

The Smithfield Town Council met in regular session on Tuesday, October 3, 2017 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

Emery Ashley, Mayor Pro-Tem  
Marlon Lee, District 1  
J. Perry Harris, District 2  
Travis Scott, District 3  
John A. Dunn, At-Large  
Stephen Rabil, At-Large

Councilmen Absent

Roger A. Wood, District 4

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  
Steve Medlin, Interim Planning Director  
Shannan Parrish, Town Clerk  
R. Keith Powell, Chief of Police  
Greg Siler, Finance Director

Present:

Bob Spence, Town Attorney  
Bill Drietzler, Town Engineer

Administrative Staff Absent

Mayor Moore called the meeting to order at 7:00 and asked that prior to the invocation everyone stand and observe a moment of silence for the victims and the families of the Las Vegas shooting.

The invocation was given by Councilman Scott followed by the Pledge of Allegiance

**APPROVAL OF AGENDA:**

Councilman Harris made a motion, seconded by Councilman Rabil, to approve the agenda with the following amendments:

Remove Public Hearing # 2 Special Use Permit Request – Atlantic Coast Pipeline (SUP-17-09). The applicant requested that this hearing be delayed until the November 14th meeting.

Unanimously approved.

**PRESENTATIONS:**

**1. Recognition of Police Officer Robert Stewart for obtaining the Advanced Law Enforcement Certification from the North Carolina Education and Training Standards Commission**

Chief of Police R. Keith Powell informed the Council that Officer Stewart had received the Advanced Law Enforcement Certificate from the North Carolina Education and Training and Standards Commission. Officer Stewart joined fifteen other members of the Smithfield Police Department that have received this specific recognition. Applications are submitted to Training and Standards then are approved by the Board of Commissioners. This certificate program allows dedicated officers to receive statewide recognition for education, professional training and on the job experience.

Officer Stewart holds a Bachelor's Degree in Criminal Justice and Criminology from Mount Olive College. Officer Stewart with his four year degree needed an additional 24 training points (480 hours of training as well as 6 years of continuous law enforcement service) to obtain this certificate. Officer Stewart has been with the Smithfield Police Department for almost seven years. He has worked on patrol during his career and has served as a field training officer. Officer Stewart currently has been reassigned to the Smithfield Middle School as a School Resource Officer.

Mayor Moore and Chief of Police R. Keith Powell presented Officer Stewart with a framed Advanced Law Enforcement Certificate

**2. Proclamation – Honoring Manufacturing Day on October 6, 2017 in the Town of Smithfield**

Mayor Moore read the following Proclamation.

PROCLAMATION  
Proclaiming October 6, 2017 as Manufacturing Day  
in the Town of Smithfield

WHEREAS, Manufacturing Day is a celebration of modern manufacturing meant to inspire the next generation of manufacturers; and

WHEREAS, Manufacturing Day officially occurs on the first Friday in October. This year we celebrate it on October 6, 2017; and

WHEREAS, Manufacturers boost the Town's economic growth, provide jobs for skilled workers and link innovation in other sectors; and

WHEREAS, Manufacturers contribute to the economic health of the Town of Smithfield and raise awareness of skilled career opportunities in the manufacturing industries; and

WHEREAS, According to the National Association of Manufacturers, approximately 460,000 North Carolinians are employed by this industry, and in 2016 North Carolina's manufacturing industry generated \$98.3 billion, comprising 20.85% of North Carolina's economy; and

WHEREAS, AAF Flanders of 2121 Wal Pat Road, Smithfield will represent and celebrate Smithfield's manufacturing viability and successes with a limited factory open house on October 6, 2017 at 9:30am; and

WHEREAS, the Town of Smithfield appreciates the contributions made by manufacturers in our community.

NOW, THEREFORE, I, M. Andy Moore, Mayor of the Town of Smithfield along with the members of the Town Council, do hereby proclaim October 6, 2017, to be Manufacturing Day in the Town of Smithfield, North Carolina

**3. Resolution #612 (17-2017): Recognizing October 1-7,2017 as North Carolina Public Power Week in the Town of Smithfield**

Town of Smithfield  
Resolution #612 (17-2017)  
Promoting NC Public Power During  
Public Power Week, October 1-7, 2017

WHEREAS, public power is a crucial component in cities and towns across North Carolina, contributing to the overall health of communities by providing reliable electricity, excellent local service and prompt restoration; and

WHEREAS, North Carolina's more than 70 public power cities and towns are among more than 2,000 across the country; and

WHEREAS, many of North Carolina's public power cities and towns have been electric providers for more than 100 years; and

WHEREAS, public power meets the electric needs of 40 million Americans, almost 15 percent of electricity consumers; and

WHEREAS, North Carolina's public power utilities are valuable community assets that contribute to the well-being of the community and provide economic development opportunities; and

WHEREAS, North Carolina's public power utilities are dependable institutions that provide excellent service and a commitment to community.

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF SMITHFIELD, that the week of October 1-7, 2017, is Public Power Week, a week to promote North Carolina's public power cities and towns for their contributions to their communities.

BE IT FURTHER RESOLVED that NC Public Power communities join with all public power systems in the United States in this celebration of public power.

Adopted this day of October 3, 2017 in Smithfield, North Carolina.

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Rabil, to approve Resolution #612 (17-2017) Promoting NC Public Power During. Unanimously approved.

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

## **PUBLIC HEARINGS:**

### **1. Conditional Use Permit Request By Theron Lee McLamb: (CUP-17-08)**

Councilman Harris made a motion, seconded by Mayor Pro-Tem Ashley, to open the Public Hearing. Unanimously approved.

Interim Planning Director Steve Medlin addressed the Council on a request by Theron Lee McLamb. Pursuant to State law he certified for the official record that all required notice as prescribed by the General Statutes and the Smithfield UDO has been completed for all Planning related public hearings this evening.

Mr. Medlin testified that case CUP 17-08 was a request for a conditional use permit by Theron Lee McLamb to construct and operate a recreational vehicle park that will accommodate 148 recreational vehicle (RV) spaces and 48 rental cabins on 33.32 acres of land located within a B-3 (Business) zoning district. The subject site is bounded to the north by CSX Railway, south by Equity Park Subdivision, east by Magnolia Drive and west by the Pine Acres Subdivision. The subject application was submitted under the former UDO which allows the proposed use subject to the approval of a CUP. The Future Land Use Map indicates Commercial and Office & Institutional/ High Density Residential land use designations. The applicant is proposing a single point of access from Magnolia Drive, six parking spaces for the office and a 50 foot landscaped buffer with fence on the western and northern property line. Utilities are located adjacent to the site in Magnolia Drive. Staff has identified that a RV park at this location may be a compatibility issue with the adjacent residential neighborhood to the west. The applicant has proposed a buffer of 50 feet, which is greater than the required buffer, to mitigate this condition. The Planning Department has evaluated the application package and has determined that it is compliant with all adopted plans, policies and ordinances.

The Planning Board at their August meeting held a public hearing and after receiving public comment and reviewing the evidence on the record recommended denial of the application by a vote of 4 to 3.

The Smithfield Town Council was requested to review the petition for a conditional use permit and make a decision in accordance with the Finding of Fact for a conditional use permit. Based on the evidence presented, the Council made the following ultimate findings in accord with the requirements of the ordinance.

### ULTIMATE FINDINGS

1. The Town Council in its denial of the conditional use application makes the following ultimate findings in support of its denial of the application with the Council having divided equally on whether the project would materially endanger the public health and safety as located and proposed and likewise divided equally on whether it fails to meet all required specifications, standards, and practices of sound land use planning. The Council approved 4 to 2 that the project would not adversely affect the adopted plans, policies of the town or the existing standards of development. However, the Council did deny the application ultimately and found that the application would substantially injure the value of adjoining or abutting properties and adversely affect neighboring owners use and quiet enjoyment of their adjacent properties and neighborhood.

2. The applicant proposes to put an RV Park on property adjoining the back property line of 11 residential lots and single family homes in the well-established Pine Acres Subdivision. The RV Park would remove the forest on the project land, clear cut it, place a 50 foot buffer with a six foot fence, some existing trees and some shrubs as a buffer between the long border between the park and the back yards of the subdivision lots facing north on Aspen Drive. The proposed buffer is substantially inadequate. The applicant offered no other mitigation of the impact of the project on the adjacent back yards.

3. The application proposes a total of 48 cabin spaces and 148 RV spaces, expecting full occupancy. They propose 196 tightly packed spaces on 2500 to 2900 separate gross square feet of yard for each campsite, each with its own "fire pit" and "grill". Thus the subdivision would suddenly have 196 campfires outside of its back yard virtually every night with each site hosting a group of travelers enjoying camping out. The Council finds even if partially screened by a six foot fence and shrubs, that for the neighboring subdivision to be forced to listen to and look out of their back yards onto 196 campfires of itinerant groups traveling up and down I-95 would substantially and adversely affect the quiet enjoyment of the adjacent subdivision, the sense of privacy available in these long established homes, and the sense of vulnerability to neighboring itinerant revelers and campers. The sites as proposed offers little visual, physical, or noise buffer but an unspecified, undefined six foot tall fence and some shrubs where now there is a forest of trees. The bright fires and the noise from 196 campfires and easily 800 or so campers would chill the prospect of marketing the single family homes adjacent to the proposed project and substantially reduce the value of the homes in this neighborhood of families with young children and older people for whom the loss of privacy, visual and noise disturbance and presence of campers traveling an interstate would create natural anxiety for the homeowners.

4. The long border between the entire southern boundary of the project area abuts the northern boundary of the neighboring subdivision and adjoins directly to the back yard of eleven residential homes and lots. The neighborhood borders the entire expanse of the back of the proposed campground.

5. The applicant presented a commercial appraiser from Greenville, a town about seventy miles from Smithfield. He did not appraise the value of any home or site or compare before or after project values with any specificity. He testified that the project land had as its best use multifamily residential or commercial development like a shopping center and an RV Park is also a commercial endeavor. He did not talk to any residents. He did drive through the subdivision. He testified that the subdivision values had remained constant through the recent years of economic decline and recovery. He offered his opinion that impact of the project would not "substantially injure" the adjacent properties. The Council did not find him or his opinion credible in content, delivery or logic. He did not address the impact of 196 fire pits adjacent to the full length of the back yards of residents on Aspen Drive or virtually unbuffered presence of 196 campfire groups adjacent to these back yards. He offered no suggestions as to how these inconsistent uses could be buffered. Neither did the applicant

except for proposing a six foot fence and shrubs. The Council finds from the evidence that the project as proposed is a use that is highly inconsistent with the adjacent subdivision and cannot be adequately buffered even though the applicant offers virtually none.

6. The applicant proposed that the RV Park will meet high governance standards by adherence to and monitoring through the guidelines of the KOA Campground System. The RV Park is to be operated as a KOA Campground. The applicant presented a campground manager who testified that KOA is the oldest and largest campground system, has over 500 franchisees and has a set of standards that must be adhered to because of "*annual*" inspections. Mr. Simmons, the witness for the design team for the project, referenced the New Bern KOA Park for which he designed the addition. Mr. Nixon, a home owner in the neighborhood presented pictures of lots in the New Bern RV Park showing campground sites that were in a dilapidated, unsightly and unmonitored condition, which further shows the risk to the neighborhood of close proximity to the project as proposed.

7. Several of the adjacent property owners testified that in their opinions for the reasons set forth above detailing the negative and intrusive impact of the campsites on the back yards of the neighborhood, they believe the project would substantially injure the value of adjoining or abutting properties and be detrimental to the use of their adjacent homes and neighborhood. One resident testified he had recently purchased a home abutting the proposed site and stated he would have never purchased the home if he had known it would be adjacent to the proposed large RV Park.

8. The project has one entrance from Venture Drive, a commercial road bordering the Factory Stores at its back without access thereto and one other "emergency exit" for the campers, right through the adjoining subdivision. While the intent of the applicant is only to use the access through the subdivision in emergencies, the proposed exit does emphasize the expanse of the common boundaries to the properties, the inherent intimacy of their configurations, and the sense of invasion the neighborhood will suffer if the development were approved.

9. The Council finds the applicant failed to present persuasive substantial, competent and material evidence that the standards of the ordinance had been met to allow the conditional use application due to the evidence clearly showing that an RV Park at that location fronting the back of the Pine Acre homes would substantially injure the value of adjoining or abutting properties and be detrimental to the quiet enjoyment use of their adjacent homes and neighborhood and the location and character of the use, if developed according to the plan as proposed, is not in harmony with the area. In contrast the evidence of the opponents of the application was clear, convincing and persuasive to the Council that the RV Park at that location would substantially injure the value of the adjoining homes and neighborhood and would substantially damage the quiet enjoyment of their residences. As a result the proposed use would adversely affect the use of the adjoining and abutting property by damaging the quiet enjoyment of their properties and as a result their property values. The application, based on the standards of the ordinance, is denied.

In further support of the ultimate findings, the Council makes the following specific findings and minutes.

### **SPECIFIC FINDINGS & MINUTES**

Mr. Medlin has incorporated the entire record for this case in written form to the Town Council in the October 2017 agenda packet.

Mayor Moore asked if the applicant was present. Attorney Alan "Chip" Hewett of Hewitt Law Group in Selma, NC responded that the applicant was represented by Council. Mayor Moore asked if Mr. Hewett was in agreement with the testimony presented by Mr. Medlin. Mr. Hewett responded that he was in agreement and had some follow up questions for Mr. Medlin.

Mayor Moore explained to those in attendance this was a quasi-judicial hearing and all information and decision must be based on fact. He asked that anyone speaking for or against the permit application present only factual information and not hearsay. He further explained that the Council's decision would be made based on facts only.

Mr. Hewett stated that at the Planning Board Hearing, the Planning Board recommended disapproval. In that same hearing, Mr. Hewett questioned if staff made the recommendation to approve the application. Mr. Medlin responded that staff informed the Planning Board that the application was in compliance with all adopted plans, policies and ordinances.

Mr. Hewett questioned when the Planning Board actually met, they approved Findings of Fact one, two and four. The only Finding they did not approve was Findings of Fact three. Mr. Medlin responded that was an accurate statement.

Mr. Hewett asked Mr. Medlin that based upon his experience as the Interim Planning Director, it was Mr. Medlin's recommendation to the Council to recommend approval based on the four Findings of Fact. Mr. Medlin responded that was correct.

There were no further questions by Mr. Hewett for Mr. Medlin

**Witness Amos Daniel Simmons, Jr.**

Mr. Hewett called Mr. Dan Simmons to testify with the intent to qualify Mr. Simmons as an expert witness in planning, zoning and design. Mr. Hewett questioned if the Council wished to tender Mr. Simmons as an expert witness based on the Council's familiarity with Mr. Simmons or if it was the Council's desire for Mr. Hewett to lay a foundation based on his resume. Town Attorney Bob Spence asked that the foundation be laid for the record.

Mr. Hewett asked the witness to state his name, his place of employment and amount of years worked in his respective field. Mr. Simmons responded with his full name as Amos Daniel Simmons, Jr., his place of employment at Triangle Civil Works in Smithfield, NC and his amount of years served as approximately 43 years.

Councilman Scott asked the witness if he was being paid by the applicant stating this could create a bias. Mr. Simmons responded that he was being paid by the applicant. Mr. Hewett stated that Mr. Simmons and two other expert witnesses were all being paid by the applicant as is appropriate to pay expert witnesses in these cases.

Town Attorney Bob Spence asked that Mr. Hewett continue to qualify the witness.

Mr. Hewett asked the witness if he had been qualified as an expert witness by Superior Court in the matter of the State of NCDOT vs. John Twisdale. Mr. Simmons responded he was qualified as an expert witness in Superior Court and testified during that hearing. Mr. Hewett questioned what he was qualified as an expert of. Mr. Simmons responded he testified to the planning and zoning impacts of Mr. Twisdale's property.

Mr. Hewett asked the witness if he was being paid by the applicant and if this was Mr. Simmons' career. Mr. Simmons responded in the affirmative to both questions. Mr. Hewett further questioned as to the testimony that would be offered by Mr. Simmons. Mr. Simmons responded he would testify as to the plan and design of the project.

*[Admitted into evidence as EXHIBIT 1, the resume of Amos Daniel Simmons, Jr. and qualified as an expert witness]*

Mr. Hewett asked the witness how long he had been working on this project and how familiar he was with the property. Mr. Simmons responded he had been working on this project for over a year and he was very familiar with the property.

Mr. Hewett asked the witness how familiar he was with the surrounding properties. Mr. Simmons responded many years ago, while employed with Ragsdale Engineers, he did some work in the Pine Acres subdivision and he has done some work in the Industrial Park Drive area.

Mr. Hewett asked the witness to educate the Council on this project. Mr. Simmons responded the proposed project was a 148 RV space and 48 cabin space park. Mr. Simmons referenced the Raleigh

Oaks RV Park in Four Oaks, which he worked on, stating that it was comparable with 132 RV spaces and 52 cabin spaces. Mr. Simmons further stated that the plan size for the larger spaces are 2,925 square feet and the smaller spaces are 2,550 square feet. He pointed out the UDO specifies a minimum lot size of 2,000 square feet, meaning the RV Park design could have been much denser. The developers chose not to do that because of its competition with the RV Parks in Selma and Four Oaks. He further explained that if an apartment complex was constructed the use would be more dense than the proposed use. Mr. Simmons explained there would be a fifty foot buffer instead of the required forty foot buffer between the RV Park and Pine Acres Subdivision. Shrubs would be installed as well as a six foot opaque fence. Since there are power lines on the Pine Acres side of the property, a knock down gate would be installed to allow for Duke Energy Progress vehicles and Emergency vehicles to access the property when necessary. An office, swimming pool, camp store and dog park would be constructed. Mr. Simmons informed the Council the Ordinance requires the developer deal with any stormwater issues. The original I-95 Plaza plan included two stormwater ponds which have been constructed. Mr. Simmons will go back and investigate those plans to determine if the design included a second phase to the I-95 Plaza. He will also look at the design of the stormwater pond to the east. Mr. Simmons explained that if a "Big Box" retailer was to develop the land at approximately 200,000 square feet, the UDO requires that for every 200 square feet of building, there must be 1 parking space. This example equates to 1000 parking spaces which is impervious surface. He assured the Council that all stormwater requirements would be met. Mr. Simmons further testified that traffic would be less of an issue with an RV Park than with other permitted uses because the goal of the RV Park was for people to come and stay for periods of time.

Mr. Hewett questioned if a minor retail shopping center and a major retail shopping center with special use permit approval were permissible in a B-3 zoning district. Mr. Simmons responded both were permitted uses.

Mr. Hewett asked for a comparison between a "Big Box" retail site and the proposed plan as it relates to impervious and pervious surfaces and potential stormwater related issues. Mr. Simmons responded the proposed plan would be a lot less pervious area with a lot less runoff.

Mr. Hewett questioned if there was anything in the proposed plan that would endanger the public health or safety. Mr. Simmons responded fire hydrants would be installed for fire protection in the park.

Mr. Hewett questioned if there was anything that would adversely affect the adopted plans and policies of the Town of Smithfield. Mr. Simmons responded they would meet all the requirements of the UDO, all stormwater requirements and all the requirements of the utility department.

Mayor Pro-Tem Ashley questioned the occupancy rates of the other RV Parks in Johnston County that the witness referenced. Mr. Simmons responded Raleigh Oaks was staying 80% - 90% full.

Councilman Rabil questioned the overall acreage of the Raleigh Oaks Park. Mr. Simmons responded that it was approximately thirty acres.

Mayor Pro-Tem Ashley questioned if the RV Parks in Selma and Four Oaks were in the city limits. Mr. Simmons responded the park in Four Oaks was in the city limits and he was unsure about the park in Selma.

Mayor Pro-Tem Ashley questioned the neighbors of the other RV Parks. Mr. Simmons responded there was a residential subdivision adjacent to the RV Park in Selma and there wasn't any development adjacent to the RV Park in Four Oaks.

Mayor Pro-Tem Ashley questioned if the plan addressed potential foot traffic. Mr. Simmons responded a six foot tall opaque fence would be constructed on the railroad side and the Pine Acre side of the property to prevent foot traffic in those areas. Foot traffic would be encouraged for entrance into the theater and the nearby restaurants.

Mayor Pro-Tem Ashley questioned if the witness had contacted any of the residential and commercial neighbors. Mr. Simmons responded they had not had discussions with any of the neighbors.

Mayor Pro-Tem Ashley questioned if the buffer was expanded to 100 feet would that possibly be appealing to the adjacent property owners. Mr. Simmons responded the new UDO required only a twenty foot buffer. Mayor Pro-Tem Ashley clarified the twenty foot buffer was only for permitted uses and the Council could require more buffer area for a special/conditional use.

Councilman Harris questioned the rental rates for the cabins and the spaces. Mr. Simmons responded the rates at Raleigh Oaks for the RV spaces are \$50-\$60 a night which includes water, sewer, electric, cable TV and Wi-Fi connections. He did not know the rates for the cabins.

Councilman Lee questioned if a major accident occurred would the knock down gate be used to get people out of the RV Park and what effect would that have on the neighborhood. Mr. Simmons responded the knock down gate was a requirement of Duke Energy Progress and only Duke Energy Progress or an Emergency vehicle would be permitted to use that gate. It would not be an exit point. Councilman Lee further questioned that in the event of an emergency, there would only be one exit point for everyone staying in the RV Park. Mr. Simmons responded there would only be one access point.

Councilman Scott stated the plans shows the installation of fire pits and grills. He questioned if there was an evacuation plan in the event of an emergency. Mr. Simmons responded that the evacuation route would be to exit out of the only access point. Mr. Simmons stated that both RV Parks in New Bern and in Four Oaks have fire pits and grills in each space and there hasn't been any incidents in either park.

Councilman Scott stated patrons will be connecting their own water and sewer. Mr. Simmons responded that all connections would be verified by an employee of the park. Councilman Scott questioned if there was a plan in place for the event of a sewer spill. Mr. Simmons responded that there was not a plan in place.

Councilman Scott questioned if any of the other RV Parks that Mr. Simmons developed was located in a cul-de-sac and did he believe it would have an effect on the traffic flow. Mr. Simmons responded the cul-de-sac was originally designed with 27 foot back to back curb and gutter, but the design was changed to 34 foot back to back curb and gutter to accommodate more traffic. Since it is a short cul-de-sac, the only business effected would be the physical therapy business. All other businesses have access from other roads.

Mayor Pro-Tem Ashley questioned if other RV Parks had more than one entrance. Mr. Simmons responded they typically only have one access which allows control of who enters the park. Since this is a family type setting, you want to be able to control who can rent a space or a cabin in the park.

Councilman Scott stated based on notes from the Planning Board hearing, research on stormwater has not been completed. He questioned if Mr. Simmons did not feel this was necessary. Mr. Simmons responded that he will research the plans for the existing ponds and will comply with any regulation set out by the Town, but it was premature to investigate those issues prior to this hearing.

Councilman Scott questioned if the cabins would be rented on a nightly basis. Mr. Simmons responded that he could not speak on operational matters.

Town Attorney Bob Spence questioned if Mr. Simmons was a licensed surveyor with 42 years of experience. Mr. Simmons responded he did have 42 years of experience but he was not licensed.

Mayor Moore questioned the location of the buffer in regards to the knock down gate. Mr. Simmons responded they would install the gate wherever it is required. The buffer could go between the fence and the property line or the fence could be installed on the property line and the buffer behind the fence. Mayor Moore stated that with a utility easement, no vegetative type plantings could be installed on that easement. Mr. Simmons responded that Mayor Moore was correct.

**Cross Examination of Mr. Simmons:**

Tony Nixon of 8 Cedar Drive stated that Mr. Simmons indicated he was not licensed but he had experience. Mr. Simmons stated that was correct.

Mr. Nixon asked the witness if he had designed the KOA Campground in New Bern Mr. Simmons responded that he designed the expansion.

Mr. Nixon questioned the testimony offer by the witness as it related to KOA campgrounds having only one access point. Mr. Simmons responded the campgrounds in Johnston County only have one access point, but the one in New Bern has two.

Mr. Nixon questioned the testimony offered by the witness as it related to apartments and stormwater runoff. Mr. Simmons responded that his reference to an apartment complex was related to density and his reference to commercial development was related to stormwater runoff.

Mr. Nixon questioned if an RV Park would be permissible in the new UDO. Mr. Simmons responded it would be allowable by special use permit in a light industrial zoning district. Mr. Nixon stated since this RV Park was being proposed in a B-3 zoning district it would not be permissible under the new UDO. Mr. Simmons stated that was irrelevant since this hearing was based on the old UDO.

Mr. Hewett objected to anything referenced in the new UDO. Mayor Moore overruled that objections based on the witness referencing the new UDO in earlier testimony.

Mr. Nixon asked the witness on the number of park he designed that are close to a high density residential subdivision. Mr. Simmons responded the one in New Bern is near a high density subdivision. Mr. Hewett objected to this line of questions

Mr. Nixon questioned the witness's testimony concerning the occupancy of the Raleigh Oaks Park. Mr. Simmons responded that he testified earlier that based on his knowledge, the Raleigh Oaks Park was 80% - 90% occupied. Mr. Nixon questioned the long term occupancy rate. Mr. Simmons responded that he could not answer that question because he was not a part of the operations.

Mr. Nixon questioned how the idea for the RV Park was actually put into a plan. Mr. Simmons responded that they used the KOA guidelines, guidelines for the Raleigh Oaks site and guidelines for the New Bern site. They reviewed the property and developed the plan.

Mr. Nixon questioned if this plan was site specific or generic in nature. Mr. Simmons responded that it is a bit of both.

Mr. Nixon stating the witness was asking the Council to make a decision based on a vague and hypothetical plan. Mr. Simmons responded the plan was neither vague nor hypothetical. Mr. Hewett objected to this questioning.

Mr. Nixon questioned if there was lighting in the plan. Mr. Simmons responded there was not lighting in the plan. Mr. Nixon questioned if there would even be lighting in the RV Park. Mr. Simmons responded that would be at the discretion of the owner. Mr. Simmons further responded there would be some parts of the RV Parks that would be approved administratively by staff. Mr. Hewett objected to this questioning.

Councilman Scott asked the witness if he was familiar with the traffic study for the area and if he had received a copy of the study. Mr. Simmons responded that he was not familiar with the traffic study and he did not have a copy of the study.

Councilman Scott further questioned if the amount of traffic the RV Park could generate was taken into consideration. Mr. Simmons responded what was considered was the fact that Venture Drive and Industrial Park Drive were three lane roads. Also, Magnolia Drive to 34 feet was widened to accommodate traffic.

Councilman Scott questioned if the witness was aware that a road was supposed to connect from the Smithfield Crossing Drive through the proposed RV Park property and ultimately connecting to Magnolia Drive. Mr. Simmons responded there is a rendering of this plan hanging in the Planning Department; therefore, he has viewed the plan.

Councilman Scott questioned if the witness had taken into consideration what was best for the community. Mr. Simmons I took what was required from an engineering standpoint.

Matthew Clancy of 320 Dogwood Street inquired if Mr. Simmons was an investor in the project since he used the word "we" during his testimony. Mr. Simmons responded that he was not an investor and the "we" he referenced was the design team.

Mr. Clancy stated the witness testified that a "Big Box" retailer or an apartment complex could be constructed on the sight. Mr. Clancy suggested that nothing be developed on the site. Mr. Simmons stated that he could not respond to that question because that was the decision of the property owner. Mr. Clancy suggested wind turbines or solar panels be installed on that property. Mr. Simmons responded he had no knowledge if those functions were permissible in a B-3 zoning district.

Mr. Nixon stated that Mr. Simmons referenced he was a part of the rezoning of the property in 2006 whereby the landowner agreed to increase the buffer to fifty feet. At that time, you were asked what was permissible in the B-3 zoning district. You testified as an expert witness and when asked what the applicant intended to do with the property, you did not know. Mr. Hewett objected to this line of question.

Debbie Stanley of 404 Pine Street questioned the testimony offered by the witness as it related to the work he performed in the Pine Acres Subdivision. Mr. Simmons responded in the 1970's he worked for a firm that assisted with the stormwater and the last phase of the subdivision. He further responded that his bosses did the design work while Mr. Simmons oversaw some of the construction.

To clarify, Ms. Stanley stated that the KOA Campground in Selma was not adjacent to a subdivision.

Ms. Stanley questioned the functionality of the knock down gate and who would have the keys to enter the gate. Mr. Simmons responded it was a locked gate that you cannot see through. The only people with keys to the gate would be Duke Energy Progress since this is their requirement. The knock down gate can be struck allowing the gate to be removed from the hinges in emergency situations.

Ms. Stanley questioned who would unlock the gate in the event of the emergency. Mr. Hewett objected to the line of questions. Objection sustained by Mayor Moore.

As rebuttal, Mr. Hewett asked the witness if he always worked under the direction of a licensed PE. Mr. Simmons responded that his son Chad Simmons and his partner Gene Cobb were both licensed PE's.

There were no further questions for Mr. Simmons.

**Witness Keith Brinson:**

Mr. Hewett called Mr. Keith Brinson to testify.

Mayor Moore asked the witness to state his name and address for the record. The witness responded that his full name was Keith Brinson and he resided at 396 Bug Shop Road, Princeton, NC.

Mr. Hewett asked the witness why he was called to testify in this matter. Mr. Brinson responded he was the Chairman of the Johnston County Tourism Authority.

Mr. Hewett questioned the witness as to how long he had served as the Chairman. Mr. Brinson responded he and been the chairman for a little over two years.

Mr. Hewett asked if the Johnston County Visitor's Bureau staff had been asked to prepare an economic impact memo as it relates to the proposed RV Park. Mr. Brinson responded staff had prepared a potential economic impact memo.

*[Admitted into evidence as EXHIBIT 2, the Economic Impact Memo prepared by the Johnston County Visitor's Bureau.]*

Mr. Brinson testified that based on the Johnston County Visitor's Bureau's data of per person visitor spending of \$59.00 per person, it is estimated that the three year economic impact of the Smithfield KOA RV Resort to be \$7.6 million. Mr. Hewett explained the exhibit offered to Council showed a breakdown with year one being a partial build out of the park, year two with an additional fifty units and year three being the final build out of the project.

There were no further questions for Mr. Brinson.

**Witness David Gorin:**

Mr. Hewett called Mr. David Gorin to testify with the intent to qualify Mr. Gorin as an expert witness in RV Parks.

*[Submitted as evidence was Exhibit 3 the Resume of Mr. David Gorin]*

Mayor Moore asked the witness to state his name and address for the record. The witness stated his name as David Gorin of 3408 Winging Oaks Drive, Longboat Key, Florida.

Mr. Hewett stated that Mr. Gorin had a lot of experience and asked that he provide a brief overview of his resume/ biography. He further asked the witness to explain how he was inducted into the RV Parks Hall of Fame. Mr. Gorin responded he had been involved in the RV industry for the past thirty years. Fourteen of those years, he was the President and CEO of the National Association of RV Parks and Campgrounds. Sixteen of those years, he worked as a park owner, park developer and consultant working exclusively for those in the RV and Campground industry. Mr. Gorin informed the Council that he was the founder of the School of RV Park and Campground Management founded in 1994 which is still in operation. In August 2017, he was inducted into the National RV Parks Hall of Fame.

Mr. Hewett asked that Mr. Gorin be tendered as an expert witness and his resume be entered into evidence as Exhibit 3 to support that. There were no objections.

Mr. Hewett asked the witness if he had completed a study comparable to that submitted by the Johnston County Visitor's Bureau. Mr. Gorin responded the most recent study was completed by the University of Wisconsin. The study found the average camping party of between two and four people spent an average of \$91 outside of the RV Park on fuel, shopping, entertainment and restaurants.

Mr. Hewett asked the witness if he was being paid by the applicant to testify as an expert. Mr. Gorin responded he was retained by the applicant over a year ago to evaluate the property and complete a preliminary feasibility study. It was his expert opinion that this was a good business venture to pursue given the market and the location. Mr. Gorin also discussed the KOA franchise option with the applicant.

Mr. Hewett asked the witness prior to appearing at this hearing, how many times had Mr. Gorin met with him. Mr. Gorin responded they had never met face to face until this evening. Mr. Hewett asked how many times they had spoken on the phone. Mr. Gorin responded t he and Mr. Hewett had spoken only one time on the phone. Mr. Hewett asked if Mr. Gorin's testimony would be based on his review and analysis of the park. Mr. Gorin responded in the affirmative.

Mr. Hewett asked the witness that on behalf of the applicants, what have you looked at that allows you to testify about this particular park. Mr. Gorin responded that he would testify about the following: RVers that would come to this park, what they will do while they are here, elaborate on RV Parks of 2017, talk about why Smithfield KOA is good for this location and for the community, talk about RV Parks and their relationship to the surrounding area, KOA – who they are and why they are an important part of this potential development.

Mr. Gorin testified that the RV industry of today is not what it was ten years ago. 11 million household in United States own RV's. The average age for those with a towable RV is between 44 and 47. The average age for a motorhome owner is between 55 and 58. The average annual income for an RV owner is between \$68,000 and \$90,000. RV owners come in different forms. Some simply do it on the weekend while others are fortunate enough to have occupations where they can work from any

location allowing them to be full time RVers. Some RV owners travel from place to place while others travel with the changing seasons. RV's generally allow you to go where you want, when you want and for as long as you want because it is flexible and affordable. The number one thing RVers will do is shop. RV Parks are generally locally owned and operate as a family business. The Smithfield KOA will be a locally owned family business and the McLamb family has been in this community for years. Some RVers will stay for the night while others will stay for extended periods of time. The Smithfield KOA will take up less of a footprint on the ground, will be less intrusive for the community and less expensive for the guest. RV Parks must comply with all state, local and federal regulations. The Smithfield KOA is a terrific fit for this location and the community. There will be minimal demands on local services, the RV Parks pays taxes and employees will be local Smithfield residents. There will be established quiet hours (typically 11pm – 8 am). The park will offer electrical connections so that generators do not run. Most RVers enter the park between 4pm – 6 pm and leave between 8 am – 10 am. The park owners will be making a substantial investment in the building of the park. The objective is to operate the park for a long period of time and not to allow the park to be run down. RV owners are very conscious of the environment. The KOA Company is the oldest and largest campground system in the United States. It owns and operates 36 parks and has well over 500 franchisees. KOA has a set of standards that must be adhered to. They also perform annual inspections because they want to protect their brand.

Mr. Hewett asked the witness if he had ever had conversation with Dan Simmons. Mr. Gorin responded that he met with Mr. Simmons one time but he did not recall the meeting.

Mr. Hewett asked the witness if he was employed by KOA. Mr. Gorin responded he was not employed by KOA.

Mr. Hewett asked the witness to explain the average cost of an RV. Mr. Gorin responded tow behind trailers start in the mid to upper \$20,000 to lower \$30,000 range. Fifth Wheels start in the mid to upper \$40,000 to \$100,000 range. Motorhomes start in the \$80,000 to \$100,000 range and can go as high as in the millions of dollars.

Mr. Hewett reminded the witness that Councilman Scott had posed the questions earlier about the average rental cost of a space and a cabin. Mr. Gorin responded that generally speaking, a site rent for 50% of an average lower to midrange hotel room. If an area hotel rents a room for \$125.00 a night, then a rental space would cost \$62.00. The cabin would rent for \$125.00 a night since the cabin is in direct competition with the hotel.

Mr. Hewett asked the witness if he received the four findings of fact prior to this hearing Mr. Gorin responded in the affirmative. Mr. Hewett questioned if during his review and study, did the witness find anything that gave him concern as it relates to the endangering of the public health or safety. Mr. Gorin responded that he had no concern especially since the National Fire Prevention Association 1194 outlines the standard for Recreational Vehicle Parks and Campgrounds

Mr. Hewett had no further questions for this witness

Councilman Scott questioned if the witness found any challenges with the proposed site. Mr. Gorin responded it was his expert opinion that the site was ideal for an RV Park. He was aware that there was a conflict with an adjacent neighborhood, but that was common for RV developments because most people have preconceived negative ideas about RV Parks,

Councilman Scott asked what would cause KOA to revoke a franchise. Mr. Gorin responded none payment of royalties, findings by the inspectors, park appearance falls below the standard, unsightliness and poor management. Councilman Scott questioned how KOA regulates the site. Mr. Gorin responded there is a franchise agreement that explains all the standards to the franchisee. Councilman Scott further questioned if the cabins attracted lower income people. Mr. Gorin responded that KOA does not rent cabins cheaply.

Councilman Lee asked the witness based on his expertise, what percentage of parks are close to a neighborhood. Mr. Gorin responded it was hard to answer that question because there are 8,000 – 9,000 parks in the United States. Currituck, NC has a park that is surrounded by a neighborhood.

Also, a developer in Lake Conroy, TX is developing a residential subdivision directly next to his RV Park.

Mayor Pro-Tem Ashley stated that the witness testified that the RV Park industry has changed over the past ten years and asked has it changed for the better. Mr. Gorin responded that the industry has changed for the better. Mr. Gorin further stated that RVers used to be a little off center. They weren't mainstream America. It has moved into the mainstream.

Mayor Pro-Tem Ashley asked what would protect the Town in the event of a major decline in the RV industry ten years from now. Mr. Gorin responded that if one reads the paper, you know there is a major decline in the store retail industry. That would be more of an issue for the Town because of the Outlets. Mr. Gorin stated that during the recession, the RV Park industry did not experience a significant decline because of the affordability of camping.

Mayor Pro-Tem Ashley asked the witness what would cause the condition of a park to decline. Mr. Gorin responded that a well run park should look the same or better then the first day it opened.

Mayor Moore stated that the witness had testified that patrons of the RV Park would spend \$91 a day outside the park. He asked how the people would get to the shopping areas and restaurants. Mr. Gorin responded that most will be towing a car or have a pick-up truck. The park could also offer a shuttle service.

Mayor Moore asked the witness in RV Parks have storm preparation standards that included securing an RV. Mr. Gorin responded every park has an emergency prep plan for events, but there are no devises for staking down an RV.

Mayor Moore questioned if there were building standards for the cabins. Mr. Gorin responded that KOA uses park models which are built to the American National Standards Institute 119.5.

Mayor Moore questioned if the witness currently had ownership in an RV Park. Mr. Gorin responded that he does not, but he has owned four and invested in another six or eight. Mayor Moore questioned how often a park changes owners. Mr. Gorin responded that they do not change ownership very often.

Mayor Moore questioned if KOA had high standards. Mr. Gorin responded that the KOA organization does have high standards. Mayor Moore questioned if the KOA franchise had been purchased for the proposed location. Mr. Gorin responded that everything is ready to be sent to KOA, but it has not been purchased.

Councilman Rabil questioned how often KOA inspects the site. Mr. Gorin responded it is inspected annually.

**Cross Examination of Mr. Gorin:**

Matt Clancy of 320 Dogwood Street asked the witness if he was familiar with the KOA Campground in New Bern. Mr. Gorin responded that he had visited the park.

Mr. Clancy asked the witness if he was familiar with the cabins at that location because they were not park models, they are more like roughed out sheds. Mr. Gorin responded that those are what KOA referred to as hard sided tents built in the 1990's. Those cabin have no amenities and are rented for less than the newer cabin models.

Mr. Clancy asked the witness why in his opinion did he feel this location was an ideal site and what would compel someone to stay at this location and especially in these cabins. Mr. Gorin responded there are many reason why people would choose to rent the cabin. If someone is traveling with family and friends and they do not have an RV, they may want to rent a cabin. Some people prefer to stay in a cabin instead of a hotel. Mr. Hewett objected to this line of questioning.

Mr. Clancy stated he noticed a lot of RV's at the New Bern location with 4x4 quads and tailgaters. He asked the witness if people drove these quads in the park and in adjacent neighborhoods which caused complaints would that be a basis for KOA revoking its franchise agreement. Mr. Gorin responded complaints from the neighborhood could cause KOA to revoke a franchise agreement, but

the claims would have to be substantiated. The park owner would also be permitted to cure any problems that it was experiencing with its neighbors. Mr. Gorin stated he was not aware of any KOA campground that allowed for ATVs or any other motorized vehicle (other than a car or RV) to be permitted to operate inside the campground. Mr. Hewett objected to this line of questioning.

Debbie Stanley of 404 Oak Street asked the witness what preventative measures would this park take to ensure that its KOA franchise would not be revoked. Mr. Gorin responded he assumed the owners would play by the rules because they are making a significant investment by building this park.

Ms. Stanley asked the witness of the properties that he has owned, what was the attraction for being so close to a neighborhood. Mr. Gorin responded the park in Currituck, NC was in close proximity to the beach. In Orlando, there are a lot of RV Parks next to residential areas and it works.

Ms. Stanley asked the witness if anyone had conducted an economic impact study for the parks that he has built. Mr. Gorin responded that he is unaware of any study that was conducted after the fact.

There were no further questions for Mr. Gorin.

**Recess:**

Councilman Scott made a motion, seconded by Councilman Dunn, to take a five minute recess. Unanimously approved at 9:19 pm.

**Reconvene:**

Mayor Moore called the meeting back to order at 9:27 pm.

**Cross Examination of Mr. Brinson:**

Stephanie Avery of 318 Pine Street asked the witness if the Johnston County Visitor's Bureau had considered the fact that RVs all have some sort of kitchen in them and some people would rather economize by cooking themselves instead of patronizing the local restaurants. Mr. Brinson responded that staff used the industry standard of \$59.

Ms. Avery asked the witness to explain the industry standard. Mr. Brinson responded he was not qualified to provide a definition.

Mayor Moore stated the witness provided an industry standard of \$59 a day and Mr. Gorin provided an industry standard of \$91 a day. Mayor Moore questioned the witness's expert opinion on the difference between the information provided by the witness and Mr. Gorin. Mr. Hewett stated that Mr. Brinson was not qualified as an expert witness. Mayor Moore asked the witness in his opinion the difference between the information provided by the witness and Mr. Gorin. Mr. Brinson responded the difference could be the entities conducting the study.

Town Attorney Bob Spence asked Mr. Hewett what level of validity did he content with the document entered into evidence from the Johnston County Visitor's Bureau. Mr. Hewett responded the document justifies the numbers from the Johnston County Visitor's Bureau and had been substantiated by the expert.

Mr. Spence questioned if the testimony by Mr. Gorin substantiated the figures provided. Mr. Hewett responded it not only substantiated it but also corroborated it.

Councilman Harris mentioned the data provided by the Johnston County Visitor's Bureau industry standard for campgrounds are \$59 which includes RV fees, food, gas, activities and shopping. And the industry standard for hotel guests are \$149 a day. He stated he was unaware that the RV Park would be built in phases. Mr. Brinson responded it was his understanding that the RV Park would be built out in three phases.

There were no further questions for Mr. Brinson

**Witness Bruce Sauter:**

Mr. Hewett called Mr. Bruce Sauter to testify with the intent to qualify Mr. Sauter as an expert witness in property appraisals.

*[Submitted as evidence was Exhibit 4 the Bruce Sauter Appraiser Qualifications]*

The witness stated for the record he was Bruce Sauter a commercial real-estate appraiser from Greenville, NC. Mr. Sauter explained he has been an appraiser since 1972 starting in residential appraisals and graduating to commercial appraisals. He has conducted appraisals all over the Eastern Region including some in the Town of Smithfield. Mr. Sauter conducted the appraisal of the Raleigh Oaks RV Park and the RV Park in Fayetteville owned by the same people.

Mr. Hewett asked that Mr. Sauter be qualified as a land value appraiser expert and his resume be entered into evidence as Exhibit 4 to support that. There were no objections

Mayor Pro-Tem Ashley asked Mr. Hewett if he was tendering Mr. Sauter's testimony as an expert for commercial appraisals. Mr. Sauter responded that his expertise was in residential and commercial appraisals as he has appraised golf courses, RV parks, Sheets gas station, big box retailers, and residential properties.

Town Attorney Bob Spence asked the witness if everything on Exhibit 4 was accurate. Mr. Sauter responded that it was his latest and accurate curriculum vitae.

Mayor Moore asked the witness if he had conducted any residential appraisals in 2017. Mr. Sauter responded he had conducted residential appraisals during the year, but not in Smithfield. Mr. Sauter testified that most of his work was done for commercial refinancing. He explained that he cannot be an advocate. He further stated that he was also a general contractor.

Councilman Harris stated that everyone was in attendance tonight to talk about Smithfield and to ascertain if the proposed RV Park is compatible with the adjacent properties. He asked the witness if in his professional opinion would an RV park adversely affect the Pine Acre subdivision.

Mr. Sauter responded that as an appraiser his first job was to find out everything about the property. He met with Mr. McLamb and Mr. Simmons on September 9<sup>th</sup>. The purpose of that meeting was to learn as much as he could about the property, review the preliminary site plan, review the size of the property, review the zoning for the property and review the UDO. His second job was to look at the neighborhood and the surrounding area to determine the highest and best used based on the following four factors: physically possible, legally permissible, financially feasible and optimum use.

Mr. Sauter testified he made the conclusion that based on their zoning, where they were with their planning, and where they were with permitting at his time, the highest and best use of the property was commercial or multi-family residential. The RV Park is a commercial endeavor. So it satisfies one of the highest and best uses for the land.

Mr. Sauter testified he was aware the Council wanted him to address Finding of Fact Three which states the use will not substantially injure the value of adjoining or abutting property. The key word in that sentence is "substantially". Mr. Sauter explained that he has been working on this for three weeks and he has been in and out of the Pine Acres subdivision a dozen times. He observed there is very little traffic entering and existing the subdivision. It is mostly residents and service people that frequent the subdivision. In the past five years, there have been ten arm's length sales in the Pine Acres subdivision. This does not include foreclosures or family sales. Six of the sales have been within the past two years. There has been no new construction inside the subdivision. The only construction has been the development of the two properties facing 70 East directly in front of two houses on Old Goldsboro Road. It was Mr. Sauter's expert opinion that those two houses would be substantially injured by the developments.

Mr. Sauter explained the proposed RV Park was away from the Pine Acres subdivision and will have a 50 foot buffer and six foot fence. There will be a few houses that will be close, but there are also some houses that already backup to the railroad. Access to the RV Parks will be from Venture Drive and not

from Dogwood Street. It was Mr. Sauter's expert opinion that the value of the properties in the Pine Acres subdivision would not be substantially injured.

Mr. Sauter testified that he had visited the Raleigh Oaks property since Mr. McLamb stated he wanted to model the Smithfield KOA after that park. Mr. Sauter observed that there were thirty cabins and they were beautiful. The campground was near or at capacity and the park manager had a waiting list of ten more patrons. Mr. Sauter stated that the proposed RV Park would be an asset to the community.

Councilman Harris asked the witness based on his professional opinion, would the RV Park affect property values to the neighborhood. Mr. Sauter responded he did not believe this development would injure the values of the properties. Mr. Sauter explained that property values have remained steady in the subdivision and he did not see the development as a detriment to Pine Acres.

Councilman Scott asked the witness if he had prepared exhibit 4. Mr. Sauter responded that document has to be included in every appraisal he prepared.

Councilman Scott questioned the date in which the witness met with Mr. McLamb and Mr. Simmons. Mr. Sauter responded he met with both Mr. McLamb's and Mr. Simmons on September 12<sup>th</sup>. He did speak with Mr. Michael McLamb prior to that meeting.

Councilman Scott stated for the record the application was submitted on 6/2/2017 and it was concerning to him that the applicant didn't meet with someone to defend the property values until September.

Mayor Pro-Tem Ashley stated it was the testimony of the witness that an RV Park would not substantially injure the value of the adjacent properties. He questioned if there were uses that would injure the value of the adjacent properties. Mr. Sauter responded the area was zoned B-3 and as long as the property is developed in accordance with the zoning, there are no uses that would injure the value of the properties. Mr. Sauter explained it could be developed into a Walmart.

Mayor Pro-Tem Ashley stated in reviewing the permitted uses, the property could be developed as a postal facility, a convenient store or even multi-family residential. Mr. Sauter added the proposed development is less intensive than what the current UDO allows. The model is 20% lower in density than if it as developed in accordance with the UDO. There will be more pervious surface if an RV park was constructed than if some other commercial development was constructed.

Mayor Pro-Tem Ashley asked the witness if he ever spoke with any of the neighbors. Mr. Sauter responded that most information can be obtained online.

**Cross Examination of Mr. Sauter:**

Tony Nixon of 8 Cedar Drive stated the witness testified that he completed the appraisal for the Raleigh Oaks Parks. Mr. Sauter responded in the affirmative.

Mr. Nixon stated the witness testified he completed an appraisal because the owner was refinancing the property. Mr. Sauter responded again in the affirmative.

Mr. Nixon questioned if the owner was refinancing because he was losing money on the RV Park. Mr. Hewett objected to this line of questioning. It was sustained by Mayor Moore.

Mr. Nixon asked the witness if he had ever done an appraisal of an RV Park that was adjacent to a highly dense residential subdivision. Mr. Sauter's initial response was no, but he recalled he did conduct one in Arrowhead Beach. Mr. Nixon asked if it would be safe to say those RV Parks are in the area because of the beach. Mr. Sauter responded in the affirmative.

Mr. Nixon asked the witness if he noticed the age of the Pine Acres Subdivision. Mr. Sauter responded he did notice the age of the subdivision and noticed most houses are at least 35 years or older. There has been no new construction and he believed there were no vacant lots in which to build.

Mr. Nixon asked the witness if the property could be used a multi-family residential. Mr. Sauter responded it was a permitted use in a B-3 zoning district, but there could also be an extension of the mall. Mr. Sauter further offered that someone had mentioned the property owner could do nothing with the property and simply leave it blank, but the property owner has a bundle of rights whereby one can do anything with their property subject to four things: police protection, taxations, escheat and zoning.

Debbie Stanley of 404 Oak Street asked the witness to clarify what was meant by substantially injuring the value of property. Mr. Sauter responded the two houses facing Old Goldsboro road would likely have its property value injured by the commercial development. Injury would mean that the property would take longer to sell resulting in a loss in value.

Ms. Stanley reminded the witness that he spoke about the neighborhood being a quiet neighborhood. Ms. Stanley asked if it could be an injury in value to the property if the RV Park was built and it created a lot of noise and the neighbors become dissatisfied. Mr. Sauter stated that was a fair statement

Flora Grantham of 400 Dogwood Street stated that her property was the last house on Dogwood Street and connected to the property in question. She explained in the fall and winter months, she can see I-95 from her property because the trees lose their foliage. The fifty foot buffer will not sufficiently cover the area and it will not stop the noise. Pine Acres is a residential areas for older retired people. The neighborhood is quiet and the residents do not wish to have a KOA campground next to them. Mr. Hewett objected to Ms. Grantham's testimony.

Stephanie Avery of 318 Pine Street asked the witness if during his highest and best use analysis, he did a highest value for the property. Mr. Sauter stated that he did not evaluate the highest value of the property. Ms. Avery contented that Mr. Sauter should have offered a value on the property.

Matt Clancy of 320 Dogwood Street asked the witness if he testified that he could not be an advocate. Mr. Clancy contended that Mr. Sauter had been advocating the whole time for the applicant. Mr. Sauter responded that he presented the facts.

Mayor Moore asked the witness if he had visited the Pine Acres neighborhood before today. Mr. Sauter responded he had visited the subdivision four times.

Mayor Moore asked the witness the criteria needed when conducting a commercial appraisal when as it relates to use. Mr. Sauter responded he considered the zoning, physical characteristics of the land, access to the property and he would have to find other comparable that are closed to existing shopping centers.

Mayor Moore asked the witness if he took into consideration the intensity of the use. Mr. Sauter responded he did consider the intensity of the use and the proposed RV park would be less intensive than is permitted under the current UDO.

No further questions for Mr. Sauter.

Mr. Hewett asked that the UDO be entered in the evidence as Exhibit 5 - Published procedures Articles 3 and 4 of the UDO adopted by Council February 2008.

The applicant's side rested

Councilman Harris made a motion, seconded by Councilman Scott, to recess this public hearing until November 14<sup>th</sup> at 7:00 pm. Councilman Scott voted in favor of the motion, Councilman Harris, Mayor Pro-Tem Ashley, Councilman Lee, Councilman Rabil and Councilman Dunn voted against the motion. Motion failed 5 to 1.

For the record, there were objection by Mr. Hewett and Mr. Nixon about recessing the public hearing.

Mayor Pro-Tem Ashley questioned the Interim Planning Director about page 20 of the agenda packet, where it stated the following: "A portion of the existing B-3 zoning district (Tax ID# 15O99002H) is not consistent with the Future Land Use Map of the Town of Smithfield Comprehensive Growth

Management Plan which calls for Office and Institutional/High Density Residential land uses on the property adjacent to Pine Acres Subdivision.” Mr. Medlin responded he would need to consult the Comprehensive growth Management Plan for an answer to the question.

Oliver Johnson of 405 Ash Street stated he believed this project if approved, would injure the value of homes in the Pine Acre subdivision for the following reasons:

Mr. Hewett asked with all due respect if Mr. Johnson was qualified to provide competent testimony. Town Attorney Bob Spence responded we are going to allow individual lay people to testify as to the value of property. For the testimony to be competent, it has to have specificity. Mr. Hewett stated that Mr. Johnson could testify to his value of his property, but he could not testify to the value of the neighborhood because that’s what an expert witness does. Mayor Moore responded he would allow citizens to make comments during the public hearing. Mr. Hewett voiced his objection.

Oliver Johnson continued stating traffic will increase and traffic study has not been done to guarantee this will not be an issue 2. Noise. Once the land has been cleared, all the nature buffers would be depleted. The man made buffer will be insufficient to substantially suppress noise coming from the park. 3. The inability to monitor sex offenders. Since RV park inhabitants are transient in nature, there would be an inability to monitor predators. 4. Damage to the environment. Pine Acres is already prone to flooding. If flooding should rupture a connection to waste lines from an RV, sewage and chemicals used to clean waste storage tanks may combine to concoct a noxious mixture potentially contaminating nearby ground and surface waters. Property owners in Pine Acres have a right to the quiet enjoyment of their homes. The proposed RV Park would substantially injure the value of property in our neighborhood. Please deny this request.

Mr. Hewett informed Mayor Moore of a procedure matter in which Mr. Nixon will be displaying 4 photos of the KOA Park in New Bern. These photos have not been provided to Mr. Hewett and have been downloaded onto the Town’s computer. Mr. Hewett objected to these photos stating they have nothing to do with this project, It was a totally different location and it was not relevant because it does not depict what was in Smithfield. Mayor Moore allowed the photos

Tony Nixon of 8 Cedar Drive presented into evidence 4 photos of the KOA Park in New Bern.

Mr. Nixon read the following taken from page 1-30 of the Comprehensive Growth Management Plan adopted by the Town Council on May 6, 2003 “Preservation of Established Residential Areas vs. Commercial Development There has been increasing pressure for commercial development, particularly along the US 70 Business corridor. Commercial infringement into established residential neighborhoods can damage the appearance of the neighborhood, diminish community pride, and cause unsafe traffic conditions for both motorists and pedestrians. Rezoning adjacent to residential uses, particularly those in conflict with the future land use map contained in this plan, should be done with great caution.

Mr. Nixon testified the residents of Pine Acres opposed the plan presented because it was incomplete and vague. It lacks details. There had been no traffic impact study. There had been no plan for water run off or storm management. The buffer would be inadequate. This plan does not address the wetlands. This plan meets the requirements under the old UDO, but not the new UDO. Property valuables will be injured and potentially already have been. A property located at 8 Cedar Drive went on the market in July at \$149,900 in August the price had been reduced to \$139,900. Residents of Pine Acres were worried about the transient nature of those visiting the RV Park and were simply afraid.

Mr. Nixon questioned how a long term stay is defined and was it possible that children could attend local schools without their parents contributing to the tax base.

Mr. Nixon offered 4 questioned to the Town Council

:

1. Is there a good possibility that the proposed request will result in the lessening of enjoyment or use of adjacent properties?

2. Why did our former UDO allow RV Parks in a B-3 designation by conditional use permit, but the new udo does not allow them in the B-3 zoning district?
3. Does a governing board in the town make decisions for one person at the expense of an entire neighborhood?
4. Would you want an RV Park in your backyard?

Mr. Nixon submitted a petition against the development of an RV Park. Mr. Hewett objected to the petition.

Matthew Clancy of 320 Dogwood Street testified that he and his wife moved to Smithfield in July. Prior to purchasing their house, they visited Google Earth and Google Maps to look at the property and the neighborhood. Mr. Clancy explained that had an RV Park been constructed or even in the development stages, he and his wife would not have considered purchasing the house they now own.

Mr. Clancy testified his real estate agent provided him with a letter concerned the proposed RV Park. Mr. Hewett objected the letter being read because he was unable to cross examine a letter. The letter was deemed inadmissible.

Mr. Clancy further testified the RV Park would have a negative impact on the value of his home quoting from his recent home appraisal the following statement: "The subject experiences some external depreciation due to its location backing to a main road. It is buffered by trees and vegetation; however, road noise was heard. This will be accounted for in the location section of the sales comparison approach." Mr. Clancy asked that this be admitted into evidence as Exhibit A

Mr. Clancy testified that nothing has been done in the way of due diligence for this project. There have been no environmental impact study, no noise suppression study, no traffic impact study, and no crime study. The proposed site was generic in nature. There was virtually no upside for the residents of Pine Acres. He questioned who would be drawn to an RV Park in Smithfield stating it would simply be a truck stop for RVs. No one had addressed the environmental impact that RV's would make. And by implying that these RVs are expensive implies a guarantee of good conduct. Mr. Hewett objected to all of Mr. Clancy's testimony.

Mayor Pro –Tem Ashley stated that the Council's job was tough because they had legal obligations. Mr. Ashley explained that there are 30-40 permitted uses that would never come before Council. With a conditional use permit, at least the Council could impose conditions and limitations on the property. He stated he understood how the residents felt and asked if there was any use that the neighborhood would be happy with. Mr. Nixon responded the property (approximately 11 acres) was zoned O & I the O & I allowed for a transition between the subdivision and the B-3 district. In 2006, the 11 acres were rezoned from O & I to B-3. The residents of Pine Acres do not want any permitted use directly adjacent to the subdivision.

Interim Planning Director Steve Medlin responded to Mayor Pro-Tem Ashley's earlier question stating that the Comprehensive Growth Management Plan maximum density allowed 240-290 units possible on the 33.32 acres

Councilman Harris made a motion, seconded by Mayor Pro-Tem Ashley, to close the Public Hearing. Unanimously approved.

Mayor Moore stated for the record the proposed site was 33.32 acres.

### **The Written Finding**

Town Council of the Town of Smithfield decided the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact

- **Finding One of Four: Deny**

Councilman Scott made a motion, seconded by Councilman Lee to deny Finding One based on the evidence and testimony presented it was the finding of the Town Council that the application will materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and denied for the following stated reasons: Lack of ingress and egress for vehicle and pedestrian traffic and lack of knowledge of the stormwater management plan for surrounding area.

Councilman Harris questioned the Town's policy on stormwater and the standard procedure for this. Mr. Medlin responded that there is a stormwater ordinance and all plans are evaluated against that ordinance. This is typically completed during the site plan approval which is not part of this process. Site plan are more detailed more technical in nature.

Councilman Scott, Councilman Lee, Councilman Rabil voted in favor of denying Finding One. Mayor Pro-Tem Ashley, Councilman Dunn and Councilman Harris voted against denying Finding One. The vote was three to three.

- **Finding Two of Four: Deny**

Councilman Scott made a motion, seconded by Councilman Lee, to deny Finding Two based on the evidence and testimony presented it was the finding of the Town Council that the application, fails to meet all required specifications or fails to conform to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations in the following ways or for the following reasons: The applicant did not incorporate the traffic plan and future development of the growth of the area.

Councilman Scott, Councilman Lee, Councilman Rabil voted in favor of denying Finding Two. Mayor Pro-Tem Ashley, Councilman Dunn and Councilman Harris voted against denying Finding Two. The vote was three to three.

- **Finding Three of Four: Deny**

Councilman Scott made a motion, seconded by Councilman Lee, to deny Finding Three based on the evidence and testimony presented it was the finding of the Town Council that the application, will substantially injure the value of adjoining or abutting property and/or will be detrimental to the use or development of adjacent properties or other neighborhood uses in the following ways or for the following reasons. Based on the effects of potential injury to property values.

Councilman Scott, Councilman Lee, Councilman Rabil and Mayor Pro-Tem Ashley voted in favor of denying Finding Three. Councilman Dunn and Councilman Harris voted against denying Finding Three. Motion passed with a vote of four to two.

- **Finding Four of Four: Approve**

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Harris, to approve Finding Four based on the evidence and testimony presented it was the finding of the Town Council that the application would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.

Mayor Pro-Tem Ashley, Councilman Harris, Councilman Dunn and Councilman Rabil voted in favor of the motion. Councilman Scott and Councilman Lee voted against the motion. Motion passed with a vote of four to two.

Mr. Spence informed the Council that it was unnecessary to vote on the denial since the statute is clear that if one finding is denied the Conditional Use Permit is denied.

Mr. Hewett stated for the record on the three to three votes the courts may remand it back because the Mayor did not vote.

Mayor Moore announced the application had been denied based on Finding Three being approved for denial on a four to two vote.

## **2. Special Use Permit Request – Johnston Animal Hospital (SUP-17-10):**

Councilman Harris made a motion, seconded by Councilman Dunn, to open the Public Hearing. Unanimously approved.

Interim Planning Director Steve Medlin addressed the Council on a request by Johnston Animal Hospital. Mr. Medlin explained case SUP 17-10 is a request for a special use permit by Dr. Michael Ward to construct an animal hospital with outdoor animal runs on a 1.8 acre property located within a B-3 (Business) zoning district. The project is located on the southwest corner of North Brightleaf Boulevard and Pitchi Street. The proposed animal hospital will be composed of a 5,000 square foot building with 36 parking spaces, will be accessed by two drives from Pitchi Street. The applicant proposes installation of all required landscaping and sidewalks, and will be served by Town utilities. The proposed use is consistent with the FLUM which designates this property as commercial.

The Planning Department has evaluated the application package and has determined that it is compliant with all adopted plans, policies and ordinances. The Smithfield Town Council is requested to review the petition for a special use permit and make a decision in accordance with the Finding of Fact for a special use permit.

Mr. Medlin has incorporated the entire record for this case in written form to the Town Council in the October 2017 agenda packet.

Mayor Pro-Tem Ashley informed the Council that this request is permitted under the new Unified Development Ordinance whereby there will be eight Findings of Fact instead of four.

Mayor Moore asked the applicant if he was in agreement with the testimony provided by Mr. Medlin. The applicant responded he was in agreement with the testimony provided.

Mayor Moore asked if there were any comments/questions from those that had been duly affirmed to offer testimony. There were none.

Mayor Moore asked if there were any questions from Council.

Councilman Scott questioned that based on the site plan, would some of the structures on the properties be demolished. Mr. Medlin responded some of the structures would be demolished. Councilman Scott further questioned if the proposed building would be new. Mr. Medlin responded the building would be a new structure.

Councilman Harris made a motion, seconded by Councilman Dunn, to close the Public Hearing. Unanimously approved.

### **The Written Finding**

Councilman Dunn made a motion, seconded by Councilman Harris, to vote in the affirmative to all of the below eight Findings 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-17-10**

Councilman Rabil made a motion, seconded by Councilman Harris, 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-17-10. Unanimously approved.

**3. Ordinance Text Amendments to the Unified Development Ordinance (UDO). The proposed amendments are to make modifications to bring the UDO into compliance with recent changes to the N.C. General Statutes and to make provision for the ability to increase impervious surface limitations and to utilize cluster subdivision standards in watershed protection areas.**

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

Interim Planning Director Steve Medlin addressed the Council on proposed changes to the UDO. Mr. Medlin explained that staff was requesting the Town Council consider text amendments to the UDO. These text amendments fall into two categories, mandated legislative changes based on recent actions of the NC General Assembly and modifications allowable by Statute and NC Administrative Code.

The first three amendments are mandated by state law. The first amendment will add an additional exemption to subdivision standards for divisions of property associated with a probated will or intestate succession. The second establishes a statute of limitation for enforcement of land use violations of five years once know or seven years from the date on establishment. The third establishes exemption from local government zoning review for small wireless communication facilities (defined as antennae no greater than 6 cubic feet and equipment no greater than 28 cubic feet). The fourth amendment is the addition of a high density option in watershed protection areas that will all properties to go up to a maximum of 70% impervious surface if engineered stormwater devices are utilized to treat the first inch of rainfall. The devices are to be owned and maintained by the owner and appropriate security must be provided to the Town to ensure perpetual operation and maintenance.

This amendment would also allow for the transfer of impervious surfaces between properties and the ability to do cluster subdivisions. The final amendment would add necessary definitions related to the prior text amendments as defined by state law.

The Planning Department recommends approval.

The Planning Board recommended by unanimous vote approval at their September meeting.

Councilman Harris questioned if the Town could regulate the location of wireless communication on Town poles. Mr. Medlin responded this legislation takes away that ability.

Mayor Pro-Tem Ashley explained in the new UDO, there was an engineering fee imposed for a company adding wireless communication devices to the Town's utility poles. Mr. Medlin responded that evaluation will be conducted on a case by case basis as requests are made to the Planning Department.

Mayor Moore asked if there were any comments/questions from those in the audience that wished to speak on the matter. There were none

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

Councilman Harris made a motion, seconded by Councilman Rabil, to close the Public Hearing. Unanimously approved.

Mayor Pro-Tem Ashley made a motion, second by Councilman Rabil, to approve the Text Amendments to the Unified Development Ordinance (UDO). Unanimously approved.

*(Included by reference and made an official part of these minutes is a copy of the approved Text Amendments.)*

**CITIZENS' COMMENTS:** There were none

**CONSENT AGENDA:**

Councilman Scott made a motion, seconded by Mayor Pro-Tem Ashley, to approve the following items as listed on the Consent Agenda with the addition of *Business Item 2 (Consent agenda item 8) and Business Items 3 (It was later determined that Business Item 3 would have to be discussed)*. Unanimously Approved

1. Approved the following Minutes:

September 5, 2017 – Regular Meeting  
September 5, 2017 – Closed Session

2. Bid was award to Southern Vac in the amount of \$225,000 to purchase a Ravo 5I Series Street Sweeper through the North Carolina Sheriffs Association (NCSA contract 18-02-0428) Heavy Equipment Procurement Program.
3. Approval was granted to amend the Fee Schedule due to the recent increase of the Johnston County Wholesale Water Rates.
4. Approval was granted to enter into an Agreement with the Town of Selma for Sludge Processing.
5. Various Budget Amendments were approved.

<b>1. Revenue</b>				
10-3990-000 Fund Balance Appropriation		<u>\$ 25,000</u>	<u>\$210,583</u>	<u>\$ 235,583</u>
<b>Expenditure</b>				
10-4100-7400 General Gov. - Capital Outlay/Community Survey	\$ 20,000	\$ 6,257	\$ 26,257	
10-4110-5710 Non-Departmental - Economic Development	-	50,000	50,000	
10-4120-9545 Debt Service - Fire Truck	49,500	47,900	97,400	
10-4900-3700 Planning - Condemnation	25,000	25,000	50,000	
10-5100-7400 Police - Capital Outlay (District 1 Community Sub-S	221,067	20,000	241,067	
10-5300-3310 Fire - Non Capital Outlay Fire Station II Furnishings	-	9,426	9,426	
10-5500-7400 General Services - Capital Outlay (MOSCA Design)	31,000	15,000	46,000	
10-6200-3900 Recreation - Swimming Pool Demolition	-	10,000	10,000	
10-6200-7400 Recreation - Capital Outlay (Family Life Center)	97,500	27,000	124,500	
	<u>\$ 444,067</u>	<u>\$210,583</u>	<u>\$ 654,650</u>	
To bring forward encumbrances from the 2016-2017 General Fund Budget to FY17-18				
<b>2. Revenue</b>				
10-3900-1701 Grants	\$ -	\$ 40,000	\$ 40,000	
<b>Expenditure</b>				
10-6200-7400 Parks and Rec Capital Expenditure	\$ 97,500	\$ 40,000	\$ 137,500	
To fund grants from the NC Department of Commerce Rural Development and the NC Department of Natural and Cultural Resources (\$20,000 each) for repairs to the Neuse River Bank impeding on the Neuse River Trail				
<b>3. Revenue</b>				
30-3970-0700 Fund Balance Appropriation	\$ -	\$ 99,017	\$ 99,017	
<b>Expenditures</b>				
30-7220-7400 Water/Sewer - Capital Outlay (Nexgrid)	\$ 225,833	\$ 92,760	\$ 318,593	
30-7200-7400 Water Plant - Capital Outlay (Community Survey)	120,000	6,257	126,257	
	<u>\$ 345,833</u>	<u>\$ 99,017</u>	<u>\$ 444,850</u>	
To bring forward encumbrances from the 2016-2017 Water/Sewer Fund Budget to FY17-18				
<b>4. Revenue</b>				
31-3970-0700 Fund Balance Appropriation	\$ -	\$111,566	\$ 111,566	
<b>Expenditures</b>				
31-7230-3300 Electric - Supplies (Wesco & Hunt Electric)	\$ 190,000	\$ 6,264	\$ 196,264	
31-7230-7400 Electric - Capital Outlay ( Nexgrid/ Survey)	45,833	57,839	103,672	
31-7230-3504 Electric - ESA/BAYWA Solar	-	47,463	47,463	
	<u>\$ 235,833</u>	<u>\$111,566</u>	<u>\$ 347,399</u>	
To bring forward encumbrances from the 2016-2017 Electric Fund Budget to FY17-18				

6. The following Advisory Board Appointments were approved:

- Catherine Webster was reappointed to the Library Board of Trustees for a second term.
- Brenda Waddell was appointed to the Parks and Recreation Advisory Commission for a first term.

7. New Hire Report

<b>Position</b>	<b>Department</b>	<b>Budget Line</b>	<b>Rate of Pay</b>
Electric Line Technician	PU – Electric	31-7230-0200	\$16.74/hr. (\$34,819.20/yr.)
Firefighter I	Fire	10-5300-0200	\$15.18/hr. (\$33,153.12/yr.)
Firefighter I	Fire	10-5300-0200	\$15.18/hr. (\$33,153.12/yr.)
Firefighter I	Fire	10-5300-0200	\$15.18/hr. (\$33,153.12/yr.)

P/T Athletic Staff	P & R – Recreation	10-6200-0210	\$9.00/hr.
P/T Athletic Staff	P & R – Recreation	10-6200-0210	\$9.00/hr.
P/T Lifeguard	P & R – Aquatics	10-60-6220-5100-0220	\$7.50/hr.
P/T Receptionist	P & R – Aquatics	10-6220-0210	\$9.00/hr.
Police Officer I	Police	10-5100-0200	\$16.35/hr. (\$36,567.54/yr.)
Water Plant Operator Trainee	PU – Water Plant	30-7200-0200	\$13.10/hr. (\$27,248.00/yr.)

**Current vacancies:**

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Admin. Support Specialist	Police	10-5100-0200
Planning Director	Planning	10-4900-0200
Police Officer	Police	10-5100-0200
P/T Lifeguard	P & R – Aquatics	10-6220-0220
Sanitation Equip. Operator	PW – Sanitation	10-5800-0200
Sanitation Worker	PW – Sanitation	10-5800-0200
Utility Line Mechanic	PU – Water/Sewer	30-7220-0200

- Approval was granted to enter into an agreement with Aetna in the amount of \$2,988 to be the provider of an Employee Assistance Program for Town full-time and permanent part-time employees.

**BUSINESS ITEMS:**

- Site Plan Approval – Tires and Wheels Service Shop (SP-17-09): The applicant is requesting preliminary site plan review and approval of a retail sales and service center with no outdoor storage on property located within a B-3 (Business) zoning district.**

Interim Planning Director Steve Medlin addressed the Council on approval of a site plan for Tire and Wheels Service Shop. Mr. Medlin explained this was an administrative approval and if met all requirements it must be approved. Case SP 17-09 was a request for site plan approval for a 2,830 square foot auto repair facility located on a 1.6 acre tract located at the southwest corner of Wal-Pat Road and South Brightleaf Boulevard in the B-3 zoning district. A CUP was approved for this site (CUP 16-12) in December 2016. The staff reviewed the subject plan and determined the application was in full compliance with all applicable ordinance and development standards and therefore as an administrative approval is recommending approval.

The Planning Board at their September meeting reviewed the site plan and recommended approval by a unanimous vote.

Councilman Harris made a motion, seconded by Mayor Pro-Tem Ashley to approve Site Plan SP-17-09. Unanimously approved.

- Discussion regarding surplus Fire Engine 3**

Fire Chief John Blanton requested the Fire Department be allowed to keep Fire Engine 3 in service to use as a spare, due to other trucks going out of service for maintenance and mechanical breakdowns. Keeping this truck would also assist with the ISO inspection.

Councilman Harris questioned if at some point Fire Engine 3 experienced more long term expensive maintenance costs, could it be surplus at a later date. Chief Blanton responded that with any apparatus there is always maintenance cost. This truck has not cost the Department a lot because it is very simple and does not have many of the computerized parts.

Councilman Rabil made a motion, seconded by Councilman Scott, to allow the Fire Department to retain Fire Engine 3 instead of surplus it. Unanimously approved.

## Councilmembers Comments

- Councilman Lee stated that based on the email sent on the naming of the Family Life Center, it was his opinion that the building should be named after Sarah Yard. Councilman Lee explained the building would not exist without her efforts. He felt she and her family deserved this recognition.

It was the consensus of the Council to use Sarah Yard's name in the renaming of the Family Life Center. Councilman Lee and the Town Manager will bring back to the Council suggestions for the name of the building to be formally voted on at the November 14<sup>th</sup> meeting,

## Town Manager's Report:

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

- CALEA Assessment: The Police Department will be completing its first - reaccreditation evaluation through the Commission on Accreditation for Law Enforcement Agencies, CALEA, on October 23rd through October 26th. A public hearing will be held on Wednesday, October 25th beginning at 4:00 in the Council Chambers. Anyone interested in commenting should appear in front of the Commission at that time.
- Coffee with a Cop: The police department will be hosting Coffee with a Cop tomorrow, October 04, 2017 at Starbucks from 9:00 am to 11:00 am.
- November meeting: The November meeting will be held Tuesday, November 14, 2017 at 7:00, due to the local election taking place on the regularly scheduled date of November 7th
- Halloween: Trick or Treat is scheduled in Smithfield for Tuesday, October 31, 2017 from 5:00 pm to 8:00 pm. The police department will be handing out glow necklaces at various locations around town.
- Fire Station 2: The certificate of occupancy was issued on Monday, 10/2/17. Three additional, approved fire fighters also started on Monday. The fire department intends to be staffing the building and operating out of it by the end of the week.

- **Department Reports**

- A highlight of each department's monthly activities was given to the Council.

## Adjourn

Councilman Scott made a motion, seconded by Councilman Harris, to adjourn the meeting. The meeting adjourned at approximately 11:41 pm.

ATTEST:

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M. Andy Moore, Mayor

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Shannan L. Parrish, Town Clerk