



PLANNING BOARD AGENDA

Members:

Chairman: Stephen Upton (Town)

Vice-Chairman: Mark Lane (ETJ)

Teresa Daughtry (Town)

Ashley Spain (ETJ)

Oliver Johnson (Town)

Leslie Lazarus (Town)

Michael Johnson (Town)

Alisa Bizzell (Town Alt)

Stephen Wensman, AICP, ALA, Planning Director

Mark Helmer, AICP, CZO, Senior Planner

Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, March 7, 2019

Meeting Time: 6:00 p.m.

Meeting Place: Council Chambers, Smithfield Town Hall

PLANNING BOARD

AGENDA FOR REGULAR MEETING

MARCH 7, 2019

6:00 PM TOWN HALL

Call to Order.

Identify voting members

Approval of the agenda

Approval of the minutes for February 7, 2019

New Business

RZ-19-01 John A. Whitley: The applicant is requesting to rezone a .11 acre tract of land from an R-8 (Residential) zoning district to the O/I (Office Institutional) zoning district. The property considered for rezoning is located on the northeast corner of the intersection of South Third Street and Woodall Street and further identified as Johnston County Tax ID# 15030016.

Old Business

Administrative Actions report

Land Use Permit Report for January, 2019
Board Actions Report for January, 2019

Adjournment

**Draft
Town of Smithfield
Planning Board Minutes
Thursday, February 7, 2019
6:00 P.M., Town Hall, Council Chambers**

Members Present:

Chairman Stephen Upton
Vice Chairman Mark Lane
Teresa Daughtry
Oliver Johnson
Ashley Spain
Leslie Lazarus
Michael Johnson

Members Absent:

Alisa Bizzell

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

CALL TO ORDER

Chairman Stephen Upton called each board member by name and asked them to acknowledge themselves.

APPROVAL OF MINUTES from January 3, 2019

Mark Lane made a motion, seconded by Ashley Spain, to approve the minutes as written.
Unanimously approved

APPROVAL OF THE AGENDA

Oliver Johnson made a motion, seconded by Ashley Spain. Unanimously approved

NEW BUSINESS

ZA-19-01 Dan Simmons:

Dan Simmons is requesting an amendment to the Town of Smithfield Unified Development Ordinance (UDO) Article 6, Section 6.5 Table of Uses and Activities that will remove the 34 maximum employee limitation on light manufacturing activities located within the B-2 (Business), B-3 (Highway Entrance Business) and LI (Light Industrial) zoning districts. Mark Helmer stated that the intent of this ordinance was to limit the intensity of land uses; however it is inadequate and probably not enforceable in any practical way.

Planning Staff recommends approval of the proposed amendment to delete the 34 employee limitation placed on light manufacturing uses not otherwise listed or identified in Article 6, Section 6.5 Table of Uses and Activities.

Mr. Lane said he misunderstood what Mr. Helmer said about the ordinance being enforceable.

Mr. Helmer said how do you monitor that the business is remaining within the 35 employee maximum, other than spying and being overly aggressive.

Oliver Johnson asked Mr. Helmer if there was a ceiling above 35.

Mr. Helmer said ultimately site constraints, parking, landscaping and building footprint will dictate the intensity of uses. You only have so much land to build, so much building and only so much space for parking. These things dictate the number of employees a business could hire.

Dan Simmons from 125 Everett Lane Smithfield came forward to say he was making the amendment request for himself. He has been hired by multiple businesses to expand their size. Technically if these businesses have more than 35 employees, Mr. Simmons is supposed to let these companies know that he can't receive zoning permits because they are a non-conforming use.

Dan stated that he is currently representing StudioTK which has over 90 employees. They are looking to build a 100,000 sq. foot building, purchase more land and hire more employees. I can't request a zoning permit knowing I am unable to get one. He feels like the code needs to be fixed so that he isn't put in a bad position having to tell businesses that they are a non-conforming use.

Mrs. Daughtry mentioned that she didn't remember this issue being brought up in previous UDO Committee Meetings. She does agree that the code needs to be fixed.

Mr. Lane asked if this current ordinance stopped anything from happening.

Mr. Simmons said not yet.

Oliver Johnson made a motion to recommend the Town Council approve ZA-19-01, amending Article 6, Section 6.5, finding it 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 Mark Lane. Unanimously approved

Voluntary Annexation Policy: The Planning Board is requested to review, discuss and comment on the proposed formal voluntary annexation policy to be adopted by Town Council.

Mr. Helmer stated there isn't a formal presentation about this Voluntary Annexation Policy. However the document contains policy guidelines that are a standard practice in the industry. Ultimately, Town Council will take a look at this policy and make a decision. For example, if anyone wants to develop property, that doesn't reside in the corporate limits and needs sewer, then a request for Voluntary Annexation prior to the Town providing sewer. If Town Council isn't interested in extending sewer then the project would need to have a low density type septic tank lots.

Mr. Lane asked if the applicant would have to pay for the sewer or would the Town pick up that tab.

Mr. Helmer said no, usually the developer pays for the cost of utility extensions.

Mr. Helmer stated the general statute says if we annex we have to provide the same level of service to the satellite annexation that we would if they were in the corporate limits. So sewer would be the big trigger, by choosing to annex we must provide police and fire service and lighting of the streets.

Mrs. Daughtry said it doesn't matter what utilities the applicant will need, if the Town provides any utilities at all, the applicant will have to be annexed into the city limits.

Mr. Helmer stated that forced annexation is a difficult thing to do. When you start talking about forced annexation, you talk about calculating population and built upon areas and distances therefore it is a very complicated process. No one is really doing forced annexations anymore so if we want the Town to grow we have to take every opportunity we have to receive people with our sewer.

Being no further questions, Mr. Helmer moved to a general discussion on the permitted use chart.

Mr. Helmer asked the board to look back at their Article 6, Section 6.5 Table of Uses Chart. There are a list of light manufacturing uses that are permitted, when an applicant comes in, it is staffs responsibility to look at the use table and try to fit a proposed use into one of those classifications that listed in the table. For example, if you look at OPW they are manufacturing and 90% of the space is warehousing. Staff would not be doing their jobs if we said no because you're doing heavy manufacturing in 10% of the plant. We have to look at the use and see where it fits so we can justify issuing a permit or go forward to Town Council to have their request permitted.

Mrs. Daughtry asked if there were a fire and a company employed more than 35 employees, would there be an issue or lawsuit if someone went back and checked the permit that was originally issued.

Mr. Helmer said polling employers with number of employees isn't part of the application process, although maybe it should be. We typically take their word for it because it is hard to enforce. However we haven't intentionally written permits for uses against what the ordinance allows. He agrees the ordinance isn't perfect.

Mr. Helmer briefly discussed SP-18-10 Dupree Strip Center. He showed the site plan and offered some detailed information about the location and size of the strip center.

Mr. Oliver Johnson asked if there were an indication yet of the types of businesses going into this new strip center.

Mr. Helmer said not specifically no, but it will be your typical uses that are permitted in the B-3 zoning district and could include retail uses like restaurants, hair salons or cell phone stores.

Mrs. Daughtry said because this development backs up to a residential neighborhood will the screening trees in this plan be required to be replaced should they die.

Mr. Helmer said yes absolutely.

Mr. Upton requested for himself and on behalf of the Planning Board that any minutes from the Town Council meetings pertaining to decisions made about items brought forth by Planning be included in their Planning Board agenda packets. They would like to know what has been approved or denied.

Mr. Helmer said he would be glad to include those minutes into the Planning Board agendas.

The Public Hearing meeting being held February 21st at 6:30pm was announced. Planning Board members are encouraged to attend. There are two text amendments ZA-18-06 and ZA-18-08 that will be discussed.

Adjournment

Being no further business, Ashley Spain made a motion seconded by Teresa Daughtry to adjourn the meeting. Unanimous approved.

Respectfully Submitted,

A handwritten signature in black ink that reads "Julie Edmonds". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Julie Edmonds
Administrative Support Specialist



Request for Planning Board Action

Agenda RZ-19-
Item: 01
Date: 3/7/19

Subject: Zoning Map Amendment
Department: Planning
Presented by: Stephen Wensman, Planning Director
Presentation: Business Item

Issue Statement

John A. Whitley, Attorney, is requesting a zoning map amendment to amend the zoning of a parcel located at 317 S. Third Street from R-8 (Single, Two and Multifamily Residential) to O/I (Office/Institutional).

Financial Impact

There will be no financial impact to the Town.

Action Needed

To review the application for rezoning, and make a recommendation to the Town Council.

Recommendation

The Planning Department recommends denial of the Zoning Map Amendment; and recommend that the Planning Board recommend denial with a statement declaring the request to be inconsistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is not reasonable and not in the public interest.

Approved: City Manager City Attorney

Attachments:

1. Staff Report
2. Consistency Statement
3. Planning Application



Staff Report

Agenda Item: RZ-18-09

Application Number: RZ-19-01
Project Name: N/A
Parcel ID numbers: 169418-30-9275
Tax ID: 15030016
Town Limits / ETJ: Town
Applicant: John A. Whitley, Attorney
Owners: John A. Whitley, Attorney
Agents: none

PROJECT LOCATION: 317 S. Third Street (Corner Lot intersecting with E. Woodall St.).

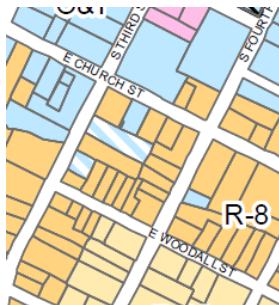
REQUEST: The applicant is requesting to rezone a 0.11 acre parcel in the R-8 Zoning District to O/I.

SITE DATA:

Acreage: 0.11
Present Zoning: R-8 - Single, Two and Multifamily Residential
Proposed Zoning: O/I-Office/Institutional
Existing Use: Residential
Proposed Use: Office
School Impacts: NA
Parks and Recreation: NA
Fire District: Town of Smithfield
Water and Sewer Provider: Town of Smithfield
Electric Provider: Town of Smithfield

ENVIRONMENTAL: The property is entirely located within the 100 year floodplain.

ADJACENT ZONING AND LAND USES:



	Exiting Zoning	Existing Use:
North	O/I CUD	Office
South	R-8	Residential
East	R-8	Residential
West:	R-8	Residential

STAFF ANALYSIS AND COMMENTARY:

The property considered for rezoning to O/I is small (0.11 acres), shares a driveway with the residential property to the east, is entirely within the 100 year flood plain and would likely be considered a spot zoning. Staff recommends denial of the rezoning for the following reasons:

- The rezoning would result in a non-conforming O/I lot. The minimum lot size in the O/I district is 6,000 sq. feet; the subject parcel is only 4,792 sq. feet. The existing structure (home) would not meet the structure setbacks in the O/I district.
- Off-street parking and handicap accessible parking meeting UDO requirements for an office use would likely be difficult to provide given the small size of the lot.
- The property to the north is zoned O/I CUD, which is a different and district zoning district and could be considered a spot zone given its size. The zoning of this parcel to O/I would likely be a spot zoning which is prohibited.
- The proposed office use would be an intensification of land use in the 100 year flood zone.
- Office uses should be buffered from residential uses with a Type B landscape buffer which would be difficult given the small size of the lot and the configuration of the shared parking access on the rear of the lot.
- The rezoning is inconsistent with the comprehensive land use plan. The Plan guides the property as medium density residential.
- The rezoning would be an encroachment of commercial uses into a residentially zoned and guided area.

In order to approve the rezoning, the Town Council must find the rezoning consistent with Town Plans and Policies:

- **Consistency with the Strategic Growth Plan**

The subject property is not consistent with the Strategic Growth Plan. The Plan guides the property as medium density residential.

- **Consistency with the Unified Development Code**

The rezoning would create inconsistencies with the UDO creating nonconformities such as side yard setbacks, minimum lot sizes for the O/I District, bufferyards and potentially off-street parking.

- **Compatibility with Surrounding Land Uses**

The property to the north is an office use and would be compatible, but the other properties surrounding the parcel are all residential and incompatible given the lack of buffering, shared driveway access to the east.

PLANNING DEPARTMENT RECOMMENDATION:

The Planning Department recommends denial of the Zoning Map Amendment; and recommend that the Planning Board recommend denial with a statement declaring the request to be inconsistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is not reasonable nor 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 the .011 acre parcel of land from the from R-8 (Single, Two and Multifamily Residential) to the O/I (Office/Institutional) zoning district.

Recommended Motion:

“Move to recommend the Town Council deny the rezoning, RZ-19-01, from the R-8 (Single, Two and Multifamily Residential) zoning district to the O/I (Office/Institutional) zoning district finding the request to be inconsistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is not reasonable nor in the public interest”

**THE TOWN OF SMITHFIELD
UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP AMENDMENT CONSISTENCY STATEMENT
BY THE SMITHFIELD TOWN COUNCIL
RZ-19-01**

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-19-01 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-19-01 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.

300 Block of South Third Street



Location of Proposed Rezoning
From R-8 (Residential)
To O/I (Office/Institutional)



Project Name:
John A. Whitley
Rezoning

File Number:
RZ-19-01

Existing Zoning:
R-8
Residential

Proposed Zoning:
O/I
Office/Institutional

Property Owner:
John A. Whitley

Applicant:
John A. Whitley

Location:
317 South Third St

Tax ID#
15030016



0 25 50 Feet

Map created by the
Mark E. Helmer, AICP
Senior Planner,
GIS Specialist
on 2/18/2019



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: John A. Whitley, Attorney Acreage of Property: Fraction of acre
Parcel ID Number: 15-0-30-016 Tax ID: 169418-119
Deed Book: 4749 Deed Page(s): 529-530
Address: 317 S. Third Street, Smithfield, NC 27577
Location: 317 S. Third Street, Smithfield, NC 27577

Existing Use: Residential Proposed Use: Commercial
Existing Zoning District: R-8
Requested Zoning District: O&I
Is project within a Planned Development: Yes No
Planned Development District (if applicable): Not applicable
Is project within an Overlay District: Yes No
Overlay District (if applicable): _____

FOR OFFICE USE ONLY

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

Name: John A. Whitley and wife, Barbara B. Whitley

Mailing Address: 219 Johnston Street, Smithfield, NC 27577

Phone Number: (c) 919-210-6475

Fax: 919-934-5110

Email Address: jwhitleylaw@outlook.com

APPLICANT INFORMATION:

Applicant: John A. Whitley and wife, Barbara B. Whitley;

Mailing Address: 219 Johnston Street, Smithfield, NC 27577

Phone Number: (c) 919-210-6475

Fax: 919-934-5110

Contact Person: John A. Whitley

Email Address: jwhitleylaw@outlook.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

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

- A map with metes and bounds description of the property proposed for reclassification.
- A list of adjacent property owners.
- A statement of justification.
- Other applicable documentation: _____

STATEMENT OF JUSTIFICATION

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

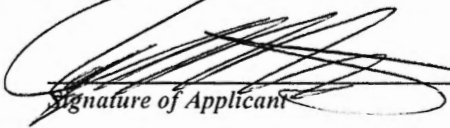
See Attachment

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.

John A. Whitley

Print Name



Signature of Applicant

02-28-2019

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: John A. Whitley Submittal Date: 02-28-2019

OWNERS AUTHORIZATION


I hereby give CONSENT to _____ (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.

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.

 _____
Signature of Owner/Applicant *Print Name* *Date*

FOR OFFICE USE ONLY

File Number: _____ Date Received: _____ Parcel ID Number: _____

Filed in JOHNSTON COUNTY, NC
CRAIG OLIVE, Register of Deeds
Filed 04/18/2016 03:56:05 PM
DEED BOOK: 4749 PAGE: 529-530
INSTRUMENT # 2016486286
Real Estate Excise Tax \$0.00
Deputy/Assistant Register of Deeds dcarter

Prepared by: John A. Whitley, Attorney
219 Johnston St.
Smithfield, NC 27577

Hold For: John A. Whitley, Attorney

STATE OF NORTH CAROLINA

PARCEL ID NO.: 15030016

COUNTY OF JOHNSTON

REVENUESTAMPS: \$-0-

Brief description for the Index: 317 S 3RD ST., SMFLD

GENERAL WARRANTY DEED

THIS DEED made this 18TH day of APRIL, 2016, by and between JOHN A. WHITLEY, hereinafter referred to as GRANTOR, and JOHN A. WHITLEY AND WIFE, BARBARA B. WHITLEY, hereinafter referred to as GRANTEE, whose address is 219 JOHNSTON ST., SMITHFIELD, NC 27577.(The designation GRANTOR and GRANTEE as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.);

WITNESSETH, that the GRANTOR, for a valuable consideration paid by the GRANTEE, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the GRANTEE in fee simple, all of that certain lot or parcel of land situated in the City of SMITHFIELD, SMITHFIELD Township, Johnston County, North Carolina and more particularly described as follows:

BEGINNING at a stake on the East side of South Third Street in the Town of Smithfield, between Church and Woodall Street, Layton McGoogan's corner and runs in a southerly direction with South Third Street, 52.5 feet to the intersection of South Third Street and Woodall Street; thence in an easterly direction with Woodall Street, 90.2 feet to a stake; thence in a northerly direction parallel with South Third Street, 52.5 feet to a stake, McGoogan's corner; thence in a westerly direction with McGoogan's line, 90.2 feet to the BEGINNING, containing a fractional part of an acre.

THE PURPOSE OF THIS DEED IS TO CONVEY THE ABOVEDESCRIBED PROPERTY FROM THE GRANTOR TO THE GRANTEE AS TENANTS-BY-THE-ENTIRETY PURSUANT TO NCGS 39-13.3(b).

The property hereinabove described was acquired by GRANTOR by instrument recorded in Book 4748, Pages 482-483, Johnston County Registry.

A map showing the abovedescribed property is recorded in Plat Book _____, Page _____, Johnston County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the GRANTEE in fee simple.

AND THE GRANTOR covenants with the GRANTEE that the GRANTOR is seized of the premises in fee simple, has the right to convey the same in fee simple, that the title is marketable and free of all encumbrances, and that the GRANTOR will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the GRANTOR has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in the corporate name by its duly authorized official, the day and year first above written.

 (SEAL)
JOHN A. WHITLEY

STATE OF NORTH CAROLINA

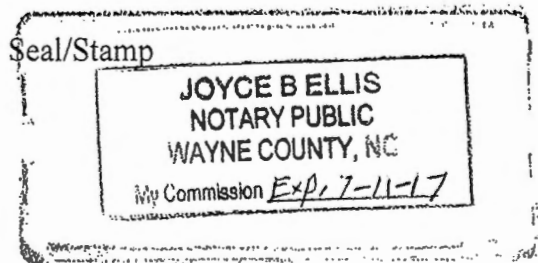
COUNTY OF Wayne

I, Joyce B. Ellis, a Notary Public of the County and State aforesaid, certify that JOHN A. WHITLEY personally came before me this day and acknowledged the due execution of the foregoing deed.

Witness my hand and official stamp or seal, this 18TH day of APRIL, 2016.

Joyce B. Ellis
Notary Public

My Commission Expires: 7-11-17



ATTACHMENT TO REZONING APPLICATION
OF JOHN A. WHITLEY, ATTORNEY

A LIST OF ADJACENT PROPERTY OWNERS:

<u>Property owners</u>	<u>Mailing address</u>	<u>Parcel ID#</u>
Thomas & Vicki Berkau	604 W. Hood Street, Smithfield, NC	15-0-30-018
Eleanor Faye Medlin	304 Woodall St., Smithfield, NC	15030019
H. Landis Whitley	208 W. Langdon Ave., Smithfield, NC	15030020
Barbara P. King	315 S. Third St., Smithfield, NC	150 30017
Tara M. Dunn	307 S. Third St., Smithfield, NC	15030025
Barry W.&Kay P. Long	259 Wembley Dr., Clayton, NC 27527-3360	15030026
Spring Branch Corners Assoc.	300-C S. Third St., Smithfield	15029023
Aspect Properties LLC	312 S. Third St., Smithfield	15029026
Jonathan D. Gaskins	404 S. Third St., Smithfield, NC	15029040 15029041
Carole & William Wells, Jr.	P.O. Box 2179, Smithfield, NC	15030001
Eleanor Faye Medlin	304 Woodall St., Smithfield, NC	15030002
Paul & Louise Moore	306 E. Woodall St., Smithfield, NC	15030003
Jason A. Fumia	308 E. Woodall St., Smithfield, NC	15030004

ATTACHMENT TO REZONING APPLICATION
OF JOHN A. WHITLEY, ATTORNEY

STATEMENT OF JUSTIFICATION

I am a native son of West Smithfield and Smithfield. I will have continuously engaged in the general practice of law in Smithfield for 39 years as of September, 2018. Although I have office-shared with the Levinson Law Firm for over two decades, I have been a sole practitioner for my entire tenure as a lawyer but for several years that I was a partner in the firm of Ashley, Holland, Wellons, and Whitley. Although it has always been a dream of mine to manifest my independence by practicing in my own stand-alone structure, I was formerly content to finish my tenure as an attorney at the address at which I now practice, 219 Johnston Street, owned by Jim Levinson. However, Jim is very nearly retired, has sought to sell 219 Johnston Street for the past several years without signage on the building, is now more aggressively attempting to sell the building with signage thereon, and I now therefore have been forced to attempt to realize my dream. Given my entrepreneurial real estate background, my quest to find a suitable stand-alone building within the proximity of the Courthouse has been exciting even if frustrating. I bid for, but was unable to purchase, the Mozzelle Ellis estate home located on Johnston Street. Having previously approached David Stubbs about the prospects of purchasing his property on Johnston Street, David later approached me with an offer to sell his premises which I could not justify.

I truly feel that my finding 317 S. Third Street was provident. While I love to eat at the White Swan on any given day, I rarely ride out that far at lunch and usually only stop there to eat if I am coming back from Benson District Court on Friday. On this one particular day after having explored the above described opportunities and several others, I simply decided that I needed to leave Courthouse Square for lunch for no particular reason. When I passed by 317 S. Third Street and I saw a FOR SALE sign in front of it, I had a flashback as I recalled the home when it was not in disrepair in my much younger years. I was genuinely saddened to see this dilapidated "period piece" now at the perimeter of a business district with a pastoral setting across the street in front of it and surrounded by restored, warm homes along Third Street south of it and along Woodall Street east of it. My very next vision of the house was as it could be, not as it was. I am now just weeks from that vision!

Much has occurred since I purchased the house on April 14, 2016. The Town's records will reveal that I requested to have the premises rezoned in the fall of 2016 to Office and Institutional and appeared before the Zoning Board in support of that application, but thereafter asked the Town to withhold their consideration of the recommendation of the Zoning Board in the aftermath of Hurricane Matthew in order for me to consider whether I then wished to rent the premises as a residence or use it commercially in the future. Having just spent in excess of \$20,000 on the exterior and

interior of the premises just prior to Hurricane Matthew and being virtually ready to have the premises occupied either residentially or commercially, I was then very disheartened and conflicted as to what I would do with the property. Upon the passage of time, upon my belief that Matthew was an exceptional storm, upon my belief that the failure to significantly drain reservoirs west of Smithfield significantly worsened the effects of Matthew, and upon my steadfast belief that I was meant to occupy those premises as an office; I have now again spent thousands of dollars replastering and painting inner walls, recarpeting floors, and refinishing hardwood floors. I am appreciative that flood zone maps have been expanded in the wake of relatively recent storms, however just as a "rising tide raises all ships", if there comes significant surface water it will affect residential as well as commercial property. As I now understand it, zoning laws would disallow me to rebuild the premises if they were destroyed by some man-made or natural disaster. As I am now too invested in the premises to back up and must now make them profitable, I must now do so either residentially or commercially. The following is my analysis as to why the better use of these premises is for office and institutional.

I advocate to the Board that both the interior and the exterior will be better maintained as my law office than they would be by a tenant; a mere windshield appraisal of the premises in its present state versus what it looked like several years ago will reveal a new metal roof, a newly painted exterior, and new shutters. Signage at the premises for my law office certainly would be compliant with the City Ordinance and would be discreet and professional; such signage would certainly be compatible with that of Travel Odyssey adjacent to the subject premises. The demographic and major part of my law business is such that on-street or off-street parking requirements would be nominal. I therefore advocate to the Board that not only would using the premises commercially not endanger public health, safety, or general welfare, but instead would enhance it.

This rezoning petition is compatible with established neighborhood patterns of the surrounding area. The subject property is the only property fronting on the eastern side of S. Third Street from Woodall Street north to Johnston Street which is not zoned commercial (O&I). Because the subject property corners on S. Third Street and Woodall Street, the roadways are man-made divides between home owners immediately across Third Street and Woodall Street. All properties fronting the western side of South Third Street south of Johnston Street to the creek are zoned commercial (O&I). The pattern of commercial properties in areas outlying the Courthouse area must grow to accommodate expansion warranted by the ever-expanding County Government.

This rezoning request is in the community interest. The renovation and restoration of the subject property certainly enhances the curb appeal of South Third Street and Woodall Street. Both of these roadways have enjoyed a substantial structural renaissance of most of the fixtures thereon but for the subject property formerly and just a few remaining properties. The impetus to well maintain a commercial property, I submit, is much greater than that to well maintain a tenement. Bordering on an area of residential repose, I can assure you that this general legal practitioner of nearly 66 years age will not be engaging in a raucous night life upon the premises.

While this request may technically constitute "Spot Zoning", that being the application of zoning to a specific parcel within a larger zoned area when the rezoning is at odds with a city's master plan and current zoning restrictions; courts have held that "Spot Zoning" is only invalid when there is an "arbitrary, capricious and unreasonable

treatment of a specific parcel within a larger zoned area. As previously discussed, while the predominate zoned use of the property surrounding the subject property is residential (R-8), all but one property fronting South Third Street on either side from Johnston Street south to Woodall Street is zoned commercial (O&I). Moreover, there is in the very least a mixed commercial and residential use along the South Third Street corridor from Johnston Street to the intersection of Third Streets and 301 Highway. As previously discussed, commercial use (O&I) is trending south along Third Street from Johnston Street.



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

Permit Issued for January 2019

		Permit Fees	Permits Issued
Site Plan	Minor Site Plan	1,400.00	12
Zoning	Land Use	\$1,250.00	13
Zoning	Sign	\$250.00	5
	Total:	\$2,900.00	30
Fiscal YTD Total:		\$11,775.00	152

SP19-000001	Site Plan	Minor Site Plan	New SFD/ 32X64 Modular Home	2735 Wilson's Mills Road
Z19-000001	Zoning	Land Use	Venero's Pizzeria Restaurant	519 Outlet Center Drive
Z19-000002	Zoning	Land Use	A&E Accounting Group, LLC	606 West Market Street
Z19-000003	Zoning	Sign	Super 8 Hotel	735 Outlet Center Drive
Z19-000004	Zoning	Land Use	Law Office of Glenn Gray	527 South Brightleaf Boulevard
Z19-000005	Zoning	Land Use	Cell tower antenna Swap.	2432 PACKING PLANT Road
SP19-000003	Site Plan	Minor Site Plan	SFD / New Construction	115 CYPRESS
SP19-000004	Site Plan	Minor Site Plan	SFD 12'x12' Accessory Structure	714 Chestnut Drive
Z19-000006	Zoning	Land Use	Black History Art Exhibit	329 East Market Street
Z19-000007	Zoning	Land Use	Black History Art Exhibit	329 East Market Street
Z19-000008	Zoning	Land Use	Black History Art Exhibit	329 East Market Street
Z19-000009	Zoning	Land Use	Black History Art Exhibit	329 East Market Street
Z19-000010	Zoning	Land Use	Black History Exhibit/Temporary Museum	329 East Market Street
Z19-000012	Zoning	Sign	Circle K Sign Package	1137 N Brightleaf Blvd
Z19-000013	Zoning	Land Use	Samsonite Company Stores, LLC	1025 Outlet Center Dr Ste 460
Z19-000014	Zoning	Land Use	Clayton General Store	1025 Outlet Center Dr Ste 270
SP19-000005	Site Plan	Minor Site Plan	SFD 22x20 Carport Extension	222 West Hood Street
SP19-000006	Site Plan	Minor Site Plan	Aircraft Hangers	3146 Swift Creek Road
SP19-000007	Site Plan	Minor Site Plan	Electric Vehicle Charging Stations.	1025 Outlet Center Drive Ste 270
SP19-000008	Site Plan	Minor Site Plan	Sidewalk and Parking Improvements.	245 College Road
Z19-000016	Zoning	Land Use	New Residential Driveway at Existing SFD	207 Cloverdale Drive
Z19-000017	Zoning	Sign	Chicha's Auto Sales	808 N. Brightleaf Blvd
Z19-000018	Zoning	Land Use	Jimmy's Gas Mart	3300 West US Hwy 70 Business
SP19-000009	Site Plan	Minor Site Plan	Wal-Mart Interior/Exterior Enhancement	1299 N Brightleaf Blv
Z19-000019	Zoning	Sign	Walmart Exterior Sign Addition	1299 North Brightleaf Blvd



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BOARD ACTIONS REPORT - 2019

January

Town Council

Zoning Map Ammendments	0
Special Use Permit	0
Zoning Ordinance Amendments	0
Major Subdivisions	0
Annexations	0
Special Events	0
Site Plan	0

Planning Board

Zoning Map Amendments	2
Zoning Ordinance Amendments	2
Major Subdivisions	0

Board of Adjustment

Variance	0
Admin Appeal	0

Historic Properties Commission

Certificate of Appropriateness	0
Historic Landmarks	0

The Smithfield Town Council met in regular session on Tuesday, February 5, 2019 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

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

Councilmen Absent

Marlon Lee, District 1

Administrative Staff Present

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

Present:

Bob Spence, Town Attorney
Bill Dreitzler, Town Engineer

Administrative Staff Absent

Stephen Wensman, Planning Director

CALL TO ORDER

Mayor Moore called the meeting to order at 7:00.

INVOCATION

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

APPROVAL OF AGENDA:

Councilman Ashley made a motion, seconded by Councilman Stevens, to approve the agenda as submitted. Unanimously approved

PRESENTATIONS:

1. Partnership For Children's " Think Babies Bus Tour"

Partnership for Children's Executive Director Dwight Morris addressed the Council on the Think Babies Bus Tour initiative. Mr. Morris provided a formal invitation to the Council regarding the tour along with some data concerning young children in Johnston County. Mr. Morris explained that Partnership for Children received a mini grant from the North Carolina Early Education Coalition to help increase awareness of issues facing Johnston County infants, toddlers, their teachers and parents. Mr. Morris invited the Council to attend one of two tours to be held on February 24th and March 14th from 8:00 am to 12:00 pm. The Think Babies Bus Tour will highlight quality care throughout the county with opportunities to speak with parents and service provider. Mr. Morris encouraged the Council to attend one of these tours.

2. Proclamation honoring the Pine Acres Community

Mayor Moore presented a proclamation to the residents of the Pine Acres Community.

PROCLAMATION
Honoring the Pine Acres Neighborhood
In the Town of Smithfield

WHEREAS, the Town of Smithfield includes historically significant neighborhoods that deserve recognition for their contributions to the Town; and

WHEREAS, the Town of Smithfield recognizes and celebrates more than fifty years of history of the Pine Acres Neighborhood; and

WHEREAS, the Town of Smithfield is committed to raising awareness of the historical significance of the Pine Acres Neighborhood and its contributions to the Town of Smithfield; and

WHEREAS, Pine Acres was developed in partnership with the Johnston County Training School and the Johnston County Board of Education to provide homeownership opportunities for African American educators, business people, health professionals and others in the Town of Smithfield when there were none; and

WHEREAS, certain residents of the Pine Acres Neighborhood were instrumental in the integration of Johnston County Schools during the Civil Rights Movement of the 1960's; and

WHEREAS, the residents of Pine Acres Neighborhood have contributed to the wellbeing of the Town of Smithfield as citizens, educators, business leaders, health professionals and others; and

WHEREAS, the Town of Smithfield appreciates this rich history and the significance of the Pine Acres Neighborhood.

NOW, THEREFORE, I, M. Andy Moore, Mayor of the Town of Smithfield along with the members of the Town Council, do hereby proclaim the Pine Acres Neighborhood to be historically significant to the growth and development of the Town of Smithfield.

PUBLIC HEARINGS:

Town Clerk Shannan Parrish administered affirmations to those that wished to offer testimony during the Public Hearing

- 1. Special Use Permit Request – Johnston County Regional Airport (SUP-19-01):** The applicant was requesting a special use permit to exceed 40 feet in building height for a proposed structure located within an R-20A (Residential-Agricultural) zoning district. The property considered for approval was located on the east side of the intersection of Swift Creek Road and Airport Industrial Drive and further identified as Johnston County Tax ID# 15079015.

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

Senior Planner Mark Helmer testified that Blue Line Aviation was proposing a new facility at the JNX Airport which would consist of classrooms, offices, restaurants and hangar facilities. The portion of the proposed building to house the classrooms, offices and restaurant will be 3 stories in height, exceeding the 40' maximum height allowed. The UDO Section 8.13.5 allows building height to exceed 40 ft. up to a maximum of 100' with a special use permit. The proposed JNX Airport building is proposed to have a height of 51'-11". This portion of the building is approximately 18,780 (total of the 3 stories) square feet and will contain classrooms on the first floor, offices on the second and restaurant on the third. The height of the adjacent hangar will be 31'-10" high. The building will be designed in accordance with FAA regulations. Submittal of the FAA's approval is a recommended condition of approval. Mr. Helmer testified that the adjacent zoning was B-3 Commercial/LI-Light Industrial to the north, R20A Residential-Agriculture to the south, R20A Residential-Agriculture/ LI – Light Industrial to the west and R20A Residential-Agriculture to the east. The project area was 673.43 acres with an existing use as Johnston County Airport. The new facility would be within the existing airport developed area and the building would be designed in accordance with FAA regulations

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

STAFF'S FINDINGS OF FACT

1. The proposed facility is well contained within the airport facilities and formal FAA approval will be required before construction to ensure it complies with FAA regulations.
2. The proposed uses are accessory to the airport and are typical accessory amenities to an airport.
3. The proposed use will not have any impact on the normal and orderly development and improvement of the surrounding properties. The airport facility is well buffered from adjacent land uses and property by vacant airport land which is used to buffer the airport.
4. Utilities, access, drainage, parking and other facilities are being provided with the building improvements.
5. Ingress and egress to the site will remain unchanged. The additional height will have no impact on ingress and egress.
6. All regulations have been conformed with, or will be conformed with prior to issuance of a permit.
7. The access conforms to plans.
8. The access conforms to plans.

The Planning Department recommends approval of the Special Use Permit, SUP-19-01, with the following conditions:

1. That the building be designed and constructed in accordance with FAA regulations, and a formal FAA approval be submitted to the Town.

Senior Planner Mark Helmer has incorporated his entire record and provided it to Council in written form in the February 5, 2019 agenda packet.

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

Mayor Moore asked the applicant if he was in agreement with the testimony provided by Mr. Helmer. The project engineer stated he was in agreement with the testimony offered by Mr. Helmer.

Mayor Moore asked if there was any in attendance sworn to testify in this matter. There were none.

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

The Written Finding

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

The Town Council shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.

2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.
3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.
7. Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.
8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

Record of Decision: Approval of Conditional Use Permit Application Number SUP-19-01

Councilman Ashley made a motion, seconded by Councilman Rabil, based upon satisfactory compliance with the above eight stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to recommend approval of Special Use Permit Application #SUP-19-01 with the following conditions:

1. That the building be designed and constructed in accordance with FAA regulations, and a formal FAA approval be submitted to the Town.

Unanimously approved.

2. **Rezoning Request – Michael Stewart, P.E. (RZ-18-07)**: The applicant was requesting to rezone 21.26 acres 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 was located on Black Creek Road approximately 1700 feet southwest of its intersection with NC Highway 210. The property was further identified as Johnston County Tax ID# 15109011B.

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

Senior Planner Mark Helmer addressed the Council on a request by Michael Stewart, PE. Mr. Helmer explained in 2007, the Johnston County Board of Commissioners issued preliminary plat approval of a 32.79 acre parcel of land. The development was not constructed and the plat expired. In 2009, the Town of Smithfield's ETJ was expanded to include the 11.53 acre portion of the property and was rezoned to R-20A (Residential-Agricultural). In 2018, the portion of the property located in Johnston County's jurisdiction received preliminary approval for a 62 lot subdivision meeting the County's AR zoning regulations. In December 2018, the Town Council approved the annexation of the property. In January 2019, the Planning Board recommended approval of the rezoning.

With the annexation, water and sewer will be provided by the Town with a master meter on the County's service lines. A lift station will be constructed by the developer in the Town to serve this development once the 11.53 acres is platted. The plat application submittal is expected soon after the parcel is rezoned. There is no land use guidance for the 22.79 acres, however the 11.53 acres is guided as low density residential and currently zoned R20-A. R20-A is the appropriate zoning district to make the entire parcel whole.

Mr. Helmer informed the Council that staff finds the rezoning to be consistent with the Strategic Growth Plan which guides this area for low density residential. 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. The property considered for a rezoning is compatible with surrounding agricultural or low density residential and institutional land uses.

The Planning Department and Planning Board recommend the approval of the zoning map amendment and the adoption of 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.

Senior Planner Mark Helmer has incorporated his entire record and provided it to Council in written form in the February 5, 2019 agenda packet.

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

Mayor Moore asked if there was anyone in attendance that wished to speak on the matter.

Chris Petit of 6278 Black Creek Road stated he was concerned about the water that would flow from the proposed development onto his land. He stated the drainage would flow downhill and affect his property. Mr. Petit requested to see a plan for remediation. Mr. Helmer explained the request before the Council was only to consider rezoning the property, but the next process would be for the applicant to submit a platted plan detailing construction and stormwater management for the property. Mr. Helmer explained there was a riparian buffer which would help mitigate any adverse impact. He further explained this was a low density type development and impact should be less.

Mr. Petit questioned if the adjacent homeowners would be able to see the overall plan of where the water was going to flow. He explained he has livestock on his property and doesn't want his livelihood affected by this proposed development. Mayor Moore responded the Council would only consider the rezoning at this meeting and asked if the subdivision would come back before the Council for approval. Mr. Helmer responded that a public hearing would be held to allow for citizen comment on the proposed subdivision plan. Mayor Moore encouraged Mr. Petit to meet with Planning Staff and to attend any meeting concerning this project.

Councilman Ashley asked Mr. Helmer to explain the vested rights of this subdivision. Mr. Helmer responded that the developer gained approval of the subdivision from Johnston County which the Town chose to honor. Councilman Ashley further questioned if the Town's stormwater management plan was more stringent than the County. Mr. Helmer responded that stormwater management plan standards are federally and state mandated.

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

Councilman Barbour made a motion, seconded by, Councilman Ashley, to approve Rezoning Request RZ-18-07 rezoning 21.26 acres of land from Johnston County AR (Agricultural-Residential) zoning district to the Town of Smithfield R-20A (Residential-Agriculture) zoning district. Unanimously approved.

Councilman Dunn made a motion, seconded by Councilman Ashley, to approve the Consistency statement as set forth in the agenda declaring its consistency with the Town of Smithfield Comprehensive Growth Management Plan and that it was reasonable

and in the public interest. Unanimously approved.

3. **Rezoning Request – Studio TK (RZ-18-09):** The applicant was requesting to rezone a 3.12 acre portion of a 9.92 acre tract of land from the B-3(Highway Entrance Business) and R-20A (Residential-Agricultural) to the LI (Light Industrial) zoning district. The property considered for rezoning was located on the east side of US 70 Business West approximately 200 feet north of its intersection with Cloverdale Drive. The property was further identified as Johnston County Tax ID#17J08001A.

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

Senior Planner Mark Helmer addressed the Council on a request by Studio TK. The property considered for rezoning was currently split zoned with 6.15 acres currently zoned light industrial. A 0.30 acre portion is zoned B-3 (Highway Entrance Business) and a 2.81 acre portion is zoned R-20A (Residential-Agricultural). Rezoning the property will serve to correct inconsistencies created when properties lines were moved and lots recombined and a rezoning of the new parcel did not occur. No non-conformities will be created by this rezoning since all existing uses on the property are currently permitted within the Light Industrial zoning district. The proposed rezoning will not have negative impacts on adjacent land uses and no change in use is proposed as a result of this rezoning classification.

Mr. Helmer explained the subject property was consistent with adjacent land uses that include industrial zoning land uses to the south. The rezoning will serve to more accurately reflect existing land uses on the site. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance as all current land uses and site improvements appear to meet minimum development standards of the Town of Smithfield Unified Development Ordinance. The property considered for a rezoning was a small portion of an existing industrial site that was currently zoned light Industrial. The subject property was adjacent to an existing LI zoning district and land use. The proposed rezoning will not have negative impacts on adjacent land uses and no change in use is proposed as a result of this rezoning classification.

The Planning Department and Planning Board recommend approval of the zoning map amendment with 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.

Senior Planner Mark Helmer has incorporated his entire record and provided it to Council in written form in the February 5, 2019 agenda packet

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

Councilman Barbour questioned the Town's extraterritorial jurisdiction (ETJ) in relation to this site. Mr. Helmer responded it was within the Town's ETJ.

Councilman Ashley questioned how the property became split zoned. Mr. Helmer stated it was his assumption that the property owner made some adjustments, but the zoning map was never amended to reflect the change.

Mayor Moore asked if there was anyone in attendance who wished to speak on this matter.

Dan Simmons of McGill Associates explained he was retained by Studio TK, a furniture manufacturing facility, to investigate the property for potential expansion. In that investigation Mr. Simmons discovered the property was split zoned. In accordance with the Unified Development Ordinance, this issue had to be resolved before a zoning permit could be issued for the expansion of the facility.

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