



PLANNING BOARD AGENDA

Members:

Chairman: Stephen Upton (Town)
Vice-Chairman: Daniel Sanders (Town)

<i>Terresa Daughtrty (Town)</i>	<i>Ashley Spain (ETJ)</i>
<i>Oliver Johnson (Town Alt)</i>	<i>Mark Lane (ETJ)</i>
<i>Vacant (Town)</i>	<i>Vacant (Town)</i>

Stephen Wensman, AICP, ALA, Planning Director
Mark Helmer, AICP, CZO, Senior Planner
Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, September 6, 2018
Meeting Time: 6:00 p.m.
Meeting Place: Council Chambers, Smithfield Town Hall

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

Call to Order.

Identify voting members

Approval of the agenda.

Approval of the minutes for August 2, 2018

New Business

RZ-18-08 Navaho Investment Company LLC: The applicant is requesting to rezone a 32.88 tract of land from Johnston County AR (Agricultural-Residential) zoning district to the Town of Smithfield R-20A (Residential-Agriculture) zoning district. The property considered for rezoning is located on Black Creek Road approximately 1700 feet southwest of its intersection with NC Highway 210. The property is further identified as Johnston County Tax ID# 15I09011B.

ZA-18-03 Town of Smithfield: The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, Article 3, and to amend the UDO Administrator's duties, and to amend the Board of Adjustments voting procedure to reflect statutory requirements, and other minor updates to Article 3.

Items for discussion

Future ordinance amendment to Article 10.

Old Business

Administrative Actions report

Land Use Permit Report for July, 2018
Board Actions Report for July, 2018

Adjournment

Draft
Smithfield Planning Board Minutes
Thursday, August 2, 2018
6:00 P.M., Town Hall, Council Chambers

Members Present:

Chairman Stephen Upton
Vice Chairman-Daniel Sanders
Michael Taylor
Eddie Foy
Teresa Daughtry
Oliver Johnson
Mark Lane
Ashley Spain

Members Absent:

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Assistant

Staff Absent:

Stephen Wensman, Director

CALL TO ORDER

Mr. Upton asked the Planning Board members to identify themselves and he identified Planning Department staff.

AMENDMENTS TO THE AGENDA

None

APPROVAL OF AGENDA

Oliver Johnson made a motion to approve the agenda, seconded by Daniel Sanders. Unanimous

APPROVAL OF MINUTES from July 12, 2018

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

New Business

ZA-18-06 Town of Smithfield: Mark Helmer stated that The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to update/make corrections to the development review process contained in Article 5. In October 2017 the Town of Smithfield updated the UDO to simplify the Code and to provide specific updates. On January 2, 2018 the Town of Smithfield approved an ordinance amendment to allow for administrative site plan approval by the UDO Administrator when they are found to meet or exceed minimum development standards. Since that time, planning staff has become more familiar with Article 5 and has determined that an additional amendment is needed to improve the planning process.

Mark Lane asked if this would also go before council.

Mr. Helmer said yes, zoning text amendments are a legislative decision so Council approval would be required.

Mr. Foy asked if site plans would come before the Planning Board.

Mr. Helmer said no, they don't now but we did find some additional text that needed to be changed.

Mr. Lane asked how this change was going to help.

Mr. Helmer said most site plans are technical in nature.

Mr. Lane asked how they are approved now.

Mr. Helmer said right now they are staffed approved.

Mr. Lane asked if all site plans would be administrative approval.

Mr. Helmer said they are administratively approved unless there is some other mechanism in place such as a special use permit that would require a site plan as an "exhibit" and even then the site plan review is still a separate process that's only approved by town staff.

Mrs. Daughtry asked if it's in house, where does the responsibility fall when mistakes are made that are not picked up or corrected. The department changes hands or everyone is different.

Mr. Helmer asked what kind of mistakes would we be talking about.

Mrs. Daughtry said I am just saying in general.

Mr. Helmer said let's say for instance a multi-part site type plan is submitted for review. Let's say it has a stormwater, utility, landscape, grading, parking and lighting plan. You have all these various components. Are you asking what if details are overlooked?

Mrs. Daughtry answered yes.

Mr. Helmer said the burden of meeting the requirements of the codes, does not fall on the staff, it falls on the applicant.

Mrs. Daughtry said no that is not what I am saying. I am saying more than one set of eyes is better when you're reviewing some of this stuff. Let's just say it is a mistake that was overlooked by planning department.

Mr. Helmer stated, say a department makes a particular mistake, as in they overlooked something or it was omitted from the plan that we didn't catch and the plan is approved. The applicant is not automatically relieved from meeting the requirements of the law. The responsibility falls on the applicant to submit a plan that meets minimum requirements. I am not excusing staff for overlooking omissions or approving poorly drawn plans. But ultimately, we review what is in front of us and sometimes if it's not there we don't always pick up on it. It doesn't relieve the applicant of meeting the requirements UDO.

Mrs. Daughtry said she disagreed with staff and that if staff doesn't catch errors in the plan then it's not the applicant's problem.

Mr. Johnson asked if errors are made, will it fall back on the Planning Board.

Mr. Helmer and Mr. Upton said no.

Mr. Helmer said code can be complicated, and looked at differently. To not catch a glaring error the applicant has made on their plan is not excusable; but ultimately it is the applicant not meeting ordinance requirements and not staff.

Mrs. Daughtry said I sell property for a living. People don't understand when they come in to apply for permits; they always tell me how difficult it seems to get things through. Then they are told to change this when something may be different when they go online. It is just a mess. I would like to see us be business friendly but also want to be sure we don't see something was done because someone locally owned it and it was done that way because it was done in house after the fact. I remember when Murphy Gas Station was put in beside Applebee's and so many people were asked me how it passed like that being so close to the road.

Mr. Helmer stated that site development is very technical and sometimes complicated. It can be a daunting task for those projects that have limited funding and that are unwilling to hire professional site planners and engineers. The average person can't always see the value of minimum development standards when these standards are in conflict with their vision for the property. Take Murphy Gas Station for an example, which meets a 50 foot setback and an ordinance that allows for canopies to overhang into the 50 foot setback. A person that knows nothing about site planning may say why is that building not required to meet setbacks when mine is? An average person doesn't understand the nuances of a modern development code and this misunderstanding can be viewed as business unfriendly to the untrained eye.

Mr. Helmer advised the BOA members to be aware that the code says what it says for a reason and you can't deviate from that without having a variance process. I have said for years that 99.9 % of variances should be denied. If you're interested in enforcing the development code, you have to do it equally across the board to everyone. The only time you should vary from it, is if there is some circumstance on the ground that is actually the problem, not just because the applicant prefers it done differently. You must have a very good understanding of your development code and administer it consistently.

Mr. Foy asked if this was an administrative issue changing the verbiage to comply with what we are doing or actually changing the responsibilities of the Planning Board.

Mr. Helmer said that the Planning Board no longer conducts site plan review. We tried it for a few months and it just wasn't working. Major site plans are once again staff approved like it was before the UDO rewrite of 2016.

Mr. Foy said so basically this is an administrative issue changing the verbiage.

Mr. Helmer said yes we're trying to change this additional verbiage to reflect the changes made several months ago.

Mr. Lane asked if the Town Council looked at any site plans.

Mr. Helmer said they look at sketch plans when associated with special use permits and major subdivisions.

Mr. Lane said so if we make changes tonight the Council won't look at sketch plans.

Mr. Helmer said no they will still need a complete application, whatever the application may require.

Mr. Lane said I don't want it all to fall on planning staff and they have full control.

Mr. Helmer said with a special use permit application they will show a good sketch plan, maybe not all the detail. That early in the planning process the applicant may not have engineered all of the details. Usually they come back after Council but you get an idea of what they are doing by the drawing they have submitted. We try to get as much detail as we can of course. Once the concept and the special use is approved by council they come back with a full set of drawings and they come back for a full on technical review.

Mr. Helmer stated that major site plans are reviewed for compliance with all of town ordinances by the technical review committee which is made up of very technically proficient members of each town department and led by the Town Manager. The Planning Board does not need to worry about having too much influence in this process.

Mr. Sanders asked if the planning board had the right to bend the rules for certain people.

Mr. Helmer said no, by state law staff is not authorized to vary from the ordinance. That is why Town of Smithfield choses the Board of Adjustment to be the variance approving authority. The code should be black and white. Discretionary decisions are to be avoided but, when necessary they should be made by elected officials.

Mr. Sanders asked what if the applicant fixes the error.

Mr. Helmer said for many years, the zoning ordinance has required sites to come into full compliance when triggered. That's usually when the size of the building or number of parking spaces increase. When the old stuff was not built to standards, they have to be reconfigured to meet current standards. That's usually the hardest part for property owners to understand.

Mrs. Daughtry asked why this proposed change was being done first before anything else.

Mr. Helmer said because of process, it's important because we can't stumble. When the applicant comes to planning department, I must, with confidence, know how to advise them. This is near impossible to do if the process portion of the code is in error.

Planning Staff recommends the Planning Board recommend approval of zoning text amendment ZA-18-06 with a consistency 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 with the following motion:

Eddie Foy made a motion to recommend the Town Council approve ZA-18-06 amending the Town of Smithfield Unified Development Code, Article 5 to eliminating the requirement for Planning Board review of final plats, finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest, seconded by Oliver Johnson. Unanimous

ZA-18-07 Town of Smithfield: The Planning Department is requesting an ordinance amendment to the Town of Smithfield Unified Development Ordinance, Article 9 to amend the nonconforming situations regulations as it pertains to the Board of Adjustment issuing permits.

Mr. Helmer stated in an ongoing review of the UDO approved in October 2017 Planning Staff has identified procedural issues, textual errors, and has identified nonconforming situation regulations in Article 9 that should be amended. In reviewing Article 9, the following issues were identified: The Board of Adjustments (BOA) does not issue permits (Article 3, Section 3.4.1 Powers and Duties). Section 9.5.4 essentially allows the BOA to issue a use variance through a permit.

The BOA does not issue permits and is not allowed to issue use variances as per State Statute. Planning Staff recommends the Planning Board recommend approval of zoning text amendment ZA-18-07 with a consistency 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 with the following motion:

Mr. Lane asked if the UDO reads that the Board of Adjustments issues permits.

Mr. Helmer said yes and all we are doing is changing the verbiage to reflect what state law says and that is the Board of Adjustment doesn't approve permits.

Mr. Sanders asked how often the Board of Adjustment meets.

Mr. Helmer said as often as necessary, which he thinks will be a lot more frequent. As staff we try not to offer a variance but an applicant has the right to request one. You'll see more requests for variances, as well as more recommendations for denials from staff so be prepared for that.

Mr. Foy said so staff will continue to not be business friendly.

Mr. Helmer said no, I disagree with your take on that. We are about enforcing the code, if at some point you don't like the code then let's change it. If a particular ordinance is not business friendly then let's change the ordinance.

Mr. Foy said I don't think you understand the difference between requesting a variance and the code.

Mr. Helmer said I do understand the difference.

Mr. Foy said obviously you don't.

Mr. Helmer said some communities say if a variance is requested 3 times within a certain time frame it automatically triggers the code being considered changed. It means that code is not working if people continue to vary from it.

Mr. Foy said then we should have fixed some codes a long time ago.

Mrs. Daughtry said she knows the Town can't control who stays and who leaves on staff, when you put all the responsibility to one department and Council doesn't have to even put their eyes to approve. That is too much power within a department. One set of eyes is not enough.

Mr. Helmer stated that a multi-department technical review committee to include the City Manager reviews all major site plans for compliance with town ordinances and state laws. Mr. Helmer said to remember we also have an appeals process. If an applicant disagrees with the town's interpretation of an ordinance, the applicant can appeal to the Town of Smithfield Board of Adjustment.

Oliver Johnson made a motion to recommend the Town Council to approve ZA-18-07 amending the Town of Smithfield Unified Development Code, Article 9 to amend the nonconforming situations regulations as it pertains to the Board of Adjustments issuing permits, finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest and seconded by Eddie Foy. Unanimous

Old Business

Mr. Upton announced that Planning Board member Michael Taylor recently relocated to Pender County and would no longer serve as a member on the Planning Board. He asked that Julie Edmonds send him a letter of thank you from the board.

Oliver Johnson asked if he would be moved from an alternate to a regular board member. He will be moved once his position has been filled. The Town Clerk has advertised the board vacancies

Adjournment

Ashley Spain made a motion to adjourn, seconded by Teresa Daughtry. Unanimous

Submitted this 6th day of August, 2018

Julie Edmonds
Administrative Assistant
Planning Department

DRAFT



Request for Planning Board Action

Application
Agenda for
Item: Zoning Map
Amendment
Date: 09/06/2018

Subject: Zoning Map Amendment

Department: Planning

Presented by: Stephen Wensman

Presentation: Business Item

Issue Statement

Michael Stewart, PE, is requesting a zoning map amendment to rezone a portion of a property, with the Johnston County property ID #15I09011B, located outside of the Town's Extraterritorial jurisdiction (ETJ) in pending annexation to R20-A Residential-Agriculture.

Financial Impact

None

Action Needed

To review the zoning map amendment and to make a recommendation to the Town Council with a consistency statement.

Recommendation

The Planning Department recommends approval of the rezoning to R20-A Residential/Agriculture and recommends that the Planning Board approve a consistency statement declaring the request to be consistent with the Town of Smithfield Plans and Policies and that the request is reasonable and not in the public interest.

Approved: Town Manager Town Attorney

Attachments:

- Consistency Statement
- Application
- Twin Creeks Plat
- Rezoning exhibit



Staff Report

Agenda Item:
Date:

Application for Zoning Map Amendment
09/06/2018

Application Number: RZ-18-07
Project Name: Twin Creeks Rezoning
Property ID number: 15I09011B
Town Limits / ETJ: Outside ETJ (pending annexation)
Applicant: Michael Stewart, PE
Owners: Navaho Investment Company LLC – James A Lucas JR, Jimmie Johnston
Agents: Michael Stewart PE
Neighborhood Meeting: none

PROJECT LOCATION: The property is located on Galilee Road about 1900 feet south of Black Creek Road, near West Smithfield Elementary School. The property is partially within the ETJ and partially outside. The rezoning application is for the 21.26 acres located outside the ETJ (pending annexation).

REQUEST: The applicant is requesting the rezoning of approximately 21.26 acres to R-20A pending annexation by the Town Council

SITE DATA:

Acreage: 32.79 (21.26 acres to be rezoned)
Present Zoning: AR (Johnston County Zoning) and R-20A
Proposed Zoning: R-20A
Existing Use: Vacant/Agricultural
Proposed Use: Single Family Residential

School Impacts: NA
Parks and Recreation: NA
Fire District: Smithfield Fire District
Water and Sewer Provider: Town of Smithfield
Electric Provider: Duke Energy

ENVIRONMENTAL: The property is not located within a floodplain. A blue line stream is located near the middle of the parcel at the edge of the current ETJ boundary.

ADJACENT ZONING AND LAND USES:

	ZONING:	EXISTING USE:
NORTH:	R-20A	large lot single family – and School
SOUTH:	R-20A	Agriculture
EAST:	R-20A	Agriculture
WEST:	RA – Johnston County	Agriculture

ANALYSIS:

The 32.79 acre parcel with the Johnston County Property ID# 15109011B received preliminary plat approval by the Johnston County Board of Commissioners around 2007-2008. The development of the property did not move forward due to the economic recession at that time and the plat became void. Since then, the Town of Smithfield's ETJ was expanded to include the 11.53 acre portion of the property and was rezoned to R-20A. The remainder of the property, 21.26 acres, remains in the County's jurisdiction with the zoning designation AR. In 2018, the portion of the property located in the County was preliminary platted into 62 lots meeting the County's zoning and subdivision standards. The applicant intends to develop the entire property and has petitioned for annexation into the Town for the entire property and is requesting the rezoning of the 21.26 acres in the County's jurisdiction pending annexation by the Smithfield Town Council. After annexation, the developer plans to submit application for a residential plat for the remainder of the property.

Utilities. Smithfield will provide sewer and water utilities with a master meter on Johnston County's service lines and electricity will be provided by Duke Energy. Johnston County Utilities has requested that the entire development be served by the Town of Smithfield.

Vested Right. The area proposed for rezoning, if annexed, will be annexed with preliminary plat entitlements. The preliminary plat conforms to the County's AR district zoning and the Johnston County subdivision regulations. The lots will not be in conformance with the Town's R20-A zoning regulations and will be deemed legal nonconforming if annexed. The Town's regulations require sidewalks on one side of each residential street and a minimum lot area of 15,000 sq. ft. The approved preliminary plat has a minimum lot size of around 7,000 sq. ft., and will be developed without sidewalks or curb and gutter. There may be other nonconformities associated with the development that are at present unknown.

CONSISTENCY STATEMENT:

In order to approve the rezoning, the Town Council must adopt a statement describing whether the rezoning is consistent with Town Plans and Policies.

Consistency with the Strategic Growth Plan. Staff finds the rezoning to be consistent with the Strategic Growth Plan which guides this area for low density residential.

Consistency with the Unified Development Code. Staff finds the land to be rezoned will not be consistent with the UDO. The land has preliminary plat entitlement for a development that does not meet the R-20A zoning district standards. Should the area be rezoned, the lots will be legal nonconforming.

Compatibility with Surrounding Land Uses. The property considered for a rezoning is compatible with surrounding agricultural or low density residential and institutional land uses.

RECOMMENDATION:

The Planning Department recommends approval of the zoning map amendment; and recommend that the Town Council approve a consistency statement declaring the request to be consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

PLANNING BOARD RECOMMENDED ACTION:

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 21.26 acres from RA (County zoning) to the R-20A Residential-Agriculture and to adopt a statement indicating how the rezoning is consistent with the town's plans and policies.

Recommended Motion. "Move to recommend that the Town Council approval of the zoning map amendment, RZ-18-07 finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest"

**THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP AMENDMENT CONSISTENCY STATEMENT
BY THE SMITHFIELD TOWN COUNCIL
RZ-18-07**

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

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

NOW THEREFORE, BE IT ADOPTED BY THE SMITHFIELD TOWN COUNCIL AS APPROPRIATE:

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

That the final action regarding zoning map amendment RZ-18-07 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 Town Council and information provided at the public hearing; and

It is the objective of the Town of Smithfield Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning map amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the Town of Smithfield as supported by the staff report and attachments provided to the Town Council 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 zoning map amendment RZ-18-07 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 Town Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The zoning map amendment does not promote this and therefore is neither reasonable nor in the public interest.



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

REZONING APPLICATION

Pursuant to Article 4, Section 4-1 of the Unified Development Ordinance, proposed amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, members of the public, or by one or more interested parties. Rezoning applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans, an Owner's Consent Form (attached), (1) electronic submittal and the application fee. The application fee is \$300.00 for the first 5 acres and \$10.00 for each additional 10 acres or portion thereof.

Name of Project: TWIN CREEKS Acreage of Property: 32.888 ACRES
 Parcel ID Number: 1673-56-5565 Tax ID: 15I09011B
 Deed Book: 03276 Deed Page(s): 0267
 Address: 6054 BLACK CREEK ROAD SMITHFIELD, NC 27577
 Location: SOUTH OF BLACK CREEK ROAD AND WEST OF GALILEE ROAD

Existing Use: FARMING - AGRICULTURAL Proposed Use: SINGLE FAMILY RESIDENTIAL
 Existing Zoning District: AR and R-20A
 Requested Zoning District: R-20A
 Is project within a Planned Development: Yes No
 Planned Development District (if applicable): _____
 Is project within an Overlay District: Yes No
 Overlay District (if applicable): _____

FOR OFFICE USE ONLY

File Number: _____ Date Received: _____ Amount Paid: _____

APPLICANT AFFIDAVIT

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

JAMES A. Lucas, Jr.
Print Name

James A. Lucas, Jr.
Signature of Applicant

8-2-18
Date



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

OWNER'S CONSENT FORM

Name of Project: TWIN CREEKS Submittal Date: 8/3/2018

OWNERS AUTHORIZATION

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

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

James A. Lucas, Jr. JAMES A. LUCAS, JR. 8-2-18
 Signature of Owner Print Name Date

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

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

Michael Stewart MICHAEL STEWART 8/2/18
 Signature of Owner/Applicant Print Name Date

FOR OFFICE USE ONLY

File Number:	Date Received:	Parcel ID Number:
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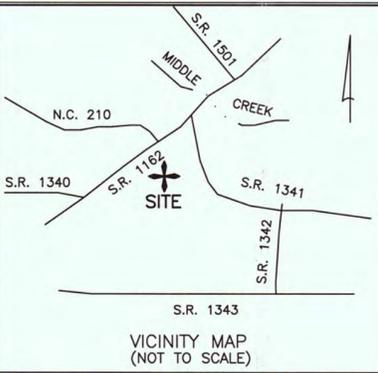
Deed Description for Rezoning

Lying and being situated in Johnston County, North Carolina and being more particularly described as follows:

Being that certain tract of land in Smithfield, Johnston County, North Carolina and lying between Black Creek Road (N.C.S.R. 1162) and Galilee Road (N.C.S.R. 1341) and being Tract "1" recorded in Deed Book 3276, Page 267 at the Johnston County Registry and being more particularly described as follows:

Beginning at a point on the western right-of-way of Galilee Rd (N.C.S.R. 1341); thence leaving said right-of-way South 74°40'07" West 710.50 feet to an existing iron pipe; thence South 74°39'51" West 456.07 feet to an existing iron pipe; thence South 01°41'30" West 368.00 feet to an existing iron pipe; thence South 62°43'26" West 37.26 feet to a point; thence North 22°39'40" West 55.38 feet to a point; thence North 52°36'15" West 69.91 feet to a point; thence North 58°25'21" West 91.28 feet to a point; thence North 49°33'53" West 117.07 feet to a point; thence North 58°22'01" West 47.73 feet to an existing iron pipe; thence North 67°32'42" West 143.13 feet to a point; thence North 64°36'55" West 139.41 feet to an existing iron pipe; thence North 68°02'16" West 84.32 feet to an existing iron pipe; thence North 79°47'30" West 61.67 feet to an existing iron pipe; thence North 86°39'18" West 201.99 feet to a point; thence North 79°19'02" West 55.94 feet to a point, thence North 09°52'10" East 19.11 feet to a point; thence North 80°16'25" West 20.73 feet to a point; thence North 78°50'43" West 246.89 feet to an existing iron pipe; thence South 40°39'53" West 168.02 feet to an existing iron pipe; thence North 66°46'57" West 242.10 feet to an existing iron pipe; thence North 25°17'15" West 56.30 feet to a point on the eastern right-of-way of Black Creek Road (N.C.S.R. 1162); thence along and with said right-of-way South 64°08'00" West 178.81 feet to a point on said right-of-way; thence leaving said right-of-way South 72°31'45" East 507.90 feet to an existing railroad spike in tree; thence South 44°07'00" East 1415.74 feet to an existing iron pipe; thence South 24°37'51" East 247.53 feet to an existing iron pipe; thence North 58°02'55" East 223.26 feet to an existing iron pipe; thence North 58°09'04" East 90.52 feet to a point in creek; thence along said creek North 00°09'10" West 242.70 feet; thence North 02°57'17" West 266.80; thence North 28°49'37" West 64.94 feet; thence North 10°56'25" West 93.95 feet; thence North 08°12'11" West 39.95 feet; thence leaving said creek North 35°19'16" East 142.44 to a point; thence North 74°31'13" East 1059.27 feet to a point on the western right-of-way of Galilee Road (N.C.S.R. 1341); thence along and with said right-of-way North 01°27'40" East 392.33 feet to the point and place of beginning and being a total of 32.61 acres to be rezoned.

PROPERTY OWNERS	SITE ADDRESS	Mailing ADDRESS	DB	PAGE
DAVID AND RACHEL JOHNSON	5360 BLACK CREEK RD SMITHFIELD, NC 27577	5360 BLACK CREEK RD SMITHFIELD, NC 27577	1761	222
RACHEL JOHNSON	5360 BLACK CREEK RD SMITHFIELD, NC 27577	5360 BLACK CREEK RD SMITHFIELD, NC 27577	1604	977
DEREK E. THOMPSON	6140 BLACK CREEK RD SMITHFIELD, NC 27577	6141 BLACK CREEK RD SMITHFIELD, NC 27577	4881	505
CHRISTOPHER AND CAROLINE PETTIT	6278 BLACK CREEK RD SMITHFIELD, NC 27577	6278 BLACK CREEK RD SMITHFIELD, NC 27577	4687	3
ORIS MATHEWS	6335 BLACK CREEK ROAD SMITHFIELD, NC 27577	6336 BLACK CREEK ROAD SMITHFIELD, NC 27577	1386	38
JOHNSTON COUNTY BOARD OF EDUCATION	2665 GALILEE RD SMITHFIELD, NC 27577	P O BOX 1336 SMITHFIELD, NC 27577	2267	643
LEO DAUGHTRY	2417 GALILEE RD SMITHFIELD, NC 27577	P O BOX 1264 SMITHFIELD, NC 27577	828	685

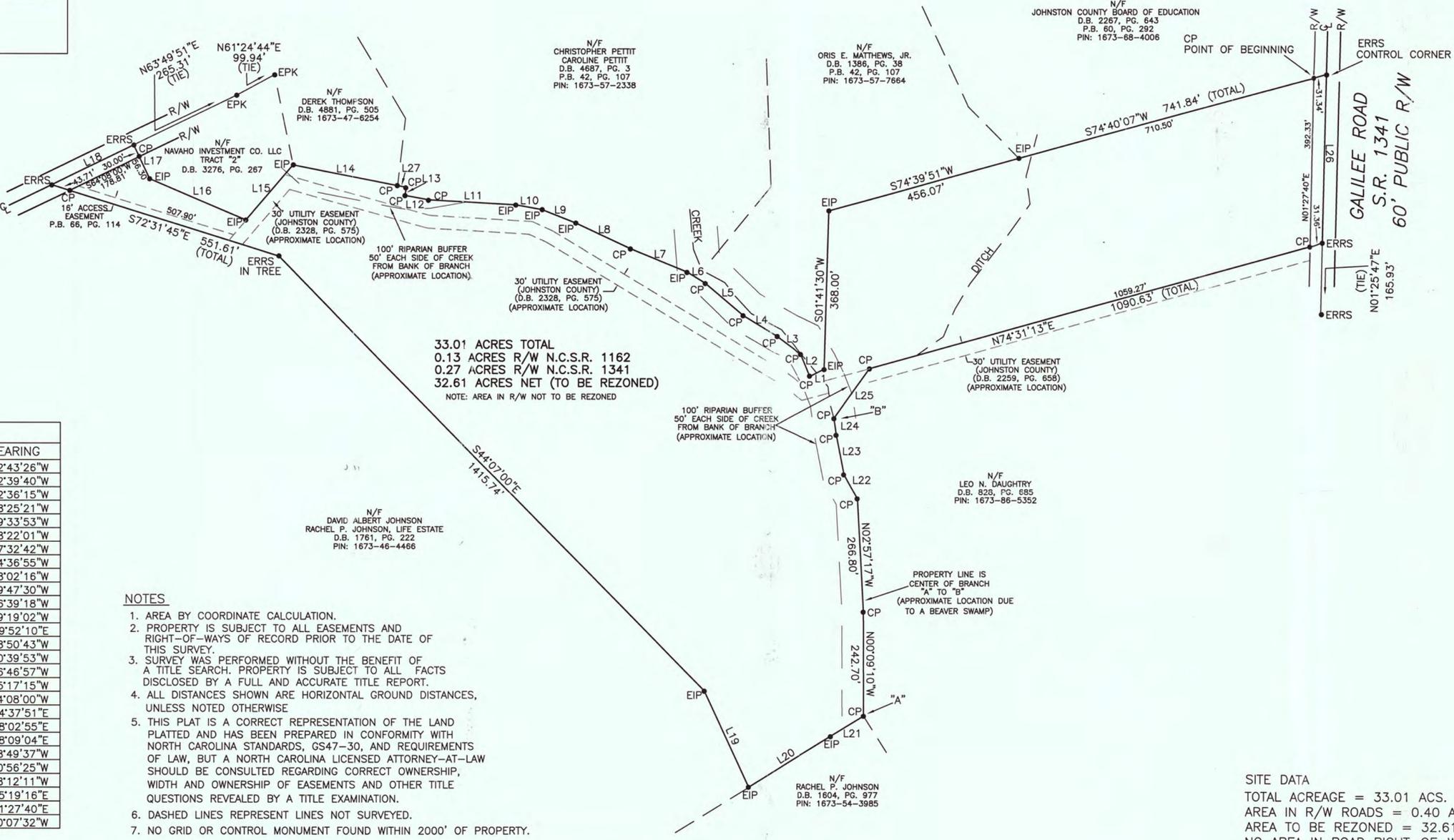


CERTIFICATE OF REGISTRATION BY REGISTER OF DEEDS
 NORTH CAROLINA
 FILED FOR REGISTRATION ON THE _____ DAY OF _____ (AM/PM)
 AND DULY RECORDED IN PLAT CABINET _____, PAGE _____
 REGISTER OF DEEDS

NOTE: PRIOR TO ANY LAND DISTURBING ACTIVITIES OWNER SHOULD CONTACT N.C.D.E.N.R. (DOW) TO VERIFY STREAM BUFFERS AND OTHER ENVIRONMENTAL CONCERNS.
 THIS PROPERTY IS NOT LOCATED IN A F.E.M.A. 100 YEAR FLOOD HAZARD AREA.
 REFERENCE: F.E.M.A. COMMUNITY PANEL NO. 3720168200K DATE: 06-20-2018

LEGEND
 EIP = EXISTING IRON PIPE
 EIS = EXISTING IRON STAKE
 ERB = EXISTING RE-BAR
 EPK = EXISTING P.K. NAIL
 CP = COMPUTED POINT (NOT FOUND OR SET)
 IPS = IRON PIPE SET
 N/F = NOW OR FORMERLY
 R/W = RIGHT-OF-WAY
 CL = CENTERLINE OF ROAD

BLACK CREEK ROAD
 S.R. 1162
 60' PUBLIC R/W



33.01 ACRES TOTAL
 0.13 ACRES R/W N.C.S.R. 1162
 0.27 ACRES R/W N.C.S.R. 1341
 32.61 ACRES NET (TO BE REZONED)
 NOTE: AREA IN R/W NOT TO BE REZONED

LINE	LENGTH	BEARING
L1	37.26	S62°43'26"W
L2	55.38	N22°39'40"W
L3	69.91	N52°36'15"W
L4	91.28	N58°25'21"W
L5	117.07	N49°33'53"W
L6	47.73	N58°22'01"W
L7	143.13	N67°32'42"W
L8	139.41	N64°36'55"W
L9	84.32	N68°02'16"W
L10	61.67	N79°47'30"W
L11	201.99	N86°39'18"W
L12	55.94	N79°19'02"W
L13	19.11	N09°52'10"E
L14	246.89	N78°50'43"W
L15	168.02	S40°39'53"W
L16	242.10	N66°46'57"W
L17	86.30	N25°17'15"W
L18	210.91	S64°08'00"W
L19	247.53	S24°37'51"E
L20	223.26	N58°02'55"E
L21	90.52	N58°09'04"E
L22	64.94	N28°49'37"W
L23	93.95	N10°56'25"W
L24	39.95	N08°12'11"W
L25	142.44	N35°19'16"E
L26	392.24	N01°27'40"E
L27	20.73	N80°07'32"W

- NOTES**
1. AREA BY COORDINATE CALCULATION.
 2. PROPERTY IS SUBJECT TO ALL EASEMENTS AND RIGHT-OF-WAYS OF RECORD PRIOR TO THE DATE OF THIS SURVEY.
 3. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH. PROPERTY IS SUBJECT TO ALL FACTS DISCLOSED BY A FULL AND ACCURATE TITLE REPORT.
 4. ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES, UNLESS NOTED OTHERWISE.
 5. THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH NORTH CAROLINA STANDARDS, GS47-30, AND REQUIREMENTS OF LAW, BUT A NORTH CAROLINA LICENSED ATTORNEY-AT-LAW SHOULD BE CONSULTED REGARDING CORRECT OWNERSHIP, WIDTH AND OWNERSHIP OF EASEMENTS AND OTHER TITLE QUESTIONS REVEALED BY A TITLE EXAMINATION.
 6. DASHED LINES REPRESENT LINES NOT SURVEYED.
 7. NO GRID OR CONTROL MONUMENT FOUND WITHIN 2000' OF PROPERTY.

SITE DATA
 TOTAL ACREAGE = 33.01 ACS.
 AREA IN R/W ROADS = 0.40 ACS.
 AREA TO BE REZONED = 32.61 ACS.
 NO AREA IN ROAD RIGHT-OF-WAY TO BE REZONED
 CURRENT ZONING = AR AND R-20A
 REQUESTED ZONING = R-20A FOR ENTIRE TRACT

I, Herbert H. Proctor Jr., certify that this survey is an existing parcel of land and does not create a new street or change an existing street.

I, Herbert H. Proctor Jr., certify that this survey is an existing parcel of land and does not create a new street or change an existing street.

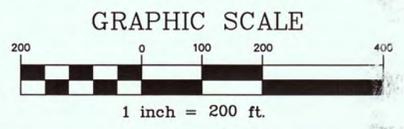
I, Herbert H. Proctor Jr., certify that this plat was drawn under my supervision from an actual survey made under my supervision; that the ratio of precision as calculated by latitudes and departures is 1/10,000; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____ page _____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 1ST day of AUGUST, 2018.



NOTE:
 NO DETERMINATION HAS BEEN MADE BY THE SURVEYOR AS TO THE EXISTENCE OF THE FOLLOWING:
 - WETLANDS
 - UNDER GROUND UTILITIES
 - UNDER GROUND STORAGE FACILITIES
 - CEMETERIES OR BURIAL GROUNDS
 - HAZARDOUS WASTE

REFERENCES
 DEED BOOK 3276, PAGE 267
 PLAT BOOK 66, PAGE 114
 ALL DEEDS AND PLATS SHOWN ON SURVEY JOHNSTON COUNTY GIS

STATE OF NORTH CAROLINA
 COUNTY OF JOHNSTON
 I, _____ REVIEW OFFICER OF JOHNSTON COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER _____ DATE _____



PRELIMINARY PLAT. NOT FOR RECORDATION, SALES OR CONVEYANCES.

STEWART-PROCTOR, PLLC ENGINEERING and SURVEYING (LICENSE NUMBER P-0148) 319 CHAPANOKE ROAD SUITE 106 RALEIGH, NC 27603 TEL. 919 779-1855 FAX 919 779-1661		OWNER: NAVAHO INVESTMENT CO. LLC 4909 WESTERN BLVD. RALEIGH, N.C. 27606	REZONING PLAT FOR NAVAHO INVESTMENT COMPANY, LLC TRACT "1" SOURCE OF TITLE: DEED BOOK 3276, PAGE 267 IN THE JOHNSTON COUNTY REGISTRY	
DATE: 08/01/2018	SURVEYED BY	JOB	SMITHFIELD TOWNSHIP	NORTH CAROLINA
SCALE 1"=200'	DRAWN BY	DWG. NO. JJ-SMITHFIELD REZONE200SCALE	JOHNSTON COUNTY	PROPERTY ADDRESS: 6054 BLACK CREEK ROAD
			ZONED: AR AND R-20A	PIN: 1673-56-5565

FROM P.B. 66, PG. 114

JOHNSTON COUNTY BOARD OF EDUCATION
DEED BOOK 2267, PG 643
ZONED: AR

RAYMOND AND DEBORAH WALKER
DEED BOOK 1579, PG 232
ZONED: AR

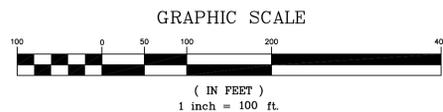
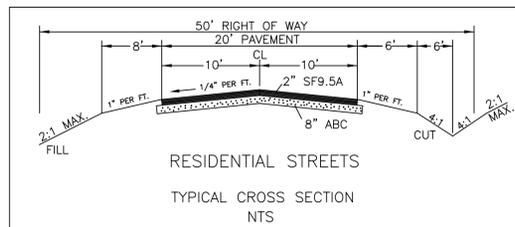
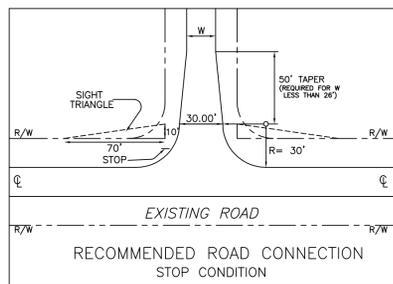
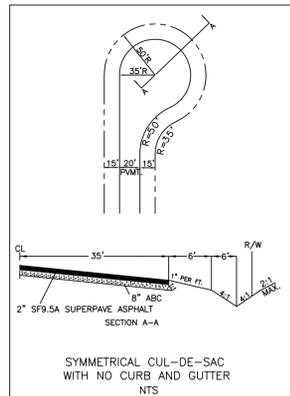
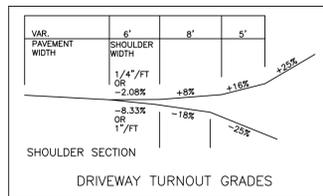
DYRL AND VERA WOOD
DEED BOOK 2629, PG 735
ZONED: AR

WILLIAM AND TINA LEE
DEED BOOK 2640, PG 137
ZONED: AR

DAVID AND RACHEL JOHNSON
DEED BOOK 1761 PG 222
ZONED: AR

LEO DAUGHTRY
DEED BOOK 828, PG 685
ZONED: AR

RACHEL JOHNSON
DEED BOOK 1604 PG 977
ZONED: AR



SMITHFIELD ETJ JURISDICTION
JOHNSTON COUNTY ACREAGE TO BE REZONED

SITE DATA TABLE

TOTAL ACREAGE TO BE DEVELOPED	21.39 ACRES
TOTAL ACREAGE TO BE REZONED	21.26 ACRES
TOTAL NUMBER OF LOTS	62
PROPOSED DENSITY	2.90 UNITS PER ACRE
AREA IN STREETS	3.48 ACRES
LINEAR FEET IN STREETS	2699 L.F.
AVERAGE LOT SIZE	8310 S.F.
PROPOSED ZONING	AR
OPEN SPACE PROVIDED	6.08 ACRES
PERCENT OPEN SPACE	28.4 %

NOTE:

THIS PRELIMINARY WAS PREVIOUSLY APPROVED WITH A CROSSING SHOWN AT THE CREEK. DWQ DISAPPROVED THIS CROSSING BECAUSE THE PROJECT DID NOT MEET THERE REQUIREMENTS FOR AVOIDANCE AND MINIMIZATION. THERE WERE PROBLEMS WITH THE LOW LYING BOTTOM WHICH CREATED A DIFFICULTY IN CONSTRUCTION, AND INCREASED THE BACKWATER ELEVATION ON PROPERTIES UPSTREAM. THE REVISION TO THIS PRELIMINARY IS BY REQUEST OF DWQ.

NOTES:

- PRESENT LAND USE IS WOODED AND FALLOW.
- STREETS WILL HAVE A 50' R/W.
- ALL CUL-DE-SACS WILL HAVE A 50' RADIUS.
- ALL RADII AT STREET INTERSECTIONS ARE 25'
- ALL STREETS WILL BE PUBLIC AND CONSTRUCTED TO NORTH CAROLINA DEPARTMENT OF TRANSPORTATION STANDARDS.
- WATER SYSTEM WILL CONSIST OF JOHNSTON COUNTY WATER.
- SEWER SYSTEM WILL CONSIST OF JOHNSTON COUNTY SEWER.
- ALL JOHNSTON COUNTY EROSION CONTROL MEASURES WILL BE COMPLIED WITH DURING CONSTRUCTION
- ALL FEDERAL FLOOD HAZARD REGULATIONS WILL BE COMPLIED WITH DURING CONSTRUCTION
- ALL STATE AND LOCAL GOVERNMENT APPROVALS SHALL BE SUBMITTED TO THE SUBDIVISION OFFICE BEFORE FINAL PLAT APPROVAL
- TOPO TAKEN FROM JOHNSTON COUNTY GIS AND SHOULD NOT BE USE EXTENSIVELY FOR DESIGN OR QUANTITY TAKEOFFS.
- CONTOUR INTERVAL IS 2'
- DRAINAGE EASEMENTS SHALL BE PROVIDED FOR ALL AREAS DRAINING 4 ACRES OR 4 LOTS AND SHALL BE SHOWN ON THE CONSTRUCTION DRAWINGS AND ON THE FINAL PLAT, AFTER SUCH AREAS CAN BE DETERMINED AND HAVE BEEN FIELD VERIFIED
- BOUNDARY INFORMATION TAKEN FROM SURVEY BY OTHERS.
- ALL RIPARIAN BUFFERS TO BE VERIFIED BY D.W.Q. PRIOR TO CONSTRUCTION.
- SITE IS NOT LOCATED IN A F.E.M.A. 100 YEAR FLOOD HAZARD AREA REFERENCE: 2000 FEMA INDEX # 37101C0360



STEWART-PROCTOR, PLLC
ENGINEERING and SURVEYING

319 CHAPANOKE ROAD SUITE 106
RALEIGH, NC 27603
TEL. 919 779-1855 FAX 919 779-1661

DATE 2/28/07 SURVEYED BY
SCALE 1"=100' DRAWN BY CJH

REVISIONS JJ-SMITHFIELD-CONST

PRELIMINARY PLAN FOR
TWIN CREEKS
JOHNSTON COUNTY

SMITHFIELD TOWNSHIP NORTH CAROLINA
JOHNSTON COUNTY OWNER CHEYENNE DEV LLC
ZONED AR
(SMITHFIELD MUNICIPAL TRANSITION ZONE) P.I.N. 1673-56-5565

Rezoning Request



Project Name:
Twin Creeks

Proposed Use:
Single Family
Dwellings

File Number:
RZ-18-08

Property Owner:
Navaho Investment
Co. LLC

Applicant:
Michael Stewart, PE

Location:
Black Creek Road

Tax ID#
15109011B

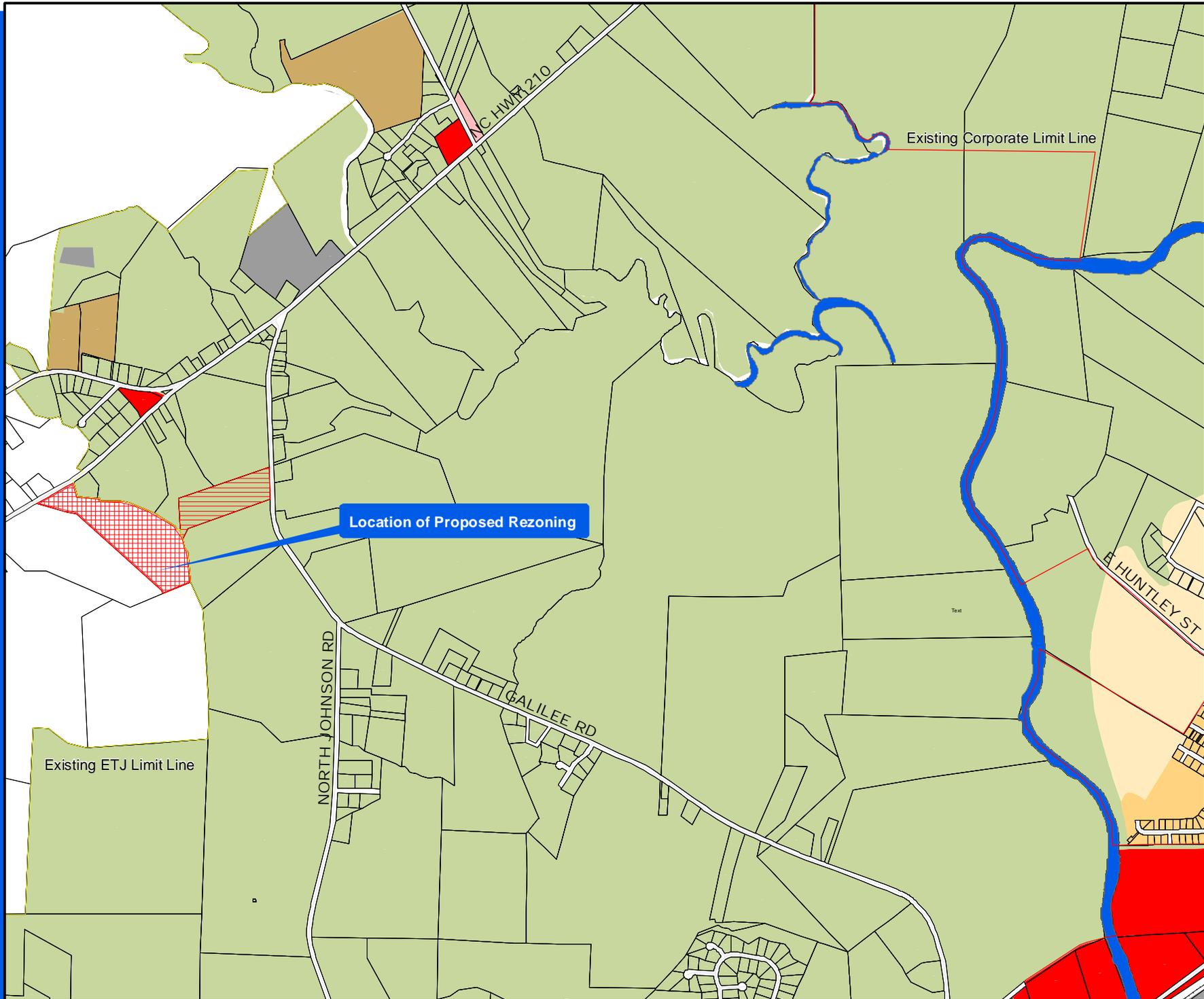
Zoning District:
Johnston County
AR (Agriculture
-Residential)

Map created by the
Mark E. Helmer, AICP
Senior Planner,
GIS Specialist
on 8/28/2018

- Legend**
- Corporate Limit Line
 - ETJ Limit Line
 - Subject Parcel



1 inch = 1,600 feet





Request for Planning Board Action

**Application
Zoning Text
Amendment
ZA-18-03**

Date: 9/6/2018

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

Issue Statement

The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, Article 3, and to amend the UDO Administrator's duties, and to amend the Board of Adjustments voting procedure to reflect statutory requirements, and other minor updates to Article 3.

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 amendment to Article 3 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
Public Meeting: Zoning Text
Amendment
ZA-18-03**

Purpose:

The proposed ordinance amendment to the Unified Development Ordinance (UDO) will:

- 1) Incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission (HPC) into the Unified Development Ordinance, Article 3 with a few minor changes:
 - Title of the Historic Properties Commission is recommended to be renamed to Historic Preservation Commission. Renaming the Commission will be consistent with the title of the Town of Smithfield Historic Preservation Design Guidelines manual and more accurately reflect the intent and mission of the Commission as defined by Section 3.5.1.
 - The proposed ordinance amendment will require the Commission to meet a minimum of one time per calendar year.
- 2) Provide needed corrections and clarifications including:
 - Minor edits to UDO Administrator's duties to reflect code changes.
 - Add Historic Preservation Commission throughout Article 3 as needed.
 - Correcting the Board of Adjustments quorum and voting procedure (3.4.2.4.1) to reflect state statutes.
 - Minor additions and deletions as needed to reflect Town operations and code changes, (i.e., eliminating reference to Town Building Inspector as secretary for boards).
 - To amend the procedural requirement for Town Council approval of site-specific development plan.

Legislative History:

The Planning Board reviewed ZA-18-03 as it pertains to moving the HPC regulations into Article 3 at the July 2018 Planning Board meeting. Since that time, Staff has found other needed amendments to Article 3. And rather than holding public hearings for each change, Staff, is planning to hold a public hearing at the Town Council for an amendment of Article 3 in its entirety for clarity and efficiency.

Consistency Statement:

The zoning text amendment as proposed is consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest.

Recommended Motion:

Staff recommends the Planning Board make the following affirmative motion:

“Move to recommend the Town Council approve ZA-18-03, amending Article 3 to move the Historic Properties Commission into the Unified Development Ordinance and rename the Commission to Historic Preservation Commission, as well as other minor amendments finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest.”

**THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
TEXT AMENDMENT CONSISTENCY STATEMENT
BY THE SMITHFIELD PLANNING BOARD
ZA-18-03**

Whereas the Smithfield Town Council, 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 Town Council, 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 RECOMMENDED FOR ADOPTION BY THE SMITHFIELD TOWN COUNCIL AS APPROPRIATE:

IN THE EVENT THAT THE MOTION TO RECOMMEND APPROVAL OF THE ORDINANCE IS ADOPTED,

That the recommended approval of text amendment ZA-18-03 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 Town Council and information provided at the public meeting; and

It is the objective of the Town of Smithfield Town Council 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 Town Council and information provided at the public meeting. Therefore, the amendment is reasonable and in the public interest.

IN THE EVENT THAT THE MOTION RECOMMEND APPROVAL THE ORDINANCE FAILS,

That the recommended approval of text amendment ZA-18-03 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.

**DRAFT ORDINANCE # ZA-18-03
AN ORDINANCE TO AMEND ARTICLE 3
OF THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
TO INCLUDE THE HISTORIC PRESERVATION COMMISSION.**

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 incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, to change the Board of Adjustments voting procedures to reflect statutory requirements , amending the UDO Administrator’s duties, and other minor amendments.

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 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to amend Section 3.1 as it pertains to UDO Administrator’s duties.]

3.1.2.5. Review and approve zoning permit applications, ~~minor~~ site plans, minor subdivisions, engineering drawings, and final plats.

...

3.1.2.7. Provide nonconformity determinations, ~~including expansions of nonconforming uses and structures.~~

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to create a section titled Section 3.5, Historic Preservation Commission. All text is carried over from the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III. Historic Properties Commission with the exception of the commission’s formal name to be changed to Historic Preservation Commission and add references to the Historic Preservation Commission throughout the Article as needed.]

3.1.2.9. Maintain the public records of the Planning Board, ~~and~~ Board of Adjustment and Historic Preservation Commission.

...

SECTION 3.2 CONFLICTS OF INTEREST.

Members of the Town Council, Planning Board, **and** Board of Adjustment **and Historic Preservation Commission.** must act in the public interest and not to advance their own financial interests. A member of an elected board, planning board, **or** board of adjustment **or Historic Preservation Commission.** may not vote on a UDO action where there is a potential financial conflict of interest. A board or council member with a financial interest in the outcome of the decision may not participate in making rezonings and other legislative zoning decisions. With quasi-judicial zoning decisions, board members may not participate in a matter involving someone with whom they have a close family or business relationship, nor may they participate if they have a bias (defined as fixed opinion that is not susceptible to change upon hearing the facts at the hearing). When a member is disqualified for a conflict of interest, that member must not participate in the hearing in any way, neither asking questions, nor debating, nor voting on the case. If an objection is raised to a member's participation or the member states a conflict of interest, the remaining members shall by majority vote to decide if the member is excused from participation.

...

HISTORIC PRESERVATION COMMISSION.

3.5.1. Intent. The purpose of this district is to promote and provide for land use activities which will reflect and preserve the heritage of the district through the cultural, educational, architectural and economic elements of the district.

3.5.2. Commission Designated. The State of North Carolina authorizes cities to safeguard the heritage of the town by preserving any historic site therein that embodies important elements of its cultural, social, economic, political, archaeological or architectural history and to promote the use and conservation of such site for the education, pleasure and enrichment of the residents of the town, county, and state as a whole. Pursuant to G.S. chapter 160A, article 19, part 3C, and the provisions of this chapter, the Town Council of Smithfield designates a commission to be known as the Smithfield Historic Preservation Commission.

3.5.3. Qualification of Members; Terms, Appointments, and General Duties.

3.5.3.1. Effective May 3, 2005, the commission shall consist of seven (7) members appointed by the Town Council. All members shall reside within the city limits. In addition, all members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The commission shall serve without compensation except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

3.5.3.2. Commission members shall serve overlapping terms of two (2) years. The terms of office for all initial reappointments after the adoption of this section shall be configured as follows:

3.5.3.2.1 Three (3) commissioners, with terms to expire on June 30 of odd years.

3.5.3.2.2. Four (4) commissioners, with terms to expire on June 30 of even years. Thereafter, all appointments shall be for three-year terms.

3.5.3.3. The commission shall select from among its members a chairperson and vice-chairperson who shall be elected annually by the commissioners.

3.5.3.4. Upon its first formal meeting, and prior to performing any duties under this article or under G.S. chapter 160A, article 19, part 3C, the commission shall adopt rules of procedure governing the commission's actions which are not governed by this article or the General Statutes. The commission shall also adopt principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic landmarks and properties in historic districts. The guidelines may be amended by the Historic Preservation Commission. All guidelines and amendments shall be subject to approval by the Town Council.

3.5.4. Attendance at Meetings. Any member of the commission who misses more than three (3) consecutive regular meetings or more than four (4) meetings in a calendar year shall lose his or her status as a member and shall be replaced or reappointed by the Town Council. The council shall act within sixty (60) days to fill vacancies on the commission. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the commission, except that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

3.5.5. Meetings. The commission shall establish a meeting time and shall meet at least one time per year in the first quarter of the year and more often as it shall determine and require.

3.5.6. Minutes. The commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of commission members and the commission's resolutions, findings, recommendations and actions.

3.5.7. Receipt of Gifts and Authority to Acquire Historic Properties. The Town Council shall have the right to accept gifts and donations in the name of the town for historic preservation purposes. It is authorized to make appropriations to the commission in any amount necessary for the expenses of the operation of the commission, and acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed.

3.5.8. Role of Council. The designation of a historic landmark or district shall be effected through the adoption of an ordinance by the Town Council. No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistoric, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association. The landmark or district must lie within the planning and zoning jurisdiction of the town.

3.5.8. Overlay District Established; Boundaries; Permitted Uses. An overlay district is hereby established to overlap with other zoning districts established by this Code. The boundaries of the historic district are established as indicated on the official zoning map of the town, which is on file for public inspection in the office of the department of planning and development. All uses permitted within zoning districts established by the town, whether by permitted use or by special use, shall be permitted within this overlay district according to procedures established by this section. No historic district or districts shall be designated until:

3.5.8.1. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and

3.5.8.2. The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the Town Council within thirty (30) calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the municipality of any responsibility for awaiting such analysis, and said council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The Town Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection (1) shall be prepared by the commission and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions of section 3.5.8.2. Upon receipt of these reports and recommendations, the town may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

3.5.9. Designation of Landmarks. Upon complying with the landmark designation procedures as set forth in this article, the Town Council may adopt and from time to time amend or repeal an ordinance designation one or more historic landmarks.

3.5.9.1. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistoric, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

3.5.9.2. The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistoric value, including the land areas of the property so designated and any other information the Town Council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. part 3C be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

3.5.10. Required Landmark Designation Procedures. As a guide for the identification and evaluation of landmarks, the commission shall undertake at the earliest possible time, and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistoric and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history. No ordinance designating an historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or the Town Council, until all of the following procedural steps have been taken:

3.5.10.1. The Historic Preservation Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this part [article], for altering, restoring, moving, or demolishing properties designated as landmarks.

3.5.10.2. The commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

3.5.10.3. The department of cultural resources, acting through the state historic preservation officer, shall either upon request of the department or at the initiative of the Historic Preservation Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this part [article]. Any comments shall be provided in writing. If the department does not submit its comments or recommendation in connection with any designation within thirty (30) days following its receipt of the investigation and report of the commission, the commission and the Town Council shall be relieved of any responsibility to consider such comments.

3.5.10.4. The Historic Preservation Commission and the Town Council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public in accordance with the North Carolina Open Meetings Law.

3.5.10.5. Following the joint public hearing or separate public hearings, the Town Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

3.5.10.6. Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such ordinance and all amendments thereto shall be filed by the commission in the office of the register of deeds of the county in which the landmark or landmarks are located, and the copy shall be made available for public inspection at any reasonable time. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be given the town building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the town for such period as the designation remains in effect.

3.5.10.7. Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes.

3.5.11. Powers of the Commission. The commission shall be authorized, within the planning and zoning jurisdiction of the town, to:

3.5.11.1. Undertake an inventory of properties of historical, prehistoric, architectural and/or cultural significance;

3.5.11.2. Recommend to the Town Council structures, buildings, sites, areas or objects to be designated by ordinance as "historic landmarks" and areas to be designated by ordinance as "historic districts;"

3.5.11.3. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

3.5.11.4. Restore, preserve and operate historic properties;

3.5.11.5. Recommend to the Town Council that designation of any area as a historic district or part thereof, of any building, structure, site, area or object as a historic landmark be revoked or removed;

3.5.11.6. Conduct an educational program with respect to historic landmarks and district within its jurisdiction;

3.5.11.7. Cooperate with the state, federal and local government in pursuance of the purpose of this article; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Town Council, or the commission when authorized by the council, may contract with the state or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;

3.5.11.7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof;

3.5.11.8. Prepare and recommend the official adoption of a preservation element as part of the town's comprehensive plan;

3.5.11.9. Review and act upon proposals for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks pursuant to this section;

3.5.12.10 Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate; and

3.5.11.11. Approve all design plans and sketches so insure that they meet the guidelines of the Historic Preservation Commission as established by the Smithfield Town Council.

3.5.12. Certificate of Appropriateness Required. From and after September 6, 2005, no exterior architectural features of any building or structure shall be altered, restored, erected or moved within the district until a certificate of appropriateness is issued by the Historic Preservation Commission; or under special circumstances, its staff person. For the purposes of this article, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors,

light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such "exterior features" may, at the discretion of the Town Council, include historic signs, color and significant landscape, archaeological, and natural features of the area.

3.5.12.1. Except as provided in subsection (2) below, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, or outdoor advertising signs or other significant features in the district of the landmark which would be incongruous with the special character of the landmark or district.

3.5.12.2. Notwithstanding subsection (1) above, the jurisdiction of the commission over interior space shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county and indexed according to the name of the owner and the specific nature of the commission's jurisdiction over the interior.

All of the provisions of this article are applicable to the construction, alteration, moving, and demolition by the state, its political subdivisions, agencies and instrumentalities, provided however that they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the local commission. The decision of the North Carolina Historical Commission shall be binding upon both the state and the Historic Preservation Commission.

3.5.12.3. The town and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating work in a historic district for any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the town or public utility companies.

3.5.13. Requirements for Issuance of Certificate of Appropriateness. An application for a certificate of appropriateness shall be obtained from, and when completed, filed with the responsible staff person.

3.5.14. Contents of Application for Certificate of Appropriateness. The application shall, in accordance with the commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted. Applications shall be considered by the commission at its next regular meeting, provided the applications have been filed, complete in form and content, at least fifteen (15) calendar days before the regularly scheduled meeting of the commission. Otherwise, they shall be deferred until the next meeting or considered at a special called meeting of the commission. Nothing shall prevent the applicant from filing, with the application, additional relevant information bearing on the application.

3.5.15. Notification of Commission and Affected Property Owners. Upon receipt of an application the responsible staff person shall notify the commission at least seven (7) days before

the regularly scheduled meeting. Prior to any action taken on a certificate of appropriateness application, the owners of any property likely to be materially affected by the application shall be notified in writing, and the applicant and such owners shall be given an opportunity to be heard.

3.5.16. Public Hearing. When an application is presented to the commission a public hearing may be held when deemed necessary. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. chapter 143, article 33C.

3.5.17. Action on an Application. The action on an application shall be approval, approval with amendments, or denial.

3.5.17.1. Prior to any final action on an application, the review criteria in subsection (m) shall be used to make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district or landmark.

3.5.17.2. All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure, and not exceeding ninety (90) days from the date the application is filed. As part of its review procedure, the commission may view the premises and seek the advice of the department of cultural resources or other such experts as it may deem necessary under the circumstances.

3.5.18. Appeals. An appeal may be taken to the board of adjustment from the commission's action in granting or denying any certificate, which appeal:

3.5.18.1. May be taken by any aggrieved party.

3.5.18.2. Shall be taken within times prescribed by the commission in the rules of procedure, and

3.5.18.3. Shall be in the nature of certiorari.

Any appeal from the board of adjustment's decision in any such case shall be heard by the Superior Court of Johnston County.

3.5.19. Submission of New Applications. If a certificate of appropriateness is denied, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

3.5.20. Review Criteria for Certificates of Appropriateness. To provide reasonable standards to assist in the review of the application for a certificate of appropriateness, the commission shall take into account the following elements to ensure that they are consistent with the historic or visual character or characteristics of the district:

3.5.20.1. The height and width of the building in relation to the height and width of adjacent, opposite and surrounding buildings.

3.5.20.2. The setbacks and placement of the building in relation to the setback of adjacent, opposite and surrounding buildings.

3.5.20.3. Exterior construction materials, including textures, but not to include color.

3.5.20.4. Architectural detailing such as lintels, cornices, brick bond and foundation materials.

3.5.20.5. Roof shapes, forms and materials.

3.5.20.6. Proportions, shapes, positions and locations, patterns and sizes of any elements of fenestration.

3.5.20.7. General form and proportions of buildings and structures.

3.5.20.8. Appurtenant fixtures and other features such as lighting and fencing.

It is the intention of these regulations to insure, so far as possible, that buildings or structure shall be in harmony with other buildings or structures located herein. It is not the intent of these regulations to require the reconstruction or restoration of individual or original buildings.

3.5.21. Minor Works. A certificate of appropriateness application, when determined to involve a minor work, may be reviewed and approved by the responsible staff person in the department of planning and development according to specific review criteria and guidelines. Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or the district as a whole. Such minor works shall be limited to those listed in the commission's rules of procedure. No application involving a minor work may be denied without the formal action of the commission.

3.5.22. Certain Changes Not Prohibited. Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. Nothing in this ordinance shall be construed to prevent (1) the maintenance or (2) in the event of an emergency, the immediate restoration of any exiting above-ground utility structure without approval by the commission.

3.5.23. Conflict with Other Laws. Whenever any ordinance adopted for the designation of landmarks or districts requires a longer waiting period or imposes higher standards with respect to a designated landmark or district than are established under any other statute, Charter provision, or regulation, this article shall govern. Whenever the provisions of any other statute, Charter provision or regulation require a longer waiting period or impose higher standards than are established under this article, such other statute, Charter provision, ordinance, or regulation shall govern.

3.5.24. Enforcement and Remedies. Compliance with the terms of the certificate of appropriateness shall be enforced by the responsible staff person. Failure to comply with the certificate of appropriateness shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations.

3.5.24.1. A certificate of appropriateness shall expire one (1) year after the date of issuance if the work authorized by the certificate has not commenced.

3.5.24.2. If after commencement, the work is discontinued for a period of six (6) months the permit shall immediately expire.

3.5.24.3. No work authorized by any certificate which has expired shall thereafter be performed until a new certificate has been secured.

In case any building, structure, site area or object designated as a historic landmark or located within a historic district established pursuant to this article is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the article, the town, the commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such a building, structure, site, area or object. Such remedies shall be in addition to any others authorized for violation of a municipal ordinance.

3.5.25. Delay in Demolition of Landmarks and Buildings.

3.5.25.1. An application for a certificate of appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in subsection (3) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building or site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Town Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to three hundred sixty-five (365) days or until the Town Council takes final action on the designation, whichever occurs first.

3.5.25.2. The Town Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

3.5.25.3. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the state historic preservation officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to

Strike Town Building Inspector to serve as secretary and advisor to the Planning Board.]

3.3.3.2. Organization, Rules, Meetings and Records. A Chair and Vice-Chair shall be nominated from among the board membership and shall be appointed by majority vote of the board. Chair and Vice-Chair term shall be for two (2) years. Upon completion of a two-year term, the board shall make nominations and appoint new officers or reappoint existing officers. The ~~Town Building Inspector and~~ UDO Administrator shall serve as Secretary and advisor to the Planning Board and shall be responsible for keeping the record of minutes of the Planning Board. The Board shall adopt rules for transaction of its business subject to review and approval by the Town Council and shall keep a record of its member attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. Except as otherwise stated in Section 3.3.3.4 below, the Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of four (4) members for the purpose of taking any official motion required by this Ordinance.

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to amend the duties of the Planning Board to reflect the administrative review of all site plans.]

3.3.4.11. To review and make recommendations to the Town Council on ~~major site plans~~ and major subdivisions in accordance with Section 5.6.

And,

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to amend Board of Adjustments title and voting procedure.]

3.4.2.1. The ~~Zoning~~ Board of Adjustment shall be governed by the terms of the General Statutes of North Carolina (160A - 388).

...

3.4.2.4. Quorum and Voting.

3.4.2.4.1. The concurring vote equal to four-fifths of the ~~full members~~ ~~hip~~ of the board ~~present at a meeting~~ and not excused from voting (a quorum being present), shall be necessary to grant any variance. All other actions of the board, including decisions relating to special use permits, shall be taken by majority vote of those present and not excused from voting, a quorum being present. A quorum shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats).

...

3.4.2.5.3. Secretary. The ~~Zoning~~ UDO Administrator shall serve as Secretary.

[Revise Article 3, ADMINISTRATIVE / LEGISLATIVE / QUASI-JUDICIAL AUTHORITY, to relocate the text of Section 3.5 Town Council to a new section titled Section 3.6 Town Council and to amend the procedural requirements for site-specific development plans to reflect changes in the UDO.]

SECTION 3.5 6 TOWN COUNCIL.

3.5.6.1 The Town Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Sections 4.11.1 through 4.11.4.

3.5.6.2. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Section 4.10.1.

3.5.6.3. Unless otherwise specifically provided in this Article, in acting upon special use permit requests or in considering amendments to this Article or the zoning map, the council shall follow the regular, voting, and other requirements as set forth in other provisions of the Town code, the Town charter, or general law.

3.5.6.4. The Town Council, in considering the approval of a site-specific development plan (as defined in Section 4.7, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 4.69 for the issuance of a special use permit.

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 ___ day of _____, 20__.

M. Andy Moore, Mayor

ATTEST

Shannan L. Parrish, Town Clerk

DRAFT

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ARTICLE 10. PERFORMANCE STANDARDS

PART I. OFF-STREET PARKING & OFF-STREET LOADING REQUIREMENTS.

SECTION 10.1 APPLICATION.

The off-street parking and loading requirements shall apply to all districts shown on the Official Zoning Map of the Town of Smithfield.

SECTION 10.2 GENERAL.

10.2.1. Off-Street Parking Requirements.

There shall be provided at the time of the erection of any building, at the time an existing structure is demolished in order to permit new construction, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Ordinance. Such parking space may be provided in a parking garage or properly graded open space. All parking areas shall be designed so that ingress to and egress from such area shall be established and maintained so that all vehicular traffic shall enter and leave the lot by forward motion of the vehicle. Except for multi-family and single-family uses, ~~all off-street parking and loading in the ECO Entry Corridor Overlay District shall be provided in the rear of the principal structure comply with Section 10.94.~~ No off-street parking or loading shall be permitted in a required yard or open space, except in the case of a single or two family dwelling. No required off-street parking shall be located on any public right-of-way ~~or encroach by more than 50% on any required setback, or into any required streetyard.~~ Under no circumstances shall parking be located within five feet of a right-of-way line.

10.2.2. Minimum Parking Requirement.

Each application for a zoning permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. Required off-street parking area for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this Ordinance are met. No Certificate of Occupancy shall be issued until the parking requirements of this section are met.

10.2.3. Vehicle Storage.

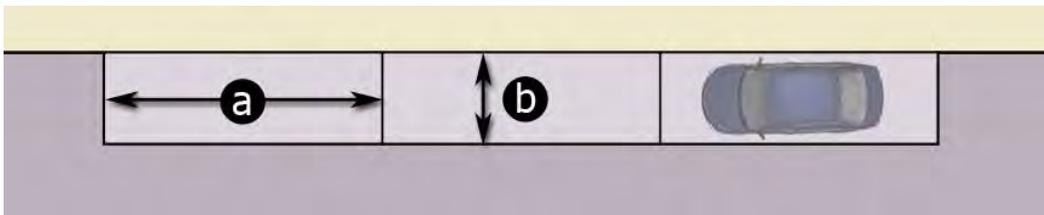
10.2.3.1. Residential Districts. Vehicles intended for personal use may be parked or stored on property zoned for residential use. No more than one commercial truck, van, or trailer may be driven home and must be parked in a garage or carport or in the driveway and never on the street. Inoperative vehicles, including trucks, vans, or trailers, may not be stored in a residential district.

ARTICLE 10. PERFORMANCE STANDARDS

10.2.3.2. Business and Industrial Districts. Customer and employee parking is permitted along with the parking and storing of governmental or commercial vehicles, in any business or industrial district. Inoperative vehicles shall only be permitted to be parked or stored while undergoing repairs at a commercial garage or automobile service station or if stored in an approved **junkyard or wrecking salvage** yard. Overnight parking or storage of tractor trailers in commercial districts is strictly limited to vehicles associated with the commercial establishment operating on the premises.

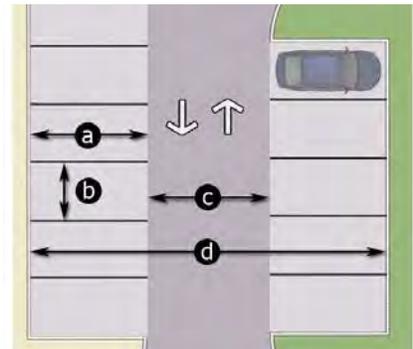
10.2.4. Parking Space Arrangements and Dimensions.

10.2.4.1. Parallel Parking. Parallel parking stalls for standard size automobiles shall have a minimum size of eight (8) feet by twenty-three (23) feet. All parallel parking stalls shall have a minimum of ten (10) feet for maneuvering space in one-way traffic and twenty (20) feet maneuvering space in two-way traffic.



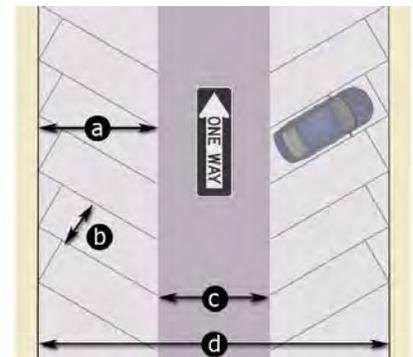
10.2.4.2. 90 Degree Parking.

- (a) Length: 18 feet
- (b) Width: 9 feet
- (c) Aisle Width: 24 feet
- (d) Two Row Parking with Aisle: 60 feet total
- (e) Compact Cars: Length - 16 feet
Width - 8 feet



10.2.4.3. 60 Degree Parking.

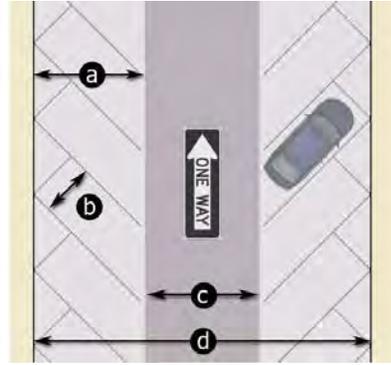
- (a) Length: 20 feet 1 inch
(measured from the end of striping perpendicular to the curb)
- (b) Width: 9 feet
- (c) One-Way Aisle: 16 feet
Two-Way Aisle: 20 feet
- (d) Two Row Parking with One-Way Aisle: 56 feet 2 inches total
Two Row Parking with Two-Way Aisle: 60 feet 2 inches total
- (e) Compact Cars: Length - 17 feet 6 inches
(measured from the end of striping perpendicular to the curb)
Width - 8 feet



ARTICLE 10. PERFORMANCE STANDARDS

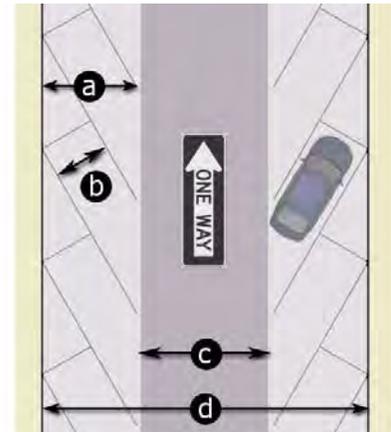
10.2.4.4. 45 Degree Parking.

- (a) *Length*: 19 feet 1 inch
(measured from the end of striping perpendicular to the curb)
- (b) *Width*: 9 feet
- (c) *One-Way Aisle*: 15 feet
Two-Way Aisle: 20 feet
- (d) *Two Row Parking with One-Way Aisle*: 53 feet
2 inches total
Two Row Parking with Two-Way Aisle: 58 feet
2 inches total
- (e) *Compact Cars*: Length - 16 feet 6 inches
(measured from the end of striping perpendicular to the curb)
Width - 8 feet



10.2.4.5. 30 Degree Parking.

- (a) *Length*: 15 feet 11 inches
(measured from the end of striping perpendicular to the curb)
- (b) *Width*: 9 feet
- (c) *One-Way Aisle*: 14 feet
Two-Way Aisle: 19 feet
- (d) *Two Row Parking with One-Way Aisle*: 45 feet
10 inches total
Two Row Parking with Two-Way Aisle: 50 feet
10 inches total
- (e) *Compact Cars*: Length - 14 feet 6 inches
(measured from the end of striping perpendicular to the curb)
Width - 8 feet



10.2.5. Parking Lots with More than Four Spaces.

10.2.5.1. Surfacing. All parking lots shall be graded and surfaced with blacktop, concrete, brick, or other such surfacing material to ensure a dustless surface condition.

10.2.5.2. Markings. Each parking stall shall be marked off and maintained so as to be distinguishable.

10.2.5.3. Lighting. Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property and shall comply with Article 10, Section 10.34.

10.2.5.4. Yards. Except in the Entry Corridor Overlay District, all such parking lots shall observe a minimum front yard of not less than five feet and a side yard on a corner lot of

ARTICLE 10. PERFORMANCE STANDARDS

not less than five feet. Parking lots in residential-agricultural and residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet.

10.2.5.5. Curb/Gutter. The required yards shall be set off from parking areas by continuous concrete curb/gutter. Breaks in the curb/gutter may be permitted if the engineer's design of the parking lot requires a break to obtain effective stormwater control.

10.2.5.6. Drainage. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the UDO Administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage.

10.2.5.7. Separation of Bumper and Walkways. In the event any parking stall abuts upon a walkway, there shall be a space of three and a half feet between the wheel bumper or curb and the edge of the walkway.

10.2.5.8. Entrances and Exits. These shall be provided in accordance with Section 10.6 of this Ordinance.

10.2.5.9. Special requirements apply to parking lots in the B-3 and the Industrial districts in addition to the requirements of this Article ([see Sections 7.2 and 10.2.3.2](#)).

10.2.6. Combination of Required Parking Space.

The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that ½ of the parking spaces required for churches, theater, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

10.2.7. Remote Parking.

10.2.7.1. If the number of off-street parking spaces required by this Ordinance cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as "satellite" parking spaces.

10.2.7.2. All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking, or within 400 feet of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance. Satellite parking spaces must be located in a zoning district which permits parking lots for the use intended.

ARTICLE 10. PERFORMANCE STANDARDS

10.2.7.3. The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence, on an annual basis, that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing activity to provide the requisite number of parking spaces.

10.2.8. Separation from Walkways, Sidewalks, and Streets.

All parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective device to prevent vehicles from intruding into these areas.

10.2.9. Phased Developments.

Each individual phase of a multi-phase development shall meet all applicable parking standards established in this section including shared parking facilities prior to initiation of the next phase.

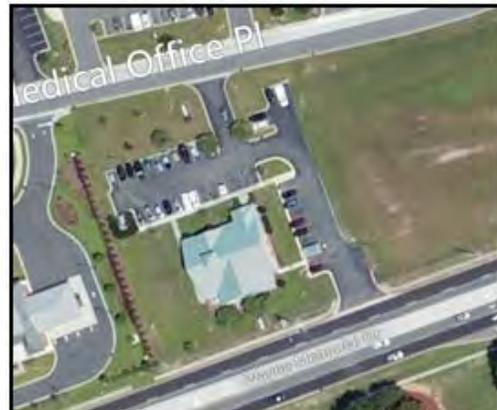
10.2.10. Lateral Access.

All new nonresidential development, specifically commercial development, shall provide lateral access to adjacent property which is either: (1) existing nonresidential, or (2) zoned nonresidential when driveway access is from or proposed from collector or arterial streets. In the site plan process review, lateral access shall be displayed and labeled clearly by showing the appropriate connections. All lateral access connections shall be a minimum of 20 feet in width and maximum of 24 feet in width. If this section is determined not to be feasible due to particularities of the parcel, the Board of Adjustment may modify the requirements herein by issuing a variance.

10.2.11. Handicapped Requirements.



Cross access provided between sites



Cross access for future development

ARTICLE 10. PERFORMANCE STANDARDS

Handicapped parking spaces shall be in accordance with regulations set forth by the Americans with Disabilities Act (ADA), the NC Department of Transportation, the NC Division of Motor Vehicles ADA requirements, the NC State Building Code, and ICC A 117.1.

10.2.12. Landscaping Requirements.

See Article 10, Part II.

10.2.13. Exceptions.

10.2.13.1. The UDO Administrator may withhold a permit or Certificate of Occupancy if a parking layout not specifically prohibited by this Section would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the UDO Administrator's decision to the Board of Adjustment under the normal procedure for an appeal.

10.2.13.2. If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Adjustment may grant the applicant a **parking modification variance**.

10.2.13.3. In the Central Business District, the UDO Administrator may allow a new use to be established in an existing building even if all parking requirements of this Article cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and not foreseeable traffic congestion problems will be created.

SECTION 10.3 MINIMUM/MAXIMUM PARKING REQUIREMENTS.

The minimum number of required off-street parking spaces shall be calculated as follows. In the case of a building or use not expressly provided for, the number of off-street access spaces shall be the same as for a similar use or inclusive category which is provided for. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, except for shopping centers which are expressly provided for.

Classification	Off-Street Parking Requirement
RESIDENTIAL	
Dwelling, Single-Family	2 spaces
Dwelling, Manufactured Home	2 spaces
Dwelling, Multi-Family - One bedroom - Two bedrooms - Three bedrooms or more	1.5 spaces per unit 1.75 spaces per unit 2 spaces per unit
ACCESSORY USES/BUILDINGS	

ARTICLE 10. PERFORMANCE STANDARDS

Classification	Off-Street Parking Requirement
Accessory Business or Residential Unit (Incl. Home Occupations)	2 spaces per business or residence
Accessory Buildings	Same ratio as the principal use
EDUCATIONAL, OFFICE/INSTITUTIONAL, AND RETAIL SALES & SERVICES	
Retail, Enclosed	1 space per 200 square feet
Retail, Outdoor (incl. commercial recreation)	1 space per 600 square feet of parcel area
Restaurant	1 space per 150 square feet enclosed floor area
Office (including medical clinics)	4 spaces per 1,000 square feet
Lodging	1 space per room plus 1 space per employee
Institutional/Civic	5 spaces per 1,000 square feet
Hospital	1.5 spaces per patient room plus 3 spaces per 1,000 square feet of office area.
Child care facility/adult day care facility	1 space per 4 persons of licensed capacity.
Schools, Elementary or Junior High	3 spaces for each room used for administration offices, class instruction, or 1 space for each 6 seats in auditorium and other places of assembly or facilities available for the public, whichever is greater
Schools, Senior High	1 space per school employee and 1 space per 4 students
Assembly	1 space per 3 fixed seats plus 1 space per 3 movable seats
Other	Determined by the UDO Administrator in consideration of an approved study prepared by a registered engineer with expertise in Transportation Engineering
MANUFACTURING AND INDUSTRIAL USES	
Adult and sexually oriented businesses	1 space per 500 square feet of gross floor area
All other industrial uses	1 space per employee
RECREATION USES	
The most applicable of the following standards shall apply for all recreational uses, including auditoriums, assembly halls, or stadiums:	1 space per 4 fixed seats; 1 space for each 40 square feet of floor area available in establishment as a meeting room; 1 space for each 150 square feet of gross floor area; 1 space per 600 square feet of parcel area.
TEMPORARY USES/STRUCTURES	
To be determined by the UDO Administrator based on the site specific conditions and principal use.	
AGRICULTURAL USES	
To be determined by the UDO Administrator based on the site specific conditions.	

ARTICLE 10. PERFORMANCE STANDARDS

NOTE: The maximum parking allowed shall not exceed 150% of the minimum parking specified in this section.

Special situations which are not covered by the above shall be ~~handled~~ determined by the ~~Board of Adjustment-UDO Administrator~~. ~~The Board of Adjustment shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs therefor. An appeal of the UDO Administrator's decision shall be made to the Board of Adjustment in accordance with Section 4.10.1.~~

SECTION 10.4 VEHICLE STACKING AREAS.

10.4.1. Vehicle Stacking Areas.

The vehicle stacking standards of this section shall apply unless otherwise expressly approved by the UDO Administrator. Additional stacking spaces may be required by the UDO Administrator where trip generation rates suggest that additional spaces will be needed.

10.4.2. Minimum Number of Spaces.

Off-street stacking spaces shall be provided as follows:

Activity Type	Minimum Stacking Spaces	Measured From
Automated teller machine (ATM)	3	Teller
Bank teller lane	4	Teller or Window
Car wash bay, full-service	6	Bay
Car wash bay, self-service	3	Bay
Dry cleaning/laundry drive-through <u>in</u>	3	Cleaner/laundry window
Gasoline pump island	3	Pump island
Gate, unstaffed	2	Gate
Gatehouse, staffed	4	Gatehouse
Pharmacy pickup	3	Pharmacy window
Restaurant, drive-through <u>in</u>	6	Order box
Restaurant, drive-through <u>in</u>	4	Between order box and pick-up window
Valet parking	3	Valet stand
Other	Determined by the UDO Administrator in consideration of an approved study prepared by a registered engineer with expertise in Transportation Engineering.	

ARTICLE 10. PERFORMANCE STANDARDS

10.4.3. Design and Layout of Stacking Spaces.

Required stacking spaces shall be subject to the following design and layout standards:

10.4.3.1. Size. Stacking spaces shall be a minimum of eight (8) feet in width by twenty-five (25) feet in length.

10.4.3.2. Location. Stacking spaces shall not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

10.4.3.3. Design. Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the UDO Administrator for traffic movement and safety.

SECTION 10.5 OFF-STREET LOADING REQUIREMENTS.

10.5.1. Location.

10.5.1.1. No loading spaces shall be located within thirty (30) feet of street intersections or in any required front, side, or rear yard.

10.5.1.2. A minimum setback of fifty (50) feet shall be required where loading docks face a residential district or a structure with first-floor residential uses, unless the loading area is completely screened from view with an eight (8) foot high masonry wall in accordance with the requirements of Article 10, Part II.

10.5.1.3. Loading areas shall be located to provide the most convenient access to the use being served. Generally, loading areas should be adjacent to the building.

10.5.2. Design.

10.5.2.1. Loading berths for office uses shall be a minimum of twelve (12) feet wide by thirty-five (35) feet long with a height clearance of fourteen (14) feet.

10.5.2.2. All other loading berths shall be a minimum of twelve (12) feet wide and fifty-five (55) feet long with a height clearance of fourteen (14) feet.

10.5.3. Spaces.

The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

ARTICLE 10. PERFORMANCE STANDARDS

Use	Off-Street Loading Requirement
Office and Institutional Uses including Hotels and Motels	One space for each 50,000 square feet of gross floor area or fraction thereof.
Retail Business	One space for each 20,000 square feet of gross floor area or fraction thereof.
Wholesale Trade and Industry	One space for each 10,000 square feet of gross floor area or fraction thereof.
Elementary, Junior High, High Schools, Kindergartens, Nurseries, and Day Care Centers	One space for each 50,000 square feet of gross floor area of fraction thereof, plus a safe place off the street for the loading and unloading of children from automobiles and buses.

Exceptions. If a peculiar characteristic of an establishment makes the requirements of this Section clearly unrealistic, the Board of Adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.

The UDO Administrator may allow a new use to be established in an existing building even if all loading requirements of this Section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use and traffic or safety hazards will not be created.

SECTION 10.6 DRIVEWAYS.

10.6.1. General.

After the date of passage of this section, only driveways designed, approved, constructed, and surfaced in accordance with the provisions herein shall be allowed to provide motor vehicle access to or from any property upon which a building has been constructed, reconstructed, or physically altered. All driveways shall be paved with either asphalt or concrete, or with alternative paving material (e.g., concrete pavers, brick, "turfstone" or similar pervious material) determined to exhibit equivalent wear resistance and load bearing characteristics as asphalt or concrete.

Before a building permit is issued for the construction, reconstruction, or change in use of any building or land used for purposes other than a single or two-family residence, all driveways shall be reviewed and approved by the UDO Administrator. ~~Private driveways serving single-family and two-family dwellings shall not be regulated by the provision of this Ordinance.~~ "Construction, reconstruction, or change in use" refers to those improvements made to the site involving overall structure size or to changes in use which would require the addition of one or more parking spaces under the provision of Article 10, Part I, Off-Street Parking and Off-Street Loading Requirements; it is not intended to refer to construction activities which merely involve changes to exterior architectural features (e.g., painting, addition of siding, roofing activities, etc.).

ARTICLE 10. PERFORMANCE STANDARDS

When the use of any driveway has been permanently discontinued, the property owner of that driveway shall, at his expense, replace all necessary curbs, gutters, aprons, sidewalks, and appurtenances thereto, within 60 days of receipt of a written notice from the UDO Administrator.

No driveway shall conflict with any municipal facility such as traffic signal standards, catch basins, fire hydrants, crosswalks, loading zones, bus stops, utility poles, fire-alarm supports, meter boxes, and sewer clean-outs or other necessary structures, except with the express approval of the Director of Public Works. Any adjustments to municipal facilities to avoid such conflicts shall be at the expense of the driveway applicant.

10.6.2. Permit Requirements.

A permit must be obtained from the Public Works Director UDO Administrator prior to the removal, alteration, or construction of any curb, driveway, gutter, and/or pavement or prior to the performance of any other work in any public or private street. Conditions governing the issuance of such a permit are:

10.6.2.1. A continuing indemnity bond with sufficient surety acceptable to the town may be required of the party performing the work. All work must be done in conformity with the standards established herein.

10.6.2.2. The town shall be indemnified for any damages it might sustain as a result of the breach of condition above. The damages payable to the town shall be the amount required to make such improvement conform to town standards.

Based on the Town of Smithfield Schedule of Fees, a fee shall be paid to the town at the time the application for a driveway permit is made. **SECTION 2.20 DRIVEWAYS; PERMIT REQUIRED.**

10.6.3. Submission of Plans.

Two copies of plans showing the location and dimensions of all proposed improvements shall be filed with the Administrator for approval prior to the issuance of a driveway permit for uses other than single or two-family residential.

All design and construction of driveways shall conform to the requirements of the North Carolina Department of Transportation.

10.6.4. Driveway Location(s).

10.6.4.1. A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single and two-family residential and shall be at least 24 feet wide.

ARTICLE 10. PERFORMANCE STANDARDS

10.6.4.2. Two driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 50 feet.

10.6.4.3. Three driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 150 feet.

10.6.4.4. Four or more driveways entering the same street from a single lot shall be prohibited.

10.6.4.5. In no case may the total width of all driveways exceed 50% of the total property frontage.

10.6.4.6. No driveway (nearest edge) shall be located within 10 feet of a side lot property line except in the case of a shared driveway (single curb/access point) utilized by two or more lots.

10.6.4.7. No driveway (nearest edge) shall be located within 25 feet of an intersection on a secondary road and 40 feet on a primary road, measured along the right-of-way line. except in the case where no other lot access to a public street or town-approved private road is available.

~~**10.6.4.8.** **2.20.2.** No portion of any residential driveway intersection with a Town public street shall be closer than twenty (20) feet to the corner of any intersection, measured along the right-of-way line. In commercial and industrial zones, this distance shall be thirty-six (36) feet. The width of any driveway intersection with the public street shall not exceed thirty-six (36) feet at its intersection with curb and street line. Driveway connections to the State of North Carolina Department of Transportation controlled streets must be requested from and approved by DOT on its standard form. Driveways that have double lane ingress and egress (4 lanes) shall be a minimum 48 feet width at intersection with curb and street line.~~

10.6.5. Driveway Permit Inspection.

Once the driveway permit is duly issued, the supervisor of the driveway construction site shall keep the permit available for on-the-job inspection by authorized personnel of the town. The inspector or other authorized representative of the town shall have the authority to require the immediate stoppage of work not performed either in accordance with the approved plans or under the requirements of this section and may order the nonconforming installations be corrected and/or blocked.

10.6.6. Brick Driveways.

ARTICLE 10. PERFORMANCE STANDARDS

Brick driveways will be allowed consisting of smooth, hard-burned clay bricks with an appropriate concrete base conforming to the design standards of the Administrator. In the event repairs are required after brick driveways are installed due to utility replacement or other construction work, the driveway applicant shall pay that portion of the repair cost which exceeds the cost of repair using standard concrete six inches in thickness. Normal maintenance or replacement will be the responsibility of the driveway applicant.

ARTICLE 10. PERFORMANCE STANDARDS

PART II. LANDSCAPE REQUIREMENTS.

SECTION 10.7 PURPOSE.

The purpose of this section is to establish minimum requirements to provide adequate visual buffering and screening of permitted uses, structures, parking areas, and preservation of protected trees. The intention of these requirements is to satisfy the following objectives:

10.7.1. To encourage the conservation of existing trees and vegetation, when practicable;

10.7.2. To provide visual and spatial buffering between adjoining and competing uses;

10.7.3. To enhance the beautification of the town;

10.7.4. To enhance property values and protect public and private investment;

10.7.5. To preserve the identity and environment of the town;

10.7.6. To provide a habitat for living things that might not otherwise occur in an urban environment;

10.7.7. To ensure that planting areas are distributed within developing sites in a manner which will provide shade, buffer noise, and filter glare.

SECTION 10.8 APPLICABILITY.

The three standard requirements in this section are: Parking Facility Requirements (Section 10.13), Bufferyard Requirements (Section 10.14), and Screening of Dumpsters (Section 10.15.3). The requirements of this Article 10, Part II shall be applicable to the following situations:

10.8.1. Multi-Family Residential Development.

When ten (10) or more parking spaces are required for all phases of development excluding all residential developments which contain solely detached single-family dwelling units and all manufactured home parks.

10.8.2. Nonresidential Development.

10.8.2.1. New Construction. When a permitted use, a use or combination of uses contained within a ~~conditional~~ special use permit require ten (10) or more parking spaces.

10.8.2.2. Existing Development. When there is a change from an existing use to a new use which requires additional parking and the new use requires ten (10) or more parking spaces.

ARTICLE 10. PERFORMANCE STANDARDS

10.8.2.3. Expansion of Structure. When there is an expansion of an existing structure by greater than 25% of the gross floor area and that use requires ten (10) or more additional parking spaces.

10.8.2.4. Expansion of Site Improvements. When there is an expansion of site improvements by greater than 25% of the site's hard surface area.

10.8.2.5. Reconstruction of Structure. When there is damage or destruction to an existing structure beyond 50% of its assessed value, the reconstruction must conform to the new construction standards of this section.

10.8.2.6. Expansion of Parking Facility. When there is an expansion of the parking facility by a minimum of 10% of the parking with a minimum of ten (10) total spaces.

SECTION 10.9 TREE RESOURCE MANAGEMENT.

Tree resource management regulations shall apply to all protected trees for both new and existing development in accordance with this Section 10.9. No building permit or certificate of occupancy shall be issued for any improvements upon a property where the provisions of this section have not been complied with.

10.9.1. Exemptions.

All properties within the Town's jurisdiction shall comply with the requirements of Section 10.9, Tree Resource Management, except as otherwise exempted below:

10.9.1.1. Small Trees. Any tree with a diameter/caliper less than eight (8) inches (circumference of 25") or less measured at diameter at breast height (DBH) may be cut at any time without a permit, except replacement plantings.

10.9.1.2. Nursery. A business location where trees are grown specifically for sale, as part of a primary commercial activity, shall be exempt.

10.9.1.3. Utility Construction. Companies and governmental agencies installing and maintaining utilities in easements and right-of-ways shall be exempt when acting in accordance with approved construction plans.

10.9.1.4. Wetlands Mitigation. Wetlands mitigation shall be exempt when working in accordance with an approved plan of the US Army Corps of Engineers or North Carolina Department of Environment and Natural Resources (NCDENR).

10.9.1.5. Hazardous Conditions. If any tree shall be determined to be in a hazardous condition so as to (i) immediately endanger the public health, safety, or welfare, or (ii) cause an immediate disruption of public service, the Public Utilities/Public Works director may determine that replacement with additional trees is necessary. In making

ARTICLE 10. PERFORMANCE STANDARDS

determinations, the Public Utilities/Public Works Director shall utilize such professional criteria and technical assistance as may be necessary.

10.9.1.6. Certain Forestry Activities. Any activity associated with growing, managing, and harvesting trees on lands subject to forestry use-value property taxation or activity being conducted in accordance with a forest management plan shall be exempt.

10.9.1.7. Acts of God. The UDO Administrator may waive the requirements of this Article during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood, or other act of God.

10.9.1.8. Certain Property Types. This Article shall not apply to the following types of property in the manner noted:

10.9.1.8.1. Except for the construction of single-family residences in subdivisions prior to the recording of a final plat for the subdivision, single-family residences are exempt from this Article.

10.9.1.8.2. Property used for a business primarily engaged in the sale and display of motor vehicles, manufactured housing, boats, recreational vehicles, or similar equipment may have the required landscaping within the streetyard installed at a minimum height of 18 inches at planting and not exceeding three feet at maturity.

10.9.2. Tree Preservation.

Vegetation existing on a site at the time of development that is required to be retained in accordance with the following provisions, shall be inventoried on a tree survey, performed and certified by a certified Arborist or licensed Forester, or submitted as part of the site plan review process.

10.9.2.1. Protected Trees. The following categories of existing vegetation shall be considered protected and shall be retained as indicated:

10.9.2.1.1. Natural Buffers. If existing trees and shrubs on the site where a buffer is required by Section 10.14 meet at least 50% of the required opacity standard, then those trees and shrubs shall be retained for use in buffering and supplemented as needed with plantings, fences, and/or berms to meet the required standards.

10.9.2.1.2. Perimeter Trees. Existing trees greater than eight inches in diameter at 4.5 feet in height above grade (DBH) within required buffers or street yards, shall be considered protected and shall be retained in all cases.

ARTICLE 10. PERFORMANCE STANDARDS

10.9.2.1.3. Regulated Trees. All regulated trees anywhere on the site shall be considered protected, and shall be preserved to the greatest extent practical and incorporated into required landscaping. Regulated tree removal will be allowed to the extent necessary to allow compliance with the requirements of this Ordinance.

10.9.2.1.4. Significant Trees. Hardwood and conifer trees located in perimeter and street yards at least 24 inches in DBH, and dogwoods, American Hollies and flowering trees at least eight inches DBH, shall be considered protected, and must be preserved or their removal mitigated as in accordance with Section 10.9.2.3, regardless of location on the site, unless the trees are shown to be dead, dying or severely damaged or diseased as a result of natural factors.

10.9.2.2. Retention Standards of Protected Trees.

10.9.2.2.1. Perimeter Trees and Regulated Trees. If any of these trees are to be cleared from the site, reasons for doing so shall be clearly stated on the tree survey. Suitable reasons for clearing one or more of these trees include such factors as the essential site improvements cannot be elsewhere accommodated on the site or that it is impossible to position the building on the site or that necessary grading changes would significantly harm the tree. Unsuitable reasons include such factors as more parking than the minimum specified by this section, or that non-selective clearing by bulldozer is less expensive than selective clearing by chainsaw.

10.9.2.2.2. Significant Trees and Natural Buffers. All Significant Trees and Natural Buffers shall be retained and protected, or their removal mitigated as set forth in subsection 10.9.2.3 below.

10.9.2.2.3. Existing trees specified on the required landscape plan to remain on the site as a function fulfilling purposes of this section, shall be protected from vehicular movement and material storage during construction and in the final landscape design. An undisturbed area with a porous surface shall be preserved around each tree as determined by the trees drip ring of its natural canopy. The undisturbed area shall be protected during construction by approved tree protection fencing.

10.9.2.2.4. A minimum of 15 trees at least two inches in diameter (measured 6" above the ground) shall be retained or planted on the parcel for each acre or proportionate area disturbed by development.

ARTICLE 10. PERFORMANCE STANDARDS

10.9.2.3. Mitigation. The removal of any "Significant Tree" as defined by this Ordinance, must be mitigated in accordance with the following standards:

10.9.2.3.1. The total caliper inches of all significant trees proposed for removal shall be totaled and doubled. The resultant number of caliper inches must be planted back on the site with 2-3 inch caliper trees as a minimum.

10.9.2.3.2. If the UDO Administrator determines that the site cannot accommodate the required number of trees, then only the amount of trees which can be accommodated on the site may be replaced.

10.9.2.3.3. Any mitigation trees required as a result of the removal of Significant Tree(s) shall not be counted to meet the requirements of the street yard, buffers or interior parking requirements. These trees must be provided in addition to any tree required by this Ordinance.

10.9.3. Marking of Trees Required.

Any tree(s) indicated on a site plan for removal inspection must be clearly marked with brightly colored tape, ribbon, or similar material prior to an inspection by the UDO Administrator.

10.9.4. Purposeful Damage to Trees Prohibited.

It shall be unlawful for any person, corporation or other entity to damage, deface, mutilate, alter, or otherwise cause severe or permanent harm to any tree(s) regulated by this section. Purposeful damage to trees shall include topping and any other practices deemed harmful to trees based upon current forestry practices. Purposeful damage prohibitions also apply to tree re-plantings that are less than a diameter/caliper of eight (8) inches (circumference of 25"). Trees and shrubs which are required to be planted by this Ordinance cannot be trimmed/cut below the height requirement at planting.

SECTION 10.10 INSTALLATION

10.10.1. Plants shall meet the standards for plant quality and size as defined in the most recent version of the American Standard of Nursery Stock manual, published by the American Horticulture Industry Association.

10.10.2. Plants shall be installed per the installation details included in Appendix B of this Ordinance.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.11 MAINTENANCE

10.11.1. All existing vegetation that is used to meeting landscaping requirements, all required plants, and all required berms shall be maintained by the owner of the property on a continuing basis for the life of the development.

10.11.2. Opaque Fence or Opaque Walls shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. Such fencing shall be kept free of litter and advertising. Opaque fences or walls may be subject to periodic inspection by the UDO Administrator.

10.11.3. A new certificate of occupancy/building permit/zoning permit or a complaint will result in an inspection for compliance.

10.11.4. Failure to maintain landscaping required by Article 10, Part II will be considered a violation of this Ordinance and subject to penalty as prescribed in Section 1.8.

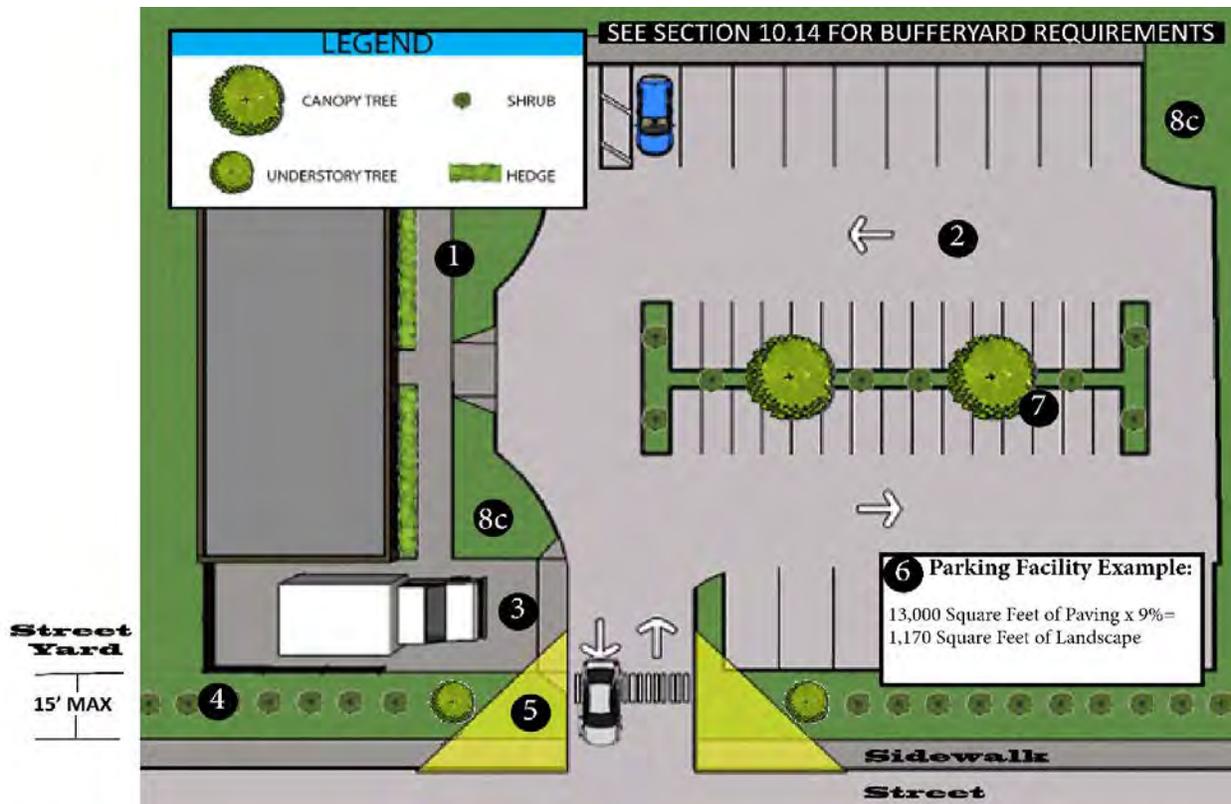
SECTION 10.12 AUTHORITY OF PUBLIC UTILITIES DIRECTOR AND PUBLIC WORKS DIRECTOR TO TREAT OR REMOVE TREES ON PRIVATE PROPERTY

No foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of thirteen (13) feet above the grade of the sidewalk at the property line, or, if no sidewalk grade has been established the height shall be measured vertically above the center of the roadway. The Administrator may cause or order corrective action to prevent any such condition from existing. Removal of any tree on town-owned/maintained public right-of-way or property has to be approved by the Appearance Commission before removal.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.13 PARKING FACILITY REQUIREMENTS

10.13.1. Streetyard and Parking Facility Landscape Example



- 1** **10.13.1.1.** For all portions of buildings, which are adjacent to parking facilities or internal drive aisles, foundation plantings shall be required and located between the buildings face and the parking or drive isle curb.
- 2** **10.13.1.2.** All tree plantings shall be evenly distributed throughout the parking facility so that no parking stall shall be located farther than 75 feet from the trunk of a tree.
- 3** **10.13.1.3.** All loading, utility, and open storage areas shall be screened from public right-of-way and adjacent properties by suitable fencing, wall, or hedge which shall maintain an opacity of at least 75% year round.
- 4** **10.13.1.4.** A street yard shall be provided with a minimum depth of 50% of the required front or corner side yard as measured perpendicular to the street right-of-way, provided that no street yard in excess of 15 feet in depth shall be required. One understory tree per every 50 linear feet of road frontage; 20 shrubs per 100 linear feet of road frontage. NOTE: If street trees are required per Section 10.15.5, a street tree may replace a required understory tree.

ARTICLE 10. PERFORMANCE STANDARDS

- 5 **10.13.1.5.** Sight distance triangle shall be in compliance with Section 2.21.
- 6 **10.13.1.6.** Minimum Standards: For parking facilities having 4 or more parking spaces, at least 9% of the gross paved area of the parking facility shall be landscaped and located in the interior of the facility.
- 7 **10.13.1.7.** Planting islands shall include at least one Canopy Tree or one Understory Tree and six Small Shrubs. At least 50% of the trees planted shall be Canopy Trees.
- 8 **10.13.1.8.** In support of the above, the following standards shall apply to interior plantings:
 - a **10.13.1.8.1.** All plantings shall be evenly distributed throughout the parking facility.
 - b **10.13.1.8.2.** All interior plantings shall be curbed or otherwise physically protected. Depressed landscaped islands shall be permitted for stormwater management purposes as approved by the UDO Administrator.
 - c **10.13.1.8.3.** Landscaped islands shall be installed at each block of 15 consecutive parking spaces and at the ends of all parking rows. Landscaped islands shall contain at least 100 square feet in area and be at least 8 feet in width, measured from back of curb to back of curb.

10.13.2. Foundation Plantings. For all portions of buildings, which are adjacent to parking facilities or internal drive aisles, foundation plantings shall be required and located between the buildings face and the parking or drive isle curb. The minimum standards are required; however, it is encouraged that sites exceed the minimum whenever possible. The following minimum standards shall apply:

10.13.2.1. The area of the building wall face adjacent to the parking area or internal drive isle shall be calculated and multiplied by a minimum of 12%. The resultant total square footage shall be planted as landscaped areas of sufficient variety, height, and approved by the Planning Department.

10.13.2.2. Exemptions from these requirements may be granted when the following circumstances exist or when any of the following conditions are proposed on the site:

10.13.2.2.1. For those portions of buildings which have drive up services along any side or rear of the building. (Such examples would include but not be limited to Pharmacies, Banks, Fast Food Restaurants, Dry Cleaners, and Photo Shops.)

10.13.2.2.2. On the rear side of a building when less than 10% of the total required parking is located in the rear of the building and the rear is not adjacent to any public right-of-way.

ARTICLE 10. PERFORMANCE STANDARDS

10.13.2.3. If the requirements of this section conflict with any other requirements from other sections of this Ordinance, the more stringent shall apply.

SECTION 10.14 BUFFERYARD REQUIREMENTS.

Bufferyards are required for multi-family residential development with ten (10) or more parking spaces and nonresidential development as outlined in Section 10.8. See the table below to determine the type of bufferyard required.

Zoning District and/or Use To Be Developed (below)	Adjacent Land Use				
	Industrial	Commercial	Single-Family Residential	Multi-Family Residential (10 or more parking), PUD, PRD	Open Space
Industrial	N/A	Type A	Type C	Type C or D	Type C or D
Commercial	Type A	50% of Type A	Type B	Type A	Type C or D
Multi-Family Residential (10 or more parking), PUD, PRD	Type C or D	Type A	Type A	N/A	N/A

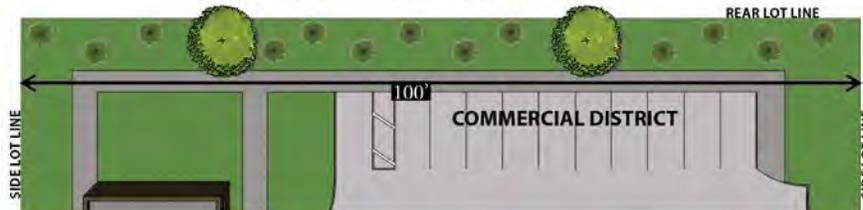
Bufferyard requirements as they pertain to the Table of Uses and Activities (Section 6.5) are as follows:

- (1) Industrial shall include all uses allowed within the LI and HI districts.
- (2) Commercial shall include all uses allowed within the O/I, B-1, B-2, and B-3 districts.
- (3) Multi-Family Residential shall include all uses allowed within the R-6, R-8, R-MH, PUD, B-1, B-2, and B-3 districts.
- (4) Single-Family Residential shall include all uses allowed within the R-6, R-8, R-10, R-20A, R-MH, PUD, RHO, O/I, B-1, B-2, B-3 districts.
- (5) Manufactured Home Parks and Junkyards shall provide buffer Type C or D.

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The following provides *examples* of Type A to D bufferyards.

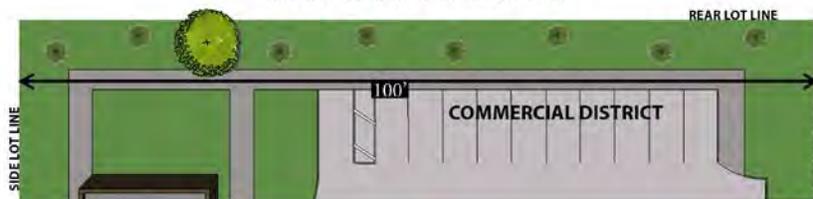
MULTI-FAMILY RESIDENTIAL USE



Type A - Bufferyard Example:
 1000 Square Feet of Non-Residential Lot Line Adjacent to a Residential Use=
 2 Canopy Tree and
 12 Shrubs



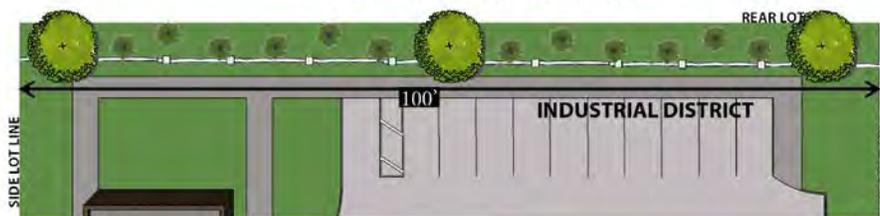
SINGLE-FAMILY RESIDENTIAL USE



Type B - Bufferyard Example:
 1000 Square Feet of Residential Lot Line Adjacent to a Residential Use -OR- Non-Residential Lot Line Adjacent to a Non-Residential Use=
 1 Canopy Tree and
 8 Shrubs



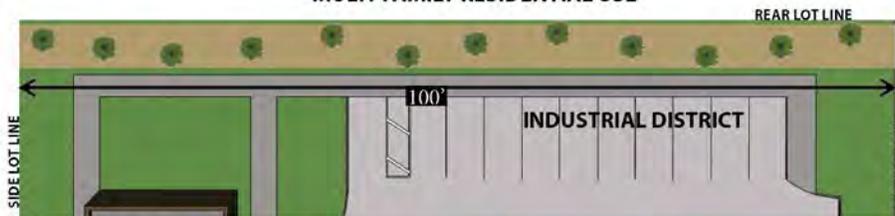
SINGLE-FAMILY RESIDENTIAL USE



Type C - Bufferyard Example:
 Canopy Tree and
 Shrubs
 6' Max High Fence



MULTI-FAMILY RESIDENTIAL USE



Type D - Bufferyard Example:
 Shrubs (May Vary in Size)
 6' Max High Fence
 8' Max High Berm; 3:1 Slope



ARTICLE 10. PERFORMANCE STANDARDS

Type A Bufferyard Screening.

Minimum of 10 feet wide. For every 1,000 square feet, the screen shall consist of a combination of a minimum of 2 Canopy Trees and 12 Shrubs distributed evenly throughout the Bufferyard. (Shrubs shall be 3' minimum at planting and 6' minimum at maturity.)

Type B Bufferyard Screening.

Minimum width of 20 feet, For every 1,000 square feet, or fraction thereof, the screen shall consist of a combination of a minimum of 1 Canopy Tree and 8 Shrubs. (Shrubs shall be 3' minimum at planting and 6' minimum at maturity.)

OPTIONS TO TYPE A AND/OR TYPE B

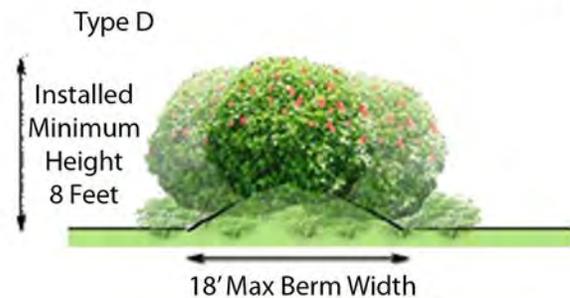
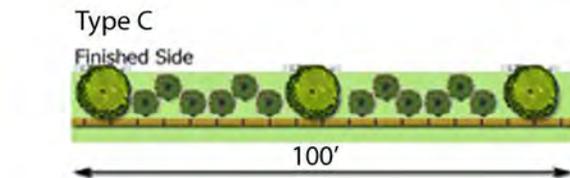
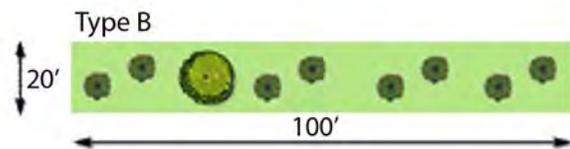
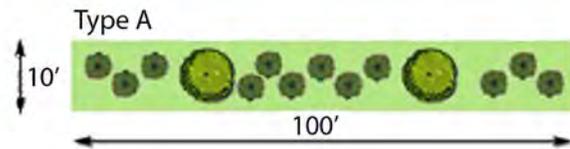
Type C Bufferyard Screening.

The design, color and materials of any fence or screen used to meet bufferyard requirements shall be approved by the UDO Administrator. **The side of the fence facing the affected property owner shall be the finished side of the fence.** The planting shall be three canopy trees and 12 shrubs per 100 linear feet of fencing. All planted screening required to be used in conjunction with a fence shall be approved by the UDO Administrator and planted on the finished side of the fence facing the affected use, and the remaining plantings shall be equally distributed in the bufferyard.

Type D Bufferyard Screening.

An earthen berm may be used in conjunction with planted vegetation made up of small, intermediate, and large shrubs, as approved by the UDO Administrator, provided that the combined height of the berm and planted vegetation shall be an installed minimum height of 6 feet. The slope of the berm shall be stabilized with vegetation and no steeper than 1½:1. The height of the berm shall be a maximum of 8 feet, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth. Depending upon plant type, plantings should be close enough to ensure an opaque screen at maturity.

NOTE: It is recommended and encouraged that native species and related cultivars be planted.



SECTION 10.15 ADDITIONAL REQUIREMENTS.

10.15.1. Uses in the Bufferyard.

No activities shall occur in the bufferyard except for maintenance of the bufferyard, required ingress and egress and the installation and maintenance of water, sewer, electrical, and other utility systems where the installation causes minimal disturbance of existing vegetation.

10.15.2. Uses in the Rear Yard and Side Yards Abutting a Residential Use.

The following uses shall be shielded from view from the property line of adjacent residentially used or zoned property by means of an Opaque Fence, Opaque Wall, or Solid Vegetative Buffer:

10.15.2.1. Outside storage areas.

10.15.2.2. Loading/unloading areas.

ARTICLE 10. PERFORMANCE STANDARDS

10.15.3. Dumpsters or Other Trash Holding Areas.

All dumpsters or other trash holding areas shall be screened from the public right-of-way and/or adjacent properties on three (3) sides by means of an ~~Opaque Fence, Opaque Wall, or Solid Vegetative Buffer.~~ a concrete pad with a six (6) foot high solid enclosure with solid gates.

10.15.4. Encroachment into Setbacks.

10.15.4.1. If an existing structure is located within a setback where the implementation of the Streetyard and/or Bufferyard requirements are physically impossible and the encroachment into the yard (streetyard or bufferyard) allows for a minimum of three (3) feet of planting area, only the required shrubs shall be planted.

10.15.4.2. If the encroachment into the yard (streetyard or bufferyard) allows for less than three (3) feet of planting area, no planting shall be required in that yard.

10.15.5. Street Trees.

On all nonresidential property adjacent to a major or minor arterial, street trees shall be required at the rate of one canopy tree for every 50 linear feet of property abutting the street. Street trees shall be placed in a planting strip on private property and not within the street right-of-way. No street tree can be planted further than 15 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip shall be in in accordance with the street yard requirements of 10.13.1.4. ~~may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet.~~ The street yard planting area must be covered with living material, including ground cover and/or shrubs, except for mulched trees directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced accordingly to an average of seven feet.

SECTION 10.16 LANDSCAPE PLAN.

Landscape plans shall be submitted with minor or major site plans, conditional special use permit application, and/or request for a zoning certificate of compliance, if Section 10.8 applies. The plans shall be drawn to scale and prepared by a landscape architect, licensed landscape contractor, architect, engineer, or other licensed design professional. These plans shall contain the following information:

10.16.1. Date of plan preparation.

10.16.2. Project name and description of land use.

10.16.3. Project owner and mailing address.

10.16.4. A Tree Removal Permit is required for the removal of any protected trees as specified in Section 10.9.2.

ARTICLE 10. PERFORMANCE STANDARDS

10.16.5. A map at a scale of 1" = 100' or less showing:

10.16.5.1. North arrow

10.16.5.2. Scale

10.16.5.3. Approximate locations and species of all existing hardwood trees at least 8" DBH, all conifer trees at least 12" DBH, and all protected trees (see Section 10.9.2.1). The canopy drip line of those trees shall be delineated. If groves of protected trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the map, stating the approximate number of protected trees and species mix, without specifying data on each individual tree.

10.16.5.4. Note on plan stating that prior to any clearing, grading, or construction activity, tree protection fencing will be installed around protected trees or groves of trees. And no construction workers, tools, materials, or vehicles are permitted within the tree protection fencing.

10.16.5.5. Locations, dimensions and square footages of required buffer strips and parking lot landscaping.

10.16.5.6. Details of required landscaping showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation.

10.16.5.7. All existing and proposed utilities and if applicable, their associated easements.

10.16.5.8. Location and square footage of structures and parking lots.

10.16.5.9. Adjacent zoning districts.

10.16.5.10. Approximate locations of all trees greater than 8" DBH within required buffers and of all areas of natural vegetation to be used as part of the buffer.

10.16.5.11. Setbacks of all structures and specifications and shielding of certain uses, as required.

SECTION 10.17 TREE PROTECTION DURING CONSTRUCTION.

Tree preservation is a pre-planning activity and will be thoroughly considered prior to development of engineering and/or architectural plans and prior to initiation of construction projects. Protected trees shall be guarded during development against the following:

10.17.1. Unnecessary cutting, breaking, or skinning of roots.

10.17.2. Skinning and bruising of bark.

ARTICLE 10. PERFORMANCE STANDARDS

10.17.3. Excessive vehicular and foot traffic within drip lines.

10.17.4. Parking vehicles within drip lines.

10.17.5. During the land clearing and construction stage of development, the developer shall erect and maintain protective barriers (to the UDO Administrator's specifications consistent with good management practices) around all trees or groups of trees to be protected from the center of the tree(s) to the dripline. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the protective barrier.

10.17.6. During the construction stage of development, the developer shall not allow the cleaning of equipment or material within the drip line of any tree or groups of trees to be protected. Neither shall the developer allow the disposal of waste materials such as paint, oil solvents, asphalt, concrete, mortar and so on within the drip line of any tree or groups of trees.

10.17.7. No attachments or wires other than those of a protective nature shall be attached to any tree.

10.17.8. Soil disturbances within the drip line of a protected tree shall be limited to two inches in depth removed or two inches in depth added. Any soil added under the drip line of the tree shall be a loamy soil mix to ensure minimal compaction.

10.17.9. During land clearing and construction stage of development, the UDO Administrator shall periodically inspect the site to ensure compliance with the provisions of this section.

10.17.10. Tree location and replacement activity permitted or required under this section shall be done in accordance with standard forestry practices and procedures, and all such plantings shall be reasonably maintained and attended to promote successful establishment thereof.

SECTION 10.18 RECOMMENDED PLANT LIST.

The following is a recommended plant list to be utilized in the preparation of Landscape Plans to meet vegetation requirements. NOTE: Native vegetation is preferred. Exceptions to the recommended plant list may be granted by the UDO Administrator with the substitution of comparable vegetation. Some plants are listed under multiple categories as many of these plants are offered in numerous varieties. Mature height and spread of each plant is contingent on the variety. It is highly recommended that Landscape Plans be prepared by or in consultation with a Registered Landscape Architect or qualified landscape design professional.

ARTICLE 10. PERFORMANCE STANDARDS

Key:

E = EVERGREEN

N = NATIVE

D = DROUGHT TOLERANT

R = PRONE TO LARGE SURFACE ROOTS

Botanical Name	Common Name	
Canopy Tree – installed at 12-14 foot height and 2-inch caliper, mature height greater than 35 feet		
Acer rubrum	Red Maple	N, R
Fagus grandifolia	American Beech	N, R
Ginkgo biloba (male only)	Ginkgo	D
Gleditsia tricanthos inermis	Thornless Honeylocust	N, R
Liquidambar styraciflua	American Sweetgum	N, D, R
Magnolia grandiflora	Southern Magnolia	E, N, D
Nyssa sylvatica	Black Gum	N
Platanus acerifolia	London Plane Tree	D, R
Quercus nigra	Water Oak	N, D
Quercus shumardii	Shumard Oak	N, D
Quercus phellos	Willow Oak	N, D
Quercus virginiana	Live Oak	E, N, D, R
Taxodium distichum	Baldcypress	N, D
Ulmus parvifolia	Lacebark Elm	D
Understory Tree – installed at 8-10 foot height and 1-inch caliper, mature height less than 35 feet		
Acer buergerianum	Trident Maple	D
Amelanchier canadensis	Shadblow Serviceberry	N
Betula nigra	River Birch	N
Cercis canadensis	Eastern Redbud	N, D
Cornus florida	Dogwood	N
Elaeagnus angustifolia	Russian Olive	D
Fraxinus americana	White Ash	N
Ilex cassine	Dahoon Holly	E
Ilex latifolia	Lusterleaf Holly	E, D
Ilex opaca	American Holly	E, N, D
Ilex vomitoria	Yaupon Holly	E, N, D
Ilex x attenuate 'Fosters'	Foster's Holly	E, D
Ilex x 'Nellie Stevens'	Nellie Stevens Holly	E, D
Koelreuteria paniculata	Goldenraintree	D
Lagerstromia	Crapemyrtle	D
Understory Tree (continued)		
Magnolia grandiflora 'Little Gem'	Little Gem Magnolia	E, N, D

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Botanical Name	Common Name	
Magnolia virginiana	Sweetbay Magnolia	N
Magnolia x souangiana	Saucer Magnolia	D
Osmanthus americanus	Devilwood	E, N
Oxydendrum arboretum	Sourwood	N
Persea borbonia	Redbay	E, N
Prunus caroliniana	Carolina Cherrylaurel	E, D
Quercus geminate	Sand Live Oak	E, N
Vitex angus-castus	Chastetree	D
Large Shrub – installed at 5-foot height, maintained height at 6-10 feet		
Berberis julianae	Wintergreen Barberry	E, D
Cleyera japonica	Japanese Cleyera	E
Elaeagnus pungens	Thorny Elaeagnus	E
Euonymus japonicas	Japanese Euonymus	E
Ilex cornuta	Holly	E, D
Ilex vomitoria	Yaupon Holly	E, N, D
Ligustrum japonicum	Wax Leaf Privet	E, D
Ligustrum lucidum	Glossy Privet	E, D
Mahonia bealei	Leatherleaf Mahonia	E
Myrica cerifera	Southern Waxmyrtle	E, N, D
Osmanthus x fortunei	Fortunes Osmanthus	E, D
Photina serulata	Chinese Photina	E
Pittosporum tobira	Japanese Pittosporum	E, D
Podocarpus macrophyllus	Chinese Podocarpus	E, D
Raphiolepis umbellata	Indian Hawthorn	E
Intermediate Shrub – installed at 36-inch height, maintained height at 4-6 feet		
Abelia x grandiflora	Glossy Abelia	E, D
Acuba japonica	Japanese Acuba	E, D
Clethera alnifolia	Sweet Pepperbush	N
Hydrangea macrophylla	Bigleaf Hydrangea	D
Ilex cornuta	Chinese Holly	E, D
Ilex crenata	Japanese Holly	E, D
Ilex glabra	Inkberry Holly	E, N, D
Intermediate Shrub (continued)		
Juinperus chinensis	Chinese Juniper	E
Loropetalum chinensis	Chinese Fringe-Flower	E
Raphiolepis indica	Indian Hawthorn	E

ARTICLE 10. PERFORMANCE STANDARDS

Botanical Name	Common Name	
Rhododendron obtusum	Kurume Azalea	E, N, D
Viburnum suspensum	Sandwanka Viburnum	E
Small Shrub – installed at 18-inch height, maintained height up to 4 feet		
Abelia x grandiflora (dwarf var.)	Glossy Abelia	E, D
Acuba japonica (dwarf var.)	Japanese Acuba	E, D
Berberis thunbergii	Japanese Barberry	D
Buxus microphylla var. koreana	Korean Boxwood	E, D
Euonymus japonicus 'Microphyllus Variiegatus'	Var. Boxleaf Euonymus	E
Gardenia jasminoides 'Radicans'	Cape Jasmine	E, D
Ilex crenata 'Soft Touch'	Japanese Holly	E, D
Ilex cornuta 'Carissa'	Carissa Holly	E, D
Ilex vomitoria 'Nana'	Dwarf yaupon Holly	E, N, D
Itea virginica	Virginia Sweetspire	N, D
Jasminium nudiflorum	Winter Jasmine	E, D
Juniperus chinensis	Chinese Juniper	E
Nandina domestica	Dwarf Nandina	E, D
Pieris japonica	Japanese Pieris	E
Pittosporum tobira	Japanese Pittosporum	E
Raphiolepis indica	Indian Hawthorn	E, D
Spiraea japonica	Japanese Spirea	D
Spirea nipponica	Snowmound Spirea	D

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PART III. REGULATIONS FOR SIGNS.

SECTION 10.19 INTENT.

The intent of this section is, 1) to establish sign standards and restrictions that allow for the legitimate identification of residential, commercial, industrial, and other activities, 2) to provide for the safety of vehicular traffic by limiting visual interference, 3) to facilitate police and fire protection, 4) to protect the general public from injury caused by distracting and improperly placed signs, and 5) to protect property values while at the same time promoting the economic welfare of the Town of Smithfield by encouraging visually appealing and non-distracting forms of information transfer. For definitions relating to this Section refer to Appendix A.

SECTION 10.20 GENERAL PROVISIONS.

10.20.1. Administration.

The Planning Department of the Town of Smithfield shall be responsible for the administration and enforcement of this Section. The Administrator shall administer and enforce the terms and conditions of this Section and all other provisions of laws relating to signs. The duties shall include not only the issuance of permits as required in Section 10.20.2, but also enforcement of the provisions of this Section.

10.20.2. Permit Requirements.

10.20.2.1. General Requirements. Except as otherwise provided in Section 10.21 and 10.22, it shall be unlawful to erect, post, hang, paint, repair, replace, change, or maintain any sign without first obtaining a sign permit. Application for the permit shall be made in writing on forms furnished by the Administrator and signed by the applicant or authorized agent. No permit shall be required, however, for the maintenance requirements of Section 10.29 (Maintenance) hereinafter. Failure to secure a permit shall constitute a violation of this Section.

10.20.2.2. Plans, Specifications, and Other Data Required. The application shall be accompanied by complete information as required on forms provided by the Administrator and shall include, without being limited to, a site plan and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign, height, dimensions and square footage of the proposed sign and any other data as the Administrator may determine is necessary for review of the application. The Administrator shall not issue a sign permit unless the plans, specifications, and intended use of such sign conform in all respects to the applicable provisions of this Article.

10.20.2.3. Building Permit. A building permit must be obtain from the Johnston County Building Inspections Department.

10.20.2.4. Fees.

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10.20.2.4.1. Generally. A sign permit fee shall be paid to the Town of Smithfield for each sign permit applied for in accordance with this Article in an amount determined by the Town of Smithfield Schedule of Fees and based on the size of the sign. This permit fee does not include electrical permit fees, which shall be additional. A sign permit fee shall not be charged for replacing a nonconforming sign with a conforming sign or for bringing a nonconforming sign into conformance with this Article if such action is undertaken voluntarily within one year of the effective date of this Section.

10.20.2.4.2. When Fees Payable. Sign permit fees shall be paid upon the application for a sign permit and prior to commencement of any sign construction on the lot where the sign will be located.

10.20.2.4.3. Late Fee. Work performed without a permit shall be subject to a late fee as set forth in the Town of Smithfield Schedule of Fees.

10.20.2.5. Revocation of Permits for Non-Use.

10.20.2.5.1. Commencement of Work. If actual work for the permitted sign on the site is not commenced within 60 days from the date of such sign permit or if substantial work for the permitted sign is suspended for a period of 60 consecutive days after issuance of the sign permit, the permit shall automatically become null and void. However, for new construction, the sign permit shall not become null and void until 60 days after the Zoning Compliance Release has been issued.

10.20.2.5.2. Extensions of Time. The provisions of subsection 10.20.2.5.1 above shall not apply when delays are not a result of willful acts or neglect of the persons obtaining the permit. In that event, the Administrator may grant an extension of time within which operations must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

10.20.2.6. Forfeiture of Fees. When any permit has been revoked under the terms of this Section, the permit fees shall not be refunded. If a sign permit is denied, however, the permit fee will be refunded.

10.20.2.7. Licenses. No person shall engage in the business of erecting or maintaining signs in the Town of Smithfield unless said person has been issued a sign contractor's license which has not expired at the time said work is done. This requirement shall be interpreted to exclude those persons who construct and erect a principal use identification sign when that sign is used at that person's place of business, provided all construction and installation is properly permitted and inspected for compliance with the applicable building codes of the Town of Smithfield and other parts of this Section.

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SECTION 10.21 SIGNS NOT REQUIRING A PERMIT.

Signs listed in this section are exempt from the permit requirements of Section 10.26 and may be erected in any zoning district provided they comply with the conditions described herein.

10.21.1. Incidental Informational.

A sign, generally informational, that has a purpose to the use of the subject property on which it is located, such as “no parking,” “entrance,” “loading only,” and other similar directives.

10.21.2. Flags.

Flags on a single, straight flagpole provided that:

10.21.2.1. The flagpole is attached to the ground, building, or other object at only one end; it may not be attached to another pole;

10.21.2.2. Flags are not hung or stretched between two (2) poles or a pole and another object or the ground;

10.21.2.3. Flags are attached to the pole (or rope) on one (1) side only and are not weighted on an unattached side;

10.21.2.4. Flags hung from a horizontal or nearly horizontal, pole and displayed against, or nearly against, a wall, fence, or similar structure are prohibited (this applies only to flags permitted by this section);

10.21.2.5. More than one (1) flag may fly on a single pole;

10.21.2.6. The flags are not “flutter flags; and

10.21.2.7. All applicable requirements of Article 10, Part III are complied with.

10.21.3. Temporary Signs.

A banner, pennant, poster, or display constructed of paper, cloth, canvas, plastic sheet, cardboard, wall board, plywood, or other like materials, and that appears to be intended or determined by the UDO Administrator to be displayed for a limited period of time. See Sections 10.23.1 to 10.23.4 which include temporary signs requiring a permit.

10.21.4. Construction Signs.

An on-site temporary sign identifying the names of the individuals and/or firms connected with the construction of an active project. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed,

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whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the Town may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

10.21.5. Miscellaneous Exemptions.

10.21.5.1. Handicapped parking space signs; signs associated with the operation of equipment or other functional elements such as menu boards, automatic teller machines, gas pumps, vending machines, scoreboards, and similar incidental signs; signs visible only from the premises, markers which are non-commercial in nature.

10.21.5.2. Memorial signs, plaques or grave markers.

10.21.5.3. On-premises directional and instruction signs not exceeding four (4) square feet in area apiece.

10.21.5.4. All signs located within the interior of a business or operation.

10.21.5.5. Public interest signs (i.e., historical markers).

10.21.5.6. Identification signs not exceeding three (3) square feet in area (one only per premises).

10.21.5.7. Address and name signs. Signs or plates on residential structures giving the name and/or address of the occupant.

10.21.5.8. Integral decorative or architectural features of buildings or works of arts, provided such features or works of art do not contain advertisements, trademarks, moving parts, or lights.

10.21.5.9. Displays, including lighting, erected in connection with the observance of holidays. Such displays shall not be considered as illuminated signs and they shall be removed within ten (10) days following the holiday.

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10.21.5.10. Political signs erected in accordance with NC General Statutes §136-32 as follows:

10.21.5.10.1. During the period beginning on the 30th day before the beginning date of “one stop” early voting under NC General Statutes §163-227.2 and ending on the 10th day after the primary or election day, person may place political signs in the right-of-way of the State highway system or Town street as provided in this section. Signs must be placed in compliance with subsection 10.21.5.10.2 below and removed by the end of the period prescribed herein.

10.21.5.10.2. The permittee must obtain the permission of the property owner of a residence, business or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

10.21.5.10.2.1. No sign shall be permitted in the right-of-way of a fully controlled access highway.

10.21.5.10.2.2. No sign shall be closer than three (3) feet from the edge of the pavement of the road.

10.21.5.10.2.3. No sign shall obscure motorist visibility at an intersection.

10.21.5.10.2.4. No sign shall be larger than 864 square inches.

10.21.5.10.2.5. No sign shall obscure or replace another sign.

10.21.5.11. ID plaques of no more than four (4) square feet per business or tenant in non-residential zoning districts and signs of no more than two (2) square feet in area in residential zoning districts, including signs bearing only property identification numbers and names, post office box numbers of occupants of the premises, or other identification of premises so that public safety agencies can easily identify the property from a public street. In cases where the building is not located within view of the public street, the identifier shall be located on a mail box or other suitable device visible from the street. Such signs shall not be illuminated. The size and location of the identifying numerals and letters (if any) must be proportional to the size of the building and the distance from the street to the building.

10.21.5.12. Ornamental signs not exceeding six (6) square feet are permitted in the B-2, B-3, L-I, and H-I zoning districts displayed on/attached to light poles located at least fifteen (15) feet from any public right-of-way.

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SECTION 10.22 PROHIBITED SIGNS.

The following list of signs are prohibited in the town; any violation is subject to the regulations as stated in this Article.

10.22.1. No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

10.22.2. Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion. This prohibition includes, but is not limited to, flutter flags and wind signs as defined in Appendix A.

10.22.3. No sign may be erected so that by its location, color, size, shape, nature, or message, it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies. Signs displaying intermittent light resembling the flashing light customarily used in traffic signals, or used by police, fire, ambulance, or other emergency vehicles, nor shall any sign use the word "stop," "danger," or any other words, phrases, symbol, or character in a manner that might be construed as a public safety warning or traffic sign.

10.22.4. Signs which obstruct free ingress to or egress from a driveway or a required door, window, fire escape, or other required exit way.

10.22.5. No signs shall overhang or be erected in any public right-of-way. Traffic regulation, information, or warning signs erected by the State Department of Transportation, signs erected by the Town, or signs located in the B-1 district are exempt.

10.22.6. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.

10.22.7. Flashing, fluttering, swinging, rotating signs (except governmental signs and signs, which give time and temperature and other commercial public information message).

10.22.8. Roof signs, or signs above the parapet of a building.

10.22.9. Electronic message boards in all Residential districts, except for permitted nonresidential uses in a Residential district.

10.22.10. Portable signs, except for "sandwich boards."

10.22.11. All Beacons and Spotlights. Illumination system(s) shall not contain or utilize any beacon, spot, search, or stroboscopic light or reflector which is visible from any public right-of-way or adjacent property, nor shall such lights be operated outside, under any circumstances, except by authorized agencies for emergency services purposes.

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10.22.12. Flood lights shall not be utilized as a part of a sign illumination system which are not hooded or shielded so that the light source is not visible from any public right-of-way or adjacent property, nor shall any sign otherwise reflect or emit a glaring light so as to impair driver vision.

10.22.13. Any sign or sign structure that is structurally unsafe as determined by the Building Inspector.

10.22.14. Signs painted on or attached to trees, fences, or fence posts, and telephone or utility poles or signs on or attached to rocks or other natural features (snipe signs).

10.22.15. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. This prohibition does not include temporary construction site vehicles on active construction sites.

10.22.16. Pole signs which are within 660 feet of the nearest edge of the right-of-way and visible from the maintained traveled way of the Federal Aid Primary and Interstate System, all as described in the Federal Highway Beautification Assistance Act of 1979, as amended, and which are constructed or erected on or after the effective date of this Section, unless excepted by NCGS 136-129 (see Appendix C). Provided, further, pole signs located specifically as described hereinbefore which were erected prior to the effective date of this Section are not prohibited from continuing, notwithstanding their non-conformance with regulations of this Section, other than conformance with the maintenance provisions set forth in Section 10.29 hereinafter.

10.22.17. Pavement markings except those of a customary traffic-control nature, as found in the Manual of Uniform Traffic Control Devices.

10.22.18. Other signs not expressly permitted by this Ordinance.

SECTION 10.23 DISTRICT SIGNS. NOTE: Refer to Appendix A, Definitions for graphic examples of signs.

10.23.1. Residential District Signs (R-6, R-8, R-10, R-20A, R-MH, and PUD).

10.23.1.1. Residential districts contain developments that may require signage. Such developments include, but are not limited to: Single-Family Subdivisions, Multi-Family Developments, Manufactured Home Parks, Permitted Nonresidential Uses, and Recreational Facilities. At any entrance to a subdivision or multi-family development, there may be not more than two (2) signs located at the entrance to a development comprised of two (2) or more lots. A single side of any such sign may not exceed sixteen (16) square feet in area, nor may the surface area of all such signs exceed thirty-two (32) square feet in area.

10.23.1.2. Additionally, home occupations may install one sign with an area of no greater than four (4) square feet. Home occupation signage shall be permanently fixed to the residence within which the home occupation resides.

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10.23.1.3. For residentially zoned and used properties: Temporary signs not exceeding four (4) square feet in area, and three (3) feet in height if freestanding are allowed in all residential districts. The number of these signs is limited to one (1) per one hundred (100) feet, or fraction thereof, of lot frontage of all immediately adjacent public streets. In no event shall there be more than three (3) such signs allowed per lot. The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to sixty (60) calendar days without a zoning permit. Display for longer than 60 days will require issuance of a zoning permit.

10.23.1.4. For residentially zoned permitted nonresidential uses: One freestanding sign or one wall sign per zoning lot of no more than 32 square feet in area, with a maximum height of eight (8) feet if ground mounted or no higher than the roof line if wall mounted.

10.23.2. Signs in the Entry Corridor Overlay District shall comply with all sign regulations in Article 10, Part III except as modified in Section 10.94.4.5.

10.23.3. Business District Signs When Site Plan is Not Required (O/I, B-1, B-2, and B-3).

Permitted Sign Type(s)	Specific Applicability	Maximum Area ¹	Maximum Height	Maximum Number
BUILDING MOUNTED				
Wall ²	Front facades	1 sq ft for each linear foot of wall frontage or 5% of wall whichever is greater	N/A	N/A
Wall ²	Secondary to primary signage	½ sq ft for each linear foot of building facing side street	N/A	N/A
Small Wall Signage	Home occupation (O/I only)	4 sq ft	5 ft	1
Window	Businesses	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting ^{3,4}	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1
Canopy or Awning ^{3,4}	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	---	1
FREESTANDING				
Monument or Ground Mounted ⁵	Nonresidential	Primary street: 75 sq ft Secondary street: 40 sq ft	6 ft	1

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Permitted Sign Type(s)	Specific Applicability	Maximum Area ¹	Maximum Height	Maximum Number
Pole ⁵	Refer to Section 10.23.9	9 sq ft (B-1 district)	8 ft (B-1 district)	
Temporary ⁶		8 sq ft	6 ft	1

¹Combined square footage of all signs shall not exceed 200 square feet. Only one side of a double frontage sign shall be used to calculate the sign's square footage.

²Wall signs may project a maximum of 12" from the wall to which it is mounted.

³Sign may not protrude above soffit, parapet, eave line, or third story of the building to which it is attached.

⁴Minimum 9 feet above ground; no portion of the sign may extend within 3 feet of street pavement.

⁵Sign must be placed no closer than 10' from property line. One ground mounted or monument sign or pole sign is permitted provided the area of said sign and wall signage on the front of building, combined, shall not exceed square footage as defined above for the front facade only. In the event of a double-sided sign, only one side shall be used to figure the square footage. For property adjacent to I-95, refer to Sections 10.23.7 to 10.23.9. If located on public right-of-way, approval of the Town of Smithfield or NCDOT is required, as appropriate.

⁶The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to sixty (60) calendar days without a zoning permit. Display for longer than 60 days will require issuance of a zoning permit.

10.23.4. Industrial District Signs (LI and HI).

Permitted Sign Type(s)	Specific Applicability	Maximum Area ¹	Maximum Height	Maximum Number
BUILDING MOUNTED				
Wall ²	Front facades	1.5 sq ft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater	N/A	N/A
Wall ²	Secondary to primary signage	1 sq ft for each linear foot of building facing side street	N/A	N/A
Window	Businesses	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting ^{3,4}	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1
Canopy or Awning ^{3,4}	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	---	1
FREESTANDING				
Monument or Ground Mounted ⁵	Nonresidential	100 sq ft	6 ft	1
Pole ⁵	For signs In the HI district, refer to Section 10.24.8	200 sq ft	25 ft	1
Temporary ⁶		8 sq ft	6 ft	1

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¹Combined square footage of all signs shall not exceed 200 square feet. Only one side of a double frontage sign shall be used to calculate the sign's square footage.

²Wall signs may project a maximum of 12" from the wall to which it is mounted.

³Sign may not protrude above soffit, parapet, eave line, or third story of the building to which it is attached.

⁴Minimum 9 feet above ground; no portion of the sign may extend within 3 feet of street pavement.

⁵Sign must be placed no closer than 10' from property line. One ground mounted or monument sign or pole sign is permitted provided the area of said sign and wall signage on the front of building, combined, shall not exceed square footage as defined above for the front facade only. In the event of a double-sided sign, only one side shall be used to figure the square footage. For property adjacent to I-95, refer to Sections 10.23.7 to 10.23.9.

⁶The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to sixty (60) calendar days without a zoning permit. Display for longer than 60 days will require issuance of a zoning permit.

10.23.5. Commercial ~~Major~~ Site Plans and Developments (O/I, B-1, B-2, and B-3)

Number of Outlets	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
FREESTANDING				
Up to six outlets	Businesses	125 sq ft	15 ft	1 per street frontage
7-14 outlets	Businesses	150 sq ft	15 ft	1 per street frontage
15 or more outlets	Businesses	200 sq ft	15 ft	1 per street frontage
Temporary ¹		8 sq ft	8 ft	1
OUT PARCELS				
	Monument or ground mounted sign ²	75 sq ft	6 ft	1 per out parcel

¹The temporary sign may be displayed up to fifteen (15) days prior to and fifteen (15) days following the specific event with which the sign is associated. Miscellaneous temporary use signs not tied or connected to a specific event may be displayed for up to sixty (60) calendar days without a zoning permit. Display for longer than 60 days will require issuance of a zoning permit.

²Sign must be placed no closer than 10' from property line. One ground mounted or monument sign is permitted provided the area of said sign and wall signage on the front of building, combined, shall not exceed square footage as defined above for the front facade only. In the event of a double-sided sign, only one side shall be used to figure the square footage. For property adjacent to I-95, refer to Sections 10.23.7 to 10.23.9.

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Permitted Sign Type(s)	Specific Applicability	Maximum Area ¹	Maximum Height	Maximum Number
BUILDING MOUNTED				
Wall ²	Front facades	1 sq ft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater	N/A	N/A
Wall ²	Secondary to primary signage	½ sq ft for each linear foot of building facing side street and/or interior area of a planned building group	N/A	N/A
Window	Businesses	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting ^{3,4}	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1
Canopy or Awning ^{3,4}	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	---	1

¹Combined square footage of all signs shall not exceed 400 square feet. Only one side of a double frontage sign shall be used to calculate the sign's square footage.

²Wall signs may project a maximum of 12" from the wall to which it is mounted.

³Sign may not protrude above soffit, parapet, eave line, or third story of the building to which it is attached.

⁴Minimum 9 feet above ground; no portion of the sign may extend within 3 feet of street pavement.

10.23.6. Signs in Right-of-Way and Public Properties.

10.23.6.1. No sign shall be permitted in any public right-of-way or within five (5) feet of back of curb, whichever is farther from back of the curb.

10.23.6.2. Any sign hung, suspended, projected, or otherwise placed over or across, or partly over any sidewalk or curbing shall have its lower edge not less than nine (9) feet above the sidewalk or curbing, and the owner shall keep it in such condition that the public will not be exposed to any danger from the sign.

10.23.6.3. The Administrator may remove and destroy or otherwise dispose of any sign placed on public property or within any public right-of-way. This shall only apply to signs in violation of this Ordinance. Penalties may be levied for each such sign as prescribed in Section 1.8.

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10.23.7. General Provisions for Pole Signs.

Following the effective date of this Ordinance, pole signs shall not be erected, or maintained in any zoning district except in compliance with the provisions set forth in this Section.

10.23.7.1. Computation of Sign Area. The area of the sign shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, frame, design, or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

Where three dimensional figures are used as or on signs, the area shall be the total of all sides made an integral part of the projected figure used in conveying the intended message.

10.23.7.2. Encroachment into the Right-of-Way. No part of any pole sign shall be located on or extended into a public right-of-way.

10.23.7.3. Illumination. Illuminated signs shall be subject to the following conditions: a) Any light used for the illumination shall be shielded so that the beams or rays of light will not shine directly into surrounding areas or on the public roadway; and b) Neither direct nor reflected light from any light source shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.

10.23.7.4. Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.

10.23.7.5. Extensions. No extension(s) shall be allowed beyond those dimensions for the sign area as initially permitted.

10.23.7.6. Stacking. Stacking of pole signs is not permitted.

10.23.8. Pole Signs in the HI District on Property Adjacent to I-95.

The following sign regulations shall be applicable within the HI district on properties adjacent to the I-95 corridor wherein pole signs are allowed. Any sign not specifically allowed is prohibited. In the HI zoning district, pole signs are allowed subject to the restrictions set forth herein.

10.23.8.1. Size. No pole sign shall exceed 300 square feet per directional flow of traffic (300 square feet total per sign structure). A maximum of two faces per sign structure is allowed, positioned either back to back or v-shaped, such that only two faces are allowed

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per side. Both sides of a double-faced or v-shaped sign shall be of equal size. In no case shall there be more than two faces per directional flow of traffic.

10.23.8.2. Location. No pole sign shall be closer than five hundred (500) feet to the I-95 right-of-way.

10.23.8.3. Height. No pole sign located beyond 660 feet of the right-of-way of the I-95 corridor shall exceed 100 feet. Within 660 feet of the I-95 corridor and in the area between the I-95 and the CSX rights-of-way, the maximum sign height shall be 25 feet.

10.23.8.4. Spacing.

10.23.8.4.1. The minimum distance between any two sign structures shall be 1,000 linear feet on either side of the same street.

10.23.8.4.2. No pole sign shall be located within a 200 foot radius of a school, place of worship, public park, national park, and/or forestland(s) or bridge.

10.23.8.4.3. Except for pole signs permitted in Section 10.23.8, no pole sign shall be located within 75 feet of any intersection.

10.23.8.4.4. Except for pole signs permitted in Section 10.23.8, no pole sign shall be located within a 100 foot radius of residentially zoned property.

10.23.8.4.5. No pole sign shall be located within 50 feet of any building or on-premise sign.

10.23.8.5. Setback. Minimum setback distances shall be as follows:

10.23.8.5.1. For sign area of 0 to 75 square feet per face - 10 feet.

10.23. 8.5.2. For sign area of 76 to 150 square feet per face - 20 feet.

For all sign sizes, the minimum setback distances from all other property lines shall be ten feet.

10.23.8.6. Pole Signs Per Parcel. There may not be more than two one pole sign per parcel.

10.23.9. Pole Signs on Non-Industrial Commercial Property Adjacent to the I-95 Corridor.

10.23.9.1. Size. No pole sign shall exceed 300 square feet per directional flow of traffic (300 square feet total per sign structure). A maximum of two faces per sign structure is

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allowed, positioned either back to back or v-shaped, such that only two faces are allowed per side. Both sides of a double-faced or v-shaped sign shall be of equal size. In no case shall there be more than two faces per directional flow of traffic.

10.23.9.2. Pole Signs, Non-LED. Pole signs shall be a permitted use by right in all zoning districts when located on property adjacent to I-95. A zoning permit may be granted provided the following minimum standards are met.

10.23.9.2.1. The property on which the sign is to be located must be adjacent to I-95.

10.23.9.2.2. The sign cannot be located within six hundred sixty (660) feet of the edge of the right-of-way of I-95.

10.23.9.2.3. The sign shall comply with all regulations of the North Carolina Department of Transportation and with the North Carolina General Statutes.

10.23.9.2.4. No two (2) such structures shall be placed less than two thousand five hundred (2,500) feet apart. Distance shall be measured as specified in North Carolina Administrative Code T19A:023.0200.

10.23.9.2.5. The sign shall be of monopole design and placed on the site so as to be viewed only from the corridor in which it is permitted. Sign height may not exceed one hundred (100) feet. The bottom of the sign must be at least fifty (50) feet above the base of the pole on which the sign is mounted.

10.23.9.3. Pole Sign, LED (Light Emitting Diodes). Pole signs utilizing LED or other similar technologies shall be a permitted use by right in all zoning districts when adjacent to I-95. A zoning permit may be granted provided the following minimum standards are met.

10.23.9.3.1. The property on which the sign is to be located must be adjacent to I-95.

10.23.9.3.2. The sign cannot be located within six hundred sixty (660) feet of the edge of the right-of-way of I-95.

10.23.9.3.3. The sign shall comply with all regulations of the North Carolina Department of Transportation and with the North Carolina General Statutes.

10.23.9.3.4. No two (2) such LED pole signs shall be placed less than two thousand five hundred (2,500) feet apart; however, an LED pole sign may be allowed within five hundred (500) feet of a non-LED pole sign. Distance shall be measured as specified in North Carolina Administrative Code T19A:023.0200.

ARTICLE 10. PERFORMANCE STANDARDS

10.23.9.3.5. The sign shall be of monopole design and placed on the site so as to be viewed only from the corridor in which it is permitted.

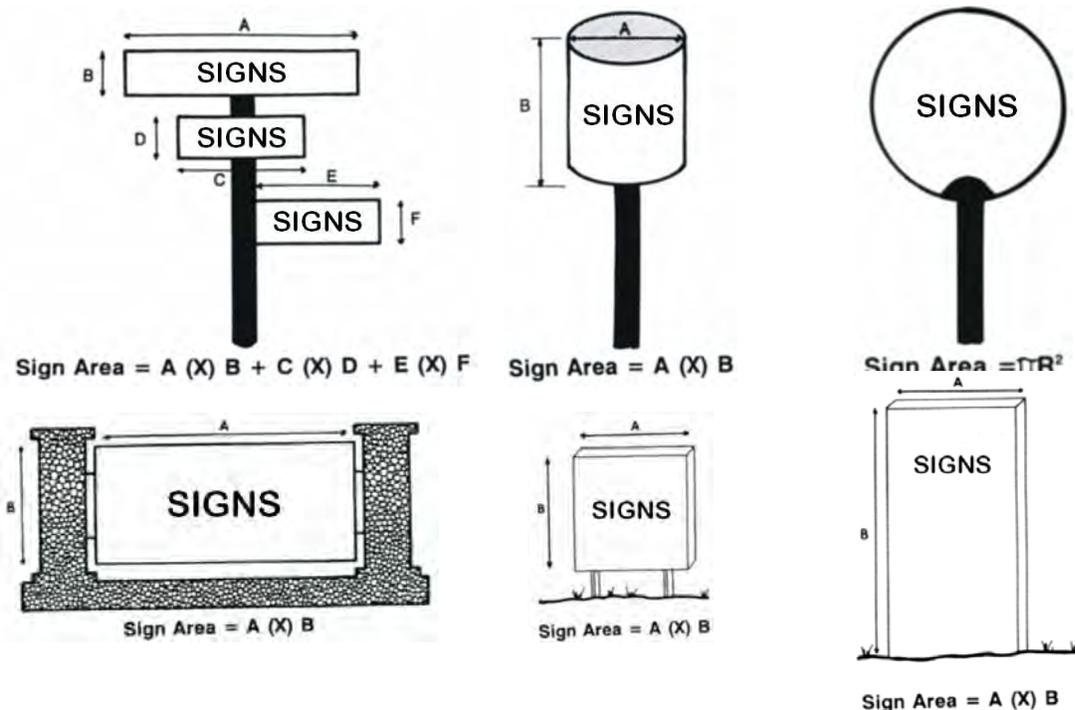
10.23.9.3.6. Pole signs may not change content more than one (1) time within a thirty second period and the change must occur within a two (2) second period. All LED pole signs must be equipped to automatically turn off in case of malfunction.

10.23.9.3.7. No pole sign can project over any public right-of-way.

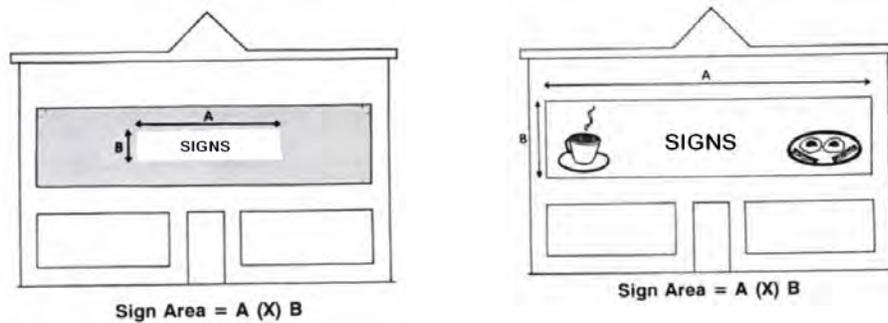
SECTION 10.24 SIGN AREA.

The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface. In the case of signs mounted back-to-back, only one side of the sign is to be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area is to be computed as part of the total surface area of the sign. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign area.



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SECTION 10.25 SUPPLEMENTAL SIGN STANDARDS FOR THE O/I, B-1, B-2, B-3, AND PUDS DISTRICTS.

Sign standards for specific business operations are in addition to the general standards outlined in this Article and recognize the different types of traffic, use and need of signs for the assistance of the traveling public and the prosperity of business owners and employees through the attraction, retention, and furtherance of commerce throughout the town. Establishments in the six listed zoning districts may avail themselves of the maximum signage allowable under Section 10.23 and additionally may supplement such maximum via the standards of this subsection.

10.25.1. Sandwich Board Sign.

Limited to one sign per business. Signs shall be limited to a maximum height of four (4) feet and a maximum length of three (3) feet. Folding and double-faced signs shall be considered one (1) sign. Sandwich board signs shall not be located on any public right-of-way, except that where the edge of the right-of-way is the face of the building and where such building abuts a public sidewalk, such signage may be allowed as a right-of-way encroachment. Sign placement shall not impede movement on the sidewalk. Restaurants and prepared food service establishments may have two (2) sandwich board signs.

10.25.2. Banners.

Limited to one banner per business. Banners shall be limited to a maximum height of six (6) feet and a maximum length of ten (10) feet. Banners shall contain the imprint or logo of the business in which the banner is intended. No additional logos, joint advertising or insignia shall be permitted.

10.25.3. Sale/Event/Holiday Signs.

For no more than forty (40) days annually, special signage for sales/events/holidays may be placed by a business on premises with the issuance of a permit. Such signs shall be of one of the categories above with the following supplemental standard: for each item in this subsection 10.25.4, the quantity of signs may be double.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.26 SPECIFICATIONS FOR SIGNS REQUIRING A PERMIT.

The following are general specifications applicable to the various signs permitted. Additional specifications regarding size, number, location, and permitted types of signs are set forth in the individual zoning districts.

10.26.1. Specifications for all Permitted Signs.

Unless specifically exempted by other sections of the Article, all signs will be required to have proper permits prior to construction or installation. Whether the sign is new, part of new construction, or an existing sign, the following information will be required as part of the permit application.

10.26.1.1. A detailed description of any new sign for which a permit is requested. This will include, but not necessarily be limited to, a detailed drawing of the sign showing size, height, and site location relative to property lines and street right-of-way.

10.26.1.2. Existing signs must meet the requirements of Article 10, Part III, if, for any reason, the sign is to be changed or altered. Normal copy changes and routine maintenance matters are exceptions to this requirement.

10.26.1.3. Prior to issuance of a sign permit, all fees in accordance with the associated fee schedule shall be paid.

10.26.1.4. Upon notification of completion by the permit holder, the UDO Administrator shall inspect the sign to verify conformance with applicable codes.

10.26.2. Wall Signs.

10.26.2.1. No wall sign shall project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window, nor shall it extend on the roofline, parapet, or mansard roof.

10.26.2.2. Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises. Signs may be painted or printed onto a canopy or awning. In no instance shall a canopy or awning sign extend into a street right-of-way.

10.26.2.3. No wall sign shall be attached to any cupola, tower, or other architectural feature that is above the roofline.

10.26.2.4. Sign area may not exceed 200 square feet on any building wall.

10.26.3. Projecting Signs.

ARTICLE 10. PERFORMANCE STANDARDS

10.26.3.1. All Projecting Signs.

10.26.3.1.1. A projecting sign will not project more than four (4) feet from a building wall.

10.26.3.1.2. A projecting sign will not extend vertically above the roofline or parapet of a building.

10.26.3.1.3. The sign shall be a minimum of nine (9) feet from the bottom of the sign above the finished grade.

10.26.3.2. Projecting Signs for Major Site Plans. Projecting signs may be permitted for individual tenants of a major site plan without altering detached sign provisions. Such sign shall be permitted provided:

10.26.3.2.1. Subject to the same provisions of 10.26.3.1.1 through 10.26.3.1.3, above.

10.26.3.2.2. The sign shall not project more than four (4) feet, but in no case shall be closer than 3 feet to pavement of adjoining street(s).

10.26.3.2.3. The maximum area for the projecting sign shall be calculated as though it was a wall sign. The maximum area of a projecting sign shall be seventy-five (75) feet.

10.26.3.2.4. No more than one projecting sign per business entrance.

10.26.4. Signs for Identification of Manufactured Home Parks.

Permanent identification sign(s) shall be required for every manufactured home park. The size of the signs shall be as follows: Not more than two signs with a total maximum area of 48 square feet and a total minimum area of 12 square feet. Signs must be located on the park property within 50 feet of the entrance and at least 10 feet off the front property line. Signs must be located a minimum of five feet from any side property lines. Only indirect non-flashing lighting may be used for illumination, and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public road right-of-way.

10.26.5. Temporary Use Signs.

A zoning permit for a temporary use may also authorize one temporary sign, not to exceed 40 square feet in sign surface area, associated with the temporary use. Such temporary sign shall conform to the requirements of Article 10, Part III.

10.26.6. Wireless Communication Facility Signage.

Refer to Article 10, Part VIII for requirements regarding wireless communication facilities.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.27 SIGN ILLUMINATION AND SIGNS CONTAINING LIGHTS.

10.27.1. Unless otherwise prohibited by this chapter, signs may be illuminated if such illumination is in accordance with this section.

10.27.2. No sign within 150 feet of a Residential-Agricultural (R-20) or Residential (R-9, R-7, R-6, R-6MF, R-6MH) Zoning District may be illuminated between the hours of 12:00 midnight and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

10.27.3. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

10.27.4. Electronic message boards and kinetic sign lighted display areas shall not exceed thirty (30) square feet.

10.27.5. Subject to Subsection 10.27.6, no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, or weather conditions.

10.27.6. Subsections 10.27.1 and 10.27.5 do not apply to temporary signs or decorations erected or installed in connection with observance of holidays.

SECTION 10.28 SIGN CONSTRUCTION.

All signs shall be designed, constructed and maintained in accordance with the following additional standards:

10.28.1. All sign shall comply with applicable provisions of the town's Building code and Electrical Code as referenced in the Town of Smithfield's Code of Ordinances.

10.28.2. Except for permitted banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Unified Development Ordinance, all signs shall be constructed of permanent materials and shall be attached to the ground or building.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.29 SIGN MAINTENANCE.

To ensure that signs are erected and maintained in a safe and aesthetic manner, it shall be unlawful for any sign designed to be visible from any public street or highway within the jurisdiction of the Town of Smithfield to be erected or maintained by any person, other than by a sign contractor properly licensed under Section 10.20.2 or by a designated representative of such licensed contractor, except that this requirement shall be interpreted to exclude those persons who construct and erect a principal use identification sign when said sign is used at said person's place of business and to exclude licensed general contractors erecting signs as part of a permitted construction or renovation project; provided, however, in all cases, all erection must be properly permitted and inspected for compliance with the applicable codes of the State of North Carolina and the Town of Smithfield and with other parts of this Article.

The following maintenance requirements must be observed for all signs visible from any public street or highway within the jurisdiction of this Article.

10.29.1. No sign shall have more than 20% of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.

10.29.2. No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.

10.29.3. No sign shall be allowed to have weeds, vines, landscaping, or other vegetation growing upon it and obscuring its view from the street or highway from which it is to be viewed for a period of more than 30 successive days.

10.29.4. No neon or internally illuminated sign may be allowed to stand with only partial illumination for a period of more than 30 successive days.

10.29.5. If a sign or sign structure is damaged such that more than 50% of the value is lost, with such determination made by the Administrator, any repair or replacement must be done in conformance with this Section.

The Administrator may inspect all signs for compliance with these maintenance requirements.

SECTION 10.30 STRUCTURAL AND CONSTRUCTION REQUIREMENTS.

All signs allowed by this Section shall be constructed in accordance with the requirements of the North Carolina State Building Code.

SECTION 10.31 NONCONFORMING SIGNS.

ARTICLE 10. PERFORMANCE STANDARDS

Refer to Article 9, Section 9.9 for nonconforming sign regulations.

SECTION 10.32 RECONSTRUCTION OF DAMAGED SIGNS OR SIGN STRUCTURES.

10.32.1. Any conforming or permitted nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty (30) days and completed within sixty (60) days of such damage. However, if the sign should be declared unsafe by the UDO Administrator, the owner of the sign or the owner of record of the real property whereon the sign is located shall immediately correct all unsafe conditions in a manner satisfactory to the UDO Administrator.

10.32.2. For the purposes of this section, a nonconforming sign or its structure shall be considered destroyed, and therefore not repairable, if it receives damage to the extent of more than 50% of its value as listed for tax purposes by the Johnston County Tax Office.

SECTION 10.33 DISCONTINUED SIGNS.

Upon the discontinuance of a business or occupancy of an establishment for a consecutive period of one hundred eighty (180) days, the UDO Administrator shall require the removal of any nonconforming sign(s) advertising or identifying the establishment. The UDO Administrator shall give thirty (30) days' notice to the property owner to remove the sign(s). Failure to remove the sign(s) within the thirty-day period shall constitute a violation of this Article and shall be remedied in accordance with the provisions of Section 1.8.

ARTICLE 10. PERFORMANCE STANDARDS

PART IV. LIGHTING ORDINANCE.

SECTION 10.34 OUTDOOR LIGHTING.

10.34.1. Intent and Purpose.

Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and not create or cause excessive glare onto adjacent properties and public street rights-of-way.

10.34.2. Light Measurement Technique.

Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent. Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated, and measured in footcandles (FC). All FC values below are maintained footcandles.

10.34.3. General Standards for Outdoor Lighting.

10.34.3.1. Unless otherwise specified in Sections 10.34.4 through 10.34.9 below, the maximum light level shall be 0.5 maintained footcandle at any property line in a residential district, or on a lot occupied by a dwelling, congregate care, or congregate living structure, and 2.0 maintained footcandle at any public street right-of-way, unless otherwise approved by the Planning Board and Town Council.

10.34.3.2. All flood lights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Flood lights and display lights shall be positioned such that any such fixture located within 50 feet of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way.

10.34.3.3. All flood lamps emitting 1,000 or more lumens shall be aimed at least 60 degrees down from horizontal, or shielded such that the main beam from the light source is not visible from adjacent properties or the public right-of-way.

10.34.3.4. All wall pack fixtures shall be cutoff fixtures.

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10.34.3.5. Service connections for all freestanding fixtures installed after application of this Ordinance shall be installed underground.

10.34.3.6. Within the B-3 district, all outdoor lighting fixtures shall be at minimum semi-cutoff fixtures.

10.34.3.7. All light fixtures installed by public agencies, their agents, or contractors for the purpose of illuminating public streets are otherwise exempt from this regulation. For regulations regarding Street Lighting, see Section 10.35.

10.34.4. Lighting in Parking Lots and Outdoor Areas.

10.34.4.1. Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 2,000 lumens shall be cutoff fixtures, or comply with subsection 10.34.4.3.

10.34.4.2. The mounting height of all outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting, shall not exceed 41 feet above finished grade, unless approved by the Planning Board and Town Council as having no adverse effect.

10.34.4.3. Exceptions:

10.34.4.3.1. Non-cutoff fixtures may be used when the maximum initial lumens generated by each fixture shall not exceed 9,500 initial lamp lumens per fixture.

10.34.4.3.2. All metal halide, mercury vapor, fluorescent, induction, white high pressure sodium, and color improved high pressure sodium lamps used in non-cutoff fixtures shall be coated with an internal white frosting inside the outer lamp envelope.

10.34.4.3.3. All metal halide fixtures equipped with a medium base socket must utilize either an internal refractive lens or a wide-body refractive globe.

10.34.4.3.4. All non-cutoff fixture open-bottom lights shall be equipped with full cutoff fixture shields that reduce glare and limit uplight.

10.34.5. Lighting for Vehicular Canopies.

Areas under a vehicular canopy shall have a maximum point of horizontal illuminance of 24 maintained footcandles (FC). Areas outside the vehicular canopy shall be regulated by the standards of Section 10.34.4 above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:

10.34.5.1. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy.

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10.34.5.2. Light fixture incorporating shields, or shielded by the edge of the vehicular canopy itself, so that light is restrained to five degrees or more below the horizontal plane.

10.34.5.3. Surface mounted fixture incorporating a flat glass that provides a cutoff fixture or shielded light distribution.

10.34.5.4. Surface mounted fixture, typically measuring two feet by two feet, with a lens cover that contains at least two percent white fill diffusion material.

10.34.5.5. Indirect lighting where light is beamed upward and then reflected down from the underside of the vehicular canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the vehicular canopy.

10.34.5.6. Other methods approved by the Planning Board.

10.34.6. Outdoor Sports Field/Outdoor Performance Area Lighting.

10.34.6.1. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from finished grade unless approved by the Planning Board and Town Council as having no adverse effect.

10.34.6.2. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.

10.34.6.3. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

10.34.7. Lighting of Outdoor Display Areas.

10.34.7.1. Parking lot outdoor areas shall be illuminated in accordance with the requirements for Section 10.34.4 above. Outdoor display areas shall have a maximum point of illuminance of 24 maintained footcandles (FC).

10.34.7.2. All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within 25 feet of any public street right-of-way. Alternatively, directional fixtures (such as flood lights) may be used provided they shall be aimed and shielded in accordance with Section 10.34.3.1 and 10.34.3.2 of this Ordinance.

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10.34.7.3. The mounting height of outdoor display area fixtures shall not exceed 41 feet above finished grade, unless approved by the Planning Board and Town Council as having no adverse effect.

10.34.8. Sign Lighting.

~~Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign.~~ Sign lighting shall also conform with Section 10.27.

10.34.9. Lighting of Buildings and Landscaping.

Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building facade, plantings, and other intended site feature and away from adjoining properties and the public street right-of-way.

10.34.10. Permits.

The applicant for any permit required for work involving outdoor lighting shall submit documentation at time of site plan or plot plan approval that the proposed lighting plan complies with the provisions of this Ordinance. The submission shall contain, but not be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Ordinance:

10.34.10.1. A point-by-point footcandle array in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained footcandles required by this Ordinance.

10.34.10.2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]).

The UDO Administrator or his/her designee(s) may waive any or all of the above permit requirements, provided the applicant can otherwise demonstrate compliance with this Ordinance.

10.34.11. Nonconformities.

10.34.11.1. Following application of this regulation, the installation of outdoor lighting, replacement of outdoor lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location shall be made in strict compliance with this Ordinance. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures not subject to subsection 10.34.11.2 below.

10.34.11.2. All outdoor lighting that fails to conform with Section 10.34.3 above which is either located in a residential zoning district or which affects a lot occupied by a dwelling,

ARTICLE 10. PERFORMANCE STANDARDS

congregate care, or congregate living structure located in a residential zoning district shall be discontinued, removed, or made to conform with Section 10.34.3 within 5-1/2 years from the effective date of this provision.

SECTION 10.35 STREET LIGHTING.

10.35.1. Policy Purpose.

The purpose of this section is to establish an official policy for the Town of Smithfield pertaining to the installation of street lights for the purposes of traffic safety and crime control.

10.35.2. Coverage.

This Article, upon adoption, shall apply to all public rights-of-way within the municipal limits and the ETJ of the Town of Smithfield and any public rights-of-way annexed in the future until such time that this section is altered, modified, or rescinded by the Town Council.

10.35.3. Policy.

The Town Council of the Town of Smithfield hereby establishes the following:

10.35.3.1. The owner, developer, or subdivider of a site plan or subdivision shall be required to install street lighting via underground distribution unless specifically approved otherwise by the Town Council, along all proposed streets and along all adjoining existing streets and thoroughfares in accordance with this section.

10.35.3.2. Through the site plan and subdivision plan approval process, the Town Council may approve street lighting which exceeds the standard Town requirements for residential streets so as to reduce the length of sag vertical curves provided the street lights are operational prior to the issuance of any Certificates of Occupancy on such street. In any case, the minimum allowable length of sag vertical curves shall be as follows: residential streets - 20A; cul-de-sacs and loop roads - 15A.

10.35.3.3. All underground electrical distribution systems for street lighting within the corporate limits of the Town of Smithfield and its extraterritorial planning jurisdiction shall be installed according to the following standards:

10.35.3.3.1. Underground service for light fixtures shall be installed by the developer in conformance with Progress Energy and Town of Smithfield standards at the developer's expense.

10.35.3.3.2. The placement of street lighting fixtures in residential areas shall be at 400 to 600 foot intervals unless:

10.35.3.3.2.1. The roadway length is less than 400 feet but more than 200 feet in which case a street light will be provided at the end of the street; or

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10.35.3.3.2.2. Where the roadway length is less than 200 feet and a street light is placed at the intersection and no natural features create a problem, no street light will be placed at the end of the roadway; or

10.35.3.3.2.3. The vertical and horizontal street alignment or natural features necessitate shorter spacing intervals.

10.35.3.3.3. The placement of street lighting along thoroughfares, marginal access streets, and collector streets and in nonresidential areas shall be in accordance with the latest revision of the Illuminating Engineering Society's American National Standards for Roadway Lighting.

10.35.3.3.4. A street light shall be provided at all street intersections.

10.35.3.4. Street light fixtures shall conform to the following:

10.35.3.4.1. All fixtures in residential areas shall be either 5,800 or 9,500 lumen enclosed high pressure sodium lamps on standard Progress Energy or Town of Smithfield poles 25 feet in height. The 5,800 lumen fixture shall be placed only at the "neck" of cul-de-sacs.

10.35.3.4.2. All fixtures along thoroughfares shall be 28,500 lumen enclosed high pressure sodium lamps on Progress Energy or Town of Smithfield standard fiberglass poles 30 feet in height or 50,000 lumen enclosed high pressure sodium lamps on Progress Energy or Town of Smithfield standard fiberglass poles 35 feet in height. The 28,500 lumen fixtures shall be placed in residential areas when spillover from the 50,000 lumen fixtures would be excessive.

10.35.3.5. Authorization for street light installations shall occur at such time as:

10.35.3.5.1. A developer, through the Town of Smithfield, requests the installation of street lights prior to the issuance of any Certificates of Occupancy. The developer shall incur a monthly electrical expense billed from Progress Energy or the Town of Smithfield equal to the monthly electrical expense incurred by the Town of Smithfield, for each street light installed. The developer will be billed by Progress Energy or the Town of Smithfield for the period beginning with installation of the street light and ending with notification to the Town of Smithfield, by the Developer, of issuance of a Certificate of Occupancy in the immediate area of each street light location, or

10.35.3.5.2. A Certificate of Occupancy is issued in the immediate area of the proposed street light location, or

10.35.3.5.3. A thoroughfare, marginal access street, or collector street is constructed or widened as a part of development. Thoroughfares, marginal

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access streets, and collector streets that are constructed or widened by the Town of Smithfield shall be lighted immediately after construction, dependent on the availability of funds.

10.35.3.6. Street lighting facilities and street lights shall be installed by the developer on any roadway, portion of roadway, or widening prior to the Town of Smithfield's acceptance of that roadway for routine maintenance unless otherwise approved by the Public Works Director.

10.35.3.7. Residents along a street may request the relocation of a street light provided that the proposed street light location meets Town standards and the relocation is approved by the Public Works Director. Residents living at the cul-de-sac end of a street may request the replacement of an existing 9,500 lumen semi-enclosed light fixture with a 5,800 lumen semi-enclosed light fixture. A petition, signed by all persons owning property fronting on the street within the boundaries of the next closest installed or proposed street lights, shall be required. Also, the relocation or replacement cost and all facilities abandonment costs must be paid in full to Progress Energy or the Town of Smithfield in advance by the resident(s) requesting the relocation or replacement.

10.35.3.8. A developer may request to use decorative or "private" street lighting within a development provided:

10.35.3.8.1. Street light fixture types and locations must meet the minimum criteria set forth in this Article and must be approved by the Town of Smithfield.

10.35.3.8.2. The developer and/or Homeowner's Association shall be responsible for all installation costs and monthly operating costs above what is accepted by policy of the Smithfield Town Council associated with the street lights.

10.35.3.8.3. The developer and/or Homeowner's Association shall be responsible for any costs associated with deletion of the street lights and any costs associated with installing the Town's standard street lights.

10.35.3.8.4. The developer shall include all responsibilities of the Homeowner's Association pertaining to the street lighting in the development covenants. The developer shall inform all purchasers of property in the development of these same responsibilities.

PART V. TRAFFIC IMPACT STUDY.

SECTION 10.36 PURPOSE.

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The traffic impact study will enable the Town of Smithfield to assess the impact of a proposed conditional special use permit or development on the highway system when that system is at or near capacity or a safety problem exists. Its purpose is to insure that proposed developments do not adversely affect the highway network and to identify any traffic problems associated with access from the site to the existing transportation network. The purpose of the study is also to identify solutions to potential problems and to present improvements to be incorporated into the proposed development.

SECTION 10.37 CONDUCT.

A traffic impact study shall be prepared by a qualified professional traffic engineer and/or certified transportation planner with previous traffic study experience. The procedures and standards for the traffic impact study are set forth in Section 10.40 of this Ordinance.

Prior to the preparation of a traffic impact study, a scoping meeting shall be held, including the planning staff, the applicant, and the preparer of the study. The discussion at this meeting should set the study parameters, including the study area, planned and committed roadway improvements (by NCDOT or others), road links and intersections to be analyzed, preliminary traffic distribution, other planned developments to be considered, traffic growth rate, available data, periods for which analysis is to be performed, and other staff concerns. The qualifications of the preparer may be discussed at or prior to this meeting.

SECTION 10.38 APPLICABILITY.

Except as described below, a traffic impact study shall be required for all conditional special use permits and site plans that meet the following criteria:

- Conditional-Special Use Permit. Estimated traffic generated by the permit exceeds 800 trips/day.
- Major Site Plans. Estimated traffic generated by the development exceeds 800 trips/day.
- Single-Family Residential. Estimated traffic generated by the development exceeds 800 trips/day.
- Planned Unit Development. Estimated traffic generated by the development exceeds 800 trips/day.

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Conditional Special use permits or major site plans/subdivisions that produce more than 800 trips per day traffic may be exempted from the requirements to prepare and submit a traffic impact study if: (1) a traffic impact study has previously been prepared for this particular project or development, and (2) there is to be no change in land use or density that would increase travel, (3) there is to be no change in access to the external street system, or (4) material is submitted to demonstrate that traffic created by the proposal when adding to existing traffic will not result in a need for transportation improvements. The Planning Board and Town Council will review material submitted in support of an exemption and will determine from that material whether or not to grant the exemption. All exemptions shall be concurred with by the NCDOT District 3 Office. If an exemption is granted, documentation of the exemption will be submitted as part of the staff recommendation.

If the project is reviewed as a Planned Unit Development, only one traffic impact study is required for a conditional special use permit.

SECTION 10.39 CAPACITY ANALYSIS OF THE EXISTING SYSTEM.

An indication of the adequacy of the existing street system is a comparison of traffic volumes versus the ability of the streets to move traffic freely at a desirable speed. The ability of a street to move traffic freely, safely, and efficiently with a minimum delay is controlled primarily by the spacing of major devices utilized. Thus, the ability of a street to move traffic can be increased by restricting parking and turning movements, using proper sign and signal devices, and by the application of other traffic engineering strategies.

Capacity is the maximum number of vehicles which has a “reasonable expectation” of passing over a given section of roadway, during a given time period under prevailing roadway and traffic conditions. The relationship of traffic volumes to the capacity of the roadway will determine the level of service (LOS) being provided. Six levels of service have been selected for analysis purposes. They are given letter designations from A to F with LOS A representing the best operating conditions and LOS F the worst.

10.39.1. LOS A.

Describes primarily free flow conditions. The motorist experiences a high level of physical and psychological comfort. The effects of minor incidents of breakdown are easily absorbed. Even at the maximum density, the average spacing between vehicles is about 528 feet or 26 car lengths.

10.39.2. LOS B.

Represents reasonably free flow conditions. The ability to maneuver within the traffic stream is only slightly restricted. The lowest average spacing between vehicles is about 330 feet or 18 car lengths.

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10.39.3. LOS C.

Provides for stable operations, but flows approach the range in which small increases will cause substantial deterioration in service. Freedom to maneuver is noticeably restricted. Minor incidents may still be absorbed, but the local decline in service will be great. Queues may be expected to form behind any significant blockage. Minimum average spacings are in the range of 220 feet or 11 car lengths.

10.39.4. LOS D.

Borders on unstable flow. Density begins to deteriorate somewhat more quickly with increasing flow. Small increases in flow can cause substantial deterioration in service. Freedom to maneuver is severely limited, and the driver experiences drastically reduced comfort levels. Minor incidents can be expected to create substantial queuing. At the limit, vehicles are spaced at about 165 feet or nine car lengths.

10.39.5. LOS E.

Describes operation at capacity. Operations at this level are extremely unstable, because there are virtually no usable gaps in the traffic system. Any disruption to the traffic stream, such as a vehicle entering from a ramp, or changing lanes, requires the following vehicles to give way to admit the vehicle. This can establish a disruption wave that propagates through the upstream traffic flow. At capacity, the traffic stream has no ability to dissipate any disruption. Any incident can be expected to produce a serious breakdown with extensive queuing. Vehicles are spaced at approximately six car lengths, leaving little room to maneuver.

10.39.6. LOS F.

Describes forced or breakdown flow. Such conditions generally exist within queues forming behind breakdown points.

SECTION 10.40 GENERAL REQUIREMENTS AND STANDARDS.

The traffic impact study shall contain the following information:

10.40.1. General Site Description.

The site description shall include the size, location, proposed land uses, number of units and gross square footage by land use, existing land use and zoning, construction staging, and completion date of the proposed land development to the extent known or able to be described at the time the application is prepared. If the development is residential, types of dwelling units and number of bedrooms shall also be included. A brief description of other major existing and proposed land developments within the study area shall be provided. The general site description shall also include probable socio-economic characteristics of potential site users to the extent that they may affect the transportation needs of the site (i.e., number of senior citizens).

10.40.2. Transportation Facilities Description.

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The description shall contain a full documentation of the proposed internal and existing external transportation system. This description shall include proposed internal vehicular, bicycle, and pedestrian circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way, turn lanes, parking conditions, traffic channelizations; and any traffic signals or other intersection control devices at all intersections within the site.

The report shall describe the entire external roadway system within the study area. Major intersections in the study area and all intersections or driveways adjacent to or within 800 feet of the site shall be identified and sketched. All existing and proposed public transportation services and facilities within one-mile of the site shall also be documented. Future highway improvements, including proposed construction and traffic signalization, shall be noted. All proposed traffic signals shall be approved by the NCDOT District 3 Office. This information shall be obtained from North Carolina's Transportation Improvement Program and the Smithfield Thoroughfare Plan. Any proposed roadway improvements due to proposed surrounding developments shall also be noted.

10.40.3. Existing Traffic Conditions.

Existing traffic conditions shall be documented for all roadways and intersections in the study area. This shall include documentation of traffic accident counts as recorded by the NC Department of Transportation District Engineers Office, Town law enforcement, and the NC Highway Patrol. Existing traffic volumes for average daily traffic, peak highway hour(s) traffic, and peak development generated hour(s) traffic, if appropriate, shall be recorded. Manual traffic counts at major intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s), if appropriate, and documentation shall be included in the report. Existing average daily or peak-hour traffic counts made within one year of the study date may be used subject to Administrator approval. A volume/capacity analysis based upon existing volumes shall be performed during the peak highway hour(s) and the peak development generated hour(s), if appropriate, for all roadways and major intersections expected to be impacted by development traffic. Levels of service shall be determined for each signalized intersection or roadway segment analyzed above.

This analysis will determine the adequacy of the existing roadway system to serve the current traffic demand. Roadways and/or intersections experiencing levels of service E or F shall be noted as congestion locations (see Section 10.41).

10.40.4. Transportation Impact of the Development.

Estimation of vehicular trips to result from the proposed development shall be completed for the average weekday, the average daily peak hours of highway travel in the study area, and if appropriate, the peak hour of traffic generation by the development. Vehicular trip generation rates to be used for this calculation shall be obtained from an accepted source such as "Trip Generation" (Institute of Transportation Engineers, Fourth Edition, 1987 as amended). These development-generated traffic movements, as estimated, and the reference source(s) and methodology followed shall be documented. These generated volumes shall be distributed to

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the study area and assigned to the existing roadways and intersections throughout the study area. Documentation of all assumptions used in the distribution and assignment phase shall be provided. All average daily traffic link volumes within the study area shall be shown graphically. Peak hour turning movement volumes shall be shown for signalized and other major intersections, including all access points to the development. Pedestrian and bicycle volumes at school crossings and as otherwise applicable shall be reported. Any characteristics of the site that will cause trip generation to vary significantly from average rates available in published sources shall be documented, including such factors as diversion of passer-by traffic, internal capture, staggered work hours, or use of transit.

10.40.5. Analysis of Transportation Impact.

The total traffic demand that will result from construction of the proposed development shall be calculated. This demand shall consist of the combination of the existing traffic, traffic generated by the proposed development, and traffic due to other developments and other growth in traffic that would be expected to use the roadway at the time the proposed development is completed. If staging of the proposed development is anticipated, calculations for each stage of completion shall be made. This analysis shall be performed for average weekday traffic, the peak highway hour(s) and, if appropriate, peak development-generated hour(s) for all roadways and major intersections in the study area. Volume/capacity calculations shall be completed for all major intersections. It is usually at these locations that capacity is most restricted.

All access points and pedestrian crossings shall be examined for adequate sight distance and for the necessity of installing traffic signals. The traffic signal evaluation shall compare the projected traffic and pedestrian volumes to the warrants for traffic signal installation.

10.40.6. Conclusions and Recommended Improvements.

Levels of service for all roadways and signalized intersections serving 10% or more of peak-hour project traffic shall be reported. All roadways and/or signalized intersections showing a level of service below D in urban or developed areas or below C in rural areas shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed (see Section 10.41). This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external roadway and intersection design and improvements, traffic signal installation and operation including signal timing, and transit service improvements. All physical roadway improvements shall be shown on the site plan.

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SECTION 10.41 SUBMISSION AND IMPLEMENTATION.

The traffic impact study will be submitted to the Administrator within the applicable time frame indicated below. The Administrator will review the study as part of the development review process. Recommendations will be incorporated into the approval process as indicated below.

10.41.1. ~~Conditional Special~~ Use Permits.

10.41.1.1. Time of Submission. The traffic impact study shall be submitted to the Administrator with, and as a part of, the application for the ~~conditional special~~ use permit.

10.41.1.2. Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to the proposed use.

The Town Council or Board of Adjustment, as appropriate, shall consider the impact study and the analysis of the impact study before the application is approved or denied. The Town Council or Board of Adjustment, as appropriate, may decide that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for ~~conditional special~~ use permit approval and may make these improvements conditions of approval, may require modifications in the use, or may deny the permit.

10.41.2. Site Plan Approval.

10.41.2.1. Time of Submission. The traffic impact study will be submitted to the Administrator with, and as a part of, the site plan.

10.41.2.2. Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to development proposed on the site plan. The Administrator may recommend that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for site plan approval and may require these improvements to be on the approved site plan.

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PART VI. STORMWATER MANAGEMENT.

SECTION 10.42 PURPOSE.

The purpose of this Article is to establish minimum criteria to control and minimize quantitative and qualitative impacts of stormwater runoff from development within the Town of Smithfield, a nutrient management program for new development in accordance with 15A NCAC 2B.0235 Neuse River Basin Nutrient Sensitive Waters Management Strategy: Basinwide Stormwater Requirements.

Further, prudent site planning should include special consideration for the purposes of preserving natural drainage ways, maximizing infiltration, and slowing stormwater runoff from individual sites in route to streams and rivers by use of effective runoff management, structural and non-structural best management practices, drainage structures, and stormwater facilities.

SECTION 10.43 APPLICABILITY; EXCEPTIONS TO APPLICABILITY.

10.43.1. The provisions of this section shall apply to all areas within the planning jurisdictional limits of the Town of Smithfield, unless exempt as provided in Section 10.43.2.

10.43.2. The provisions of this section shall not apply to:

10.43.2.1. Developers/property owners that can demonstrate that they have vested rights as of the adoption date of the revised stormwater ordinance shall be exempt from the revised stormwater ordinance.

10.43.2.2. Developments that meet one of the following requirements shall be exempt from storm attenuation:

10.43.2.2.1. There is no increase in peak flow between pre- and post-development conditions; or

10.43.2.2.2. The proposed development meets all of the following criteria: overall impervious surface is less than fifteen (15) percent and the pervious portions of the site are utilized to the extent practical to convey and control stormwater runoff.

10.43.2.2.3. the proposed development disturbs less than one acre of land in order to establish, expand, or modify a single-family, duplex or multi-family residential development, recreational facility, commercial, industrial, or institutional facility.

10.43.2.3. The nutrient management and/or reduction requirements of this Ordinance are required in all developments of one acre or more whether or not the development is exempt from further requirements. NOTE: Nutrient management and/or reduction shall be required.

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SECTION 10.44 INTERPRETATION.

10.44.1. In interpreting and applying this section, the requirements are intended to be minimum requirements, which are imposed and are to be conformed to, and are in addition to, and not in lieu of, all other legal requirements.

10.44.2. This section shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulations, permits, or easements, covenants, or other agreements between parties, provided, however, that where this section imposes greater restrictions and controls with respect to stormwater management, the provisions of this section shall prevail.

SECTION 10.45 STORMWATER PERMIT APPLICATION PROCESS.

10.45.1. Except where provided elsewhere, land-disturbing activities shall not commence without obtaining a stormwater permit pursuant to the provisions of this section and the NC Department of Environmental Quality Stormwater Design Manual.

10.45.2. The stormwater permit application shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which the permit is sought. The application shall be filed with the town on a form supplied by the town and shall be accompanied with the information identified in the Stormwater Design Manual.

10.45.3. A stormwater permit shall not be issued until the following conditions are met:

10.45.3.1. Approval of the stormwater management plan by the UDO Administrator.

10.45.3.2. Submission and approval of any required easements and impervious area statements on a map to be recorded.

10.45.3.3. Submission and approval of any required inspection and maintenance agreement and/or escrow account or other legal instrument established to ensure long-term maintenance of BMPs.

10.45.3.4. Payment of all fees.

10.45.4. If the development requires approval of an erosion and sediment control plan, the stormwater permit will be conditional upon the owner receiving such erosion and sediment control approval.

10.45.5. The stormwater permit will be valid for one year from the date of issuance or until significant changes in the development are made that change the intent of the permit. The UDO Administrator shall determine significant changes. If significant changes are made, the original stormwater permit shall not be valid, and a new permit shall be required.

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SECTION 10.46 FEES.

A list of fees associated with this section is available at the planning department in the Smithfield Town Hall.

SECTION 10.47 STORMWATER MANAGEMENT AND PLANS.

10.47.1. Stormwater shall be conveyed from developments in an adequately designed drainage system of natural drainage ways, grass swales, storm sewers, culverts, inlets, and channels. Drainage systems shall be designed, constructed, and maintained to encourage natural infiltration, control velocity, control flooding, and extend the time of concentration of stormwater runoff. The UDO Administrator shall determine adequacy of the stormwater drainage system.

10.47.2. The post-development runoff rate for the two-year storm event shall be attenuated to the predevelopment runoff rate for the two-year storm.

10.47.3. The nitrogen loading contributed by new development shall be restricted to 3.6 pounds of nitrogen per acre per year. Methodologies for determining nitrogen loading are outlined in the Sstormwater Ddesign Mmanual.

10.47.4. A developer has the option of offsetting the nitrogen loading from a development by paying into the state wetlands restoration program, a private nutrient offset bank or the Division of Mitigation Services, see G.S. 143-214.26. Procedures for offset payments are outlined in the Sstormwater Ddesign Mmanual. When using the offset payment, the total nitrogen loading from a development shall not exceed 6.0 pounds per acre per year for residential development and ten 10.0 pounds per acre per year for nonresidential development.

10.47.5. Stormwater management plans shall:

10.47.5.1. Include drawings, maps, supporting calculations, specifications, and summaries as outlined in the Sstormwater Ddesign Mmanual.

10.47.5.2. Demonstrate through accepted engineering practices described in the Sstormwater Ddesign Mmanual the impacts of the proposed development. Impacts of the proposed development shall include:

10.47.5.2.1. Effects on existing upstream and/or downstream drainage systems and property;

10.47.5.2.2. Ability of the natural drainage way to handle additional stormwater runoff; and

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10.47.5.2.3. Site-specific criteria supporting the analysis of any impacts noted in subsections 10.47.5.2.1 and 10.47.5.2.2 above.

10.47.5.3. Demonstrate through accepted engineering practices described in the Sstormwater Ddesign Mmanual that stormwater runoff is adequately conveyed through the development in a drainage system designed to meet the criteria described in the Sstormwater Ddesign Mmanual.

10.47.5.4. Demonstrate through accepted engineering practices described in the Sstormwater Ddesign Mmanual that stormwater facilities required to control the impacts of the development are designed to meet the criteria described in the Sstormwater Ddesign Mmanual.

10.47.5.5. Demonstrate that the nitrogen loading from the new development does not exceed the limits set forth in Section 10.47.3.

10.47.5.6. For new construction, prior to the issuance of a certificate of occupancy, the engineer's certificate of completion and compliance for the constructed BMP will be required.

SECTION 10.48 MAINTENANCE AGREEMENT.

A written inspection and maintenance agreement in a form acceptable to the town attorney and executed by the applicant and the owner(s) of the BMP, if different than the applicant, shall be provided prior to receiving a stormwater permit. The agreement shall:

10.48.1. Bind the parties thereto and all subsequent owners, successors, and assigns to maintenance and inspection of the system or structure;

10.48.2. State that if the town directs the correction, repair, replacement, or maintenance of the system or structure in writing and the actions are not satisfactorily performed within a reasonable time (but not greater than one hundred twenty [120] days), the town (or its contractors) may, after reasonable notice, enter the land and perform all the necessary work and may assess the owner(s) of the facility with the cost of the work performed or the town can seize all or part of the escrow or other fund set aside by the applicant for perpetual maintenance. The owner(s) served by the facility shall be jointly responsible to the town for the maintenance of the facility and liable for any costs incurred by the town pursuant to the said agreement. All properties are jointly subject to the imposition of the liens for said costs.

10.48.3. The inspection and maintenance agreement shall be recorded in the register of deeds at the expense of the applicant.

SECTION 10.49 ANNUAL MAINTENANCE INSPECTION AND REPORT.

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The person responsible for maintenance of any structural BMP installed pursuant to this Ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

10.49.1. The name and address of the land owner;

10.49.2. The recorded book and page number of the lot of each structural BMP;

10.49.3. A statement that an inspection was made of all structural BMPs;

10.49.4. The date the inspection was made;

10.49.5. A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance;

10.49.6. If correction, repair, replacement, or maintenance is needed, then a statement on the required improvements to be completed within 120 days; and

10.49.7. The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms approved by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

SECTION 10.50 EASEMENTS.

Easements for stormwater BMPs shall include the area of the BMP, area of ponded water, and enough area for access and maintenance from a public right-of-way. The easement shall be recorded in the register of deeds at the expense of the applicant and shall be depicted on the final plat or recorded map.

SECTION 10.51 ILLEGAL DISCHARGE.

No person shall cause or allow the discharge, disposal, pouring or pumping directly or indirectly to any stormwater conveyance structure, stormwater conveyance system, stream, lake, pond, wetland, or other body of water, or upon the land in proximity to the same, any fluid, solid, or other

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substance (other than stormwater). Prohibited substances include, but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter. Examples of illegal discharges are:

- 10.51.1.** Dumping of oil, anti-freeze, paint or cleaning fluids;
- 10.51.2.** Untreated commercial carwash wash water;
- 10.51.3.** Industrial challenges;
- 10.51.4.** Contaminated foundation drains;
- 10.51.5.** Cooling waters, unless no chemicals added and has valid NPDES permit;
- 10.51.6.** Wash water from commercial and industrial activities;
- 10.51.7.** Chlorinated backwash and draining associated with swimming pools;
- 10.51.8.** Domestic wastewater;
- 10.51.9.** Septic system effluent;
- 10.51.10.** Washing machine discharges.

SECTION 10.52 ALLOWABLE DISCHARGES.

Examples of allowed discharges are:

- 10.52.1.** Water line flushing;
- 10.52.2.** Irrigation;
- 10.52.3.** Uncontaminated groundwater pumping;
- 10.52.4.** Street wash water;
- 10.52.5.** Dechlorinated backwash and drainage associated with swimming pools;
- 10.52.6.** NPDES permitted discharges.

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SECTION 10.53 ILLEGAL CONNECTIONS.

Connections to a stormwater conveyance system or structure that allow the discharge(s) of non-stormwater are unlawful. Prohibited connections include but are not limited to:

10.53.1. Floor drains;

10.53.2. Waste water from washing machines or sanitary sewers;

10.53.3. Wash water from commercial vehicle washing or steam cleaning;

10.53.4. Waste water from septic systems.

SECTION 10.54 DETERMINATION OF CONNECTION.

Upon determining that said connection:

10.54.1. May result in the discharge of hazardous materials, may pose a threat to health and safety, or is likely to result in immediate injury or harm to human or animal life, natural resources, to real or personal property, or habitat, or

10.54.2. Was made in violation of any applicable regulation or ordinance, the UDO Administrator shall outline in a notice of violation, sent by certified mail, the time in which the connection shall be removed. Failure to comply with the terms and deadline set in the notice of violation will constitute a violation of this Ordinance.

SECTION 10.55 RIPARIAN BUFFERS.

Fifty-foot wide riparian buffers shall be maintained along both sides of a stream, river or other water body as required by the Neuse River Basin: Nutrient Sensitive Waters Management Strategy - Protection and Maintenance of Riparian Buffers, Section 3(a-b). Riparian buffer shall be noted on the maps submitted for stormwater management plan approval and shall be noted on the final, recorded map.

Determination of exemptions as noted in 15A NCAC 2B.0233 Neuse River Basin: Nutrient Sensitive Waters Management Strategy - Protection and Maintenance of Riparian Buffers, Section 3 (a-b) shall be made by the NCDEQ Division of Water Resources.

If the stream, river or other water body are within a Water Supply Watershed Protection Overlay District and the High Density Option is utilized, the development shall conform to Section 10.90.9.

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SECTION 10.56 RIGHT TO ENTER.

Any town personnel, or contractors for the town shall be permitted to enter upon public or private property for the purposes of inspection, sampling, monitoring, testing, or otherwise verifying compliance. Should the town personnel, or contractor for the town, be denied reasonable access to any property, the UDO Administrator shall obtain an administrative search warrant.

No person shall obstruct, hamper or interfere with any such representative while carrying out his/her official duties.

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

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

SECTION 10.57 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 10.58 FINDINGS OF FACT.

10.58.1. 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.

10.58.2. 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 10.59 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:

10.59.1. 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;

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

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

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

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

SECTION 10.60 OBJECTIVES.

The objectives of this ordinance are to:

10.60.1. Protect human life, safety, and health;

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

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

10.60.4. Minimize prolonged business losses and interruptions;

10.60.5. 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;

10.60.6. Minimize damage to private and public property due to flooding; *(Amended 4/3/2018)*

10.60.7. Make flood insurance available to the community through the National Flood Insurance Program; *(Amended 4/3/2018)*

10.60.8. Maintain the natural and beneficial functions of floodplains; *(Amended 4/3/2018)*

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

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

DIVISION II. GENERAL PROVISIONS.

SECTION 10.61 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 10.62 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS. *(Amended 4/3/2018)*

ARTICLE 10. PERFORMANCE STANDARDS

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) dated June 20, 2018, 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 three (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 10.63 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 10.62.

SECTION 10.64 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 10.65 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 10.66 INTERPRETATION.

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

- 10.66.1.** Considered as minimum requirements;
- 10.66.2.** Liberally construed in favor of the governing body; and
- 10.66.3.** Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 10.67 WARNING AND DISCLAIMER OF LIABILITY.

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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 10.68 PENALTIES FOR VIOLATION. *(Amended 4/3/2018)*

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 NCGS § 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 \$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 10.69 DESIGNATION OF FLOODPLAIN ADMINISTRATOR. *(Amended 4/3/2018)*

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 10.70 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

10.70.1. 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:

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

10.70.1.1.1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems,

ARTICLE 10. PERFORMANCE STANDARDS

grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

10.70.1.1.2. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 10.62, or a statement that the entire lot is within the Special Flood Hazard Area;

10.70.1.1.3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 10.62;

10.70.1.1.4. The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 10.62;

10.70.1.1.5. The Base Flood Elevation (BFE) where provided as set forth in Section 10.62, Section 10.71, or Section 10.76;

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

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

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

10.70.1.2.1. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures; *(Amended 4/3/2018)*

10.70.1.2.2. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, A or AO will be floodproofed; and *(Amended 4/3/2018)*

10.70.1.2.3. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed. *(Amended 4/3/2018)*

10.70.1.3. 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.

10.70.1.4. 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:

10.70.1.4.1. 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

ARTICLE 10. PERFORMANCE STANDARDS

10.70.1.4.2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 10.75.4.3 when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

10.70.1.5. Usage details of any enclosed areas below the lowest floor.

10.70.1.6. 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.

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

10.70.1.8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections 10.75.6 and 10.75.7 of these regulations are met.

10.70.1.9. 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.

10.70.2. Permit Requirements.

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

10.70.2.1. 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.). *(Amended 4/3/2018)*

10.70.2.2. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 10.62.

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

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

10.70.2.5. All certification submittal requirements with timelines.

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10.70.2.6. 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 Section 10.78 have been met. *(Amended 4/3/2018)*

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

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

10.70.2.9. A statement that all materials below BFE/RFPE must be flood resistant materials. *(Amended 4/3/2018)*

10.70.3. Certification Requirements.

10.70.3.1. Elevation Certificates.

10.70.3.1.1. 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.

10.70.3.1.2. 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.

10.70.3.1.3. 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

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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.

10.70.3.2. Floodproofing Certificate. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 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 NAVD1988. 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. *(Amended 4/3/2018)*

10.70.3.3. 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. *(Amended 4/3/2018)*

10.70.3.4. 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 10.75.3.2.

10.70.3.5. 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

ARTICLE 10. PERFORMANCE STANDARDS

location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

10.70.3.6. 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 10.70.3.1 and 10.70.3.2:

10.70.3.6.1. Recreational Vehicles meeting requirements of Section 10.75.6.1;

10.70.3.6.2. Temporary Structures meeting requirements of Section 10.75.7; and

10.70.3.6.3. Accessory Structures less than 150 square feet meeting requirements of Section 10.75.8.

10.70.4. Determination for Existing Buildings and Structures. *(Amended 4/3/2018)*

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:

10.70.4.1. 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;

10.70.4.2. 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;

10.70.4.3. Determine and document whether the proposed work constitutes substantial improvements or repair of substantial damage; and

10.70.4.4. 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 10.71 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

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10.71.1. 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.

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

10.71.3. 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).

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

10.71.5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 10.78 are met.

10.71.6. 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 10.70.3.

10.71.7. 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 10.70.3.

10.71.8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 10.70.3.

10.71.9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sections 10.70.3 and 10.75.2.

10.71.10. 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.

10.71.11. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 10.62, 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,

ARTICLE 10. PERFORMANCE STANDARDS

including data developed pursuant to Section 10.76.2.2, in order to administer the provisions of these regulations.

10.71.12. 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 10.62 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.

10.71.13. 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.

10.71.14. 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.

10.71.15. 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.

10.71.16. 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.

10.71.17. 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.

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10.71.18. 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.

10.71.19. Follow through with corrective procedures of Section 10.72.

10.71.20. Review, provide input, and make recommendations for variance requests.

10.71.21. 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 Section 10.62 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs. *(Amended 4/3/2018)*

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

SECTION 10.72 CORRECTIVE PROCEDURES.

10.72.1. 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.

10.72.2. 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:

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

10.72.2.2. 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

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

10.72.3. Order to Take Corrective Action.

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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.

10.72.4. 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.

10.72.5. Failure to Comply with Order. (Amended 4/3/2018)

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 NCGS § 143-215.58 and shall be punished at the discretion of the court.

SECTION 10.73 VARIANCE PROCEDURES.

10.73.1. 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.

10.73.2. 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.

10.73.3. Variances may be issued for:

10.73.3.1. 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;

10.73.3.2. Functionally dependent facilities if determined to meet the definition as stated in Appendix A of this ordinance, provided provisions of Sections 10.73.9.2, 10.73.9.3, and 10.73.9.5 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

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

ARTICLE 10. PERFORMANCE STANDARDS

10.73.4. 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:

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

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

10.73.4.3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

10.73.4.4. The importance of the services provided by the proposed facility to the community;

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

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

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

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

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

10.73.4.10. 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

10.73.4.11. 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.

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

10.73.6. 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.

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10.73.7. 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.

10.73.8. 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.

10.73.9. Conditions for Variances:

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

10.73.9.2. 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.

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

10.73.9.4. Variances shall only be issued prior to development permit approval.

10.73.9.5. Variances shall only be issued upon:

10.73.9.5.1. A showing of good and sufficient cause;

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

10.73.9.5.3. 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.

10.73.10. 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.

10.73.10.1. The use serves a critical need in the community.

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

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

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

10.73.10.5. 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 10.74 GENERAL STANDARDS.

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

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

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

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

10.74.4. 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, hot water heaters, and electric outlets/switches. *(Amended 4/3/2018)*

10.74.4.1. Replacement parts of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

10.74.4.2. 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.

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

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10.74.6. 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.

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

10.74.8. 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.

10.74.9. 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 10.73.10. 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 10.70.3.

10.74.10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

10.74.11. 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.

10.74.12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

10.74.13. 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.

10.74.14. 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.

10.74.15. 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 10.75 SPECIFIC STANDARDS.

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In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 10.62, or Section 10.76, the following provisions, in addition to the provisions of Section 10.74, are required:

10.75.1. 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.

10.75.2. Non-Residential Construction. (Amended 4/3/2018)

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 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 Section 10.79.2. 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 10.70.3, along with the operational plan and the inspection and maintenance plan.

10.75.3. Manufactured Homes.

10.75.3.1. 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.

10.75.3.2. 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.

10.75.3.3. All enclosures or skirting below the lowest floor shall meet the requirements of Section 10.75.4.

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10.75.3.4. 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.

10.75.4. Elevated Buildings.

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

10.75.4.1. 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;

10.75.4.2. Shall not be temperature-controlled or conditioned; (*Amended 4/3/2018*)

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

10.75.4.4. 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:

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

10.75.4.4.2. 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;

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

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

10.75.4.4.5. 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

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10.75.4.4.6. 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.

10.75.5. Additions/Improvements.

10.75.5.1. 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:

10.75.5.1.1. 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.

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

10.75.5.2. 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.

10.75.5.3. 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:

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

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

10.75.5.4. 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 fifty (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 twenty-five (25) percent of the market value of the structure before the damage occurred.

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If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. The requirement does not, however, include either: *(Amended 4/3/2018)*

10.75.5.4.1. 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.

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

10.75.6. Recreational Vehicles. *(Amended 4/3/2018)*

Recreational vehicles shall either:

10.75.6.1. Temporary placement:

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

10.75.6.1.2. 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).

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

10.75.7. 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:

10.75.7.1. 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;

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

10.75.7.3. 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);

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

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

10.75.8. 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:

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

10.75.8.2. Accessory structures shall not be temperature-controlled;

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

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

10.75.8.5. Accessory structures shall be firmly anchored in accordance with the provisions of Section 10.74.1;

10.75.8.6. All service facilities such as electrical shall be installed in accordance with the provisions of Section 10.74.4; and

10.75.8.7. 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 10.75.4.3.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 10.70.3.

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10.75.9. Tanks. (Amended 4/3/2018)

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

10.75.9.1. 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.

10.75.9.2. 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.

10.75.9.3. Above-Ground Tanks, Not Elevated. Above-ground tanks that do not meet the elevation requirements of Section 10.74.2 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 tank during design flood conditions.

10.75.9.4. Tank Inlets and Vents. Tank inlets, fill openings, outlets, and vents shall be:

10.75.9.4.1. 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

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

10.75.10. Other Development. (Amended 4/3/2018)

10.75.10.1. 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 10.66 of this Ordinance.

10.75.10.2. Retaining walls, sidewalks, and driveways in regulated floodways and NEAs. Retaining walls, sidewalks, and driveways that involve placement of fill in regulated floodways shall meet the limitations of Section 10.66 of this Ordinance.

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10.75.10.3. 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 10.66 of this Ordinance.

SECTION 10.76 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 10.62, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 10.74, shall apply:

10.76.1. 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.

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

10.76.2.1. 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 10.74 and 10.75.

10.76.2.2. 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 10.75 and 10.78.

10.76.2.3. 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 10.62 and utilized in implementing this ordinance.

10.76.2.4. 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

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(nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of Section 10.75 shall also apply.

SECTION 10.77 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:

10.77.1. Standards of Sections 10.74 and 10.75; and

10.77.2. 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 10.78 FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 10.62. 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 10.74 and 10.75, shall apply to all development within such areas:

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

10.78.1.1. 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

10.78.1.2. 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.

10.78.2. If Section 10.78.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

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

10.78.3.1. The anchoring and the elevation standards of Section 10.75.3; and

10.78.3.2. The no encroachment standard of Section 10.78.1.

SECTION 10.79 STANDARDS OF AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Section 10.62, 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 10.74 and 10.75, all new construction and substantial improvements shall meet the following requirements:

10.79.1. 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.

10.79.2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 10.79.1 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 10.70.3 and 10.75.2.

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

SECTION 10.80 STANDARDS OF AREAS OF SHALLOW FLOODING (ZONE AH). *(Amended 4/3/2018)*

Located within the Special Flood Hazard Areas established in Section 10.62, 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 Section 10.74 and 10.75, all new construction and substantial improvements shall meet the following requirements:

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

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DIVISION V. LEGAL STATUS PROVISIONS.

SECTION 10.81 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 10.82 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 10.83 SEVERABILITY. *(Amended 4/3/2018)*

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 10.84 EFFECTIVE DATE.

These regulations shall become effective upon adoption of the Town of Smithfield Unified Development Ordinance.

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PART VIII. WIRELESS COMMUNICATION FACILITIES.

SECTION 10.85 PURPOSE AND INTENT.

The purpose of this section is to facilitate the deployment of necessary telecommunication services that are the least visibly intrusive type of installation that is not proven to be commercially or technologically impracticable and that will effectively prohibit the applicant from accomplishing its intended goal(s).

SECTION 10.86 SITING HIERARCHY AND PREFERENCES.

The following list indicates the Town's preferences for facility locations, in descending order of preference:

- Antennae co-location on an existing tower or utility pole;
- Concealed (stealth) antennae on existing building/structure;
- New concealed (stealth) tower fifty (50) feet in height or less;
- New concealed (stealth) towers over fifty (50) feet in height;
- Building-mounted antennae and/or tower;
- New freestanding non-stealth towers (monopoles);
- New freestanding non-stealth towers (all other types).

SECTION 10.87 APPROVALS REQUIRED FOR WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.

10.87.1. Expert Review of Application.

The Town may charge up to one thousand dollars (\$1,000) per application for expert assistance with the application review for collocation studies. For studies other than collocation, the Town may charge a "reasonable and customary fee" under NCGS 160A-400.52(f) provided the fees are fixed in advance.

10.87.2. Administrative Review and Approval.

The following types of applications are subject to the review process as provided in Section 5.5. No other type of zoning or site plan review is necessary.

10.87.2.1. New Wireless Support Structures that are less than fifty (50) feet in height, in any zoning district.

10.87.2.2. New Wireless Support Structures that are less than two hundred (200) feet in height, in any Industrial district.

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10.87.2.3. Concealed Wireless Facilities that are fifty (50) feet or less in height, in any residential district.

10.87.2.4. Concealed Wireless Facilities that are one hundred fifty (150) feet or less in height, in any zoning district *except* residential districts.

10.87.2.5. Monopoles or Replacement Poles located on public property or within utility easements or rights-of-way, in any zoning district.

10.87.2.6. Carrier on wheels or cell on wheels (COWs), in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred twenty (120) days.

10.87.2.7. Small cell/e-pole devices.

10.87.2.8. Substantial modifications.

10.87.2.9. Collocations.

10.87.3. Special Use Permit.

Any application for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Special Use Permit in accordance with the standards for granting Special Use Permits set forth in Section 4.9.

10.87.4. Exempt From All Approval Processes. The following are exempt from all Town of Smithfield zoning approval processes and requirements, unless located within the Historic District Overlay (*Amended 10/3/2017*):

10.87.4.1. Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this Ordinance.

10.87.4.2. Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures. Nothing in this section requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities.

10.87.4.3. Wireless Facilities, including Small Wireless Facilities, placed on existing or replacement Utility Poles subject to the following limitation: Each new Small Wireless Facility in the public right-of-way shall not extend more than ten (10) feet above the utility pole, or the wireless support structure on which it is collocated. (*Amended 10/3/2017*)

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10.87.4.4. COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town of Smithfield or in response to a declaration of an emergency or a disaster by the Governor.

10.87.4.5. Non-tower wireless communications facilities are permitted by right in all zoning districts in a right-of-way.

SECTION 10.88 ADMINISTRATIVE REVIEW AND APPROVAL PROCESS.

10.88.1. Content of Application Package - For All Sites.

All Administrative Review and Town Council application packages must contain the following in addition to those requirements outlined in Section 5.5 and 5.6:

10.88.1.1. Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms.

10.88.1.2. Documentation from a licensed professional engineer if calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this Ordinance.

10.88.1.3. For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.

10.88.1.4. For substantial modifications, drawings depicting the improvements along with their dimensions.

10.88.2. Approval Schedule.

10.88.2.1. Applications for Collocation, Monopole or Replacement Pole, a Concealed Wireless Facility, a Non-Exempt COW, or a Substantial Modification.

Within forty-five (45) days of the receipt of a complete application for a Collocation, a Monopole or Replacement Pole, a Concealed Wireless Facility, a Non-Exempt COW, or a Substantial Modification, the UDO Administrator will:

10.88.2.1.1. Review the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the UDO Administrator provides notice that the application is incomplete in writing to the applicant within 30 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The UDO Administrator may deem

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an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state, and local safety requirements. The UDO Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

10.88.2.1.2. Issue a written decision approval an eligible facilities request application within forty-five (45) days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the UDO Administrator shall issue its written decision to approve or deny the application within forty-five (45) days of the application being deemed complete.

10.88.2.1.3. Failure to issue a written decision within forty-five (45) calendar days shall constitute an approval of the application.

10.88.2.2. Applications for New Wireless Support Structures that are Subject to Administrative Review and Approval. Within forty-five (45) calendar days of the receipt of an application for a New Wireless Support Structure that is subject to Administrative Review and Approval under this Ordinance, the UDO Administrator will:

10.88.2.2.1. Review the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the UDO Administrator provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The UDO Administrator may deem an application incomplete if there is insufficient evidence provided to show that the eligible facilities request will comply with federal, state, and local safety requirements. The UDO Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

10.88.2.2.2. Issue a written decision approval on an eligible facilities request application within forty-five (45) days of such application being deemed complete.

10.88.2.2.3. Failure to issue a written decision within forty-five (45) calendar days shall constitute an approval of the application.

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10.88.3. Application Review.

When considering applications for wireless telecommunication facilities, the Town shall comply with the requirements of NCGS Chapter 160A, Article 19, Part 3E, "Wireless Telecommunication Facilities," the Telecommunications Act of 1996, as amended, and the applicable U.S. statutes and FCC orders. The UDO Administrator's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the UDO Administrator may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, the quality of its service to or from a particular area or site, or the radio frequency emissions that will be produced by the facility. The UDO Administrator may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The UDO Administrator may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the UDO Administrator may review the following:

10.88.3.1. Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

10.88.3.2. Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure, or replacement wireless support structure is necessary to provide the applicant's designed service.

10.88.3.3. The UDO Administrator may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if the applicant shows by verifiable technical evidence that the collocation is technically or commercially impractical or the owner of the existing structure is unwilling to enter into a contract for such use at fair market value.

10.88.3.4. The Town may require such information as necessary to provide that the proposed location and the type of support structure will work.

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10.88.4. Building Permit.

The Building Inspector shall issue a building permit following approval of the application under Administrative Review in accordance with the process and standards in this Ordinance.

SECTION 10.89 SPECIAL USE PERMIT PROCESS.

10.89.1. Special Use Permit.

Any Wireless Facility or Wireless Support Structures not meeting the requirements of Section 10.86.2 or 10.86.4 above, may be permitted in all zoning districts upon the granting of a Special Use Permit, subject to:

10.89.1.1. The submission requirements of Section 10.89.1.2. below; and

10.89.1.2. The applicable standards of Section 10.90 below; and

10.89.1.3. The requirements of the special use permit process in Section 4.9.

10.89.2. Content of Special Use Permit Application Package.

All Special Use permit application packages must contain the following in addition to those requirements contained in Sections 4.9, 5.6, 10.88.1.

10.89.2.1. Written description and scaled drawings of the proposed Wireless Support Structure or Wireless Facility, including structure height, ground and structure design, and proposed materials.

10.89.2.2. Number of proposed Antennas and their height above ground level, including the proposed placement of Antennas on the Wireless Support Structure.

10.89.2.3. Line-of-sight diagram or photo simulation, showing the proposed Wireless Support Structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.

10.89.2.4. A statement of the proposed Wireless Support Structure will be made available for Collocation to other service providers at commercially reasonable terms, provided space is available and consistent with Section 10.90.1 of this Ordinance.

10.89.3. Approval Schedule.

Within one hundred fifty (150) calendar days of the receipt of an application under this section, the Town Council **upon recommendation of the Planning Board** will:

10.89.3.1. Complete the process for reviewing the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the UDO Administrator notifies the applicant in writing, within thirty (30) calendar days of

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submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. The Town loses the ability to object that the application is incomplete if the applicant is not notified within 30 days. Upon receipt of a timely written notice that an application is deficient, the 150-day clock is stopped until more information is received at which point the 150-day clock starts again. If the application is still incomplete, the clock continues to run until the applicant is notified in writing. Applications are automatically approved after 150 days.

10.89.3.2. Make a final decision to approve or disapprove the application.

10.89.3.3. Advise the applicant in writing of its final decision. If the Town Council denies an application, it must provide written justification of the denial.

10.89.3.4. Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

SECTION 10.90 GENERAL STANDARDS AND DESIGN REQUIREMENTS.

Design standards apply to all communication towers, both staff approved and special use permit.

10.90.1. Design.

10.90.1.1. Wireless Support Structures shall be subject to the following:

10.90.1.1.1. Shall be engineered and constructed to accommodate a minimum number of Collocations based upon their height:

10.90.1.1.1.1. Support structures fifty (50) to one hundred (100) feet shall support at least two (2) telecommunications providers.

10.90.1.1.1.2. Support structures greater than one hundred (100) feet but less than one hundred fifty (150) feet shall support at least three (3) telecommunications providers.

10.90.1.1.2. The Equipment Compound area surrounding the Wireless Support Structure must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers in accordance with Section 10.90.1.1.

10.90.1.1.3. There shall be no interference with local emergency communications or normal radio/television reception.

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10.90.1.2. Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer.

10.90.1.3. Upon request of the Applicant, the UDO Administrator or Town Council may waive the requirement that new Wireless Support Structures accommodate the Collocation of other service providers if it finds that Collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.

10.90.1.4. A Monopole or Replacement Pole shall be permitted within utility easements or rights-of-way, in accordance with the following design requirements with approval of the entity controlling the utility easement:

10.90.1.4.1. The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.

10.90.1.4.2. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.

10.90.1.4.3. The height of the Monopole or Replacement pole may not exceed by more than thirty (30) feet the height of existing monopole structure.

10.90.1.4.4. Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

10.90.1.4.5. Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection 10.88.1.4.3 above.

10.90.1.4.6. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to thirty (30) feet in height of the utility tower.

10.90.2. Setbacks.

Unless otherwise stated herein, each Wireless Support Structure shall be set back from all property lines a distance equal to its engineered fall zone.

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10.90.3. Height.

In residential districts, Wireless Support Structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the UDO Administrator or Town Council shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request, the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the UDO Administrator or Town Council, whoever has authority to approve.

10.90.4. Aesthetics.

10.90.4.1. Lighting and Marking. Wireless Facilities or Wireless Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

10.90.4.2. Signage. Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (i.e., approved signage at locations on which Concealed Facilities are located).

10.90.5. Accessory Equipment.

Accessory Equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

10.90.6. Fencing.

10.90.6.1. Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the UDO Administrator or Town Council.

10.90.6.2. The UDO Administrator or Town Council may waive the requirement of Section 10.90.6.1 if it is deemed that a fence is not appropriate or needed at the proposed location.

10.90.7. Standards for Facilities in the Public Rights-of Way.

Wireless telecommunication facilities may be placed in a publicly-owned right-of-way if all the following standards are met:

10.90.7.1. The public entity controlling the rights-of-way consents to the encroachment in writing.

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10.90.7.2. No antennae may be discernable as antennae by the average person from more than 250 feet, unless the standard of subsection 10.90.8 below applies. The stricter standard shall apply.

10.90.7.3. Wireless installations shall be on poles that meet or exceed current NESC standards and the wind and ice loading requirements of ANSI 222 Version G.

10.90.7.4. No open lattice work towers are permitted.

10.90.7.5. For Town-controlled rights-of-way:

10.90.7.5.1. The UDO Administrator approves the encroachment; and

10.90.7.5.2. The established encroachment fees are paid; and

10.90.7.5.3. If requested by the Town, the structure is designed to accommodate other reasonable attachments by the Town's electric utility department; and

10.90.7.5.4. Unless proven unfeasible by clear and convincing evidence, in lieu of installing new poles, any wireless installation in the public right-of-way shall replace a pre-existing distribution pole, secondary pole, or streetlight.

10.90.8. Standards for the R-20A, R-10, R-8, R-6, R-MH, PUDs, and O/I Districts. In the R-20, R-8, R-6, PUD, B-3, and O/I zoning districts and in all other zoning districts on properties located within eight hundred (800) feet of any R-20, R-8, R-6, PUD, B-3, and O/I zoning districts (measured from the base of the tower or other supporting structure to the zoning district line), wireless facilities shall meet all of the following standards:

10.90.8.1. Poles must not be metal or concrete. Poles must not conduct electricity.

10.90.8.2. Poles shall be no taller than fifty (50) feet.

10.90.8.3. All supporting structures and antennae must be a "concealed design" including all cabling and antennae inside a "hollow pole" or mounted on the pole.

10.90.8.4. All poles must be non-reflective, matte finish.

10.90.8.5. No new structures shall be located directly in front of residences unless replacing an existing pole.

10.90.8.6. All antennae must be hidden from view or designed so as not to be identified as antennae by a layperson.

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10.90.8.7. Installation of all facilities shall be the least visibly intrusive type of installation that is not proven to be commercially or technologically impracticable and that will not serve to effectively prohibit the applicant from accomplishing its intended goal.

10.90.8.8. Utility poles are not considered support structures.

10.90.8.9. New telecommunication devices and support structures shall not be located closer than eight hundred (800) feet from new and existing structures.

10.90.8.10. All radios, network equipment and batteries shall be enclosed in a pedestal cabinet near the pole; or in a pole-mounted cabinet or under a pole mounted shroud.

10.90.8.11. Cabinets shall be consistent in size and be no larger than standard NCDOT streetlight signal cabinets.

SECTION 10.91 MISCELLANEOUS PROVISIONS.

10.91.1. Abandonment and Removal.

If a Wireless Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, the Town of Smithfield may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Wireless Support Structure fails to utilize the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. The Town of Smithfield shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

10.91.2. Multiple Uses on a Single Parcel or Lot.

Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

SECTION 10.92 WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES IN EXISTENCE ON THE DATE OF ADOPTION OF THIS ORDINANCE.

10.92.1. Facilities in Existence on the Date of Adoption.

Wireless Facilities and Wireless Support Structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.

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10.92.2. Activities at Non-Conforming Wireless Support Structures.

Notwithstanding any provision of this Ordinance:

10.92.2.1. Ordinary Maintenance may be performed on a Non-Conforming Wireless Support Structure or Wireless Facility.

10.92.2.2. Collocation of Wireless Facilities on an existing non-conforming Wireless Support Structure shall not be construed as an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use and shall be permitted through the Administrative Approval process defined in Section 10.86; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.

10.92.2.3. Substantial Modifications may be made to non-conforming Wireless Support Structures utilizing the Special Use Permit process defined in Section 4.9 of this Ordinance.

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PART IX. OVERLAY DISTRICTS.

SECTION 10.93 WATER SUPPLY WATERSHED PROTECTION OVERLAY DISTRICTS.

10.93.1. Purpose.

The purpose of this section is to regulate development and land use activities in a manner which will limit exposure of water supply watersheds to pollution. Sources of pollution include leachate from septic tank nitrification fields, storm water runoff, accidental spillage from residential, commercial, and industrial activities, and discharge of process and cooling water, among others.

As required by the Water Supply Watershed Protection Act of 1989, the State of North Carolina has reclassified each of the state's drinking water supply watersheds to its most appropriate classification. The Neuse River watershed is classified as WS-IV which are protected water supply watersheds which are generally moderate to highly developed. Water Supply Watershed protection is a proactive approach to the preservation and treatment of drinking water supplies rather than a reactive approach of treatment prior to consumption.

10.93.2. Authority.

Statutory authority for this section is derived from North Carolina General Statutes Chapter 160A-381, and Chapter 143, Article 21, which delegates the responsibility to local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. *(Amended 10/3/2017)*

10.93.3. Jurisdiction.

The regulations established shall apply within areas designated as a Public Water Supply Watershed by the North Carolina Environmental Management Commission and the boundaries of the watershed areas shall be as noted on a map adopted in conjunction with these regulations.

10.93.4. Standards.

The standards of both the Water Supply Watershed Protection Overlay Districts and the underlying zoning district shall apply. Where these standards differ, the standards of the Overlay Districts shall govern.

10.93.5. Establishment of Watershed Areas.

For the purposes of this section, the Town of Smithfield and its extraterritorial jurisdiction are divided into the following Water Supply Watershed Protection Overlay Districts:

10.93.5.1. WS-IV-CA Critical Area Overlay District.

10.93.5.2. WS-IV-PA Protected Area Overlay District.

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10.93.6. Development Regulations - WS-IV-CA District.

The following regulations shall apply within the WS-IV-CA:

10.93.6.1. Allowed Uses.

10.93.6.1.1. Agricultural uses are not subject to the stormwater requirements of this Ordinance. (Amended 10/3/2017)

10.93.6.1.2. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality.

10.93.6.1.3. Residential uses.

10.92.6.1.4. Expansions to existing nonresidential development in accordance with Section 10.93.9.

10.93.6.2. Density and Built-Upon Limits. (Amended 10/3/2017)

10.93.6.2.1. Single-Family Residential Minimum Lot Size. Where neither public water nor sewer are available, the minimum lot size shall be 40,000 square feet, or as determined by the Johnston County Division of Environmental Health. Where either public water or sewer, or both, are available, the minimum lot size shall be ½ acre or 21,780 square feet.

10.93.6.2.2. Impervious Surface Limitations. Development shall not exceed 24% built upon area on a project by project basis unless the High Density Option is utilized. For the purpose of calculating the built upon area, total project area shall include the gross acreage in the tract on which the project is to be developed.

10.93.6.2.3. High Density Option. Impervious surfaces may be increased up to a maximum of 70% subject to the following requirements:

10.93.6.2.3.1. Stormwater Control Requirements. Where development proposes intensity greater than 24% engineered stormwater controls shall be used to control stormwater runoff from the first inch of rainfall in order to meet water quality concerns.

10.93.6.2.3.2. Ownership, Design, and Maintenance of Engineered Stormwater Controls.

10.93.6.2.3.2.1. Unless otherwise approved, ownership of the engineered stormwater controls shall remain with the property owner or a property owners' association, which shall be responsible for the continued care and maintenance of such controls.

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10.93.6.2.3.2.2. Engineer stormwater controls shall be designed and constructed in accordance with standards and specifications established by the Town of Smithfield and to the State's minimum standards. The BMP design criteria shall require 85% average annual removal of Total Suspended solids and the discharge rate must meet one of the following criteria:

10.93.6.2.3.2.2.1. The discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design within five (5) days, but not less than two (2) days; or

10.93.6.2.3.2.2.2. The post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.

10.93.6.2.3.2.3. Except as allowed in paragraph 10.93.6.2.3.2.3.3 below, no building permit shall be issued for a site proposed for development, until:

10.93.6.2.3.2.3.1. UDO Administrator has approved plans and specifications for the proposed engineered stormwater controls and the property owner has entered into an Agreement and Covenants or Operation and Maintenance Agreement with the Town in accordance with the terms established by the Town including being referenced on a final plat which must be recorded along with the agreement in the Johnston County Register of Deeds; and

10.93.6.2.3.2.3.2. The property owner has posted a performance bond, other surety instrument, or other payment in acceptable form to the Town in an amount determined by the UDO Administrator as appropriate to assure construction, maintenance, repair, and/or reconstruction necessary for adequate performance of the engineered stormwater controls.

10.93.6.2.3.2.3.3. For multi-family projects, building permits may be issued; but construction drawing approval, or water and sewer permit approval, shall be withheld until compliance with paragraphs 10.93.6.2.3.2.3.1 and 10.93.6.2.3.2.3.2 above.

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10.93.6.2.3.2.3.4. The Agreement and Covenants or Operation and Maintenance Agreement required under paragraph 10.93.6.2.3.2.3.1 above, may be required prior to site plan or preliminary plat approval.

10.93.6.2.3.2.4. No certificate of compliance/occupancy shall be issued for any structure constructed within a site proposed for development, other than as allowed below, until the UDO Administrator has approved construction of the engineered stormwater controls and after review and approval of "as-built" drawings. Notwithstanding this requirement, the UDO Administrator may allow for delay in approval of construction of stormwater controls and submission and approval of as-built drawings for single-family housing and other developments requiring multiple certificates of occupancy.

10.93.7. Development Regulations - WS-IV-PA District.

The following regulations shall apply within the WS-IV-PA:

10.93.7.1. Allowed Uses.

10.93.7.1.1. Agricultural uses are not subject to the stormwater requirements of this Ordinance. *(Amended 10/3/2017)*

10.93.7.1.2. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality.

10.93.7.1.3. Residential development.

10.93.7.1.4. Nonresidential development, excluding storage of toxic and hazardous materials unless a spill containment plan is implemented.

10.93.7.2. Density and Built-Upon Limits. *(Amended 10/3/2017)*

10.93.7.2.1. Single-Family Residential Minimum Lot Size. Where neither public water nor sewer are available, the minimum lot size shall be 40,000 square feet, or as determined by the Johnston County Division of Environmental Health. Where either public water or sewer, or both, are available, the minimum lot size shall be 1/2 acre or 21,780 square feet.

10.93.7.2.2. Impervious Surfaces. Development shall not exceed 24% built upon area on a project by project basis unless the High Density Option is utilized. For the purpose of calculating the built upon area, total project area shall include the gross acreage in the tract on which the project is to be developed.

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10.93.7.2.3. High Density Option. Impervious surfaces may be increased up to a maximum of 70% subject to the following requirements:

10.93.7.2.3.1. Stormwater Control Requirements. Where development proposes intensity greater than 24% engineered stormwater controls shall be used to control stormwater runoff from the first inch of rainfall in order to meet water quality concerns.

10.93.7.2.3.2. Ownership, Design, and Maintenance of Engineered Stormwater Controls.

10.93.7.2.3.2.1. Unless otherwise approved, ownership of the engineered stormwater controls shall remain with the property owner or a property owners' association, which shall be responsible for the continued care and maintenance of such controls.

10.93.7.2.3.2.2. Engineer stormwater controls shall be designed and constructed in accordance with standards and specifications established by the Town of Smithfield and to the State's minimum standards. The BMP design criteria shall require 85% average annual removal of Total Suspended solids and the discharge rate must meet one of the following criteria:

10.93.7.2.3.2.2.1. The discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design within five (5) days, but not less than two (2) days; or

10.93.7.2.3.2.2.2. The post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.

10.93.7.2.3.2.3. Except as allowed in paragraph 10.93.7.2.3.2.3.3 below, no building permit shall be issued for a site proposed for development, until:

10.93.7.2.3.2.3.1. UDO Administrator has approved plans and specifications for the proposed engineered stormwater controls and the property owner has entered into an Agreement and Covenants or Operation and Maintenance Agreement with the Town in accordance with the terms established by the Town including being referenced on a

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final plat which must be recorded along with the agreement in the Johnston County Register of Deeds; and

10.93.7.2.3.2.3.2. The property owner has posted a performance bond, other surety instrument, or other payment in acceptable form to the Town in an amount determined by the UDO Administrator as appropriate to assure construction, maintenance, repair, and/or reconstruction necessary for adequate performance of the engineered stormwater controls.

10.93.7.2.3.2.3.3. For office, institutional, commercial, industrial, and multi-family projects, building permits may be issued; but construction drawing approval, or water and sewer permit approval, shall be withheld until compliance with paragraphs 10.93.7.2.3.2.3.1 and 10.93.7.2.3.2.3.2 above.

10.93.7.2.3.2.3.4. The Agreement and Covenants or Operation and Maintenance Agreement required under paragraph 10.93.7.2.3.2.3.1 above, may be required prior to site plan or preliminary plat approval.

10.93.7.2.3.2.4. No certificate of compliance/occupancy shall be issued for any structure constructed within a site proposed for development, other than as allowed below, until the UDO Administrator has approved construction of the engineered stormwater controls and after review and approval of "as-built" drawings. Notwithstanding this requirement, the UDO Administrator may allow for delay in approval of construction of stormwater controls and submission and approval of as-built drawings for single-family housing and other developments requiring multiple certificates of occupancy.

10.93.8. Impervious Surface Transfer Credit. (Amended 10/3/2017)

The impervious surface limit provisions of this section can be exceeded through an impervious surface credit transfer. Credit for the impervious surfaces allowed on one or more parcels ("donor parcels") can be transferred to non-contiguous parcels ("receiving parcels"), such that the amount of impervious surface available for a development project would be the total of what is normally allowed on the receiving parcel plus what is transferred from the donor parcel(s). Impervious surface credit transfer is subject to the following provisions:

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10.93.8.1. The donor parcel and receiving parcel shall be located within the same water supply watershed.

10.93.8.2. The impervious surface credit transfer shall not be from a donor parcel in Protected Area to a receiving parcel in Critical Area.

10.93.8.3. The portion of the donor parcel which is restricted from development as part of the impervious surface credit transfer shall remain in a vegetated or natural. The portion of the donor site restricted from development shall be protected from all future development through use of a permanent conservation easement in favor of either:

10.93.8.3.1. Town of Smithfield; or

10.93.8.3.2. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements (the organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer to the Town in the event the organization becomes unable to carry out its functions). If the entity accepting the easement is not the Town then a third right of enforcement favoring the Town shall be included in the easement.

10.93.8.4. The impervious surface credit transfer shall be reviewed and approved through use of the site plan process.

10.93.8.5. The donor parcel shall be deemed appropriate for acceptance by the Town under the Town of Smithfield Review Criteria for Acceptance of Conservation Easements for Impervious Surface Transfer.

10.93.9. Buffer Areas Required. *(Amended 10/3/2017)*

For all new development activities proposed within the WS-IV-CA or WS-IV-PA Districts, a minimum 50 foot vegetative buffer is required, unless the High Density Option is utilized in which case the minimum buffer will be 100 foot, adjacent to all perennial waters as indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by other reliable sources. Vegetation within such buffers shall remain undisturbed except as permitted by State rules and as may be necessary to accommodate any of the following uses:

10.93.9.1. Boat docks, ramps, piers, or similar structures.

10.93.9.2. Reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places.

10.93.9.3. Roads, provided they cross the buffer at a horizontal angle of at least 60 degrees.

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10.93.9.4. Other public projects, where no practical alternative exists.

10.93.10. Existing Single-Family Development Exempt.

Existing single-family dwelling units or proposed additions or expansions to existing single-family dwelling units shall be exempt from these regulations.

10.93.11. Other Existing Development.

Existing development as defined herein (other than single-family residential development) which does not currently comply with these provisions, may be continued and maintained without penalty. Proposed expansions to structures classified as existing development, including nonresidential development within the Critical Area, which would qualify as permitted uses within the underlying zoning district may be allowed but shall be required to comply fully with these requirements. The existing built-upon area shall not be required to be included when calculating permissible density.

10.93.12. Existing Vacant Lots.

Existing vacant lots, for which plats or deeds have been recorded in the Johnston County Register of Deeds office prior to the adoption of these regulations, may be used for any of the permissible uses allowed in the watershed area in which it is located, provided that whenever two or more contiguous residential lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, then such lots shall be considered as a single property for the purpose of compliance with these requirements.

10.93.13. Occupied Lots.

Lots occupied for residential purposes at the effective date of these regulations may continue to be used, provided that whenever two or more contiguous lots of record, one of which is occupied, are in single ownership on the effective date of these regulations, and such lots individually or together have less area than required by the minimum standards, then such lots shall be considered as a single property for the purpose of compliance with these requirements.

10.93.14. Swale Street Systems.

Within the WS-IV-CA and WS-IV-PA Districts, the Town Council may authorize development which would utilize a swale rather than a curb and gutter street system provided such streets are designed and constructed in accordance with the NCDOT Division of Highways manual entitled "Minimum Construction Standards for Subdivision Roads," as amended, or its successor document, for the classification of street proposed. Additionally, Best Management Practices (BMPs) as prescribed in the NCDOT manual "Water Supply Watershed Best Management Practices" shall be utilized for all new roadway construction within watershed areas.

10.93.15. Planned Unit Development Special Zoning Districts within Watershed Areas.

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For Planned Unit Developments proposed within water supply watershed areas, development densities shall comply with the regulations established under this section. ~~in lieu of the development densities set forth for Planned Unit Developments in Section 6.3.6.~~

10.93.16. Variances.

10.93.16.1. Whenever an application is filed for a variance to the provisions contained in this section the town shall notify the other local governments having jurisdiction within the watershed and any entity using the water supply for consumption purposes to allow these parties an opportunity to comment on the application.

10.93.16.2. The Board of Adjustment shall conduct a hearing on the application in accordance with the procedures established under this Ordinance. The Board of Adjustment shall have the power to authorize, in specific cases, minor variances, as defined herein, from the terms of this section as will not be contrary to the public interest.

10.93.16.3. If the application for a variance calls for the granting of a major variance, as defined herein, and if the Board of Adjustment decides in favor of granting the variance, a preliminary record of the hearing shall be prepared within 30 days. The preliminary record shall include:

10.93.16.3.1. The variance application;

10.93.16.3.2. The hearing notices;

10.93.16.3.3. The evidence presented;

10.93.16.3.4. Proposed findings and exceptions;

10.93.16.3.5. The proposed decision, including any conditions proposed to be added to the permit.

10.93.16.4. The preliminary record shall be sent to the North Carolina Environmental Management Commission (EMC) for review as follows:

10.93.16.4.1. If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure no reasonable return from nor make any proposed variance is granted, and (b) the variance, if granted, will not result in a threat to the water supply, then the EMC shall approve the variance as proposed or approve the proposed variance with conditions.

10.93.16.4.2. If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure a

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reasonable return from or make a practical use of the property without the variance or, (b) the variance, if granted, will result in a serious threat to the water supply, then the EMC shall deny approval of the variance as proposed.

10.93.16.5. The EMC shall prepare a final Commission decision relative to the proposed variance and transmit it to the Board of Adjustment. The Board shall advise the applicant for the proposed variance of the EMC's final decision.

10.93.16.6. A record of all variances granted during a calendar shall be transmitted to the Division of Environmental Management on or before January 1st of the following year.

10.93.17. Cluster Subdivisions. (Amended 10/3/2017)

Cluster development is allowed in all Watershed Areas under the following conditions:

10.93.17.1. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Sections 10.93.6.2.1 and 10.93.7.2.1. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.

10.93.17.2. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

10.93.17.3. Areas concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainage ways.

10.93.17.4. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to the Town of Smithfield for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

10.93.17. Amendments to Water Supply Watershed Protection Regulations.

The Town Council may, on its own motion or upon a properly filed petition, amend, supplement, or modify the watershed regulations set forth under this section in accordance with the procedures established under Article 4 of this Ordinance, provided that no amendments shall be adopted which shall cause these regulations to violate the minimum watershed protection rules adopted by the North Carolina Environmental Management Commission. All amendments shall

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subsequently be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

10.93.18. Summary of Water Supply Watershed Protection Rules.

The following table summarizes the Water Supply Watershed Protection Regulations contained herein, which were adopted by the Smithfield Town Council on August 2, 2017; to become effective and in force from that day forward.

Classifications	Dischargers	Residential Density Low Density Option	Nonresidential Development	Sludge Applications	Landfills	Hazardous Materials	Sewer Lines
WS-IV Critical Area	None	2du/1ac**	No new development	None	None	None	Allow
Protected Area	Domestic & industrial	Same	Allow maximum 24% built-upon	None	None	Inventory spill/failure	Allow

NOTES:

**Minimum lot size where public water or sewer is not available shall be 40,000 square feet.

- (1) Critical area is one mile draining to river intake or to the ridgeline, whichever is greater.
- (2) Protected area is ten miles upstream draining to river intake or to the ridgeline, whichever is greatest.
- (3) For residential and nonresidential development, a minimum buffer width of 50 feet shall be provided adjacent to all perennial waters.
- (4) Spill containment structures are required for new industry where hazardous materials are used, stored, or manufactured.
- (5) Storm water control structures shall not be employed within the critical or protected portion of the watershed as a means to exceed the minimum criteria established herein.
- (6) Agricultural activities are subject to provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990. In critical area agricultural activities must maintain a ten-foot vegetated buffer or equivalent control. Animal operations with greater than 100 animals must use BMPs as determined by the Soil and Water Conservation Commission.
- (7) Forestry activities are subject to the provisions of the forest practices guidelines related to water quality (15A NCAC 11.0101-.0209).
- (8) The Department of Transportation must use BMPs as described in their document, "Water Supply Watershed Best Management Practices."
- (9) Swale street systems constructed in accordance with NCDOT standards may be permissible within the critical and protected areas.

SECTION 10.94 ENTRY CORRIDOR OVERLAY DISTRICTS.

These districts are established to provide development standards for particular roadway corridor areas as shown on the Official Zoning Map which are in addition to those provided by the other zoning districts established by the Unified Development Ordinance. The purpose for establishing these entry corridor overlay districts is first, to recognize the importance that different roadway corridors play in defining the town's character as town entryways and, second, to protect and preserve both the aesthetics of these important roadways and their traffic-handling capabilities, thereby contributing to the general welfare of the Town of Smithfield.

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It is the intent of this Ordinance that development existing as of the date of its enactment shall not be required to comply with the regulations contained herein unless such development is expanded by 20% or more of the gross enclosed floor area of the principal structure.

10.94.1. Permitted Uses.

Same as for underlying zoning district(s).

10.94.2. Special Uses.

Same as for underlying zoning district(s).

10.94.3. Prohibited Uses.

Same as for underlying zoning district(s).

10.94.4. Development Standards.

Dimensional requirements and all other development standards shall be the same as for underlying zoning district(s) except as modified herein.

10.94.4.1. Thoroughfare Protection. No improvements other than driveways, sidewalks, parking, and landscaping shall be permitted within the limits of projected rights-of-way as specified in the Official Thoroughfare Plan.

10.94.4.2. Setbacks. Setbacks shall be the same as for the underlying zoning district; provided, however, one or more principal structures may be authorized within the setback under the following circumstances:

10.94.4.2.1. Such principal structure(s) is not situated within 10 feet of the projected right-of-way line of an entry corridor roadway;

10.94.4.2.2. Parking for the site is placed to the side or rear of such structure(s) so that it is screened from view from the entry corridor by means of such structure(s) and vegetative buffering as provided in Article 10, Part II.

10.94.4.2.3. The landscaping requirement for parking lots located to the side or rear of the principal structure may be reduced by 20%.

10.94.4.2.4. The required parking spaces for parking lots located to the side or rear of the principal structure may be reduced by 20%.

10.94.4.3. Driveways. Driveways serving a development parcel shall be permitted in accordance with the standards of the North Carolina Department of Transportation (NCDOT); provided, however, a development parcel shall be limited to no more than one (1) driveway on any road and no more than three driveways total, unless a ~~major~~ site plan has been approved with additional driveways. Additional driveways may be permitted

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when they are necessary to improve traffic movement, increase sight distances, or for other safety reasons. Developers are encouraged to share parking areas and driveways with adjoining developments.

10.94.4.4. Outdoor Storage. Outdoor storage shall be screened from view with six (6) foot high opaque vegetation or fencing, so that it is not visible from a roadway or adjacent properties. Provided, however, this section shall not apply to the outdoor display of goods for sale.

10.94.4.5. Signs. Signs shall be governed by the regulations contained in Article 10, Part III except as modified below:

10.94.4.5.1. Pole Signs. Pole signs are prohibited.

10.94.4.5.2. Freestanding Signs. Each development parcel may include no more than one freestanding sign, which shall not exceed 70 square feet in size and 10 feet in height, measured from street grade, for each thoroughfare on which the site has driveway access. For purposes of this paragraph, a development parcel does not include out parcels associated with approved major site plans.

10.94.4.6. Exceptions.

10.94.4.6.1. Single-family and two-family residential dwellings shall be required to comply with the provisions of Sections 10.94.4.1 to 10.94.4.3 , above, but they shall not be required to comply with the remaining regulations of the Entry Corridor Overlay Zoning Classification.

10.94.4.6.2. Small lots, defined as lots with less than 100 feet of frontage on an entry corridor roadway or with less than 100 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the Board of Adjustment for the town may approve variances from such regulations so long as the plans of development are consistent with an approved site plan.

10.94.4.7. Nonconformities. Uses, structures, and lots rendered nonconforming by this ordinance shall be governed by the provisions of Article 9 of the Unified Development Ordinance.

SECTION 10.95 ROWHOUSE OVERLAY DISTRICTS.

This district is established to provide development standards for high density single-family residential areas which are in addition to those provided by the underlying zoning districts established by the Unified Development Ordinance. The purpose of establishing this rowhouse

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overlay district is to allow high density single-family residential development in locations where it will be compatible with adjacent land uses.

10.95.1. Allowable Zoning Districts.

B-1, R-6, R-8, and O/I.

10.95.2. Permitted Uses

None

10.95.3. Special Uses.

Dwelling, single-family; accessory uses; and home occupations.

10.95.4. Prohibited Uses.

All uses not specifically permitted by issuance of a special use permit.

10.95.5. Parking.

All required parking shall be located in the rear yard.

10.95.6. Minimum Zoning District Area.

20,000 square feet of contiguous area within the RHO overlay district. (NOTE: It is intended that the RHO district will include multiple parcels.)

10.95.7. Yard, Area, and Height Requirements.

Refer to Article 8. Minimum yard requirements may be modified through the issuance of a special use permit.

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SECTION 10.96 AIRPORT HEIGHT HAZARD OVERLAY (AHH).

10.96.1. Purpose.

The purpose of the airport height hazard district (AHH) is to provide regulations that provide a higher level of control from activities, situations and obstructions that could have the potential for endangering the lives and property of users of the Johnston Regional Airport, and property or occupants of land in its vicinity. Further, the creation or establishment of an obstruction may effect existing and future instrument approach minimums of the Johnston Regional Airport, and that obstruction may present a hazard to air navigation and/or reduce the size of areas available for the safe landing, takeoff and maneuvering of aircraft.

10.96.2. Intent.

It is the intent of this section to prevent the creation or establishment of hazards to air navigation, eliminate, remove, alter or mitigate hazards to air navigation, by regulating the height of structures, and the use of property in the vicinity of the airport.

10.96.3. Airport Hazard District Zones.

In order to carry out the provisions of this section, there are created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Johnston Regional Airport. Such zones are identified on the airport hazard district map which is on file in the office of the Johnston County planning office and the geographical informational services office. An area located in one or more than one of the following zones is considered to be the only area in the zone with the more restrictive height regulations.

10.96.3.1. Runway Larger Than Utility Visual Approach Zone. This zone is defined as the inner edge of the approach zone that coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

10.96.3.2. Runway Larger Than Utility with a Visibility Minimum Greater than Three-Quarter Mile Non-precision Instrument Approach Zone. This zone is defined as the inner edge of this approach zone that coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

10.96.3.3. Runway Larger Than Utility with a Visibility Minimum as Low as Three-Quarter Mile Non-precision Instrument Approach. This zone is defined as the inner edge of this approach zone that coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

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10.96.3.4. Precision Instrument Runway Approach Zone. This zone is defined as the inner edge of this approach zone that coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

10.96.3.5. Transitional Zone. The transitional zones are those zones that are the areas beneath the transitional surfaces.

10.96.3.6. Horizontal Zone. This zone is defined as that area established by swinging arcs of 5,000 feet radii for all runways designated as utility or visual and 10,000 feet for all others from the center of each and the primary surface of each runway connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include approach and transitional at the periphery of the horizontal zone, and extends outward from a horizontal distance of 4,000 feet.

10.96.4. Airport Environs Height Regulations.

Except as otherwise provided in this section, no building or structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any airport hazard district zone to a height in excess of the applicable height established for such zone. The maximum height regulations are as follows:

10.96.4.1. Runway Larger Than Utility Visual Approach Zone. Slopes 20 feet outward for each foot upward beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

10.96.4.2. Runway Larger Than Utility with a Visibility Minimum Greater than Three-Quarter Mile Non-precision Instrument Approach Zone. Slopes 34 feet outward for each foot upward beginning at the end of, and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

10.96.4.3. Runway Larger Than Utility with a Visibility Minimum as Low as Three-Quarter Mile Non-precision Instrument Approach. Slopes 34 feet outward for each foot upward beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

10.96.4.4. Precision Instrument Runway Approach Zone. Slopes 50 feet outward for each foot upward beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance upward of 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

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10.96.4.5. Transitional Zone. Slopes seven feet outward for each foot upward beginning at the sides of, and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation (165 feet above mean sea level). In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of, and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of, and the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

10.96.4.6. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 315 feet above mean sea level.

10.96.4.7. Conical Zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone, and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

10.96.5. Airport Environs Height Regulations Exceptions.

Nothing in this section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

10.96.6. Use Regulations.

Notwithstanding any other provision of this section, no use may be made of land or water within any zone established by this section in such a manner as to:

10.96.6.1. Create electrical interference with navigational signals or radio communication between airport and aircraft;

10.96.6.2. Make it difficult for pilots to distinguish between airport lights and other lights;

10.96.6.3. Result in glare in the eyes of pilots using the airport;

10.96.6.4. Impair visibility in the vicinity of the airport;

10.96.6.5. Create bird strike hazards; or

10.96.6.6. Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

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10.96.7. Existing Uses.

The regulations prescribed in this section shall not be construed to require the removal, alteration, lowering or other change of any structure or tree not conforming to the regulations as of May 7, 1984, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this section shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to May 7, 1984.

10.96.8. Marking and Lighting.

Notwithstanding the provisions of this section, the owner of any existing structure that exceeds the height requirements of subsection 10.96.4 of this section, is required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Johnston County Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Johnston County Airport Authority.

10.96.9. Permits Required.

Except as specifically provided in this subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit thereof shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient information in order to determine whether the resulting use, structure, or tree would conform to the regulations prescribed in this article.

10.96.9.1. Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction, or permit a nonconforming use, structure or tree, to become a greater hazard to air navigation than it was on May 7, 1984, or than it is when the application permit is made.

10.96.9.2. Nonconforming Uses, Abandoned or Destroyed. Whenever the UDO Administrator determines that a nonconforming structure or tree has been abandoned, or more that 80 percent physically deteriorated, destroyed, or decayed, no permit shall be granted that would allow such structure or tree to exceed the height regulations of subsection 10.94.4 of this section, or otherwise deviate from the requirements of this section.

10.96.9.3. Permit Exceptions.

10.96.9.3.1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any structure or tree less than 75 feet of vertical height above the ground, except when, because of existing terrain, land contour, or topographic feature, such structure or tree would extend above the required height limits prescribed for such zones.

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10.96.9.3.2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any structure or tree less than 75 feet of vertical height above the ground, except when such structure or tree, because of existing terrain, land contour, or topographic feature, would extend above the required height limit prescribed for such zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration, of any structure, or growth of any tree in excess of any of the required height limits established in subsection 10.96.4 of this section.

10.96.10. Variances.

Any person desiring to erect or increase the height of any building or structure not in accordance with the regulations prescribed in this section, may apply to the Board of Adjustment for a variance from such regulations. The application for a variance must be accompanied by a determination letter from the Federal Aviation Administration as to the effect of the variance request on the operation of air navigation facilities and the safe, efficient use of navigable air space. An application for a variance from the requirements of this section shall be referred to the Airport Manager for advice as to the aeronautical effects of the variance request on the operation of the airport facilities. If the Airport Manager does not respond to the application request within 15 days after receipt of the application, the Board of Adjustment may act on its own to grant or deny such application. The Board of Adjustment, based on findings of fact, shall grant the variance if it:

10.96.10.1. Is found that a literal application of enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest;

10.96.10.2. Will not create a hazard to air navigation;

10.96.10.3. Will do no injustice; and

10.96.10.4. Will be in accord with the spirit and intent of this section.

10.96.11. Obstruction Marking and Lighting.

Any permit or variance granted may, if such action is deemed advisable to carry out the purpose of this section, and is reasonable in the circumstances, be so conditioned as to require the owner of the structure to install, operate, and maintain, at the owner's expense, such markings and lights as necessary. If deemed proper by the Board of Adjustment, this condition may be modified to permit the Johnston County Airport Authority, at its own expense, to install, operate and maintain the necessary markings and lights.

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PART X. SUBDIVISION REGULATIONS.

SECTION 10.97 STANDARDS FOR REVIEW.

Refer to Article 5 for the subdivision review process. Decision on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in Article 10, Part X. Whenever the ordinance criteria for decisions requires application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval.

SECTION 10.98 SKETCH PLANS.

A sketch plan is recommended and should include the information specified in Section 5.4.4.

SECTION 10.99 PRELIMINARY PLATS FOR MINOR AND MAJOR SUBDIVISIONS.

The preliminary plat shall depict or contain the information provided in Section 10.101. Preliminary plats shall be clearly and legibly drawn at a scale of not less than two hundred (200) feet to one (1) inch. If a major subdivision is to be developed in states, a phasing plan must be submitted with the preliminary plat.

SECTION 10.100 FINAL PLATS FOR ALL SUBDIVISIONS.

10.100.1. Final Plat Contents.

The final plats shall depict or contain the information provided in Section 10.101. Final plats shall be clearly and legibly drawn by a registered land surveyor currently licensed in the State of North Carolina by the NC State Board of Registration for Professional Engineers and Land Surveyors. The plat shall also be drawn at a scale of not less than two hundred (200) feet to one (1) inch and shall be drawn on a sheet size of mylar acceptable to the Register of Deeds of Johnston County.

10.100.2. Certifications.

The final plat shall contain the certifications outlined in Section 10.120.

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SECTION 10.101 INFORMATION TO BE PROVIDED ON PRELIMINARY AND FINAL PLATS.

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required.

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Vicinity map (6" W x 4" H) showing location of subdivision in relation to neighboring tracts, subdivision, roads, and waterways (to include streets and lots of adjacent developed or platted properties). Also include corporate limits, Town boundaries, county lines if on or near subdivision tract.	X	
Boundaries of tract and portion to be subdivided, including total acreage to be subdivided, distinctly and accurately represented with all bearings and distances shown.	X	X
Proposed street layout and right-of-way width, lot layout and size of each lot. Number lots consecutively throughout the subdivision.	X	X
Name of proposed subdivision.	X	X
Statement from the Johnston County Health Department that a copy of the sketch plan has been submitted to them, if septic tanks or other onsite water or wastewater systems are to be used in the subdivision, AND/OR statement from the County Public Utilities that application has been made for public water and/or sewer permits.	X	
Graphic scale.	X	X
North arrow and orientation.	X	X
Concurrent with submission of the Preliminary Plat to the Town, the subdivider or planner shall submit copies of the Preliminary Plat and any accompanying material to any other applicable agencies concerned with new development, including, but not limited to: District Highway Engineer, County Board of Education, U.S. Army Corps of Engineers, State Department of Natural Resources and Community Development, for review and recommendation.	X	
List the proposed construction sequence.	X	
Stormwater plan – see Article 10, Part VI.	X	
Show existing contour lines with no larger than five-foot contour intervals.	X	
New contour lines resulting from earth movement (shown as solid lines) with no larger than five-foot contour intervals (existing lines should be shown as dotted lines).	X	
Survey plat, date(s) survey was conducted and plat prepared, the name, address, phone number, registration number and seal of the Registered Land Surveyor.	X	X
Names, addresses, and telephone numbers of all owners, mortgagees, land planners, architects, landscape architects and professional engineers responsible for the subdivision (include registration numbers and seals, where applicable).	X	X
Date of the drawing(s) and latest revision date(s).	X	X

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<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
The owner's name(s) of adjoining properties and Zoning District of each parcel within 100' of the proposed site.	X	
State on plans any variance request(s).	X	
Show existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining. Show wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds and any other natural features affecting the site.	X	
The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or FIRM maps (FEMA). State the base flood elevation data for subdivision.	X	X
Show the minimum building setback lines for each lot.	X	X
Provide grading and landscape plans. Proposed plantings or construction of other devices to comply with the screening requirements of Article 10, Part II.	X	
Show location of all proposed entrance or subdivision signage (see Section 10.23.1).	X	
Show pump station detail including any tower, if applicable.	X	
Show area which will not be disturbed of natural vegetation (percentage of total site).	X	
Label all buffer areas, if any, and provide percentage of total site.	X	X
Show all riparian buffer areas.	X	X
Show all watershed protection and management areas per Article 10, Part VI.	X	X
Soil erosion plan.	X	
Show temporary construction access pad.	X	
Outdoor illumination with lighting fixtures and name of electricity provider.	X	
The following data concerning proposed streets:		
Streets, labeled by classification (see Town of Smithfield construction standards) and street name showing linear feet, whether curb and gutter or shoulders and swales are to be provided and indicating street paving widths, approximate grades and typical street cross-sections. Private roads in subdivisions shall also be shown and clearly labeled as such.	X	X
Traffic signage location and detail.	X	
Design engineering data for all corners and curves.	X	X

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Information	Preliminary Plat	Final Plat
For office review; a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage.	X	
Type of street dedication; all streets must be designated public. (Where public streets are involved which will be dedicated to the Town, the subdivider must submit all street plans to the UDO Administrator for approval prior to preliminary plat approval).	X	X
When streets have been accepted into either the municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with the Town of Smithfield construction standards.	X	X
If any street is proposed to intersect with a state maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveway Regulations. (1) Evidence that the subdivider has applied for such approval. (2) Evidence that the subdivider has obtained such approval.	X X X	
The location and dimensions of all:		
Utility and other easements.	X	X
Pedestrian and bicycle paths.	X	X
Areas to be dedicated to or reserved for public use.	X	X
The future ownership (dedication or reservation for public use to governmental body or for owners to duly constituted homeowners' association) of recreation and open space lands.	X	X
Required riparian and stream buffer per Article 10, Part VI.	X	X
The site/civil plans for utility layouts including:		
Sanitary sewers, invert elevations at manhole (include profiles).	X	
Storm sewers, invert elevations at manhole (include profiles).	X	
Best management practices (BMPs)	X	
Stormwater control structures	X	
Other drainage facilities, if any.	X	
Impervious surface ratios	X	
Water distribution lines, including line sizes, the location of fire hydrants, blow offs, manholes, force mains, and gate valves.	X	
Gas lines.	X	
Telephone lines.	X	

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<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Electric lines.	X	
Plans for individual water supply and sewage disposal systems, if any.	X	
Provide site calculations including:		
Acreage in buffering/recreation/open space requirements.	X	X
Linear feet in streets and acreage.	X	X
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior's National Register of Historic Places.	X	X
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles and tangent distance for the center line of curved property lines that is not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.	X	X
The accurate locations and descriptions of all monuments, markers, and control points.	X	X
Proposed deed restrictions or covenants to be imposed upon newly created lots. Such restrictions are mandatory when private recreation areas are established. Must include statement of compliance with state, local, and federal regulations.	X	X
A copy of the erosion control plan submitted to the Regional Office of NC-DNRCD, when land disturbing activity amounts to one acre or more.	X	
All certifications required in Section 10.14720	X	X
Any other information considered by either the subdivider, UDO Administrator, Planning Board, or Town Council to be pertinent to the review of the plat.	X	X
Improvements guarantees (see Section 5.8.2.6).		X

SECTION 10.102 PRESALE OF LOTS.

Pre-sale and pre-lease contracts are allowed only after a preliminary plat has been approved. The closing and final conveyance of lots subject to pre-sale and pre-lease contracts may not occur until after the final plat is approved and recorded. The buyer shall:

10.102.1. Be provided a copy of the preliminary plat at the time the contract is executed;

10.102.2. Be notified that no final plat has been approved;

10.102.3. Be advised that there is no guarantee that changes will not be made to the plat before final approval;

10.102.4. Be provided a copy of the final plat before final approval by the Town; and

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10.102.5. Be informed that the contract or lease may be terminated by the buyer/leasee if the final plat differs in any material way from the preliminary plat.

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SECTION 10.103 RECOMBINATION OF LAND.

10.103.1. Any plat or any part of any plat may be vacated by the owner or developer at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

10.103.2. Any lot line may be adjusted of lots combined in a subdivision to which a copy of such revisions shall be attached deciding the adjustment.

10.103.3. Such an instrument shall be approved by the same agencies as approved the final plat. The Town Council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

10.103.4. Such an instrument shall be executed, acknowledged, or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

10.103.5. When lots have been sold, the plat may be vacated in the manner provided in Section 10.103.1 through 10.103.4, by all owners of the lots in such plat joining in the execution of such writing.

SECTION 10.104 RESUBDIVISION PROCEDURES.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

SECTION 10.105 COMPLIANCE WITH PROVISIONS REQUIRED.

Each subdivision shall contain the improvements specified in this section, which shall be installed in accordance with the requirements of this Ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this Ordinance. Land shall be dedicated and reserved in each subdivision as specified in this section. Each subdivision shall adhere to the minimum standards of design established by this section.

SECTION 10.106 SUITABILITY OF LAND.

10.106.1. Land which has been determined by the Planning Board on the basis of engineering or other expert surveys to post an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct the conditions and to eliminate the dangers.

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10.106.2. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Johnston County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

10.106.3. All subdivision proposals shall be consistent with the Flood Damage Prevention Ordinance. In areas of flood hazard, identified on the Flood Insurance Rate Map of Johnston County, North Carolina, as Zones A and AE, all subdivisions shall be designed to minimize flood damage in accordance with the provisions of the Smithfield Flood Damage Prevention Regulations, Article 10, Part VII.

SECTION 10.107 STORMWATER DRAINAGE FACILITIES.

The preliminary plat shall be accompanied by evidence satisfactory to the Planning Board as to the proposed method of providing for stormwater drainage in accordance with Article 10, Part VI.

SECTION 10.108 EROSION AND SEDIMENTATION CONTROL.

The preliminary plat shall be accompanied by a written statement from NCDENR, or the UDO Administrator, as the case may be, that any required soil erosion and sedimentation control plan has been approved.

SECTION 10.109 RIPARIAN BUFFERS.

Riparian buffers within a lot are to be shown on the recorded plat, and the area of a lot within the riparian buffer must still count toward any dimensional requirements for lot size. Riparian buffers must be shown on all subdivision plats, including those on platted lots. If a riparian buffer is designated as a privately-owned common area (e.g., owned by a property owners association), the Town may, upon request, attribute to each lot abutting the riparian buffer area a proportionate share based on the area of all lots abutting the riparian buffer area for purposes of development-regulated regulatory requirements based on property size. Dimensional lot requirements include calculations for, among other things, residential density standards, tree conservation area, open space or conservation area, setbacks, perimeter buffers, and lot area.

SECTION 10.110 GENERAL POLICY STATEMENTS.

10.110.1. Land subject to flooding and land deemed unacceptable for development for other reasons shall not be platted for residential occupancy, or for other such uses as may increase danger to life, health or property, or intensify the potential for flood hazard. Such land within a plan shall be specified for such uses as will not be endangered by periodic or occasional inundation. The delineation of flood hazard boundaries shall be determined by reference to the Flood Insurance Rate Map for the Town of Smithfield, provided by the Federal Emergency Management Agency (FEMA), as well as additional studies as they become available.

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10.110.2. Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged to allow for the opening of future streets and logical further subdivision.

10.110.3. Where a subdivision is proposed adjacent to a railroad right-of-way, it shall be planned so as to avoid having lots that front on a street which is parallel and adjacent to the railroad right-of-way.

10.110.4. The subdivider shall be responsible for all costs incurred in the extension of water, sewer, and other utilities. Requests for extension of electrical service from the Town shall be administered through policies in effect at the time of application for such service.

SECTION 10.111 STREETS.

10.111.1. Design Standards.

The design of all streets and roads within the jurisdiction of this Ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The NC Department of Transportation, Division of Highways' Subdivision Roads, Minimum Construction Standards, January 1, 2000, or the current NC Department of Transportation standards, shall apply for any items not included in this Ordinance, or where stricter than this Ordinance.

10.111.1.1. Conformity to Existing Maps and Plans.

10.111.1.1.1. The location and width of all proposed streets shall be in conformity with the officially adopted Thoroughfare Plan for the Town of Smithfield, and shall be in conformity with all current plans of the Town of Smithfield.

10.111.1.1.2. The proposed street system within a subdivision shall, whenever possible, be tied in with the existing street system. The proposed street system shall also provide for the continuation of the existing Town and State systems, whenever possible.

10.111.1.2. All streets shall be labeled on the preliminary plat as: Major Streets and Highways; Collector Streets; Minor Streets; or Cul-de-sacs.

10.111.1.3. Blocks.

10.111.1.3.1. Blocks shall be a maximum of 1,000 feet and a minimum of 400 feet in length.

10.111.1.3.2. Blocks shall have sufficient width to provide two tiers of lots, except where another design may be necessary to separate residential development from through traffic or other non-residential uses.

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10.111.1.4. Lots. The size, shape, and orientation of non-residential lots shall be such as the Planning Board and Town Council deem appropriate for the type of development or use proposed; however, residential, as well as non-residential lots, shall comply with the following minimum requirements:

10.110.1.4.1. Lot Area. All lots shall have a minimum gross area **of at least 8,000 square feet as required in Article 8.** Additional lot area shall be required when:

10.111.1.4.1.1. A lot is served by either public water or sewer, but not both: 20,000 square feet.

10.111.1.4.1.2. A lot is not served by either public water or sewer: 25,000 square feet.

10.111.1.4.2. Lot Width and Depth. All lots shall have a minimum width and street frontage as required in Article 8, except in the case of the turning circle of cul-de-sacs 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: *(Amended 4/3/2018)*

10.111.1.4.2.1. A lot is served by either public water or sewer, but not both: Lot width - 100 feet; Lot depth - 200 feet.

10.111.1.4.2.2. A lot is not served by either public water or sewer: Lot width - 125 feet; Lot depth - 200 feet.

10.111.1.4.3. Lot size, shape, and location shall be made with due consideration to topographic conditions, contemplated use, and the surrounding area.

10.111.1.4.4. Every lot shall maintain required street frontage as required in Article 8 on one of the following *(Amended 4/3/2018)*:

10.111.1.4.4.1. A public street dedicated to and maintained by the Town of Smithfield or the North Carolina Department of Transportation.

10.111.1.4.4.2. 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.

10.111.1.4.4.3. A private street in conformance with Section 10.111.2.

10.111.1.4.5. Double frontage and reverse frontage lots shall be avoided except where necessary to separate residential development from through traffic or non-residential development.

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10.111.1.4.6. Side lot lines shall be substantially at right angles or radial to street lines.

10.111.1.4.7. Flag-shaped lots shall only be permitted in cases where the minimum lot width and lot depth of this Ordinance are complied with and the lot has a minimum street frontage of at least 60 feet in width. *(Amended 4/3/2018)*

10.111.1.5. Easements.

10.111.1.5.1. To provide service to public utility facilities easements of not less than 30 feet in width may be provided for on a subdivision plat.

10.111.1.5.2. To provide access to required engineered stormwater control facilities including BMPs.

10.111.1.5.3. The location and extent of such an easement shall be finalized before the approval of the preliminary plat.

10.111.2. Private Streets.

10.111.2.1. Streets designated as private may be allowed in subdivisions when in the opinion of the Town Council they provide adequate ingress and egress onto collector streets, and sufficient assurance is provided through a legally established homeowners' association, that the street shall be properly maintained.

10.111.2.2. All such streets shall be designated a "Private Street" on the preliminary plans and final plats. Whenever a private street intersects a US or NC highway or NC secondary road, a statement of approval for the intersection, signed by the District Engineer, North Carolina Department of Transportation, Division of Highways for Johnston County, shall be submitted concurrent with the final plat.

10.111.2.3. All private streets must meet Department of Transportation standards or the Town of Smithfield Construction Standards for construction and maintenance.

10.111.2.4. A homeowners' association shall be established for each subdivision containing private streets and drainage systems. The final plat for each such subdivision shall contain a certificate indicating the book and page number of the homeowners' association covenants, conditions, and restrictions. The covenants, conditions, and restrictions shall specify lot owners' responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. Covenants shall provide that the homeowners' association will construct all stub streets prior to offering any connecting for acceptance by NCDOT or the Town. Final plats for

ARTICLE 10. PERFORMANCE STANDARDS

subdivisions containing private streets and drainage improvements will not be approved until the subdivider's homeowners' association documents have been submitted and approved by the Town Council.

10.111.3. Marginal Access Streets.

Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial street. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway. In the case of minor subdivisions fronting on a major highway, the Planning Board may regulate access onto an existing or proposed highway by requiring:

10.111.3.1. That access be limited to a minor street, when available.

10.111.3.2. That another access design, such as joint driveways, be used to achieve the intent of this regulation.

10.111.4. Subdivision Street Disclosure Statement.

All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

10.111.5. Half-Streets.

The dedication of half streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

10.111.6. Street Names and House Numbers

Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names and house numbers shall be assigned in accordance with the Town of Smithfield Construction Standards. Street names shall be subject to the approval of the Town Council.

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10.111.7. Collector and Minor Streets.

Collector and minor streets shall be so laid out that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.

10.111.8. Nonresidential Streets.

The subdivider of a nonresidential subdivision shall provide streets in accordance with I.F.-4 of the North Carolina Roads, Minimum Construction Standards, January 1, 2000; or current applicable North Carolina Department of Transportation Standards; and the standards of this Ordinance, whichever are stricter in regard to each particular item.

10.111.9. Right-of-Way Widths.

Right-of-way widths shall not be less than the following:

Principal Arterial (Freeways) - 350 feet.

Principal Arterial (Other) - 200 feet.

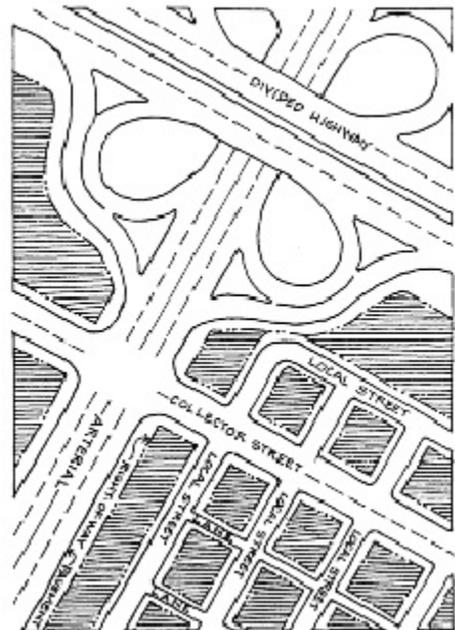
Major Collector - 100 feet.

Major Thoroughfare other than Freeway and Expressway - 90 feet.

Minor Thoroughfare - 60 feet.

Local Street - 60 feet (may be no less than 50 feet if approved by Town Council due to special conditions).

Cul-de-sac - 100' diameter for turnaround and 45' for street right-of-way.



10.111.10. Pavement Widths.

Pavement widths or graded widths shall be as follows:

	<u>Streets with Curb and Gutter</u>	<u>Streets without Curb and Gutter</u>
Minor Thoroughfare	43 ft.	40 ft.
Local Road	24 ft.	20 ft.
Marginal Access (frontage)	24 ft.	20 ft.
Cul-de-sac	24 ft.	20 ft.
Cul-de-sac turnaround	100 ft. in dia.	80 ft. in dia.

Pavement widths for principal arterials and major thoroughfares shall be determined in concert with the Town of Smithfield or the NC Department of Transportation standards and the current Smithfield Thoroughfare Plan.

10.111.11. Roads and Street Surfaces.

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All public subdivision streets and roads shall be constructed and paved to meet the current requirements of the North Carolina Department of Transportation, Division of Highways' standards for state maintenance.

10.111.12. Tangents.

A tangent of at least 100 feet shall be provided between reverse curves on all streets.

10.111.13. Street Intersections.

Street intersections shall be laid out as follows:

10.111.13.1. All streets shall intersect as nearly as possible at right angles and no street shall intersect at less than 60 degrees.

10.111.13.2. Intersections with a major street shall be at least 1,000 feet apart, measured from centerline to centerline.

10.111.13.3. Where a centerline offset (jog) occurs at an intersection, the distance between centerline of the intersecting streets shall be not less than 200 feet.

10.111.13.4. Property lines at intersections should be set so that the distance from the edge of pavement of the street turnout to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. The property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.

10.111.13.5. Turn lanes or deceleration lanes may be required to be constructed within 150 feet of any intersection, or other point of ingress or egress, where a substantial number of conflicting turning movements is anticipated, if the Council determines that the safety of motorists and pedestrians merit such construction.

10.111.14. Alleys.

10.111.14.1. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access. Alleys shall not be provided in residential subdivision unless necessitated by unusual circumstances and approved by the Planning Board and Town Council.

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10.111.14.2. All alleys shall be designed in accordance with the Department of Transportation, Division of Highways' specifications and standards and shall meet the following requirements:

Right-of-way width	20 feet
Property line radius at alley intersection	15 feet
Minimum centerline radius when deflection angle of not more than 10 degrees occurs	35 feet
Minimum turnaround diameter of dead end alley (right-of-way width)	80 feet

10.111.14.3. Sharp changes in alignment and grade shall be avoided.

10.111.14.4. All alleys shall be designed in accordance with NC Department of Transportation Standards.

10.111.15. Geometric Characteristics.

The standards outlined below shall apply to all subdivision streets proposed for addition to the State Highway System or Municipal Street System. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under Right-of-Way shall apply.

10.111.15.1. Design Speed. The design speeds for subdivision-type streets shall be:

<u>Urban</u>	<u>Desirable (mph)</u>	<u>Minimum (mph)</u>
Minor Thoroughfares	60	50
Local Streets	40	40

10.111.15.2. Desirable and Minimum Grades. The desirable/minimum for subdivision type streets grades in percent shall be:

	<u>60 Desirable</u> (50 Minimum)	<u>40 Desirable</u> (40 Minimum)
Type of Topography		
Flat-NCDOT Divisions	3	5
1, 2, 3, 4, and 5	(4)	(5)

The minimum grade in no case shall be less than 0.5%. Grades for 100 feet each way from intersections should not exceed 5%.

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10.111.16. Minimum Sight Distances.

In the interest of public safety, the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of 50 feet. Calculated lengths should be rounded up in each case.)

<u>Design Speed, MPH</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>50</u>	<u>60</u>
Stopping Sight Distance					
Min. Stopping Distance, Ft.	150	200	275	350	475
Des. Stopping Distance, Ft.	150	200	300	450	650
Minimum K* Value For:					
Min. Crest Vert. Curve	16	28	55	85	160
Des. Crest Vert. Curve	16	28	65	145	300
Min. SAG Vert. Curve	24	35	55	75	105
Des. SAG Vert. Curve	24	35	60	100	155
Passing Sight Distance					
Min. Passing Distance, Ft. (2 lane)		1100	1500	1800	2100
Min. K* Value for Crest Vert. Curve		365	686	985	1340

K* is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance.

Sight distance provided for stopped vehicles at intersections should be in accordance with the Unified Development Ordinance for the Town of Smithfield.

10.111.17. Design Speeds.

The following table shows the maximum degree of curve and related maximum superelevation for design speeds. The maximum rate of roadway superelevation (e) for roads with no curb and gutter is .08. The maximum rate of superelevation for streets with curb and gutter is .06, and .04 being desirable.

Design Speed MPH	Maximum e*	Minimum Radius (Rounded) Feet	Maximum Degree of Curve (Rounded) Degrees
20	.04	125	45.00
30	.04	302	19.00
40	.04	573	10.00
50	.04	955	6.00
60	.04	1528	3.45
20	.06	115	50.00
30	.06	273	21.00
40	.06	509	11.15

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Design Speed MPH	Maximum e*	Minimum Radius (Rounded) Feet	Maximum Degree of Curve (Rounded) Degrees
50	.06	844	6.45
60	.06	1380	4.15
20	.08	110	53.50
30	.08	252	22.45
40	.08	468	12.15
50	.08	764	7.30
60	.08	1206	4.45

*Maximum rate of roadway superelevation, foot per foot.

10.111.18. Cul-De-Sacs.

Cul-de-sacs shall not exceed 750 feet in length.

10.111.19. PUD Streets.

10.111.19.1. A dense network of narrow streets with reduced curb radii may be fundamental to sound design. This network serves to both slow and disperse vehicular traffic and provide a pedestrian friendly atmosphere. Such alternate guidelines are encouraged in PUDs when the overall design ensures that non-vehicular travel is to be afforded every practical accommodation that does not adversely affect safety considerations. The overall function, comfort, and safety of a multi-purpose or “shared” street are more important than its vehicular efficiency alone.

10.111.19.2. PUDs should have a high proportion of interconnected streets, sidewalks, and paths. Streets and rights-of-ways are shared between vehicles (moving and parked), bicycles, and pedestrians. A dense network of PUD streets will function in an interdependent manner, providing continuous routes that enhance non-vehicular travel. Most PUD streets should be designed to minimize through traffic by the design of the street and the location of land uses. Streets should be designed to only be as wide as needed to accommodate the usual vehicular mix for that street while providing adequate access for moving vans, garbage trucks, fire engines, and school buses.

10.111.20. Street Construction Standards.

All streets must be constructed to the Town of Smithfield Construction Standards.

SECTION 10.112 STREET CONNECTIVITY REQUIREMENTS.

10.112.1. An interconnected street system is necessary in order to protect the public health, safety, and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance nonvehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes. All proposed new streets shall be platted according to the current Town Thoroughfare Plan. In areas where such plans have not been completed, the streets shall be designated and located in

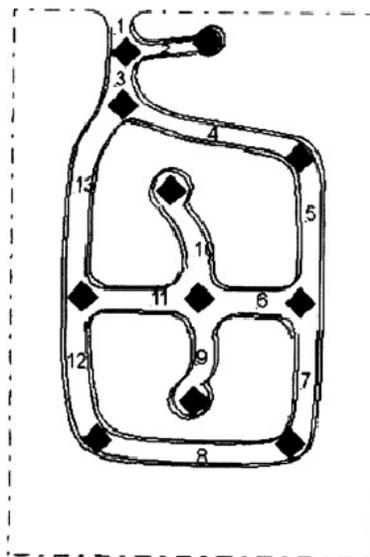
ARTICLE 10. PERFORMANCE STANDARDS

relation to existing and proposed streets, the topography, to natural features such as streams and tree cover, to public safety and convenience, and to the proposed use of land to be served by such streets.

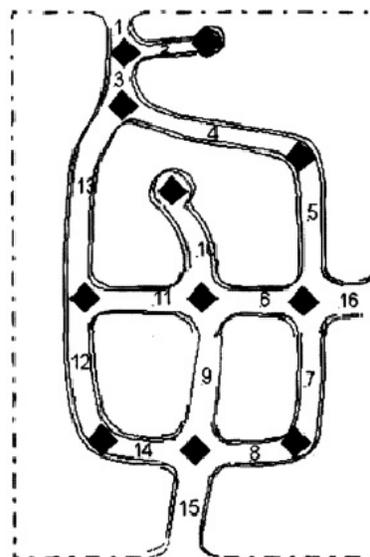
10.112.2. All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.

10.112.3. The street network for any subdivision shall achieve a connectivity ratio of not less than 1.45 (see example below).

Example 1: Subdivision that does not meet the Ratio
(13 links/11 nodes = 1.18 ratio)



Example 2: Same development modified to meet Ratio
(16 links/11 nodes = 1.45 ratio)



10.112.4. For the purposes of this section, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.

10.112.5. Residential streets shall be designed so as to minimize the length of local streets, to provide safe access to residences, and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.

10.112.6. Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way, and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means.

10.112.7. Utility stub-outs shall be provided at all required points of street connectivity.

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10.112.8. Exemptions. New subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity requirement when the UDO Administrator determines that the subdivision will provide for connectivity with adjacent future development and there are no options for providing stub streets due to topographic conditions, adjacent developed sites, or other limiting factors.

SECTION 10.113 SIDEWALKS.

10.113.1. Except as provided in Section 10.113.3, the Town Council may require the construction of sidewalks adjacent to one side of new streets in subdivisions. **The sidewalks required by this section shall be four (4) five (5) feet in width if on both sides of the street and five (5) feet in width if on one side of the street.** All sidewalks shall be constructed according to the specifications set forth in the Town of Smithfield construction standards.

10.113.2. Whenever the Town finds that a means of pedestrian access is necessary from a subdivision to schools, parks, open space, playgrounds, roads, or other facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer shall be required to reserve an unobstructed easement of at least ten (10) feet in width and a five (5) foot sidewalk to provide such access.

10.113.3. Subdivisions fronting on major thoroughfares are required to construct **four (4) five (5)** foot sidewalk(s) on the thoroughfare right-of-way regardless of whether or not a sidewalk exists on the opposite side of the street. The sidewalk(s) shall comply with the Town of Smithfield construction standards and NCDOT requirements.

10.113.4. All new O/I (Office/Institutional), B-1 (CBD), B-2 (General Business), and B-3 (Highway Entranceway Business) district construction permitted following the adoption of this Ordinance shall be required to construct five (5) foot sidewalk(s) on the street right-of-way. The sidewalk(s) shall comply with the Town of Smithfield Standards and Specifications document and NCDOT requirements.

SECTION 10.114 UTILITIES.

10.114.1. Water and Sewerage Systems.

10.114.1.1. When available, the subdivider shall connect to the water and sewerage systems owned and operated by the Town. For all residential and commercial development, the Town may require that the developer install lines larger than required by the development in order to support future growth. The Town will pay the difference between the required utilities and the upsized lines.

10.114.1.2. Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and

ARTICLE 10. PERFORMANCE STANDARDS

soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the County Health Department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (at least one per acre) to determine absorption capacity of the soil and test holes at least six feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.

10.114.1.3. All utilities shall be installed per Town requirements at the direction of the Public Utilities Director.

10.114.2. Electric Power.

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

10.114.2.1. If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.

10.114.2.2. If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

10.114.3. Telephone Service.

Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

10.114.3.1. If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is necessary.

10.114.3.2. If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

10.114.4. Underground Utilities.

ARTICLE 10. PERFORMANCE STANDARDS

10.114.4.1. All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this Ordinance shall be placed underground in accordance with the specifications and policies of the respective utility service providers and the Town of Smithfield.

10.114.4.2. Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this Ordinance, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility service providers and the Town of Smithfield.

10.114.5. Utilities to be Consistent with Internal and External Development.

10.114.5.1. Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (i.e., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

10.114.5.2. All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

SECTION 10.115 RECREATION.

10.115.1. Applicability.

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

10.115.2. Exceptions.

10.115.2.1. If dedicated land is to be less than 2,000 square feet, and where that area cannot be combined with an existing or planned recreation area, then provision or dedication of that area will not be required.

10.115.2.2. If the Town Council determines that assembling a piece of land to meet the requirements of this section, either (a) would create undue hardships, or (b) is not necessary because the needs of the subdivision are already being met by dedicated land, it may waive any requirements of that subsection.

ARTICLE 10. PERFORMANCE STANDARDS

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

10.115.3. Dimensional Requirements.

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

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

10.115.4. Site Suitability.

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

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

In all cases, active and passive recreation sites as well as open space areas designated on the adopted Land Use Plan shall be incorporated into the design of the subdivision.

ARTICLE 10. PERFORMANCE STANDARDS

Criteria for evaluating the suitability of proposed recreation areas shall include, but not be limited to, the following:

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

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

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

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

10.115.5. Recreation Facilities.

Private recreation facilities, either required or provided at the option of the applicant, shall meet the standards for site improvements contained herein. When choosing improvements for a recreational area, the anticipated characteristics and needs of the residents shall be considered in conjunction with the size of the development, any physical constraints posed by the site, and the availability of other improvements within the same general area as the subdivision. As an example, the existence of a public multi-purpose court in an adjacent, existing subdivision and the availability of the facility for use by residents of the proposed subdivision may indicate to the applicant that another facility, such as a tennis court, would be more appropriate. Recreation

ARTICLE 10. PERFORMANCE STANDARDS

facilities which are suitable for various age groups include, but are not limited to, those shown on the following pages. Trash receptacles shall be provided for all recreational areas regardless of the number and type of other improvements located thereon. The owner/developer may choose from the following recreational facilities. Other recreational facilities such as disk golf may be approved by the UDO Administrator. Dedicated public recreational facilities shall adhere to these standards.

RESIDENTIAL RECREATION FACILITY DEVELOPMENT STANDARDS FACILITY REQUIREMENTS PER DWELLING UNIT

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

ARTICLE 10. PERFORMANCE STANDARDS

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

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

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

Swimming pool
 Soccer and ball fields
 Tennis/handball courts

One space for each five patrons
 Eight spaces per acre
 Two spaces per court

ARTICLE 10. PERFORMANCE STANDARDS

Picnic Shelter area
Basketball courts

One space for each ten patrons
Five spaces per court

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

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

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

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

10.115.6. Flexibility in Administration Authorized.

10.115.6.1. The requirements set forth in this article concerning the amount, size, location and nature of recreational facilities and open space to be provided in connection with multi-family residential, manufactured home park developments, and subdivisions are established by the Council as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Council recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Town Council may permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

10.115.6.2. Whenever the permit issuing board authorizes some deviation from the standards set forth in this section pursuant to subsection 10.115.6.1, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

10.115.7. Method of Provision or Dedication.

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

ARTICLE 10. PERFORMANCE STANDARDS

Council and the Planning Board. Acceptance of the dedication may be one in trust if deemed appropriate by the Town Council.

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

10.115.8. Payments in Lieu of Dedication.

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

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

Where a combination of land dedication and payments in lieu are approved, the subdivider shall be given a credit equivalent to the appraised value per acre of land dedicated for recreation purposes. The credit amount shall be determined by multiplying the number of acres to be dedicated by the appraised value per acre. If the total payment in lieu as determined above is larger than the credit amount, the subdivider shall pay the difference between the two amounts. If the credit amount is larger than the total payment in lieu as determined above, no additional payment in lieu is required. However, the subdivider may not transfer the excess credit from one subdivision to another.

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

ARTICLE 10. PERFORMANCE STANDARDS

used solely for the acquisition of other recreation, park, or open space sites within the immediate neighborhood within which the development is located.

SECTION 10.116 SCHOOL PLANS.

This section may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the Town Council. If the Town Council and the County Board of Education with jurisdiction over the area have jointly determined the specific location and size of any school sites to be reserved, and this information appears in the comprehensive land use plan, the Planning Board shall immediately notify the County Board of Education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. At that time, the Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Town Council or the Planning Board, and no site shall be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the County Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of reservation.

SECTION 10.117 EFFECT OF PLAT APPROVAL ON DEDICATIONS AND ACCEPTANCES.

10.117.1. Plat Approval Shall Not Constitute Acceptance.

Pursuant to NCGS 160A-374, the approval of a plat shall not be deemed to constitute or effect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. To be effective, all offers of dedication must be accepted by resolution.

10.117.2. Acceptance of Dedications.

10.117.2.1. At the time of submittal of a preliminary plat with streets, utilities, or other proposed to be dedicated for acceptance by the Town as public, the Town Council will decide if it will approve the dedication, subject to the street(s), parks, utilities, sidewalks, or other complying with all Town requirements for acceptance. The Town of Smithfield is not obligated to accept any offer of dedication.

10.117.2.2. Acceptance of dedication will be provided by adoption of a resolution of acceptance by the Town of Smithfield Town Council.

ARTICLE 10. PERFORMANCE STANDARDS

SECTION 10.118 ~~ADJUSTMENTS~~VARIANCES.

The ~~Planning~~ Board ~~of Adjustment~~ may authorize ~~an adjustment~~ a variance from these regulations ~~as specified in Article 4, Section 4.10. when, in its opinion, undue hardship may result from strict compliance. In granting any adjustment, the Planning Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The Planning Board deliberations of the request must follow quasi-judicial procedures. No adjustment shall be granted unless the Planning Board finds:~~

~~**10.117.1.** There are special circumstances or conditions affecting that property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of this land.~~

~~**10.117.2.** The adjustment is necessary for the preservation and enjoyment of a substantial property right of the petitioner.~~

~~**10.117.3.** The circumstances giving rise to the need for the adjustment are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance.~~

~~**10.117.4.** The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which the property is situated.~~

~~An appeal to the Planning Board's decision on a adjustment request shall be made to the Town Council. The Council's consideration of the appeal must follow quasi-judicial procedures.~~

SECTION 10.119 CEMETERY SUBDIVISION LOT SIZE EXEMPTION.

Cemeteries and individual cemetery plot(s) may be platted and approved as minor subdivisions and recorded that do not meet the minimum lot size of the zoning district; however, the cemetery shall comply with all other zoning district restrictions. Where there is not reasonable access to individual lots, an 18-foot easement for ingress and egress may be established.

ARTICLE 10. PERFORMANCE STANDARDS

The certificate of the Notary shall read as follows:

North Carolina, _____ County
I, _____, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this _____ day of _____, 20____.

Signature

Official Seal

My Commission Expires: _____

10.120.1.5. Review Officer Certification. I, _____, Review Officer of Johnston County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

10.120.1.6. Statement of Compliance with the Town of Smithfield Riparian Buffer Requirements. I certify that this subdivision fully complies with the 15A NCAC 25.023 Neuse River Basin Nutrient Sensitive Waters Management Strategy: Basinwide Stormwater Requirements.

Stormwater Administrator

Date

10.120.2. Major Subdivision Approval.

10.120.2.1. Certificate of Ownership and Dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Smithfield, and that I freely adopt this subdivision plan with my free consent, establish minimum setback lines, and dedicate all streets, alleys, parks, and other sites and easements to public or private use as noted.

Owner

Date

10.120.2.2. Certificate of Improvements. If the required improvements are completed prior to the submission of the Final Plat, the following certificate shall be lettered on the plat above the signature of the Town Engineer:

“Know all men by these present, that I hereby certify that on this, the ___ day of _____, 20__, all of the improvements as required by the Smithfield Subdivision Regulations have been installed by the developer in an approved manner.”

ARTICLE 10. PERFORMANCE STANDARDS

If the required improvements are not completed prior to the submission of the Final Plat, the following certificate shall be lettered on the plat above the signature of the Town Manager:

“Know all men by these presents, that I hereby certify performance guarantee sufficient to secure the amount of \$_____ has been posted with the Town of Smithfield by the developer, thereby guaranteeing that all improvements required by the Smithfield Subdivision Regulations shall be constructed. Such improvements shall be completed within ____ days from the date of this statement.”

10.120.2.3. Flood Damage Prevention Certificate of Approval for Recording. I certify that the plat shown hereon complies with the Town of Smithfield Flood Damage Prevention requirements and is approved by Smithfield for recording in the Register of Deeds office.

UDO Administrator

Date

10.120.2.4. Certificate of Survey and Accuracy. I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, Page _____ etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____, that the ratio of precision as calculated is 1:____, that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____ A.D., 20____.

Professional Land Surveyor

Official Seal

Registration Number

The certificate of the Notary shall read as follows:

North Carolina, _____ County

I, _____, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this _____ day of _____, 20____.

Signature

Official Seal

ARTICLE 10. PERFORMANCE STANDARDS

My Commission Expires: _____

10.120.2.5. Approval and Acceptance of Dedication by the Town Council. I hereby certify that the Town of Smithfield has approved this plat for recording in the office of the Johnston County Register of Deeds, and accepts the dedication of streets, easements, rights-of-way, and public lands shown thereon, but assumes no responsibility to open or maintain the same until, in the opinion of the Smithfield Town Council, it is in the public interest to do so.

Town Manager

Date

10.120.2.6. Review Officer Certification. I, _____, Review Officer of Johnston County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

10.120.3. Electronic Documents.

In order for a plat defined as an electronic document under NCGS 47-16.2(3) to meet the requirements for plat size, reproducible form, and necessary certification, the following conditions must be met:

10.120.3.1. The Johnston County Register of Deeds has authorized the submitter to electronically register the electronic document.

10.120.3.2. The plat is submitted by a US federal or state governmental unit or instrumentality or a trusted submitter.

10.120.3.3. Evidence of required certifications appear(s) on the digitized image of the document as it will appear on the public record.

10.120.3.4. With respect to a plat submitted by a trusted submitter, the digitized image of the document as it will appear on the public record contains the submitter's name in the following completed statement on the first page of the document image: "Submitted electronically by _____ (submitter's name) in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Johnston County Register of Deeds."

10.120.3.5. Except as otherwise provided in this subsection, the digitized image of the plat conforms to all other applicable laws and rules that prescribe recordation.



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 July 2018

		Permit Fees	Permits Issued
Site Plan	Minor Site Plan	425.00	8
Zoning	Land Use	\$1,650.00	21
Zoning	Sign	\$250.00	5
Report Period Total:		\$2,325.00	34
Fiscal YTD Total:		\$2,325.00	34

SP18-000014	Site Plan	Minor Site Plan	Arby's Restaurant/ Construction Trailer	1720 East Market Street
Z18-000125	Zoning	Sign	Live Crawfish & Seafood Restaurant	150-Suite G South Equity Drive
Z18-000126	Zoning	Land Use	ABC Express Insurance Agency, Inc.	721 Suite 6 North Brightleaf Boulevard
Z18-000127	Zoning	Land Use	V.B. Peterkin Funeral Director	707 North Street
Z18-000129	Zoning	Land Use	Twin Oaks Motel & Rental LLC	3170 South Brightleaf Boulevard
Z18-000128	Zoning	Land Use	RMS Investments, LLC, D/B/A One 27 Homes	48 Altimont Drive
Z18-000131	Zoning	Land Use	RMS Investments, LLC, D/B/A One 27 Homes	38 Altimont Drive
Z18-000132	Zoning	Land Use	RMS Investments, LLC, D/B/A One 27 Homes	26 Altimont Drive
Z18-000133	Zoning	Land Use	RMS Investments, LLC, D/B/A One 27 Homes	14 Altimont Drive
Z18-000134	Zoning	Land Use	RMS Investments LLC D/B/A One 27 Homes	29 Altimont Drive
Z18-000135	Zoning	Land Use	Existing SFD Accessory Structure 20'X20' Barn	209 Whitley Drive
Z18-000136	Zoning	Land Use	16x76 Mobile Home Replacement	1503 Yelverton Grove Road
Z18-000137	Zoning	Land Use	SFD Addition	209 Laurelwood Drive
SP18-000017	Site Plan	Minor Site Plan	New Residential Construction	60 Altimont Drive
SP18-000016	Site Plan	Minor Site Plan	Weaver Homes/ Bella Square Lot 33	278 Bella Square
SP18-000018	Site Plan	Minor Site Plan	Weaver Homes/ New SFD / Lot 35	256 Bella Square
SP18-000019	Site Plan	Minor Site Plan	New SFD	70 Altimont Street
SP18-000020	Site Plan	Minor Site Plan	Weaver Homes/ Bella Square Lot 34	272 Bella Square
Z18-000139	Zoning	Land Use	Classic Care Homes	101 Annie Parker Circle

Z18-000140	Zoning	Land Use	Utopia Natural Wellness	259-F Venture Drive
Z18-000141	Zoning	Land Use	John Michael's Hair Salon	101 East Market Street 1E
Z18-000142	Zoning	Land Use	The Pink Pineapple Boutique	129 North Second Street
SP18-000021	Site Plan	Minor Site Plan	Johnston Community College/ Fire Tower Site	245 College Road
SP18-000022	Site Plan	Minor Site Plan	Taco Bell Remodel	1217 North Brightleaf Boulevard
Z18-000144	Zoning	Sign	Taco Bell	1217 North Brightleaf Boulevard
Z18-000145	Zoning	Land Use	Sweet Southern SnoBalls, LLC	1507 West Market Street
Z18-000146	Zoning	Land Use	Johnston County Republican Party	250 Venture Drive
Z18-000147	Zoning	Land Use	Mako Medical Laboratory, LLC	515 Eighth Street
Z18-000148	Zoning	Sign	Mako Medical Laboratories	515 Eighth Street
Z18-000149	Zoning	Sign	Mako Medical Laboratories	515 Eighth Street
Z18-000150	Zoning	Sign	Combine Mindz Tattoo Productions	181 Venture Drive
Z18-000151	Zoning	Land Use	Steve's Carpet & Flooring	506 South Brightleaf Boulevard
Z18-000152	Zoning	Land Use	12'X16' Storage Barn	108 Holding Street
Z18-000153	Zoning	Land Use	American Tower LLC	2317 South Brightleaf Boulevard



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

BOARD ACTIONS REPORT - 2018

	July	Calendar Year to date
Town Council		
Zoning Map Ammendments	0	6
Special Use Permit	1	7
Zoning Ordinance Amendments	0	5
Major Subdivisions	0	0
Annexations	0	0
Special Events	1	12
Site Plan	0	0
Planning Board		
Zoning Map Amendments	0	6
Zoning Ordinance Ammendments	3	8
Major Subdivisions	0	0
Board of Adjustment		
Variance	4	4
Admin Appeal	0	0
Historic Properties Commission		
Certificate of Appropriateness	0	0
Historic Landmarks	0	0