.1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

10.69.4.1.2 Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

10.6.4.1.3 Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

10.69.4.1.4 Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

## **SECTION 10.70 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

**10.70.1.** Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of these regulations have been satisfied.

**10.70.2.** Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

**10.70.3.** Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

**10.70.4.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

**10.70.5.** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 10.77 are met.

**10.70.6.** Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 10.69.3.

**10.70.7.** Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 10.69.3.

**10.70.8.** Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 10.69.3.

**10.70.9.** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sections 10.69.3 and 10.74.2.

**10.70.10.** Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

**10.70.11.** When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 10.61, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 10.75.2.2, in order to administer the provisions of these regulations.

**10.70.12.** When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 10.61 obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of these regulations. **10.70.13.** When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

**10.70.14.** Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

**10.70.15.** Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain

Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

**10.70.16.** Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

**10.70.17.** Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

**10.70.18.** Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**10.70.19.** Follow through with corrective procedures of Section 10.71.

**10.70.20.** Review, provide input, and make recommendations for variance requests.

**10.70.21.** Maintain a current map repository to include, but not limited to, historical and effective the FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 10.61 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

**10.70.22.** Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

## **SECTION 10.71 CORRECTIVE PROCEDURES.**

### ***10.71.1. Violations to be Corrected.***

When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

### ***10.71.2. Actions in Event of Failure to Take Corrective Action.***

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

**10.71.2.1.** That the building or property is in violation of the floodplain management regulations;

**10.71.2.2.** That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

**10.71.2.3.** That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

### ***10.71.3. Order to Take Corrective Action.***

If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

### ***10.71.4. Appeal.***

Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

### ***10.71.5. Failure to Comply with Order.***

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

## **SECTION 10.72 VARIANCE PROCEDURES.**

**10.72.1.** The Town Council as established by the Town of Smithfield, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of these regulations.

**10.72.2.** Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

**10.72.3.** Variances may be issued for:

**10.72.3.1.** The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

**10.72.3.2.** Functionally dependent facilities if determined to meet the definition as stated in Appendix A of this ordinance, provided provisions of Sections 10.72.9.2, 10.72.9.3, and 10.72.9.5 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

**10.72.3.3.** Any other type of development, provided it meets the requirements of this Section.

**10.72.4.** In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

**10.72.4.1.** The danger that materials may be swept onto other lands to the injury of others;

**10.72.4.2.** The danger to life and property due to flooding or erosion damage;

**10.72.4.3.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner; **10.72.4.4.** The importance of the services provided by the proposed facility to the community;

**10.72.4.5.** The necessity to the facility of a waterfront location as defined under Appendix A of this ordinance as a functionally dependent facility, where applicable;

**10.72.4.6.** The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

**10.72.4.7.** The compatibility of the proposed use with existing and anticipated development;

**10.72.4.8.** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

**10.72.4.9.** The safety of access to the property in times of flood for ordinary and emergency vehicles;

**10.72.4.10.** The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

**10.72.4.11.** The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

**10.72.5.** A written report addressing each of the above factors shall be submitted with the application for a variance.

**10.72.6.** Upon consideration of the factors listed above and the purposes of these regulations, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of these regulations.

**10.72.7.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

**10.72.8.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

**10.72.9.** Conditions for Variances:

**10.72.9.1.** Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

**10.72.9.2.** Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

**10.72.9.3.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**10.72.9.4.** Variances shall only be issued prior to development permit approval.

**10.72.9.5.** Variances shall only be issued upon:

**10.72.9.5.1.** A showing of good and sufficient cause;

**10.72.9.5.2.** A determination that failure to grant the variance would result in exceptional hardship; and

**10.72.9.5.3.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**10.72.10.** A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

**10.72.10.1.** The use serves a critical need in the community.

**10.72.10.2.** No feasible location exists for the use outside the Special Flood Hazard Area.

**10.72.10.3.** The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

**10.72.10.4.** The use complies with all other applicable Federal, State and local laws.

**10.72.10.5.** The Town of Smithfield has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

#### **DIVISION IV. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

##### **SECTION 10.73 GENERAL STANDARDS.**

In all Special Flood Hazard Areas the following provisions are required:

**10.73.1.** All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

**10.73.2.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

**10.73.3.** All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

**10.73.4.** All new ~~E~~ electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or

~~accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electrical meter, panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches .units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.~~

10.73.4.1 Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

10.73.4.2 Replacements that are for maintenance and not part of a substantial improvement may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

**10.73.5.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

**10.73.6.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

**10.73.7.** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

~~**10.73.8.** Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of these regulations, shall meet the requirements of "new construction" as contained in this ordinance.~~

**10.73.9.8.** Nothing in these regulations shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

~~**10.73.10.9.**~~ New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 10.72.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or



floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 10.69.3.

**10.73.11-10.** All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

**10.73.12-11.** All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

**10.73.13-12.** All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**10.73.14-13.** All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**10.73.15-14.** When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

**10.73.16-15.** When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

## **SECTION 10.74 SPECIFIC STANDARDS.**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 10.61, or Section 10.75, the following provisions, in addition to the provisions of Section 10.73, are required:

### ***10.74.1. Residential Construction.***

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this ordinance. **10.74.2.**

### ***10.74.2 Non-Residential Construction.***

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this ordinance. Structures located in Zones A, AE, AO, and ~~A1-30~~ A99 Zones and may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using

structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 10.78.2. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 10.69.3, along with the operational plan and the inspection and maintenance plan.

#### **10.74.3. Manufactured Homes.**

**10.74.3.1.** New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this ordinance.

**10.74.3.2.** Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

**10.74.3.3.** All enclosures or skirting below the lowest floor shall meet the requirements of Section 10.74.4.

**10.74.3.4.** An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

#### **10.74.4. Elevated Buildings.**

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

**10.74.4.1.** Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

**10.74.4.2** Shall not be temperature-controlled or conditioned;

**10.74.4.2.3.** Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

**10.74.4.3.4.** Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

**10.74.4.3.4.1.** A minimum of two flood openings on different sides of each enclosed area subject to flooding;

**10.74.4.3.4.2.** The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

**10.74.4.3.4.3.** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

**10.74.4.3.4.4.** The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

**10.74.4.3.4.5.** Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

**10.74.4.3.4.6.** Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

#### **10.74.5. Additions/Improvements.**

**10.74.5.1.** Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

**10.74.5.1.1.** Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

**10.74.5.1.2.** A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

**10.74.5.2.** Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

**10.74.5.3.** Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

**10.74.5.3.1.** Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

**10.74.5.3.2.** A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

10.74.5.4. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

10.74.5.4.1 Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

10.74.5.4.1 Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**10.74.6. Recreational Vehicles.**

Recreational vehicles shall either:

~~10.74.6.1. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or~~

~~10.74.6.2. Meet all the requirements for new construction.~~

#### 10.74.6.1. Temporary Placement

10.74.6.1.1. Be on site for fewer than 180 consecutive days; or

10.74.6.1.2. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.

10.74.6.2. Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction

#### **10.74.7. Temporary Non-Residential Structures.**

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

**10.74.7.1.** A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

**10.74.7.2.** The name, address, and phone number of the individual responsible for the removal of the temporary structure;

**10.74.7.3.** The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

**10.74.7.4.** A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

**10.74.7.5.** Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

#### **10.74.8. Accessory Structures.**

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

**10.74.8.1.** Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

**10.74.8.2.** Accessory structures shall not be temperature-controlled;

**10.74.8.3.** Accessory structures shall be designed to have low flood damage potential;

**10.74.8.4.** Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

**10.74.8.5.** Accessory structures shall be firmly anchored in accordance with the provisions of Section 10.73.1;

**10.74.8.6.** All service facilities such as electrical shall be installed in accordance with the provisions of Section 10.73.4; and

**10.74.8.7.** Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 10.74.4.3.

10.74.9. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with Section 10.69.3.

10.74.9.1. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

10.74.9.2. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or

10.74.9.3. lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

10.74.9.4 Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

10.74.9.5 Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of section 10.73.2 of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tanks during design flood conditions.

10.74.9.6. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

10.74.9.6.1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

10.74.9.6.2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

#### 10.74.10 Other Development.

10.74.10.1 Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 10.65 of this ordinance.

10.74.10.2 Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 10.65 of this ordinance.

10.74.10.3 Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 10.65 of this ordinance.

### **SECTION 10.75 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 10.61, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 10.73, shall apply:

**10.75.1.** No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**10.75.2.** The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

**10.75.2.1.** When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 10.73 and 10.74.

**10.75.2.2.** When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 10.74 and 10.77.

**10.75.2.3.** All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 10.61 and utilized in implementing this ordinance.

**10.75.2.4.** When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of Section 10.74 shall also apply.

#### **SECTION 10.76 STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

**10.76.1.** Standards of Sections 10.73 and 10.74; and

**10.76.2.** Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

#### **SECTION 10.77 FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 10.61. The floodways and non-encroachment areas are



extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 10.73 and 10.74, shall apply to all development within such areas:

**10.77.1.** No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

**10.77.1.1.** it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

**10.77.1.2.** A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

**10.77.2.** If Section 10.77.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

**10.77.3.** No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

**10.77.3.1.** The anchoring and the elevation standards of Section 10.74.3; and

**10.77.3.2.** The no encroachment standard of Section 10.77.1

## **SECTION 10.78 STANDARDS OF AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in Section 10.61, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 10.73 and 10.74, all new construction and substantial improvements shall meet the following requirements:

**10.78.1.** The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade plus a freeboard of two (2) feet if no depth number is specified.

**10.78.2.** Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 10.78.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and

hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Sections 10.69.3 and 10.74.2.

**10.78.3.** Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**SECTION 10.79 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).**

Located within the Special Flood Hazard Areas established in 10.61, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent -annual -chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to 10.73 and 10.74, all new construction and substantial improvements shall meet the following requirements:

10.79.1 Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**DIVISION V. LEGAL STATUS PROVISIONS.**

**SECTION 10.79.80 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING REGULATIONS.**

These regulations in part come forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance, adopted May 2, 1982, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Smithfield enacted on May 2, 1982, as amended, which are not reenacted herein are repealed.

**SECTION 10.80.81 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of these regulations.

**SECTION 10.82 SEVERABILITY.**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**SECTION 10.81.83 EFFECTIVE DATE.** These regulations shall become effective upon adoption of the Town of Smithfield Unified Development Ordinance.

**AND**, be it ordained that Appendix A is amended to make the following changes set forth in the deletions (strikethroughs) and additions (double underlining) below.

**Alteration of a watercourse**

A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Area of future-conditions flood hazard**

The land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

**Design flood**

See "Regulatory Flood Protection Elevation."

**Development activity**

Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

**Digital Flood Insurance Rate Map (DFIRM)**

The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**Existing building and existing structure**

Building and/or structure for which the "start of construction" commenced before date the community's first floodplain management ordinance was adopted.

**Flood-resistant material**

Building product [material, component or system capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above- grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

### ***Floodway***

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

### ***Floodway encroachment analysis***

An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

### ***Letter of Map Change (LOMC)***

An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(1) Letter of Map Amendment (LOMA):

An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation . A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) Letter of Map Revision (LOMR):

A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) Letter of Map Revision Based on Fill (LOMR-F):

A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional Letter of Map Revision (CLOMR):

A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

### ***Light duty truck***

Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

**Lowest Adjacent Grade (LAG)**

The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**Mean Sea Level**

~~For purposes of this ordinance, the North American Vertical Datum (NAVD) as corrected 1988, to which Base Flood elevations (BFEs) shown on a DFIRM are referenced. North Carolina uses NAVD 1988.~~

**Recreational Vehicle**

A vehicle which is;

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck;
- (4) ~~Not~~ Not ~~designed primarily not~~ for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, ~~and is fully licensed and ready for highway use.~~

**Substantial Damage**

Damage of any origin sustained by a structure during any ten-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement**

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any 1-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This item includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 10.72 of this ordinance.

**Technical bulletin and technical fact sheet**

A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

**PART 2**

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

**PART 3**

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

Duly adopted this the 3<sup>th</sup> day of April, 2018.

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M. Andy Moore, Mayor

ATTEST

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Shannan L. Parrish, Town Clerk



# Request for Planning Board Action

**Application  
for Unified  
Development  
Ordinance  
Text  
Amendment  
ZA-17-06  
Date: 01/04/2017**

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**Subject:** Unified Development Ordinance Text Amendment  
**Department:** Planning  
**Presented by:** Stephen Wensman ALA, AICP, Planning Director  
**Presentation:** Business Item

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## Issue Statement

The Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) that will correct inconsistencies with the flag lot standards and cul-de-sac street standards.

## Financial Impact

There will be no financial impact to the Town.

## Action Needed

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

## Recommendations

The Planning Department recommends approval of the proposed amendments to Appendix A, Article 7 and Article 10 of the UDO and recommends that the Planning Board approve a statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Approved:  City Manager  City Attorney

## Attachments:

1. Staff Report
2. Ordinance
3. Application and Petition for Amendment to the UDO



# Staff Report

Application  
for Unified  
Development  
Ordinance  
Text  
Amendment  
ZA-17-06

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The Planning Department is requesting text amendments to Appendix A, Article 7 and Article 10 of the Town of Smithfield Unified Development Ordinance (UDO) that removes inconsistencies within the text and clarifies development standards as they pertain to flag lots and cul-de-sac streets.

## **Analysis:**

The proposed zoning ordinance amendment will clarify development standards by:

- Creating a more descriptive definition of a flag lot;
- Eliminating inconsistent standards concerning flag lots;
- Establishing a flag lot width that can accommodate a standard public right-of-way and that will not hinder future planning and development efforts;
- Revising maximum cul-de-sac lengths within manufactured home parks.

## **Flag Lots:**

Flag lots are so named because of the long, slender strips of land resembling flag poles that extend from the typically rectangular main sections of these lots — or the “flags” — out to the street. Each “flag pole” typically provides just enough street frontage for vehicle access and is often shared by several neighbors. Flag lots can also be thought of as permitted lots with reduced street frontage that allow access to otherwise landlocked parcel acreage. Use of flag lots recognizes the environmental and economic advantages in substituting private drive lengths to tap land that would require additional street length and potentially greater disturbance and infrastructure costs.

The negative attributes of flag lots include potential burden on property owners to maintain longer driveways or private streets lengths, potential access constraints for emergency vehicles, and possible house-to-house relationships as flag lot dwellings may be perceived to be in the rear yards of the adjacent residences. In most cases however, the biggest drawback from creating flag lots is that no further land divisions or intensive land uses can occur when the property does not and cannot ever front on a public street due to inadequate land reserves needed for the construction of a public street from the existing



public street to the flag portion of the lot to be divided. However, judicious use of flag lot arrangements can provide distinct benefits in residential design when its use, resulting lot size, dwelling orientation and access considerations are based on sound planning and community design criteria.

With these considerations in mind, the Town of Smithfield Unified Development Ordinance has retained language allowing for newly created flag lots. The proposed amendment clarifies the existing flag lot provisions by creating a better definition of a flag lot. It will require flag lot dimensions to meet or exceed the underlying zoning district dimensional standards and sets the flag pole portion of the lot to a minimum width of 60' measured at the public right-of-way and were the pole portion of the lot intersects the flag portion of the lot.

**Cul-De-Sacs Street:**

Cul-de-sac lots street frontage requirements will remain at 25'. The proposed ordinance amendment will clarify conflicting cul-de-sac length standards by increasing the maximum cul-de-sac length within planned manufactured home parks to 750 linear feet making them identical to traditional subdivisions standards.

**DRAFT ORDINANCE # ZA-17-06  
AN ORDINANCE TO AMEND  
APPENDIX A, ARTICLE 7 AND ARTICLE 10  
OF THE TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE  
TO CLARIFY MINIMUM LOT WIDTH AND MAXIMUM LENGTH OF A CUL-DE-SAC.**

**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 set unified standard for flag lots and maximum cul-de-sac lengths.

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

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

**Part 1**

[Revise APPENDIX A. DEFINITIONS content as it pertains to flag lots and lot width]

**APPENDIX A. DEFINITIONS**

[Definitions not listed remain unchanged]

**Lot, Flag**

~~Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.~~

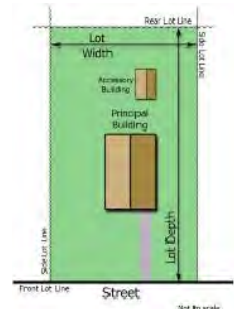
A lot with two distinct parts:

- The flag, which typically contains building site; and is located behind another lot; and
- The pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than or equal to the minimum lot width for the zone.

**And**

**Lot Width**

The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect the right-of-way line, or for lots having an access strip extending from the front of the main portion of the lot, at the place where the access strip joins the main portion of the lot) shall not be less than ~~60 feet~~ eighty percent (80%) of the required lot width, except in the case of the turning circle of cul-de-sacs ~~where the eighty percent (80%) requirement shall not apply.~~



And

**Section 10.108 Streets**

[Revises Article 10 by referring to Article 8 for required minimum lot widths]

**10.108.1.4.2. Lot Width and Depth.** All lots shall have a minimum width and street frontage at ~~the building line of 70 feet as required in Article 8, except in the case of the turning circle of cul-de-sacs and a~~ where a minimum width at the street right-of-way line of 25 feet is permissible. Corner lots shall have an extra width of 10 feet to permit adequate setback from side streets. The minimum lot depth of single tier lots (when approved) shall be 125 feet. All other lots shall be 110 feet in depth. Additional lot width and depth shall be required when:

**10.108.1.4.2.1.** A lot is served by either public water or sewer, but not both: Lot width - 100 feet; Lot depth - 200 feet.

**10.108.1.4.2.2.** A lot is not served by either public water or sewer: Lot width - 125 feet; Lot depth - 200 feet.

And

**Section 10.108 Streets**

[Revise Article 10 to refer to Article 8 for required minimum lots width]

**10.108.1.4.4.** Every lot shall maintain required street frontage as required in Article 8 ~~abut at least 25 feet on one of the following:~~

**10.108.1.4.4.1.** A public street dedicated to and maintained by the Town of Smithfield or the North Carolina Department of Transportation.

**10.108.1.4.4.2.** A street constructed to the standards of the Town or Smithfield or the North Carolina Department of Transportation, with a written agreement concerning the future maintenance of the street.

And

**Section 10.108 Streets**

[Revises Article 10 and sets minimum flag lot street frontage at 60 feet]

**10.108.1.4.7.** Flag-shaped lots shall only be permitted in cases where the minimum ~~area, lot~~ lot width, lot depth, and ~~street frontage requirements~~ of this Ordinance are complied with and the lot has a minimum street frontage of at least 60 feet in width. ~~If the standards of the zoning district in which the property is located are more stringent, the stricter requirement shall govern.~~

**And**

**Section 7.34 Residential Cluster Developments**

[Revises Article 7 and sets minimum lot frontage to 40 feet for lots within a cluster subdivision]

**7.34.4.2. Lot Width.** 40 feet. ~~On a case-by-case basis, flag lots may be allowed with a minimum street frontage of 10 feet.~~

**And**

**Section 7.18 Manufactured Home Parks.**

[Revises maximum cul-de-sac lengths within Manufactured Home Parks]

**7.18.14.1. Cul-De-Sacs.** Any interior drive designed to be closed shall have a turnaround at the closed end with a minimum right-of-way diameter of 100 feet. The entire right-of-way of such turnaround shall be graded and usable for the turning of motor vehicles. Cul-de-sacs shall not exceed ~~600~~ 750 feet in length.

**PART 2**

That the Unified Development Ordinance shall be page number as necessary to accommodate these changes.

**PART 3**

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

Duly adopted this the 6<sup>th</sup> day of February, 2018.

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M. Andy Moore, Mayor

ATTEST

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\_ Shannan L. Parrish, Town Clerk

**THE TOWN OF SMITHFIELD  
UNIFIED DEVELOPMENT ORDINANCE  
TEXT AMENDMENT CONSISTENCY STATEMENT  
BY THE SMITHFIELD PLANNING BOARD  
ZA-17-06**

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

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

**NOW THEREFORE, BE IT RECCOMENDED FOR ADOPTION BY THE SMITHFIELD PLANNING BOARD AS APPROPRIATE:**

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

That the final action regarding text amendment ZA-17-06 is based upon review of and consistency with, the Town of Smithfield *Comprehensive Growth Management Plan* and any other officially adopted plan that is applicable, along with additional agenda information provided to the Planning Board and information provided at the public hearing; and

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

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

That the final action regarding text amendment ZA-17-06 is based upon review of, and consistency, the Town of Smithfield *Comprehensive Growth Management Plan* and other officially adopted plans that are applicable; and

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



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

**Petition for Amendment to the Unified Development Ordinance**

*Pursuant to Article 4 of the Town of Smithfield Unified Development Ordinance, Proposed amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, members of the public, or by one or more interested parties. The application for any amendment shall contain a description of the proposed zoning regulation.*

**APPLICANT INFORMATION:**

\_\_\_\_\_  
Petitioner's Name

\_\_\_\_\_  
Address or PO Box

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone

Proposed amendment to the Town of Smithfield Unified Development Ordinance:

\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets as necessary)

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

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

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

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

**FOR OFFICE USE ONLY**

File Number: \_\_\_\_\_ Date Received: \_\_\_\_\_ Amount Paid: \_\_\_\_\_

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## Coates' Canons Blog: Consistently Inconsistent? Considering Consistency Statements for Zoning Amendments

By Adam Lovelady

Article: <https://canons.sog.unc.edu/consistently-inconsistent-considering-consistency-statements-for-zoning-amendments/>

This entry was posted on September 15, 2014 and is filed under Land Use & Code Enforcement, Legislative Decisions, Planning, Zoning

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When the city council or county commission considers a rezoning or zoning ordinance amendment the board must approve a statement about the amendment's consistency with adopted plans and public interest. According to the statute "[t]hat statement is not subject to judicial review." And yet we have two recent examples of North Carolina courts reviewing consistency statements. What gives? This blog reviews the statutory requirements, the recent cases, and some guidance for moving forward.

In North Carolina "[z]oning regulations shall be made in accordance with a comprehensive plan" (160A-383; 153A-341). Our courts have interpreted that mandate to require a comprehensive approach, but not necessarily a formal document called a "Comprehensive Plan." As part of the statutory procedures for zoning, though, the planning board and governing board must consider consistency with applicable plans and adopt a statement concerning that consistency. As my colleague David Owens wrote [here](#), plans are not binding, but governing boards must procedurally consider and acknowledge them.

Under 160A-387 and 153A-344, when a local government first seeks to adopt a zoning ordinance or adopt comprehensive revision, the planning board must prepare or review and comment on the proposed ordinance or revision, including a written recommendation on adoption.

Amendments to the ordinance must be referred to the planning board for review and comment as to "whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable." The planning board is tasked with providing a "written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board." The planning board must provide that recommendation within 30 days of referral. After that the governing board may take action on the ordinance amendment without planning board recommendation. To be sure, this is a procedural step; it is not determinative. Even if the planning board finds that the zoning amendment is inconsistent with the comprehensive plan, the governing board may still consider and approve the amendment (160A-383 & 387; 153A-341 & 344).

The governing board, too, has a procedural requirement to consider consistency and public interest. For municipalities, General Statute 160A-383 requires that "[w]hen adopting or rejecting any zoning amendment, the governing board shall also approve a statement *describing* whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and *briefly explaining* why the board considers the action taken to be reasonable and in the public interest." The county version of the statute, at GS 153A-341, is substantially the same, but with one procedural difference: the commission must adopt the consistency statement prior to adopting or rejecting the amendment.

The statute specifies that the consistency statement "is not subject to judicial review." As our courts have considered the requirement and the scope of review, they have interpreted this to mean that the decision content of the statement ("Yes, this amendment is consistent with the comprehensive plan." Or, "No, this rezoning is not in the public interest.") is not reviewable. Courts can, however, review whether a local government acted properly when adopting (or failing to adopt) the required statement, including the presence of necessary elements of the statement.

### The Board Must Take Action

In *Wally v. City of Kannapolis*, 365 N.C. 449, 722 S.E.2d 481 (2012), the North Carolina Supreme provided some

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guidance into what is—and what is not—sufficient for a consistency statement.

In *Wally*, a property owner applied for rezoning. The city council, as part of the public hearing for the rezoning, received a staff report that included analysis of the proposed rezoning, including compatibility with the surrounding area and safety issues. Staff concluded that the rezoning was “consistent with the long range goals of the City, and reasonable in light of existing and approved infrastructure.” The council approved the rezoning. Neighbors challenged the rezoning, claiming among other things that city council failed to adopt a consistency statement as required by the statutes.

The case was appealed up to the North Carolina Supreme Court. The city argued that it met the statutory requirements for a consistency statement. When city council approved the rezoning, the city claimed, it impliedly approved the staff statement of consistency and reasonableness. And the council adopted a statement that “Council’s final vote conforms to the guidelines under which they are granted final authority to act upon a rezoning petition.” And in any event, the city argued, the consistency statement is not subject to judicial review. The court was not persuaded.

The court emphasized that although an approved consistency statement is not subject to judicial review, “the statute does not prohibit review of *whether* the City Council approved a statement, which is the issue here.”

The court noted that “the statute requires that defendant take two actions in this situation: first, adopt or reject the zoning amendment, and second, approve a proper statement.” In this case, council failed to take the second step. It is not enough to have a staff report with some consistency analysis. The council must take action to approve the statement. Moreover, council’s adoption of a generic statement about conforming to guidelines for zoning authority is insufficient. There must be some explanation and description regarding the specific zoning matter at issue, as required by the statute for consistency statements.

For more on the *Wally* decision and elements of plan consistency, check out my colleague Rich Ducker’s blog [here](#).

### **More Than Cut and Paste**

The North Carolina Court of Appeals has offered additional guidance into what is—and what is not—sufficient for a consistency statement in *Atkinson v. City of Charlotte*, 760 S.E.2d 395, 396 (N.C. Ct. App. 2014).

In *Atkinson*, a property owner initiated a zoning text amendment to exempt certain parking decks from floor area ratio requirements. The zoning committee of the planning commission reviewed the proposed amendment and voted unanimously to recommend approval. As part of the recommendation, the zoning committee included a statement finding that the amendment was consistent with adopted plans and reasonable and in the public interest. At the city council hearing the mayor informed council members that the zoning committee “found this petition to be consistent with the adopted policies and reasonable and in the public interest.” City council approved this “statement of consistency” and the zoning amendment. Neighbors challenged the amendment as failing to comply with the statutory requirement for consistency statements.

This case had notably different facts from *Wally*. In *Wally*, no consistency statement was adopted. In *Atkinson*, the council formally adopted and approved a statement from the zoning committee titled “Statement of Consistency.” The city, understandably, pointed to that adopted statement, arguing that they met the statutory requirement and that the content of the statement is not subject to review. Once again, the court was not persuaded.

For the *Atkinson* decision, the NC Court of Appeals drew guidance from the NC Supreme Court’s language in *Wally*. In *Wally* the court said that the statute “requires more than a general declaration that the action comports with relevant law.” The consistency statement must “*must describe whether the zoning amendment is consistent with any controlling land use plan and explain why it is reasonable and in the public interest.*” Thus, court review of adequacy of a consistency statement will consider:

1. *Did the council take action to adopt a consistency statement?*
2. *Did the statement include a description of whether the amendment is consistent with any controlling land use plan?*
3. *Did the statement include an explanation as to why the amendment is reasonable and in the public interest?*

“Once it is determined that a proper statement, which includes a description and explanation, has been adopted, the



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content of the statement 'is not subject to judicial review.'" In *Atkinson*, the city adopted a statement, but that statement lacked the necessary description and explanation. A mere conclusory statement (e.g., "This amendment is consistent. Period.") is insufficient.

As an aside, the neighbors also challenged the role of a zoning committee of the planning commission—they argued that the full planning board must review and make recommendation on zoning amendments. Because the court found the consistency statement lacking, it did not address the question about the planning commission structure and requirements.

### Now what?

So where does that leave us? Here are some practical considerations for compliant zoning amendments.

Each case needs a unique consistency statement. The governing board can't just cut and paste the generic statement from the last rezoning case. Nor can the board merely check a box on a checklist. The statement must reflect the unique character of the particular amendment through description and explanation. The basic format may be the same for all consistency statements, but each one should reflect the particular amendment. As a guide, you might start with this:

- The amendment is/is not consistent with applicable plans because \_\_\_\_ *[Describe elements of controlling land use plans and how the amendment is or is not consistent]*\_\_\_\_\_.
- And the amendment is/is not reasonable and in the public interest because \_\_\_\_\_ *[Briefly explain why. Factors may include public health and safety, character of the area and relationship of uses, applicable plans, or balancing benefits and detriments.]*

Can staff or the planning board draft the statement for governing board approval? Yes. The statutory requirement is that the governing board shall *approve* or *adopt* the statement. A draft statement provided by the planning board or staff should be sufficient, so long as the governing board has the statement and takes formal action to approve it. The planning board already has to comment on consistency of amendments for rezonings and zoning text amendments. For continuity of review, the planning board could apply the same standards as the governing board, including a description of how the amendment is consistent and an explanation as to why it is reasonable and in the public interest. Recall that the governing board is not bound by the planning board's findings.

How much detail do you need in a statement? A brief statement such as above with some description and explanation is legally sufficient. Courts will not review the substance of the content (even if they disagree with the finding), but courts will review whether the description and explanation is there in the statement. Just how much detail to include is a policy decision for the local government and the particular ordinance amendment. Some local governments will choose to craft a few simple sentences to meet the legal standard. Others may opt to provide an exhaustive 10 page consistency analysis, identifying all applicable comp plan elements. Either should be acceptable, so long as the governing board has the statement in front of them and formally adopts it. If your community does have a long consistency analysis, you may consider a shorter summary statement for explicit adoption by the governing board. The statement should serve as a useful tool for plan implementation and protection from court challenges (especially for claims of spot zoning), but the statement need not be overly-complicated or lengthy.

Regardless of who drafts the statement, the governing board must take formal action to adopt the statement. A passing reference to the staff report or the planning board statement is insufficient. For municipalities, it appears that the governing board action to adopt the statement may be part of the motion to approve or deny the amendment. The county statute, though, requires that the consistency statement be adopted "*prior to* adopting or rejecting any zoning amendment."

If a statement is formally approved and it includes a description of consistency and an explanation of reasonableness and public interest, then the substantive content of the statement will not be subject to judicial review.



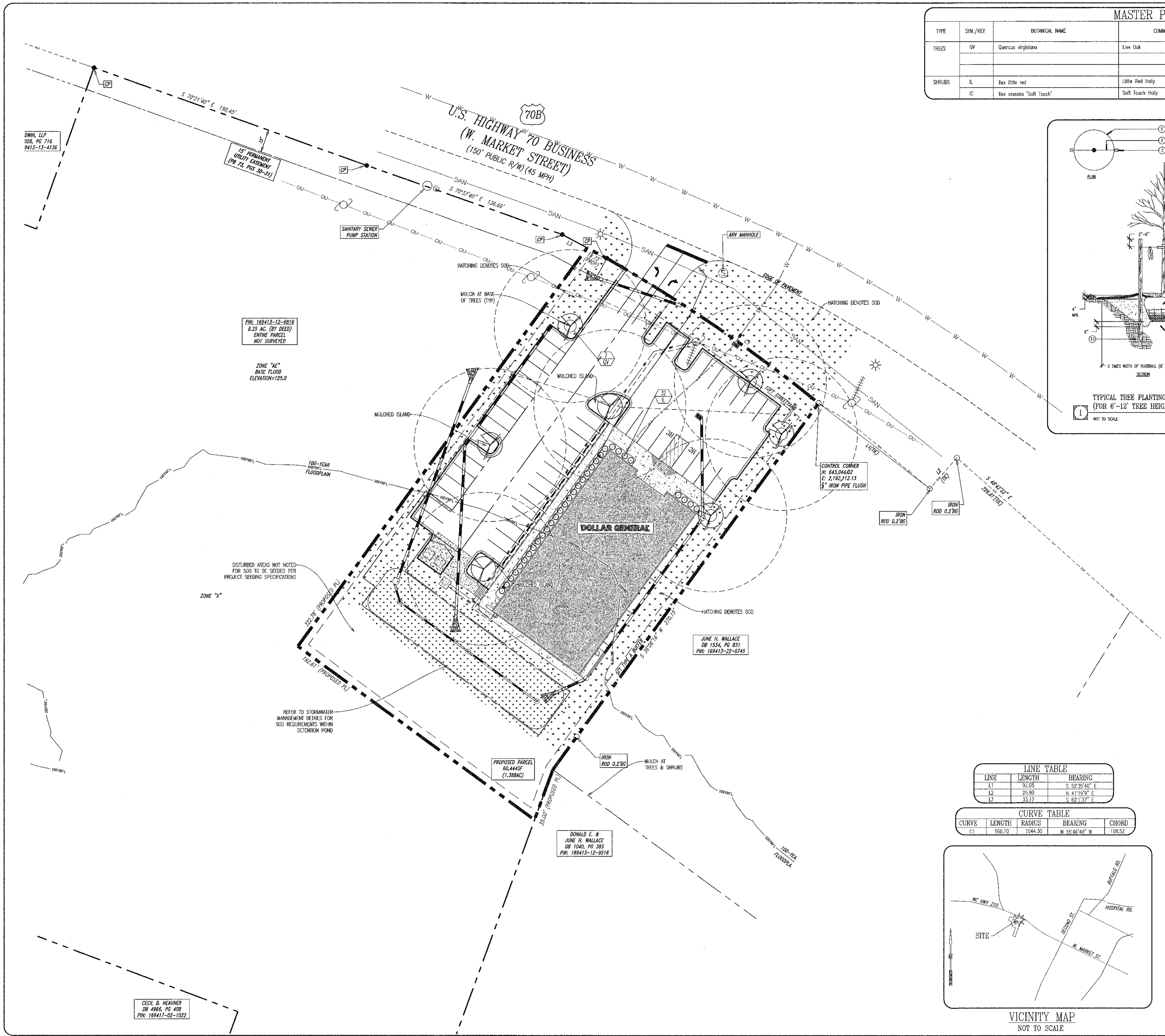
Town of Smithfield  
 Planning Department  
 350 E. Market St Smithfield, NC 27577  
 P.O. Box 761, Smithfield, NC 27577  
 Phone: 919-934-2116  
 Fax: 919-934-1134

### Permit Issued for January and February 2018

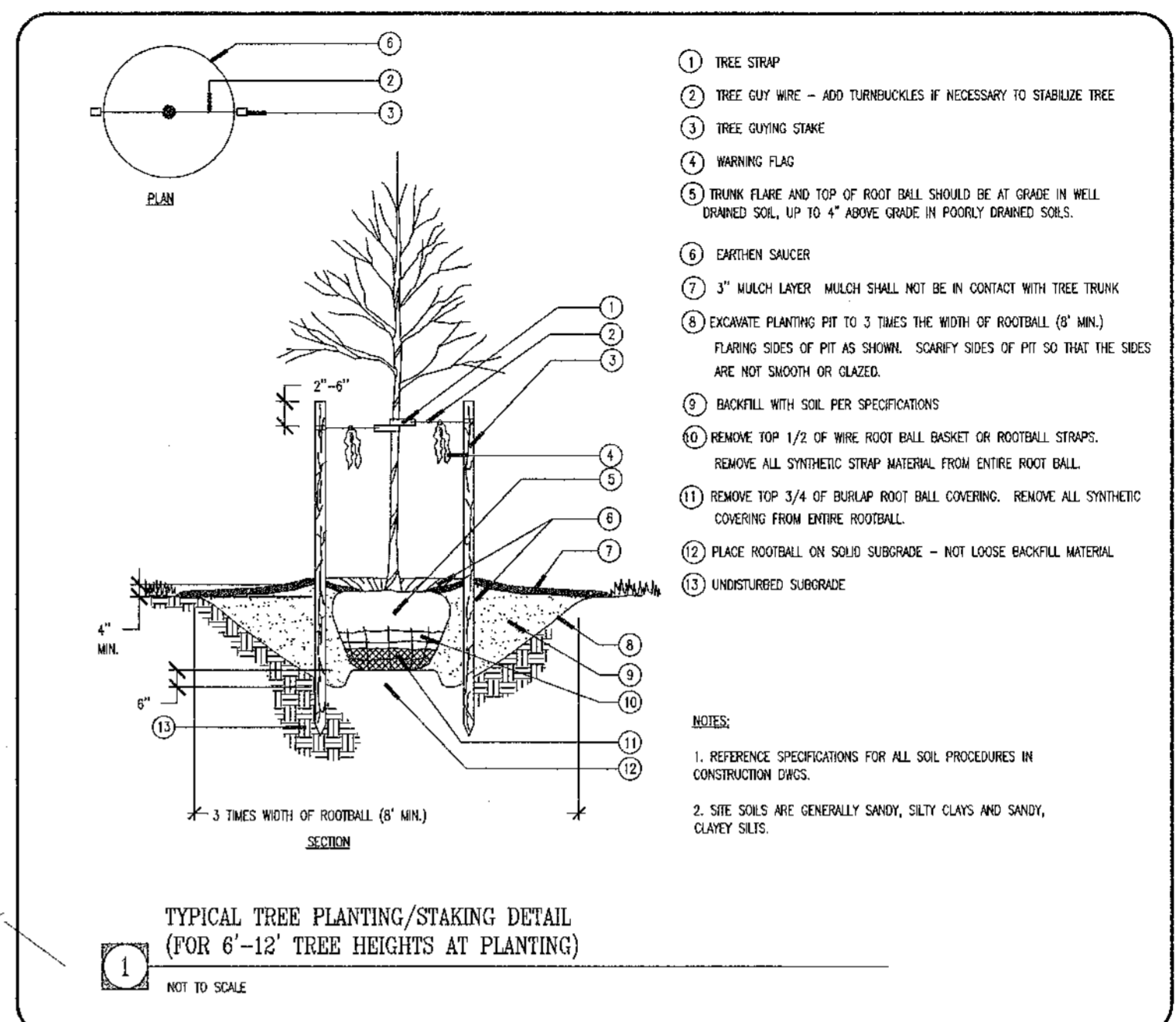
|                      |                 | Permit Fees        | Permits Issued |
|----------------------|-----------------|--------------------|----------------|
| Site Plan            | Major Site Plan | \$350.00           | 3              |
| Site Plan            | Minor Site Plan | \$225.00           | 3              |
| Zoning               | Land Use        | \$1,950.00         | 23             |
| Zoning               | Sign            | \$250.00           | 5              |
| Report Period Total: |                 | \$2,775.00         | 34             |
| Fiscal YTD Total:    |                 | <b>\$11,150.00</b> | <b>158</b>     |

|             |           |                 |   |                                    |
|-------------|-----------|-----------------|---|------------------------------------|
| Z18-000002  | Zoning    | Sign            | Partnership for Children of Johnston County | 600 Booker Dairy Road              |
| Z18-000001  | Zoning    | Land Use        | Flowserve US, Inc.- Material Warehouse      | 203 Computer Drive                 |
| Z18-000003  | Zoning    | Land Use        | S2Technologies LLC                          | 226-B East Market Street           |
| Z18-000004  | Zoning    | Land Use        | Smithfield Signs                            | 331 Peedin Road                    |
| Z18-000005  | Zoning    | Land Use        | Twin Oaks Motel & Rental LLC                | 3170 South Brightleaf Boulevard    |
| Z18-000006  | Zoning    | Sign            | N.Y. Bagel Cafe and Deli                    | 388- B Venture Drive               |
| Z18-000007  | Zoning    | Land Use        | Existing SFD Back Porch Addition            | 770 North Johnson Road             |
| SP18-000001 | Site Plan | Minor Site Plan | Lippitt Boat Dock                           | 130 Whippoorwill Drive             |
| Z18-000008  | Zoning    | Land Use        | Aldridge Insurance LLC                      | 721-6 North Brightleaf Boulevard   |
| Z18-000009  | Zoning    | Land Use        | Thomas & Vicki Berkau                       | 604 West Hood Street               |
| Z18-000012  | Zoning    | Sign            | Boost Mobile                                | 1006 North Brightleaf Boulevard    |
| Z18-000013  | Zoning    | Land Use        | Skechers USA                                | 1025 Outlet Center Drive Suite 730 |
| Z18-000014  | Zoning    | Land Use        | Cardenas Hair Salon                         | 828 South Third Street             |
| Z18-000010  | Zoning    | Land Use        | Sohn, Inc.                                  | 223 West Meadowbrook Drive         |

|             |           |                 |  |                                 |
|-------------|-----------|-----------------|--|---------------------------------|
| Z18-000016  | Zoning    | Land Use        | New SFD on Swift Creek Road                  | 4137 Swift Creek Road           |
| Z18-000018  | Zoning    | Land Use        | Rufus Surles-New residential driveway        | 29 Fox Chase Lane               |
| Z18-000017  | Zoning    | Land Use        | Firehouse Subs Restaurant                    | 515 Outlet Center Drive         |
| Z18-000019  | Zoning    | Land Use        | Keystone Novelties Distributors, LLC         | 1273 North Brightleaf Blvd      |
| Z18-000021  | Zoning    | Land Use        | Verizon Wireless                             | 1053 Outlet Center Drive        |
| SP18-000002 | Site Plan | Minor Site Plan | Auto Sales Repair and Storage                | 1195 Brogden Road               |
| SP15-000007 | Site Plan | Major Site Plan | Tunnel Car Wash                              | 1203 North Brightleaf Boulevard |
| SP18-000003 | Site Plan | Major Site Plan | Penn Compression Moulding Building Expansion | 309 Components Drive            |
| Z18-000022  | Zoning    | Land Use        | Austin Manor Apartments                      | 129 South Third Street          |
| SP18-000004 | Site Plan | Minor Site Plan | Construction of Air Compressor Shelter.      | 3250 West US 70 Bus Hwy         |
| SP18-000005 | Site Plan | Major Site Plan | Dollar General                               | 429 West Market Street          |
| Z18-000023  | Zoning    | Land Use        | Wash and Wash Inc.Car Wash and Laun          | 1302 & 1304 S Brightleaf Blvd   |
| Z18-000024  | Zoning    | Land Use        | Mobile Home Replacement                      | 201 Everett Lane                |
| Z18-000025  | Zoning    | Land Use        | CTH Rentals, LLC                             | 101 NC 210 Highway              |
| Z18-000026  | Zoning    | Land Use        | Carolina Lease Management Group, LLC         | 101 NC Hwy 210                  |
| Z18-000028  | Zoning    | Land Use        | Skechers                                     | 1025 Outlet Center Drive        |
| Z18-000027  | Zoning    | Land Use        | Johnston-Lee Harnett Community Actior        | 1102 Massey Street              |
| Z18-000029  | Zoning    | Land Use        | West Calvary FWB Church/ Handicap Rai        | 402 McCullers Street            |
| Z18-000020  | Zoning    | Sign            | Keystone Novelties Fireworks Sales           | 1273 North Brightleaf Blvd      |
| Z18-000011  | Zoning    | Sign            | Chicken & Ribs Castle                        | 2110 S Brightleaf Blvd          |



| TYPE   | SYM./KEY | BOTANICAL NAME            | COMMON NAME      | SPECIFICATION |             |          |                             |       |
|--------|----------|---------------------------|------------------|---------------|-------------|----------|-----------------------------|-------|
|        |          |                           |                  | CALIPER       | HEIGHT      | ROOT     | SPACING                     | OTHER |
| TREES  | QV       | Quercus virginiana        | Live Oak         | 2"            | 10' MIN     | B&B      | AS SHOWN                    |       |
| SHRUBS | IL       | Ilex lutea 'Red'          | Little Red Holly | 24"           | 3 GAL - MIN | AS SHOWN | 3'-4" to 3' growing seasons |       |
|        | IC       | Ilex crenata 'Soft Touch' | Soft Touch Holly | 12"           | 3 GAL - MIN | AS SHOWN | 2'-3" to 3' growing seasons |       |

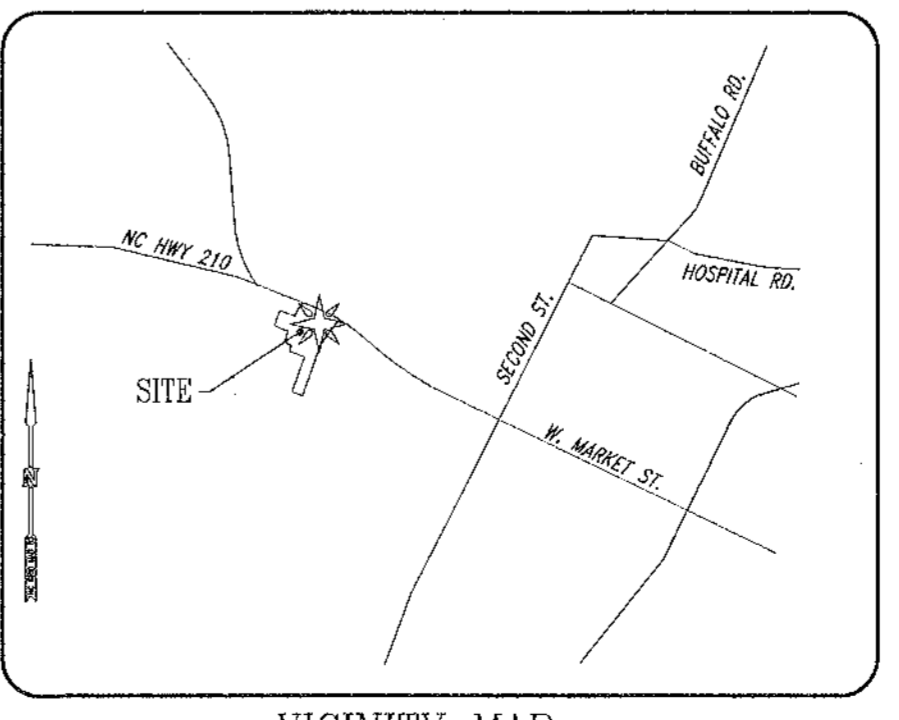


- GENERAL LANDSCAPE NOTES**
- ANY DISTURBED AREAS NOT SCHEDULED FOR HARDSCAPE, PLANTINGS, OR MULCH SHALL BE SEEDED LAWN.
  - NO PLANT SUBSTITUTIONS ARE PERMITTED WITHOUT WRITTEN APPROVAL OF THE OWNER'S REPRESENTATIVE PRIOR TO INSTALLATION.
  - ALL PLANT AND BED LINE LOCATIONS SHALL BE STAKED IN THE FIELD AND APPROVED BY THE OWNER'S REPRESENTATIVE PRIOR TO INSTALLATION.
  - ALL PLANTINGS SHALL BE INSTALLED WITH THE SPECIFIED LAYER OF MULCH. REFERENCE DETAILS AND SPECIFICATIONS FOR BEDS AND TYPES OF MULCH. ALL TREES AND SHRUBS SHALL BE PLANTED IN MULCH BEDS AND SHALL BE SEPARATED FROM TURF GRASS AREAS.
  - GRASS COVERAGE TO EXTEND FROM PROPERTY LINES TO BACK OF CITY SIDEWALKS AND/OR CURBS.
  - MINIMUM TREE SIZE AT PLANTING IS 2" CALIPER (FOR SINGLE STEM TREES). ALL MULTI-STEM PLANTS MUST BE TREE FORM, MAXIMUM 3 TO 5 TRUNKS, AND MINIMUM 8 FEET TALL.
  - ALL STRUTTING AND TOP 2/3 OF WIRE BASKETS MUST BE CUT AWAY AND REMOVED FROM ROOT BALL PRIOR TO BACKFILLING PLANTING PIT. REMOVE TOP 1/3 OF THE BURLAP FROM ROOT BALL.
  - FOR NEW PLANTING AREAS, REMOVE ALL FURNISHMENT, CROWN, SUB-BASE AND CONSTRUCTION DEBRIS. REMOVE COMPACTED SOIL AND ADD 18" NEW TOPSOIL, OR TILL AND AMEND THE TOP 18" OF EXISTING SOIL TO MEET TOPSOIL/PLANTING MIX STANDARDS FOR TREES.
  - LARGE MATURING TREES MAY NOT BE PLANTED WHERE THERE ARE OVERHEAD DISTRIBUTION OR TRANSMISSION LINES. IF TREES CONFLICT WITH POWER LINES OR SIGNS, CALL URBAN FORESTER TO RESOLVE BEFORE PLANTING.
  - AVOID TREE PLANTING LOCATIONS TO AVOID UNDERGROUND UTILITIES. PLANT 15' FROM ALL UNDERGROUND UTILITIES (SEWER AND STORM SEWERAGE, GAS, WATER, PHONE, AND ELECTRICAL LINES.)
  - ATTENTION LANDSCAPER: NOTIFY OWNER OF ANY SIGN, POWER LINE, OR OTHER OBSTACLES BEFORE PLANTING NEW TREES.

- LANDSCAPING NOTES:**
- CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLETING ALL REQUIRED LANDSCAPING FOR THE ENTIRE SITE, TO INCLUDE BUT NOT LIMITED TO: SOODED/SEEDED AREAS, SHRUB BEDS, PARKING LOT ISLANDS, ROADSIDE SIGN BASE(S) AND MONUMENT PLANTERS.
  - CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE CODES AND ORDINANCES REGARDING LANDSCAPING.
  - IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ESTABLISH A HEALTHY STAND OF GRASS ON ALL SEEDED AREAS.
  - IN THE EVENT THAT PLANTING BEDS AND MULCH ARE REQUIRED, THE CONTRACTOR SHALL INSTALL BLACK FABRIC WELDED BLOCK LANDSCAPE MESH UNDER THE MULCH TO PREVENT WEED GROWTH.
  - CONTRACTOR SHALL PROVIDE NATURAL TOPSOIL THAT IS FERTILE, FRAGILE, WITHOUT MIXTURE OF SLURRY, MATERIALS, AND OBTAINED FROM A WELL DRAINER, AVAILABLE SITE. IT SHALL NOT CONTAIN SUBSTANCES WHICH MAY BE HARMFUL TO PLANT GROWTH. TOPSOIL SHALL BE SCREENED AND FREE FROM CLAY, LUMPS, STONES, ROOTS, PLANTS OR SIMILAR SUBSTANCES 1" OR MORE IN DIAMETER, STEMS, OR OTHER OBJECTS WHICH MIGHT BE A HINDERANCE TO PLANTING OPERATIONS. TOPSOIL SHALL CONTAIN AT LEAST 4-6% ORGANIC MATTER BY WEIGHT AND HAVE A PH RANGE OF 5.5 TO 7.0.
  - CONTRACTOR SHALL BE RESPONSIBLE FOR THE WATERING AND THE MAINTENANCE OF ALL LANDSCAPED AREAS UNTIL THE LATER OF: (a) THIRTY (30) DAYS FOLLOWING THE PLANTING OF THE GRASS AND SHRUBS, OR (b) THE DATE THAT DOLLAR GENERAL OPENS FOR BUSINESS TO THE PUBLIC.
  - GENERAL CONTRACTOR IS TO CLEAN ENTIRE SITE OF ALL CONSTRUCTION DEBRIS AND FRAME ALL GRASS AREAS.
  - PROVIDE LANDSCAPE PLANS TO DOLLAR GENERAL AND AS REQUIRED BY LOCAL JURISDICTION TO THE BLUE TEAM FOR REVIEW AND APPROVAL PRIOR TO START OF WORK.
  - ALL LANDSCAPING, TREES, SHRUBS, ETC. SHALL NOT INTERFERE WITH THE VISIBILITY OF DOLLAR GENERAL SIGNAGE.
  - CONTRACTOR TO VERIFY QUANTITIES PRIOR TO COMMENCING WORK.
  - OPEN AREAS WITHIN PLANTING BEDS SHALL BE MULCHED.

| LINE | LENGTH | BEARING       |
|------|--------|---------------|
| L1   | 92.65  | S 32°35'40" E |
| L2   | 26.90  | N 41°15'30" E |
| L3   | 33.17  | S 52°13'37" E |

| CURVE | LENGTH | RADIUS  | BEARING       | CHORD  |
|-------|--------|---------|---------------|--------|
| C1    | 166.70 | 1044.30 | N 55°46'40" W | 168.52 |



811  
Know what's below.  
Call before you dig.

GRAPHIC SCALE  
0 15 30 60  
1 INCH = 30 FEET

**TRIANGLE SITE DESIGN**

CONSULTANT:  
Triangle Site Design, PLLC  
4004 Barrett Drive  
Suite 101  
Raleigh, NC 27609  
(919)553-6570  
mlower@trianglesitedesign.com  
NC LICENSE #P-0619

SEAL:

**DOLLAR GENERAL**

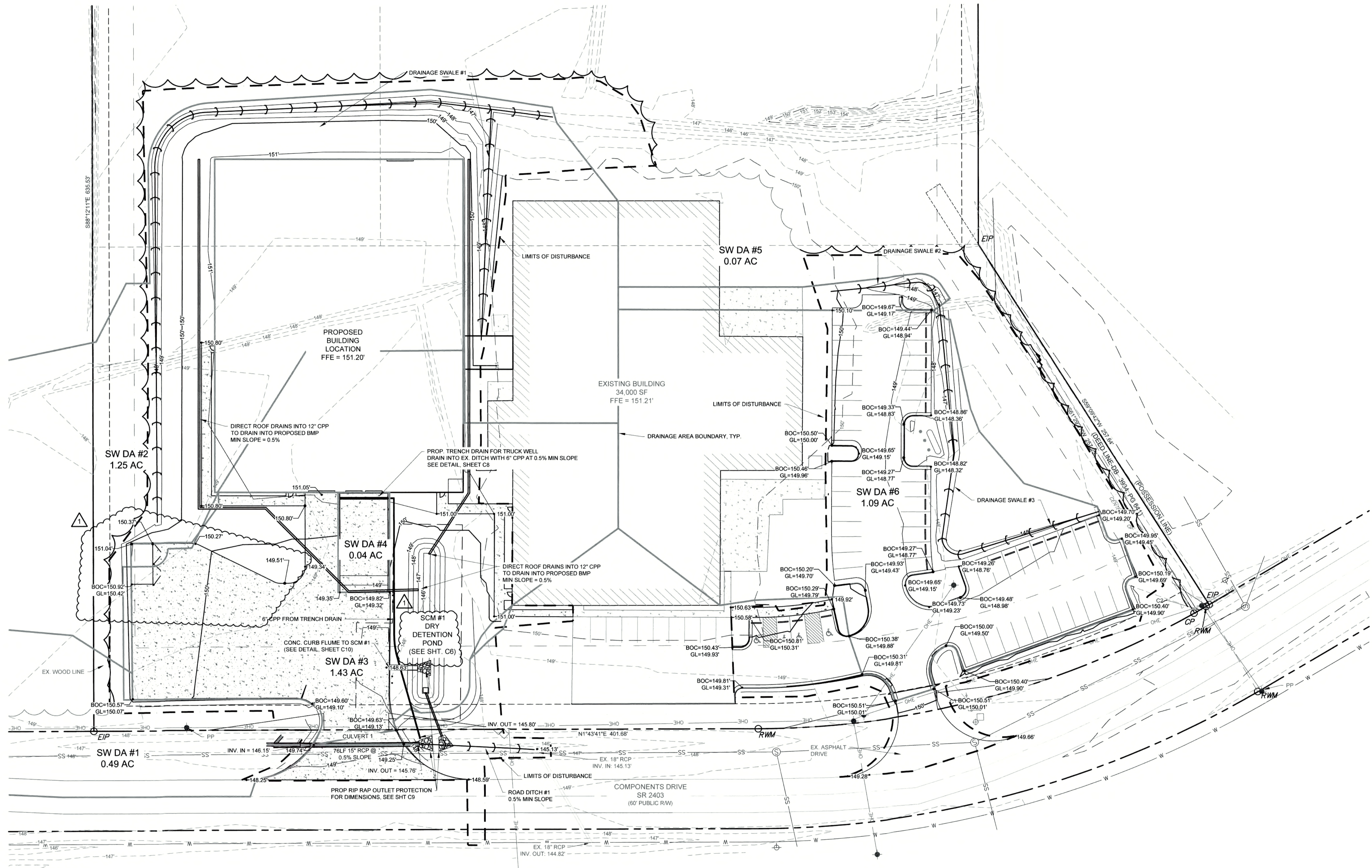
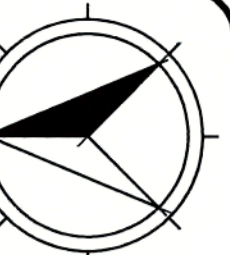
West Market Street  
US Highway 70 Business  
Smithfield, North Carolina  
Johnson County

OWNER/DEVELOPER:  
GLANDON FOREST EQUITY, LLC  
3825 Barrett Drive  
Suite 100  
Raleigh, NC 27609  
919-459-2601  
919-459-2604 fx  
gbarnes@vanguardpg.com

REVISIONS:

| NO. | DESCRIPTION | DATE |
|-----|-------------|------|
|     |             |      |
|     |             |      |
|     |             |      |
|     |             |      |

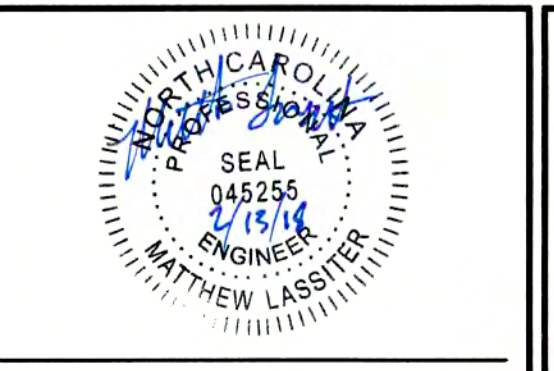
LAYOUT COORD: MEL  
PLANNING MGR: MEL  
DRAWING BY: MEL  
DATE: December 13, 2017  
JOB NUMBER: 004147  
TITLE: LANDSCAPE PLAN  
SHEET NUMBER: C-11  
DG3865-Smithfield



|             |     |                |                                   |
|-------------|-----|----------------|-----------------------------------|
| DESIGNED:   | DCS | PROJECT DATE:  |                                   |
| DRAWN:      | SWM | PROJECT NO.:   |                                   |
| CHECKED:    | ADS | DWG FILE NAME: | C6 Grading and Drainage Plans.dwg |
| PROJ. ENG.: | GBC | DATE:          | 2/13/18                           |

| REV. NO. | DESCRIPTIONS                            | DATE    |
|----------|---|---------|
| 1        | REVISED PER TOWN OF SMITHFIELD COMMENTS | 2/13/18 |



**TRIANGLE CIVILWORKS**  
 PROFESSIONAL ASSOCIATION  
 NCBELS NO. C-2603  
 211 TYLER DRIVE  
 SMITHFIELD, NC 27577  
 919-293-9955

**PENN COMPRESSION MOULDING  
 BUILDING EXPANSION  
 SMITHFIELD, NORTH CAROLINA**

SITE ADDRESS  
 309 COMPONENTS DRIVE  
 SMITHFIELD, NC 27577

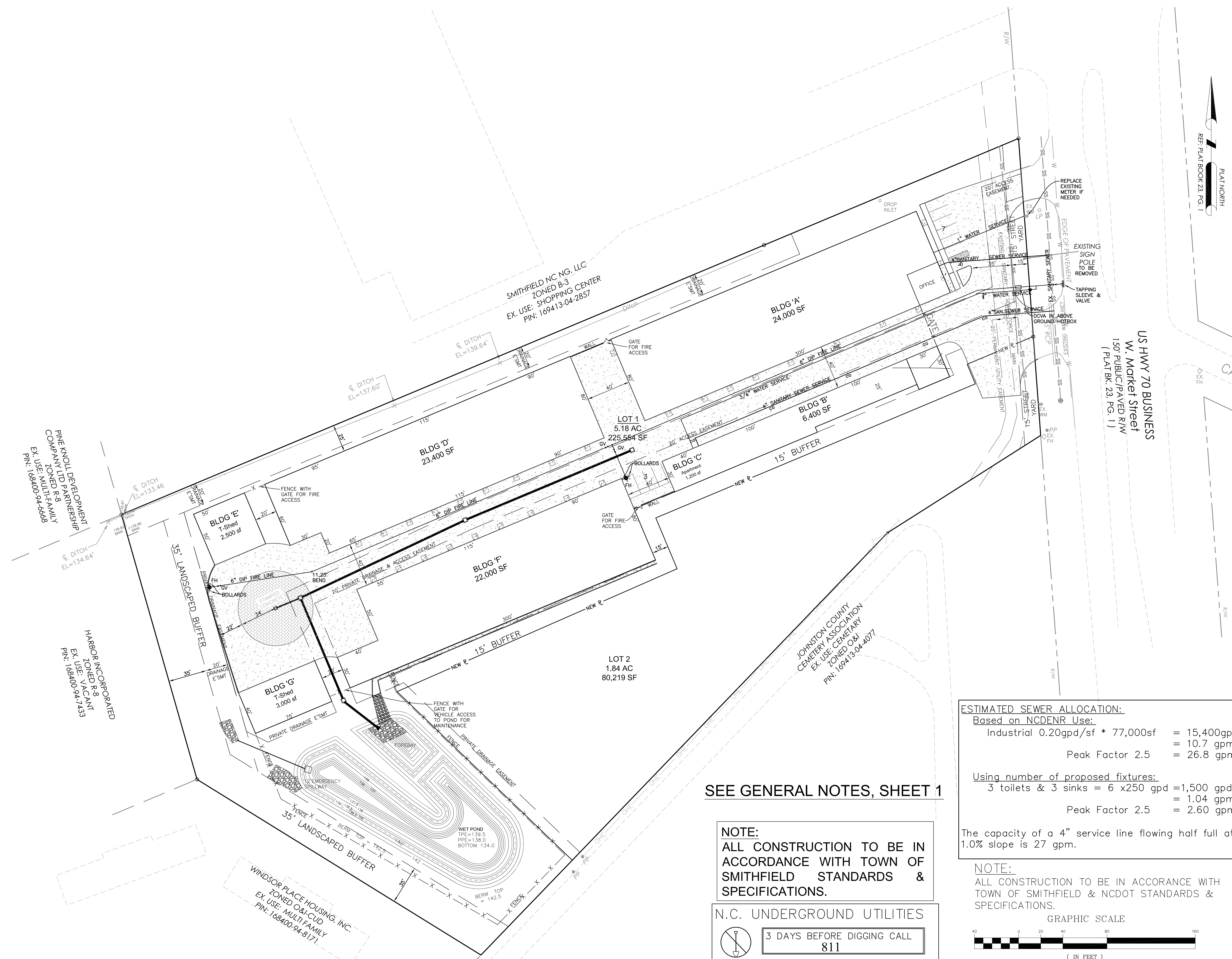
**GRADING AND DRAINAGE PLAN**

1"=30'

FINAL DESIGN  
 NOT RELEASED  
 FOR CONSTRUCTION

01/12/2018





SEE GENERAL NOTES, SHEET 1

**NOTE:**  
ALL CONSTRUCTION TO BE IN ACCORDANCE WITH TOWN OF SMITHFIELD STANDARDS & SPECIFICATIONS.

N.C. UNDERGROUND UTILITIES  
3 DAYS BEFORE DIGGING CALL 811  
A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY

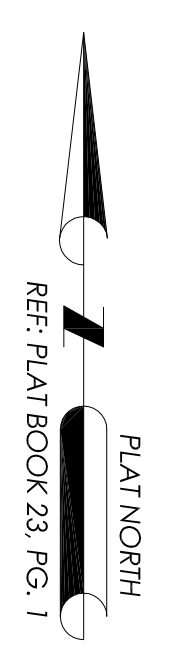
**ESTIMATED SEWER ALLOCATION:**  
Based on NCDENR Use:  
Industrial 0.20gpd/sf \* 77,000sf = 15,400gpd  
= 10.7 gpm  
Peak Factor 2.5 = 26.8 gpm

Using number of proposed fixtures:  
3 toilets & 3 sinks = 6 x 250 gpd = 1,500 gpd  
= 1.04 gpm  
Peak Factor 2.5 = 2.60 gpm

The capacity of a 4" service line flowing half full at 1.0% slope is 27 gpm.

**NOTE:**  
ALL CONSTRUCTION TO BE IN ACCORDANCE WITH TOWN OF SMITHFIELD & NCDOT STANDARDS & SPECIFICATIONS.

GRAPHIC SCALE  
1 inch = 40 ft.



NOT RELEASED FOR CONSTRUCTION

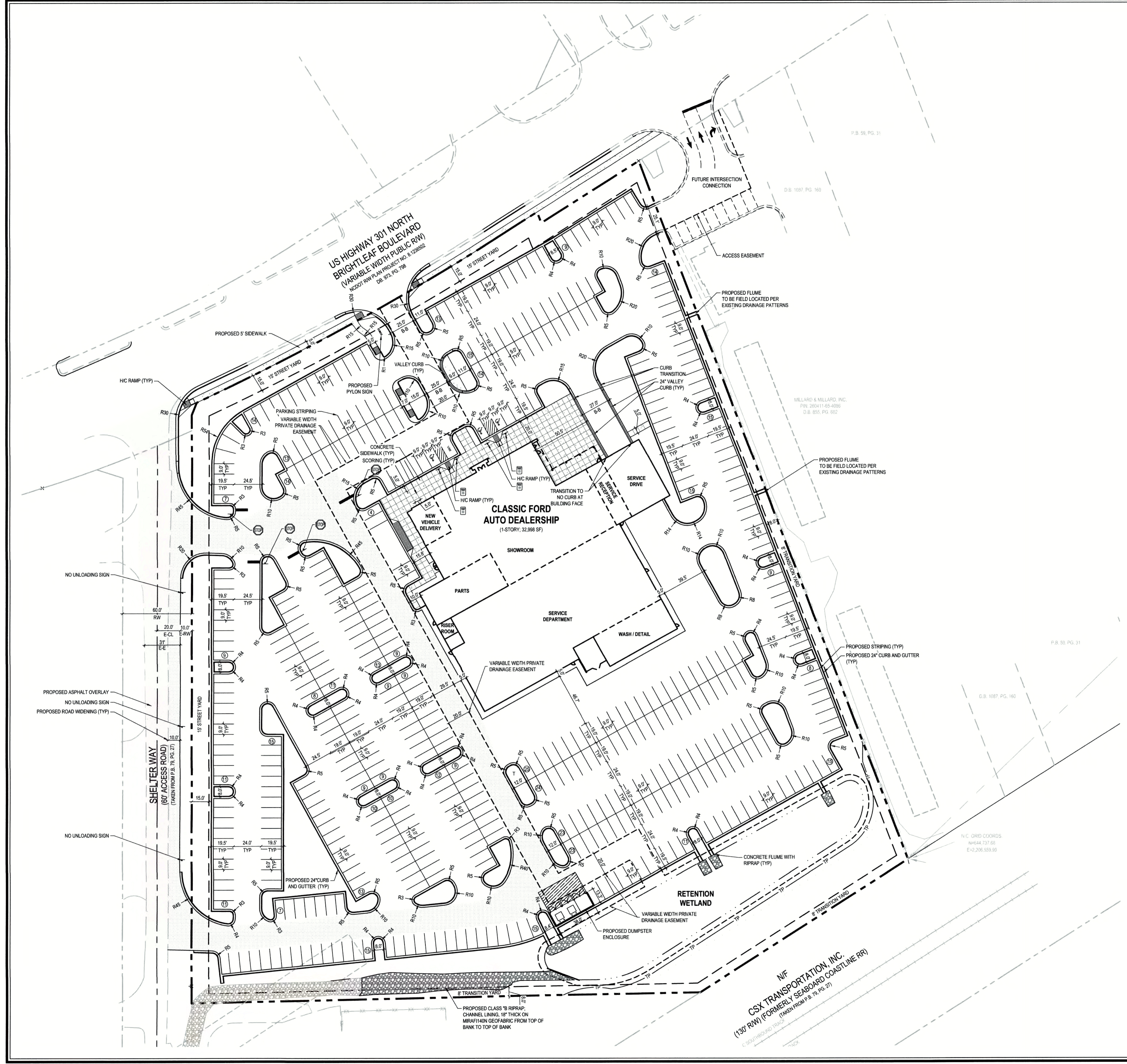


OWNER: Ample Storage West Smithfield LLC  
AMPLE STORAGE WEST SMITHFIELD SMITHFIELD, NC

|                              |
|------------------------------|
| REVISIONS                    |
|                              |
|                              |
|                              |
| SITE & UTILITY PLAN          |
| DWG NAME:<br>AMPLE HWY 70 SP |
| DRAWN:<br>PDH                |
| CHECKED:<br>CMS              |
| PLAN DATE:<br>07/19/17       |
| DATE ISSUED:<br>07/19/17     |
| SCALE: 1"=40'                |
| SP-3                         |

**CMS Engineering**  
P.O. Box 780  
Knightdale, NC 27575  
PHONE: (919) 833-0830  
EMAIL: info@cmsengineering.net





**SITE DATA:**

|  |  |
|--|--|
| ADDRESS  | 1324 N BRIGHTLEAF BLVD<br>SMITHFIELD, NC 27577                         |
| PERM #   | 25041642955  |
| REAL ID#   | 16074005   |
| OWNER  | MAMCO ROCK HILL PROPERTIES, LLC  |
| DEED BOOK AND PAGE   | DB 04989 PG 0507   |
| GROSS SITE AREA  | 4.55 ACRES   |
| EXISTING ZONING  | B-3 (HIGHWAY ENTRANCEWAY BUSINESS DISTRICT)                            |
| EXISTING USE   | VACANT   |
| PROPOSED USE   | RETAIL   |
| EXISTING BUILDINGS   | NONE   |
| EXISTING IMPERVIOUS  | ± 144,773 SF (3.32 ACRES)  |
| PROPOSED BUILDING  | 32,998 SF  |
| PARKING CALCULATIONS PROVIDED                                | 26 CUSTOMER SPACES<br>40 EMPLOYEE SPACES<br>445 VEHICLE DISPLAY SPACES |
| HANDICAP PARKING CALCULATIONS REQUIRED (CUSTOMER + EMPLOYEE) | 4 SPACES   |
| PROVIDED   | 4 SPACES   |

**GENERAL NOTES:**

- FEMA 100 YEAR FLOOD PLAIN DOES NOT EXIST INSIDE THE PROJECT LIMITS PER FIRM # 37202604001.
- BOUNDARY SURVEY PERFORMED BY ROBINSON & PLANTE, PC.
- ALL WORK SHALL BE IN ACCORDANCE WITH CURRENT TOWN OF SMITHFIELD, JOHNSTON COUNTY AND/OR STATE STANDARD SPECIFICATIONS AND DETAILS IN EFFECT AT TIME OF PLAN APPROVAL.
- THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL JOB-SITE SAFETY, INCLUDING BUT NOT LIMITED TO TRENCH SAFETY, DURING ALL PHASES OF CONSTRUCTION. ALL WORK SHALL COMPLY WITH ALL TOWN, COUNTY AND STATE REGULATIONS AND CODES AND O.S.H.A. STANDARDS.
- CONTRACTOR IS EXPLICITLY ADVISED TO VERIFY LOCATION OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. LOCATION OF EXISTING UNDERGROUND UTILITIES SHOWN ON PLANS IS BASED ON BEST AVAILABLE INFORMATION AND SHOULD BE CONSIDERED APPROXIMATE. THE CONTRACTOR IS RESPONSIBLE FOR HORIZONTALLY AND VERTICALLY LOCATING AND PROTECTING ALL PUBLIC OR PRIVATE UTILITIES (SHOWN OR NOT SHOWN) WHICH LIE IN OR ADJACENT TO THE CONSTRUCTION SITE. AT LEAST 48 HOURS PRIOR TO ANY DEMOLITION, GRADING, OR CONSTRUCTION ACTIVITY, THE CONTRACTOR SHALL CALL "811" FOR PROPER IDENTIFICATION OF EXISTING UTILITIES WITHIN THE SITE.
- THE CONTRACTOR SHALL USE EXTREME CARE TO AVOID DAMAGING EXISTING ELECTRICAL AND PHONE LINES. CONTRACTOR SHALL DISCONNECT EXISTING ELECTRICAL SERVICE TO LIGHTS, SWITCHBOARDS, PHONE, ETC. DURING CONSTRUCTION AND DEMOLITION. MINIMIZE DAMAGE TO EXISTING WIRES AND RECONNECT SERVICE TO PROPER WORKING ORDER PRIOR TO SUBSTANTIAL COMPLETION.
- CONTRACTOR SHALL PROTECT ALL MONUMENTS, IRON PINS AND PROPERTY CORNERS DURING CONSTRUCTION.
- ALL STREETS AND PARKING AREAS ADJACENT TO THE PROJECT SHALL BE KEPT CLEAN AT ALL TIMES.
- CONTRACTOR IS RESPONSIBLE FOR PROTECTING ANY EXISTING CURB AND GUTTER, SIDEWALK, AND PAVEMENT NOT LAYED FOR PROJECT DEMOLITION AND SHALL REPAIR ANY DAMAGE THAT MAY OCCUR PRIOR TO COMPLETION.
- ALL ACCESSIBLE ROUTES MUST COMPLY WITH THE LATEST VERSION OF THE NC ACCESSIBILITY CODE (CHAPTER 11 OF 2009 NC BUILDING CODE AND ICCANSI A117.1).
- EXPANSION JOINTS IN THE CONCRETE SIDEWALK SHALL BE PLACED EVERY 50' ON CENTER.
- ALL ASPHALT AND CONCRETE WALKS & WALK INTERSECTIONS TO HAVE SMOOTH RADI. TYPICAL RADIUS AT INTERSECTIONS TO BE 3' UNLESS OTHERWISE NOTED ON PLAN. NO RAGGED EDGES OR IRREGULAR CURVES WILL BE ACCEPTED.
- ALL WRITTEN INFORMATION AND WRITTEN DIMENSIONS SHALL PREVAIL. ANY DISCREPANCIES SHALL BE REPORTED TO THE ENGINEER PRIOR TO ATTEMPTING ANY WORK IN THE AREA AFFECTED BY THE DISCREPANCY.
- CONSTRUCTION TAKEOUT FOR THIS PROJECT SHALL BE PERFORMED BY THE CONTRACTOR, USING A DIGITAL (CAD) FILE PROVIDED BY THE ENGINEER. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES FOUND BETWEEN THE DIGITAL FILE AND THE CRITICAL STAKING DIMENSIONS SHOWN ON THIS PLAN (I.E. PAVEMENT WIDTHS, CURB RADI, BUILDING SETBACKS, BUILDING FOOTPRINTS, ETC.). ANY MODIFICATIONS MADE BY OTHERS TO THE DIGITAL FILE PROVIDED BY THE ENGINEER SHALL RENDER IT VOID.
- ANY DISCREPANCIES FOUND BETWEEN THE DRAWINGS, SPECIFICATIONS AND SITE CONDITIONS OR ANY INCONSISTENCIES OR AMBIGUITIES IN DRAWINGS OR SPECIFICATIONS SHALL BE IMMEDIATELY REPORTED TO THE ENGINEER AND LANDSCAPE ARCHITECT, IN WRITING, WHO SHALL PROMPTLY ADDRESS SUCH INCONSISTENCIES OR AMBIGUITIES. WORK DONE BY THE CONTRACTOR AFTER THE DISCOVERY OF SUCH DISCREPANCIES, INCONSISTENCIES, OR AMBIGUITIES SHALL BE DONE AT THE CONTRACTOR'S RISK.
- A PRE-CONSTRUCTION CONFERENCE SHALL BE HELD PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL ARRANGE THE MEETING WITH THE ENGINEER, LANDSCAPE ARCHITECT, OWNER AND CLIENT.
- CONTRACTOR IS RESPONSIBLE FOR VERIFYING OR OBTAINING ALL REQUIRED PERMITS AND APPROVALS PRIOR TO COMMENCING CONSTRUCTION.
- SITE CONSTRUCTION SEQUENCE TO BE PROVIDED BY THE CONTRACTOR.

**SIGN LEGEND**

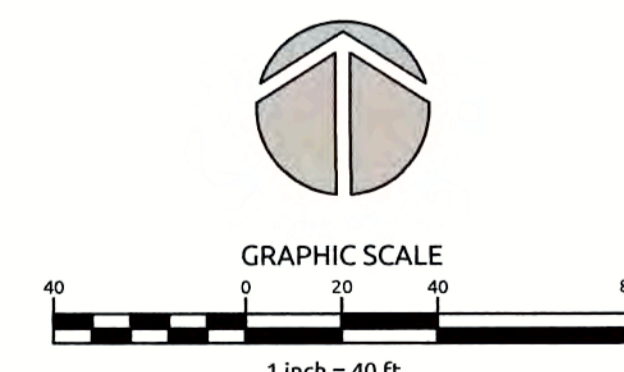
|  |  |
|--|--|
|  | STOP SIGN<br>R1-1<br>30"x30"                   |
|  | PARKING SIGN<br>R7-2A<br>12"x18"<br>SEE DETAIL |

**NOTES:**

- ALL SIGNAGE SHALL BE HIGH INTENSITY PRISM GRADE AND MOUNTED ON 3/8"x4" POLES.

**LEGEND**

|  |   |
|--|---|
|  | CURB RAMP   |
|  | ACCESSIBLE PARKING  |
|  | VAN ACCESSIBLE PARKING  |
|  | HEAVY DUTY ASPHALT PAVEMENT<br>USE IN ALL DRIVE AISLES/FIRE LANES<br>4.5" 59.58.6" CABC |
|  | HEAVY DUTY ASPHALT OVERLAY<br>ON EXISTING PAVEMENT<br>3" 59.58                          |
|  | LIGHT DUTY ASPHALT PAVEMENT<br>USE IN ALL PARKING BAYS<br>3" 59.58.6" CABC              |
|  | HEAVY DUTY CONCRETE PAVEMENT<br>6" 3,000 PSI WITH FIBER MESH<br>REINFORCEMENT, 6" ABC   |



ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH CURRENT TOWN OF SMITHFIELD STANDARDS AND SPECIFICATIONS AND NCCDT, IF APPLICABLE

Job No: 02160695.00  
Date: 06.08.17

Drawn By: JM  
Designer: GL

Revisions  
1 TOWN OF SMITHFIELD COMMENTS 07.19.17

Sheet No.  
**C2.0**

K:\1516-0001\06097-Classic Ford Smithfield\CAD\Drawings\C2.0 - SITE PLAN.dwg - Tuesday, August 15, 2017 9:25:58 AM - LUCAS.GODFREY



**TOWN OF SMITHFIELD  
PLAN APPROVED**

By: *Stephan Wenman*  
Date: *12/12/2017*

*"REVISED PLAN"*

**PLANTING NOTES**

1. Code name refers to plant list. Where there is only a key, the quantity is one. Where the code name is followed by a number, the number is the quantity required for the indicated plant bed.
2. Locate plants and planting beds by using scaled dimensions from side-walks, building walls, etc.
3. All plants shall meet or exceed the minimum standards set by the USDA Standard for Nursery Stock sponsored by the American Association of Nurserymen, Inc., Washington, D. C..
4. Mulch all planting beds with a minimum of 3" of triple shredded hardwood bark.
5. Landscape Contractor shall verify utility and storm drainage locations in the field, prior to beginning construction.
6. Apply pre-emergent herbicide to all planting beds per mfg's specifications.
7. For lawn type see Lawn Notes.
8. Plant bed preparation: Till into bed to a depth of 8-10", 5" of organic rich (50-50 blend) screened topsoil free of weeds and roots.
9. Warranty plantings and lawn for one year following project completion.
10. Landscape Contractor shall verify plant schedule for accuracy and notify Landscape Architect of any discrepancies.

**LAWN NOTES**

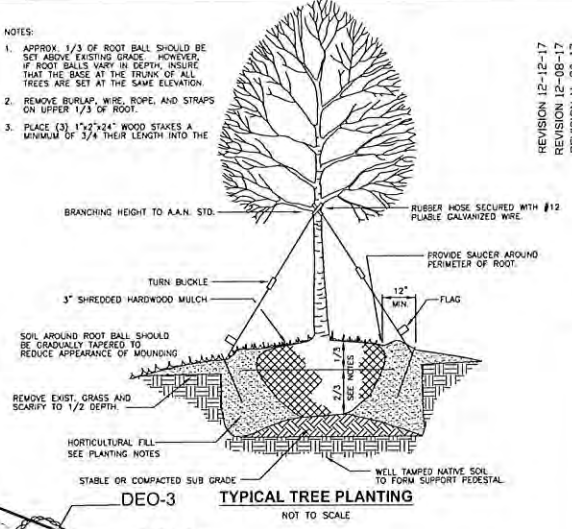
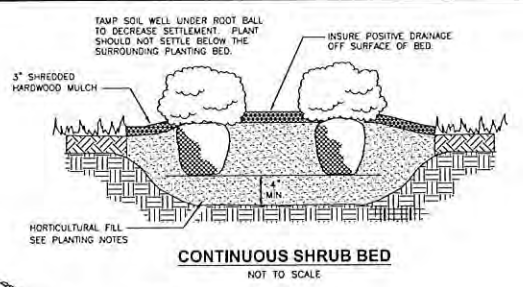
Loosen subgrade to a depth of 4" in areas where topsoil has been stripped. Spread 2" depth of topsoil, till to mix topsoil with subsoil, spread additional 2" depth of topsoil, add specified soil amendments and mix thoroughly into top 4" of soil. Till surface to a level, fine surface.

Grade and roll prepared lawn surface. Water thoroughly but do not create muddy soil condition.

Lay sod strips with tight joints, roll or tamp lightly, and water thoroughly.

Lawn type: Fescue Sod

Fertilizer: Fertilize new sod for the first time about six weeks after laying the sod. Apply fertilizer as recommended by the results of a soil test or broadcast a slow-release, granular fertilizer with a 10-10-10 or similar formula at a rate of no more than 1 pound nitrogen per 1,000 square feet of lawn.

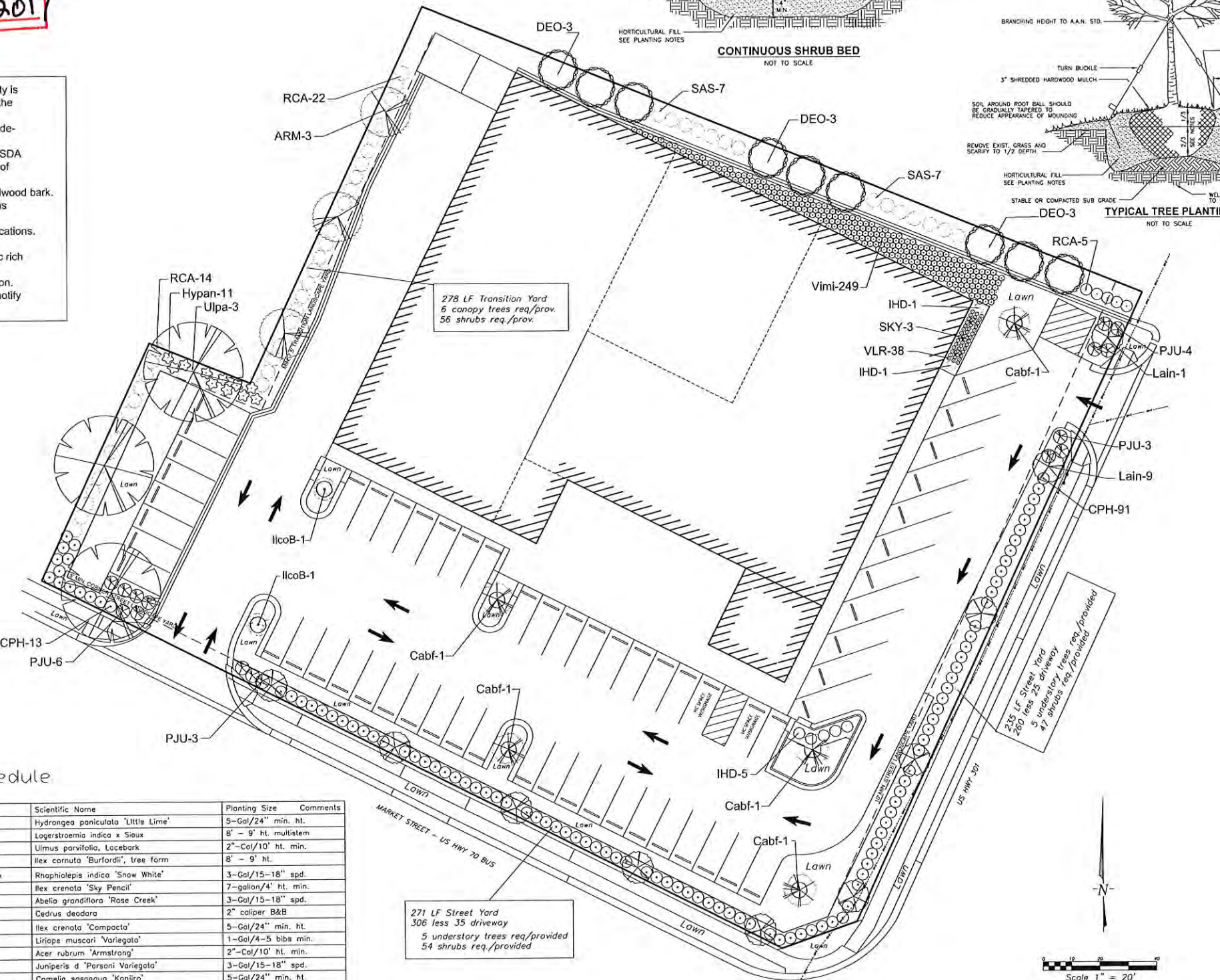


- NOTES:
1. APPROX. 1/3 OF ROOT BALL SHOULD BE SET ABOVE EXISTING GRADE. HOWEVER, IF ROOT BALLS VARY IN DEPTH, INSURE THAT THE BASE AT THE TRUNK OF ALL TREES ARE SET AT THE SAME ELEVATION.
  2. REMOVE BURLAP, WIRE, ROPE, AND STRAPS ON UPPER 1/3 OF ROOT.
  3. PLACE (3) 1"x3"x4" WOOD STAKES A MINIMUM OF 3/4 THEIR LENGTH INTO THE

REVISION 12-12-17  
REVISION 12-08-17  
REVISION 11-30-17  
DATE 4-6-17



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Planting Schedule

| Plant Type            | Symbol | Code Name | Quantity | Common Name                       | Scientific Name                     | Planting Size         | Comments |
|-----------------------|--------|-----------|----------|-----------------------------------|-------------------------------------|-----------------------|----------|
| Transition yard shrub | Hypan  | Hypan     | 11       | Little Lime hydrangea             | Hydrangea paniculata 'Little Lime'  | 5-Gal/24" min. ht.    |          |
| Understory tree       | Lain   | Lain      | 10       | Slax Crape myrtle                 | Lagerstraeimia indica x Slax        | 8' - 9' ht. multistem |          |
| Canopy tree           | Ulpa   | Ulpa      | 3        | Lace bark Chinese elm             | Ulmus parvifolia, Lacebark          | 2"-Cal/10' ht. min.   |          |
| Broadleaf Evergreen   | IcoB   | IcoB      | 2        | Burford holly, tree form          | Ilex cornuta 'Burfordii', tree form | 8' - 9' ht.           |          |
| Parking lot shrub     | IHD    | IHD       | 5        | 'Snow White' Indian Hawthorn      | Rhaphiolepis indica 'Snow White'    | 3-Gal/15-18" spd.     |          |
| Foundation shrub      | SKY    | SKY       | 3        | Sky Pencil Holly                  | Ilex crenata 'Sky Pencil'           | 7-gallon/4' ht. min.  |          |
| Foundation shrub      | RCA    | RCA       | 41       | Rose Creek Abelia                 | Abelia grandiflora 'Rose Creek'     | 3-Gal/15-18" spd.     |          |
| Evergreen tree        | DEO    | DEO       | 9        | Deodar Cedar                      | Cedrus deodara                      | 2" caliper B&B        |          |
| Parking lot shrub     | CPH    | CPH       | 104      | Compact Japanese Holly            | Ilex crenata 'Compacta'             | 5-Gal/24" min. ht.    |          |
| Foundation shrub      | VLR    | VLR       | 38       | Variegated Liriope                | Liriope muscari 'Variegata'         | 1-Gal/4-5 bibs min.   |          |
| Canopy tree           | ARM    | ARM       | 3        | Armstrong Maple                   | Acer rubrum 'Armstrong'             | 2"-Cal/10' ht. min.   |          |
| Parking lot shrub     | PJU    | PJU       | 16       | Variegated Parson's Juniper       | Juniperis d 'Parson's Variegata'    | 3-Gal/15-18" spd.     |          |
| Transition yard shrub | SAS    | SAS       | 14       | 'Kanjiro' Camelia sasanqua        | Camelia sasanqua 'Kanjiro'          | 5-Gal/24" min. ht.    |          |
| Canopy tree           | Cabf   | Cabf      | 5        | Upright Hornbeam                  | Carpinus betulis 'Fastigiata'       | 2"-Cal/10' ht. min.   |          |
| Foundation shrub      | IHD    | IHD       | 2        | Dwarf Indian Hawthorn, Snow White | Rhaphiolepis indica 'Snow White'    | 5-Gal/24" min. ht.    |          |
| Evergreen groundcover | Vimi   | Vimi      | 249      | Dwarf periwinkle                  | Vinca minor                         | pint                  |          |

LANDSCAPE MASTER PLAN  
**SOUND STATION & SECURITY**  
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