

The Smithfield Town Council met in regular session on Tuesday, August 7, 2018, at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

Travis Scott, Mayor Pro-Tem
Marlon Lee, District 1
David Stevens, District 2
Dr. David Barbour, District 4
Emery Ashley, At-Large
John A. Dunn, At-Large
Stephen Rabil, At-Large

Councilmen Absent

Administrative Staff Present

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

Present:

Bob Spence, Town Attorney
Bill Dreitzler, Town Engineer

Administrative Staff Absent

CALL TO ORDER

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

INVOCATION

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

APPROVAL OF AGENDA:

Mayor Pro-Tem Scott made a motion, seconded by Councilman Dunn, to amend the agenda as follows:

- Add to the Consent Agenda Item # 13: *Special Event – Back to School Community Day: St. Mark’s AME Church was requesting to hold an annual Back to School Community Day on August 18, 2018 from 10:00 am until 3:00 pm on the church’s property located at 409 Bridge Street.*
- Move Business Item 3. *Consideration and Approval to amend the FY 2018 – 2019 Fee Schedule for SRAC rates for Town of Smithfield Employees* to the Consent Agenda
- Remove Business Item 4. *Consideration and Approval to adopt Resolution #619 (06-2018) to Close a Portion of Second Street* and replace it with Discussion concerning a traffic impact analysis as it related to the potential closing of North Second Street.

Unanimously approved.

Mayor Pro-Tem Scott made a motion, seconded by Councilman Lee, to approve the agenda as amended. Unanimously approved.

PRESENTATION:

1. Appearance Commission’s Annual Report

Chairperson Peggy Scott presented the Appearance Commission's Annual Report to the Council. Mrs. Scott informed the Council in 2017-2018 the Appearance Commission completed the following projects: renovations to the Library's back courtyard, improvements to the area surrounding the African American Monument, landscaping for the Miracle Park and replacement of American Flags on Market Street. Mrs. Scott expressed her appreciation to the members of the Appearance Commission, Town staff, Councilman Stevens, and to Mr. Jim George for their continued support.

Councilman Ashley expressed his appreciation to the Appearance Commission for their dedication and hard work.

{Attached by reference and made a part of these official minutes is a copy of the Appearance Commission's Annual Report which is on file in the Office of the Town Clerk}

BUSINESS ITEMS:

1. Approval to enter into an agreement with Buffalo Road LLC for residential reimbursements.

(Special Council Ernest Pearson, Nexsen-Pruet was conferenced in by phone for this business item)

Town Manager Michael Scott addressed the Council on a request to consider entering into an agreement with Buffalo Road, LLC to reimburse a portion of certain infrastructure improvements needed to build a Planned Unit Development previously approved by the Town Council. The development plan included up to 315 lot residential subdivision which would be built in nine phases. The Town Manager explained the agreement in the August agenda packet was litigated by Ernest Pearson representing the Town and Reid Smith's attorney. Mr. Pearson stated he was available should there be any legal questions from the Council. Any reimbursements were contingent on the property being voluntary annexed into the corporate Town limits. The Town Manager further explained there would be maximum reimbursement amounts for each phase of infrastructure improvements which would include water and sewer, some curb and gutter and stormwater. The total reimbursement amount for all nine phases was \$1,131,938. The maximum amount reimbursable to the developer per fiscal year would be equal to one and one-half phases of the residential project and would be included in each year's budget. Reimbursements would not occur until certificates of occupancy were issued for the properties. At that time, the Town would begin collecting tax revenue and fee revenue. The Town would also take ownership of the pipes at that time. The Town Manager stated the request was to adopt Resolution #623 (10-2018) and authorize the Mayor to sign the agreement with Buffalo Road, LLC.

Mayor Pro-Tem Scott questioned if the area would have to be incorporated into the Town before any funds were paid. Town Manager Michael Scott responded the entire area would have to be annexed into the Town limits.

Mayor Pro-Tem Scott questioned where in the budget these funds were being accounted. Town Manager Michael Scott responded the funds would be budgeted in the Water/Sewer Economic Development line and the Electric Economic Development line.

Councilman Ashley questioned the amount of tax revenue this development would generate for the Town. Town Manager Michael Scott responded although he did not calculate the anticipated tax revenue, he did estimate this would be a five year pay back for the reimbursements.

Councilman Ashley made a motion, seconded by Councilman Rabil, to adopt Resolution # 623 (10-2018) and authorize the Mayor to sign the agreement on behalf of the Town. Unanimously approved.

RESOLUTION # 623 (10-2018)

APPROVING AND ADOPTING AGREEMENT REGARDING
INFRASTRUCTURE CONSTRUCTION COSTS REIMBURSEMENT
WITH BUFFALO ROAD, LLC

WHEREAS, Smithfield's Town Council has recognized that there is a need within the Town for increases in the inventory of quality residences;

WHEREAS, attracting more residences to the Town and increasing the Town's population will stimulate development within the Town of more retail, commercial, and service businesses and facilities, which will increase the Town's property tax base and revenues to the Town to support Town services;

WHEREAS, in order to attract more residences to the Town, it is necessary to expand water, sewer, and other infrastructures within the Town;

WHEREAS, because of the recognition of the above stated needs, the Town Council on February 20, 2018 adopted a policy of, in the Council's discretion on a case by case basis, entering into agreements with developers of residential developments to reimburse those developers for a portion of the costs of the construction of public infrastructure, which once constructed will be dedicated to the Town at no additional cost to the Town, other than the reimbursement amounts;

WHEREAS, this infrastructure cost reimbursement arrangement is provided for by G.S. § 160A-499;

WHEREAS, Buffalo Road, LLC (the "Developer") plans to develop a quality residential community, which will include up to two hundred sixty three (263) detached single family residences and up to fifty two (52) townhouse residences;

WHEREAS, in connection with this residential development, the Developer will construct water, sewer, curb and gutter, and storm drainage infrastructure in compliance with the Town's design and construction specifications and requirements, and as approved by the Town staff;

WHEREAS, such infrastructure improvements will be dedicated and conveyed to the Town by the Developer at no additional cost to the Town, other than the partial cost reimbursements provided for in the below described Agreement;

WHEREAS, in addition to the construction and dedication to the Town of these infrastructure improvements, the Developer will also:

- a) Make improvements to existing roads and build new roads which will be dedicated to the Town at no cost to the Town;
- b) Construct greenways for use by residents of the Town, which will be maintained by the development's homeowners association ("HOA"); and
- c) Arrange for all residents within the development to be provided memberships in the Smithfield Recreation and Aquatic Center, with monthly dues for those members to be paid by the HOA.

WHEREAS, an "Agreement Regarding Infrastructure Construction Cost Reimbursement by and between Buffalo Road, LLC and the Town of Smithfield, North Carolina (the "Agreement") has been negotiated

between the Developer and the Town's staff, a copy of which is attached to this Resolution;

WHEREAS, the Agreement contains all of the terms and conditions regarding the above described arrangement, with the exception of updated drawings and plats as Exhibit B of the Agreement, which will be inserted at Exhibit B after being approved by the Town staff, and prior to contract signing and such Agreement fully protects the interests of the Town;

WHEREAS, the Town Council has concluded that the arrangement described in the Agreement will be in the best interest of the Town, will promote prudent growth of the Town, resulting in more retail and commercial growth, which will lead to more revenues to support Town services; will expand the Town's public infrastructure; and will add significant members to and support for the Smithfield Recreation and Aquatic Center; and

WHEREAS, the Town Council concludes that the approval, adoption, and execution of the Agreement is in the best interest of the Town.

NOW THEREFORE, the Agreement is approved and adopted. The Mayor and Town Clerk are hereby authorized and directed to execute the Agreement on behalf

Mayor Moore express his appreciation to Reid Smith for choosing Smithfield as the location for his new development.

{Attached by reference and made a part of these official minutes is a copy of the Agreement between the Town and Buffalo Road, LLC. which is on file in the Office of the Town Clerk}

2. Consideration and Approval to sell property located at 916 Third Avenue by Upset Bid

Town Manager Michael Scott addressed the Council on a request by a realtor to sell the vacant lot at 916 Third Avenue. After consulting with the Town Attorney, the property was acquired several years ago following what appeared to be a condemnation. The house originally located on the property has been removed and requires normal maintenance from town staff such as mowing. The Town Manager was requesting if the Council was interested in selling the property and if it could be sold following the upset bid process. Stating there were only three methods the Town could legally sell real property which were by sealed bids, upset bids, or public auction He explained if the Council chose to move forward, he would contact the realtor. At that time, they would submit a bid which would be brought back to the Council to consider moving forward with the process. The realtor/ potential buyer would have to post 5% of the bid and the Town would have to advertise the bid thus allowing others to enter into the upset bid process. The bids could continue to increase until no other offers were received.

Councilman Ashley stated he would prefer the Town to begin at a negotiated price. The Town Manager explained he would negotiate a price with this buyer first.

Mayor Pro-Tem Scott questioned the person interested in the property. The Town Manager explained he had only been contacted by a realtor. He could only surmise that the interested buyer either lives or owns the adjacent property and would like to expand their property.

Mayor Pro-Tem Scott stated he was concerned the property would be sold at less than tax value. The Town Manager explained the Town was under no obligation to the sell the property. If the bids came in too low, the Council had the option of refusing any bid.

Councilman Stevens made a motion, seconded by Councilman Barbour, to approve the request to begin the upset bid process to sell property located at 916 Third Avenue. Unanimously approved.

3. Discussion concerning a Traffic Study for the North Second Street Closing

Town Manager Michael Scott informed the Council that during a meeting held on July 31st to discuss the Water Plant Expansion and the closing of North Second Street from North Street to Hospital Road, it was determined that a traffic study should be conducted to determine any ramifications that might come about due to the closing of the street. Following that meeting, he instructed the Planning Director to engage several firms into submitting proposals for the traffic study. Staff received two bids, but has not received the required third bid. Staff believes the other bid will be received and all bids will be less than \$5,000.00. In order to expedite the process, the Town Manager requested Council approve the lowest reliable reputable bid not to exceed \$5,000.00.

Mayor Pro-Tem Scott stated the purpose of the traffic study was to gain information on how the changing of the traffic flow would impact the community.

Mayor Pro-Tem Scott made a motion, seconded by Councilman Rabil, to authorize the Town Manager to accept the low bid for the traffic study not to exceed \$5,000.00 in the effort of saving time. Unanimously approved.

4. Bid Award and Contract Approval for the Riverbank Refurbishment Project.

Public Utilities Director Ted Credle addressed the Council on a request to award the bid to Central Builders for the Riverbank Refurbishment Project. Mr. Credle explained the project was designed to reestablish the bank of the river at the water plant intake structure to a better condition that is easier to maintain and is useable. Over the years, especially the past two, the erosion of the bank has grown and is endangering the steps and support to the walkway. If this were to fail, access to the valves and the intake pipe would be severely hindered. The project would provide a sheet pile wall and back fill behind to stabilize the steps and support structure.

Mr. Credle explained this project was approved in the ten year Capital Improvement Plan. It was also included FY 2018-2019 budget at an amount of \$200,000. Two bids were received with the low bid being \$317,000 from Central Builders. This bid leaves a shortfall of \$117,000 which staff is requesting to use funds from the contingency line.

Mayor Pro-Tem Scott questioned the anticipated start date of the project. Mr. Credle responded staff would like to begin in October. He would like this project to be completed before any construction with the Water Plant begun.

Mayor Pro-Tem Scott questioned if the \$117,000 would be used from the water/sewer or general fund contingency line. Mr. Credle responded the funds would be used from the Water/Sewer contingency funds. The Town Manager explained the Water/Sewer contingency funds were healthy this year with a total of \$313,000 budgeted due to anticipated run offs. Last year, only \$40,000 of Water/Sewer contingency funds were used.

Councilman Ashley questioned the discrepancy between the budgeted amount and the actual amount needed. Mr. Credle responded that after speaking with the contractor the increase in price was due to higher steel prices needed for the sheet pile wall. Mr. Credle estimated that the total cost of the project would be closer to \$260,000 because the dredged sand can be used as suitable backfill.

Councilman Ashley further questioned if staff foresaw any additional erosion problem causing this refurbishment to have to be completed again. Mr. Credle responded that with the sheet pile wall, it should not have to be done again.

Councilman Barbour questioned if this work would be completed before the start of the water plant expansion. Mr. Credle responded that was his intention.

Councilman Ashley stated if the Town wanted water, then the Town didn't have a choice but to move forward with this project. Mr. Credle responded that if the structure would fall, the Town could essentially dredge across the river, but that was more complicated and expensive. By doing it in the manner suggested, the Town spends more now to save in the long run.

Councilman Barbour made a motion, seconded by Councilman Stevens, to approve the low bid contractor Central Building in the amount of \$317,000 using \$117,000 of Water/Sewer contingency funds. Unanimously approved.

{Attached by reference and made a part of these official minutes is a copy of the Contract between the Town and Central Building which is on file in the Office of the Town Clerk}

PUBLIC HEARINGS:

1. **Zoning Amendment Request: LifeSpring Church (ZA-18-04):** The applicant was requesting an ordinance amendment to the Town of Smithfield Unified Development Ordinance, Article 7, Section 7.32 Churches / Places of Worship to allow for churches and places of worship within retail shopping centers that are located in B-3 (Business) zoning districts.

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

Planning Director Stephen Wensman addressed the Council on a request by LifeSpring Church for a text amendment to the Town of Smithfield Unified Development Ordinance (UDO) Article 7, Section 7.32 to bring it into conformance with Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). Their request was to eliminate Section 7.32 which was a prohibition of churches/places of worship in major or minor shopping malls and a requirement that they be the principal use on a single parcel of property in the B-2 and B-3 districts. Currently churches in the B-3 are by special use with supplementary standards. The applicant's attorney made the argument that the Town's current Article 7, Section 7.32 was in violation of the RLUIPA. The attorney argued that RLUIPA was being violated because the Town was not treating similar uses equally. Article 6, Section 6.5, Table of Uses and Activities lists "Churches and Places of Worship" as special uses in the B-2 and B-3 subject to Section 7.32. Similar uses, such as "Clubs and Private Lodge meeting halls" as special uses, but with no supplementary standards. Both uses are assembly uses and under RLUIPA, should be treated equally. The Town Attorney recommended all assembly type uses be treated the same in the UDO, the regulations should not present any undo or substantial burden on the assembly uses.

Mr. Wensman further explained the history of this issue. Prior to the adoption of the current UDO, churches/religious groups were not permitted in any commercial zones (B-1, B-2, or B-3). In 2016 and 2017, the Smithfield UDO committee considered updates and revisions to its outdated UDO including the RLUIPA issue. The UDO adopted in October, 2017 included supplementary standards (7.32) which appear to be in violation of RLUIPA. This was not the recommendation of the UDO Committee.

The UDO Committee reconvened on July 10, 2018 to review the text amendment. The committee recommends approval of Staff's recommendation.

The Planning Board met on July 12, 2018 and reviewed the application and recommended approval of staff's recommendation.

Staff recommended the Town Council approve ZA-18-04, amending Article 7, Section 7.32, Article 6, Section 3.15 and Appendix A – Definitions finding them consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest. Staff also recommended amending Article 6, Section 6.15

Table of Uses and Activities: Replacing “Fraternal and Civic Meeting Halls” with “Club or Private Lodge Meeting Halls”, Deleting “Warehousing uses including mini-storage” and adding a new use, “Storage Facilities, Indoor,” that incorporates the definition of mini-storage And adding reference to the Supplementary Standards 7.32 (SS) for each of the mentioned land uses.

Mayor Moore asked if there were any questions from the Council

Councilman Ashley stated he, along with members of the community, served on the UDO committee. The committee met for twenty-nine hours and LifeSpring Church had representation at most of those meetings. It was the intent of the committee to expand the area where churches could locate. It was also the intent that churches, meeting halls and assembly halls all be treated equally. He further stated he was bothered greatly that after all the time and money spent on reviewing the UDO, we are now finding out that language was added and the wishes of the committee were not carried out. It was the clear intent of the committee to treat everyone equally and not to create an undue burden on churches. The Council should decide to either allow churches to be in the B-2 and B-3 zoning districts or not allow it all. He questioned why it was being proposed as a special use. Mr. Wensman responded that churches in the B-2 and B-3 zoning districts are currently by special use. This allows greater scrutiny should there be adjacent land use issues. It also provides the public an opportunity to speak on the matter.

Councilman Barbour questioned if there were restrictions placed on churches and not on other organizations or uses. He further questioned if civic organizations were permissible in residential areas. Mr. Wensman responded those uses were not permissible in a residential zoning district. Councilman Barbour questioned if churches were permissible in residential areas. Mr. Wensman responded that they were permissible in residential areas. Councilman Barbour stated there was clearly a difference in the UDO for these two uses. He expressed his concerns about allowing nonretail uses in retail spaces stating that retail space should be protected for retail uses. He has witnessed retail space that has been used for nonretail entities and the rest of the shopping center is dead to retail and retail uses never come back to those shopping centers. He further stated that there may be retail spaces that have been vacant for years, but it was the responsibility of the landowner to recruit and attract retail business. It was the Council’s responsibility to keep uses where they are permitted based on the Town’s Comprehensive Growth Management Plan. He further stated that he was not in favor of reducing retail space for nonretail entities.

Mayor Pro-Tem Scott stated the applicant had requested to delete section 7.32. He asked the Town Attorney why his recommendation was different. Town Attorney Bob Spence replied that the applicant would permit churches broadly anywhere in the Town which was the concern that Councilman Barbour just expressed. Mr. Spence explained that Councilman Barbour pointed out that churches can move into any shopping center as can any warehouse use and basically hurt retail business in that shopping center because churches do not attract a lot of business traffic. Unlike warehouses, churches have a federal law that says you cannot cause an undue burden on the church. Churches have a higher status. When we proposed the changes, we were trying to balance the concerns which were that a church or religious organization which is not open during normal commercial hours could have on a commercial subdivision especially when it is a large use. The special use allows a compromise between an outright ban and total admission. Churches have a protected status. The Council can chose to open it fully but then you have no restraint. The Council can chose to fully deny churches in commercial subdivision but doing so would open the Town up for a legal suit.

Mayor Pro-Tem Scott further questioned what evidence there was that churches hinders growth in a shopping center. Town Attorney Bob Spence responded that if a use is not open during normal business hours, there would be no traffic for the adjacent businesses. Many businesses need that additional traffic for potential revenue. The special use was a balance between the concern of the churches and the businesses.

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

Lamar Armstrong, Attorney for the applicant LifeSpring Church, explained that he and Mr. Spence agree that section 7.32 as it currently exists was unlawful and does violate RLUIPA. We requested that section 7.32 simply be deleted from the UDO. He asked the Council to imagine if you were

the owner of a shopping center with some loyal tenants and some space that had been unoccupied and a church or other religious use approached you about renting some space. As the owner, you want to rent the space to the religious organization. If the proposed amendment to the UDO is passed, you as the business owner lose the right to rent your space to whomever you like. You as the business owner want to accept the religious organization into your space, but the Town has the authority to take that right away from you. He respectfully requested that section 7.32 be deleted from the UDO.

Councilman Ashley stated that one of the jobs of the Town Council was to prepare for proper planning and uses in the Town. He explained that section 7.32 was a mistake and the language should have included all the uses. He appreciated Mr. Armstrong's diligence and LifeSpring Church stating that the Town Council is not anti-church.

Councilman Barbour stated that at the last meeting, the Town Council denied a request for a nightclub because the Town Council and the citizens of the area did not believe it was the highest and best use for the property. The owner believed it was within his right as the owner to do whatever he wanted with the property. The owner of the property knew when he bought the property that there were certain things he could and could not do with the property. When someone buys and builds retail subdivisions, the intent was to use it for retail space and it is zoned accordingly. The Town has to get involved to determine if it is something that we want for the Town as a whole because once we amend the UDO, churches would be permitted in all shopping center by special use. Councilman Barbour stated he believed the Town was on the verge of great growth and it needed all the available retail space.

Lamar Armstrong responded that he understood Councilman Barbour's concerns, but the issue was not space zoned as retail. The issue was that section 7.32 prohibits religious organizations from renting space in commercial subdivision in the B-2 and B-3 zoning districts. Under the law, if the Town was going to treat churches differently than other uses or was going to place a substantial burden on churches or religious uses in town limits then the Town better have a good reason for violating the federal law. Unlike churches, commerce is not a protected bill of right.

Councilman Ashley questioned if the City of Raleigh allows churches in shopping centers. Mr. Armstrong responded churches are permitted in shopping centers in Raleigh. Zack Carscaddon explained that he worked for the City of Raleigh in its Code Enforcement Department. He explained that the City of Raleigh had a change of use and not a special use process for allowing churches to go into commercial subdivision.

Councilman Ashley stated why not allow the marketplace to take care of itself. Typically churches go into vacant shopping centers because the owner needs a tenant and the church gets a reduced rate. If retail uses are needed in that shopping center then the owner would have to determine if he would continue to allow the church to use the space or allow the space to be rented to a retailer.

Councilman Barbour stated that by changing the UDO, it would affect all retail space in Town. He questioned how the Council could ever deny another request.

Mr. Carscaddon responded with the change of use process, certain criteria still has to be met. It is a regulatory process and not a special use process. It was also a good way to revitalize a shopping center.

Councilman Ashley questioned if the change of use necessitated reconfiguration of the parking lot. Mr. Wensman responded that if four parking stalls were added, it would necessitate compliance, but if a business/church had adequate parking and you are simply changing the interior then it wouldn't necessitate compliance. Mr. Spence stated that if a business/ church is an anchor in a subdivision and is closed during normal business hours, you may substantially affect the smaller units in the subdivision. The purpose of zoning is not to open everything up to go wherever they want.

Suzanne Taylor of 105 South Third Street stated she is part owner of Oak City Collections. She explained that from a business perspective, she wished to see more businesses move in. She further explained that she received a lot of business from other surrounding businesses. When a

business owner moves into a business or buys a building there are certain expectations based on the zoning. To change that zoning would be unfair to the existing business.

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

Councilman Ashley questioned if this would affect the B-1 zoning district. Town Attorney Bob Spence responded that the B-1 zoning district was more complicated and he and staff would be working on this in the future. Councilman Ashley further questioned if this federal law applied to him if he was the owner of a shopping center. Mr. Spence responded that the law was for local governments and not the owner. The owner could have private restrictions if they so choose.

Councilman Barbour expressed his appreciation to Ms. Taylor for voicing her concerns because her point was that she got business from other businesses.

Mayor Pro-Tem Scott made a motion, seconded by Councilman Rabil, to approve the Text Amendment Request ZA-18-04 as submitted and was consistent with the Town of Smithfield Comprehensive Growth Management Plan and it was reasonable and in the public interest. Mayor Pro-Tem Scott, Councilman Rabil, Councilman Ashley, Councilman Dunn, Councilman Lee and Councilman Stevens voted in favor of the motion. Councilman Barbour voted against the motion. Motion passed six to one.

ORDINANCE # ZA-18-04 AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE ARTICLE 7, SECTION 7.3 CHURCHES / PLACE OF WORSHIP, AMEND ARTICLE 6 ZONING DISTRICTS, SECTION 6.5 TABLE OF USES AND ACTIVITIES, AND AMEND APPENDIX A-DEFINITIONS

WHEREAS, the Smithfield Town Council wishes to amend certain provisions in the Unified Development Ordinance by making changes to the Town of Smithfield Unified Development Ordinance to allow for churches/places of worship and clubs or private lodges meeting halls within shopping centers providing additional supplemental standards can be met.

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

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

PART 1

[Revise Article 7.32, to create supplemental standards for churches /places of worship and clubs or private lodge meeting halls.]

SECTION 7.32 CHURCHES /PLACES OF WORSHIP AND CLUB OR PRIVATE LODGE MEETING HALLS AND INDOOR STORAGE FACILITIES.

~~When located in the B-2 and B-3 zoning districts, churches/places of worship shall be the principal use on a single parcel of property. Churches/places of worship shall not be located in a major or minor shopping center.~~

7.32.1 Churches/Places of Worship and Club or Private Lodge Meeting Halls shall have adequate parking meeting Article 10, Section 10.3.

7.32.2 The land use will not significantly increase traffic on local roadways within a residential neighborhood.

7.32.3 In B-2 and B-3 zoning districts, the land use should not substantially decrease vehicular and/or pedestrian traffic or inhibit business activity for adjacent commercial businesses particularly during normal business hours. Obviously some businesses have more traffic than others. The Town recognizes that businesses in these zoning districts need active adjacent business space to attract customers to B-2 and B-2 zoning districts. The town intends for planning policies to encourage business traffic in these zoning districts while not prohibiting uses with less traffic. If a special use, due to inactivity during business hours or otherwise, substantially decreases commercial traffic then that special use is likely not to be in harmony with the existing development and uses with the area in which it is to be located.

7.32.4 The land use will not impede the normal and orderly development of the surrounding property for uses permitted in the district. If a substantial portion of a commercial center is closed or not attracting traffic during normal business hours then that absence of activity would likely impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

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

[Revise Article 6, Zoning Districts, Section 6.5 Table of Uses and Activities that reference the supplemental standards found in Section 7.32 to which clubs or private lodge meeting halls shall adhere to.]

Excerpt of Article 6, Zoning Districts, Section 6.5 Table of Uses and Activities to be amended as follows

Uses	B-1	B-2	B-3	Supplemental Regulations
Civic Club or Fraternal <u>Private Lodge meeting halls</u>		<u>SS</u>	<u>SS</u>	Section 7.32
Warehousing uses, including mini-storage and <u>indoor storage facilities</u>		<u>SS</u>	<u>SS</u>	<u>Section 7.32</u>

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

[Revise Appendix A. Definitions, definition of Storage, self-service.]

Storage Facility, Indoor Storage, self-service

A building or part of a building where the principal use is for storage of goods, wares, or equipment, including mini-storage, which consists of ~~consisting of~~ individual, small, self-contained units that are leased or owned for the storage of goods and wares.

PART 2

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

PART 3 That these amendments of the Unified Development Ordinance shall become effective upon adoption.

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

2. **Special Use Permit Request – LifeSpring Church (SUP-18-08):** The applicant was requesting a special use permit to allow for a church / place of worship on property located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval was an unnamed shopping center within the 1200 block of North Brightleaf Boulevard. The land locked parcel is further identified as Johnston County Tax ID# 14074013J.

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

Planning Director Stephen Wensman testified that LifeSpring Church was requesting a special use permit to operate a church within a B-3 Highway Entrance Business zoning district. The location for the proposed church was part of the Office Max shopping mall located at 1250 Brightleaf Blvd. The owner was Tribeck properties. The supplementary standards pertaining to the use were just approved and the Town must hold this use to those standards.

Mr. Wensman testified the shopping mall consisted of two lots. The six unit 8,400 sq. ft. shopping mall and a 23,000 sq. ft. Office Max. There was shared parking for the shopping mall with 174 parking stalls available. The six unit mall lot has 73 parking stalls and Office Max has 101 parking stalls. The church sanctuary was planned for a total occupancy of 176 seats which equated to 59 parking stalls. All combined, the required parking for the church and retail was 188 parking stalls. Office Max & Papa Johns do not utilize available parking because they do not draw a lot of traffic. Regardless of the future use of the remaining 1,400 sq. ft. unit, there would be adequate parking. The church would utilize the parking primarily on Sunday mornings when Office Max was closed. Therefore, staff concluded that there was adequate parking in the shopping mall for the proposed church and the adjacent retail.

Mr. Wensman testified that the church would not significantly increase traffic on local roadways. The parking lot for the shopping mall has access to North Brightleaf Boulevard which is a NCDOT highway. Commercial area intended for retail with each leasable space attracting pedestrian and vehicular traffic from the other Papa Johns and Office Max generate little foot or vehicle traffic. Since there have been longstanding vacancies in shopping mall, the church would bring to life 4 of the 6 retail spaces, mostly on Sunday mornings when retail is closed or not busy. Therefore, locating the church in this shopping mall would not be a detriment to existing retail. The church in the shopping mall may discourage other businesses to locate in the shopping mall. Overall, there will not be a substantial decrease to commercial traffic within the area. The commercial area is fully developed and has had vacancies for many years. The location of a church in this shopping mall would not impede the normal and orderly development of the area

Mr. Wensman reviewed staff's Findings of Fact to the Council. They are as follows:

STAFF'S FINDINGS OF FACT

1. The church use will not be a detriment to public health, safety, or general welfare in any way.
2. The shopping mall was intended for retail purposes with each leasable space attracting traffic, both pedestrian and vehicular from one use to another. The existing retail uses, Papa Johns and Office Max, are generally low traffic uses; not generating high volumes of vehicular or pedestrian traffic. The shopping mall has had vacancies for quite a lot period of time. The church will bring to life 4 of the 6 retail spaces, but

mostly on Sunday mornings when retail is closed or not busy. Therefore, locating the church in the shopping mall will not be a detriment to existing retail. Locating a church in the shopping mall may discourage other businesses to locate in the shopping mall. Overall, there will not be a substantial decrease to commercial traffic within the area and is therefore, in harmony with the area.

3. The commercial area is fully developed and has had vacancies for many years. The location of a church in the shopping mall will not impede the normal and orderly development of the area.
4. Adequate utilities and parking exist on the property and for the proposed uses.
5. There are adequate means of ingress and egress onto the NCDOT highway.
6. All regulations have been conformed with, including the supplementary standards of 7.32 as recommended by staff in ZA - 18 - 04.
7. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern. The access conforms to plans.
8. The access conforms to plans.

The Planning Department recommends approval of the Special Use Permit SUP-18-08 with the following conditions:

1. That the sanctuary be limited to no more than 176 seats.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the August 7, 2018 agenda packet.

Mayor Moore asked if there were any questions from the Council

Mayor Pro-Tem Scott inquired if the current buffers were adequate for the request. Mr. Wensman responded that he did not analyze it based on the standards that were in place when the commercial property was constructed but because the standards have been reduced in the current UDO, he assumed it would be adequate.

Mayor Moore asked the applicant if he was in agreement with the testimony provided by Planning Director Stephen Wensman. The applicant testified he was in agreement.

Dillion Schupp Lead Pastor of LifeSpring Church testified that from a practical standpoint moving to this location would benefit the church greatly because currently, the church was portable. This meant that each weekend, they must set up and tear down which is labor intensive. Mr. Schupp further testified that moving into this particular location would greatly benefit the area because the church's presence will increase business in the area. He had spoken with the management of Office Max and Papa John's and they approve of the church being located in that particular shopping center. As for any parking issues that may occur, Mr. Schupp has received permission from Hardee's and Johnston Animal Hospital to use any excess parking. There is also additional space behind the building that could be used for parking. Having a permanent location would allow the congregation to do a tremendous amount of good in Smithfield because we fully support Smithfield. A church should have such an impact on a community that the community mourns its loss. There are three school principals in attendance that supports the church because we have done a lot in their schools. Mr. Lee was aware that we have had a presence in the East Smithfield community. It is our goal to see Smithfield thrive.

Mayor Pro-Tem Scott questioned the hours of operation. Mr. Schupp responded that services start at 10:00 am on Sunday morning. He preaches for 30 minutes and we are finished by 11:00 am.

Mayor Pro-Tem Scott further questioned if they anticipated being operational only one day a week. Mr. Schupp responded the church may do more with a permanent location.

Councilman Rabil inquired if 176 seat would be enough for the church. Mr. Schupp responded he believed that would be adequate. The general rule for church seating capacity is when a church is 80% full, it is considered full. Councilman Rabil further inquired if a second service was needed would the church change their service time so as to not interfere with Office Max's business. Mr. Schupp responded service times would have to be decided if it was determined that a second service was needed. Since Office Max doesn't have a tremendous amount of traffic, we feel that we still would have adequate parking. We have permission to use 7 of Hardee's spots and 13 at Johnston animal hospital so that will give us adequate parking. Councilman Rabil asked where the church currently held services. Mr. Schupp responded they meet at Johnston Community College.

Mayor Moore questioned the amount of members currently attending the church. Mr. Schupp responded there were 67 adults and 21 children in attendance on Sunday morning. Mayor Moore further questioned if the church would be leasing or buying the building. Mr. Schupp responded the Church would be leasing the building for a term of five years and nine months.

Councilman Barbour question if Mr. Schupp had spoken with the Manager of Office Max. Mr. Schupp deferred that question to Pastor Mark Stevens. Mr. Stevens of 2186 Progressive Church Road Princeton, NC (LifeSpring Church Pastor) testified that one of the church's greatest concerns when locating to the area was they wanted to help benefit the local business community. He met with all the adjacent landowners/managers and has been given a letter of support from the businesses. Everyone has been welcoming especially Office Max because Sunday is their least busy day.

Mayor Moore asked if there were any comments/questions from those that had been duly affirmed to offer testimony.

Jason Bullock of 190 Narron Road, Selma NC testified that approximately ten years ago, he attended another church where the relationship was not good. While he did not lose his faith in God, he did lose his faith in churches. Almost two and a half years ago, he met with the Pastors of LifeSpring Church. It was remarkable that a church with less than 100 members could do incredible things. It not only restored his faith in church but it showed him what a church that truly cares about the community can do. It was his opinion, approving the special use permit request would be best for the community and the Kingdom.

Ann Earnest of 13 Dail Street, Director of In His Hands Pregnancy Support Center, testified that LifeSpring Church had assisted her organization in numerous ways. It was her opinion that if the church had a permanent location, it would make a positive difference in Smithfield.

Zack Carscaddon of 202 Garner Drive expressed his appreciation to the members of the UDO Committee for the long hours they spent reviewing the UDO. He testified that granting the special use permit request would be good for Smithfield. The area they will be leasing has been vacant for a long time and the church can revitalize the area.

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

Councilman Lee expressed his appreciation to Mr. Schupp and LifeSpring Church for all they have done in the East Smithfield Community.

Mayor Moore stated he was in favor of all churches and it was the hope that all churches in Smithfield would grow. He expressed his appreciation to LifeSpring for all they have done in the community. He asked the Council to consider what would happen should the lease not be renewed because the special use permit would run with the land. Mayor Moore stated his concern was parking and what it would do to traffic in the area. If the church chose to do other activities, it could potentially be a problem in an already congested retail area. He further stated that by our own facts, there are a total of 174 parking spaces. The church would be required to have 73 of those spaces with a remaining 101 spaces for the other uses. By our own facts, Office

max would be required to have 115 parking spaces. The Mayor pointed this out because the special use runs with the land. He asked the Council to consider the future of this shopping mall because there could be another business that would desire the Office Max space that would have different hours of operation that could conflict with the church. He asked the Council to also consider the traffic of 176 people possibly all coming at the same time and all leaving at the same time coming from one entrance. The Council must consider not only what the uses are now but what they could be in the future.

Mayor Pro-Tem Scott stated that there was a large vacant lot behind the building that could be used for overflow parking.

Mr. Wensman responded that the church could utilize parking from any business located within 400 feet and with written permission. As the UDO administrator he would be amenable to allowing the sanctuary seating to grow with that written permission because they would have adjusted the parking requirement accordingly. Mr. Wensman addressed the concern of access onto highway. He explained that if it was a legitimate public safety concern, the Council could conditionalize the permit making it a requirement that some type of traffic control measures be in place after services are concluded.

Councilman Barbour questioned if the Council could conditionalize the special use permit to only allow it for LifeSpring Church. Mr. Wensman responded the permit applies to the use. The use can continue as long as it's not vacant for more than a year. Councilman Barbour stated that the Council can place any conditions on it they so choose. Mr. Wensman responded that the conditions had to be reasonable. To restrict the church to a lower member count than 176 was unfair and unjustifiable

Mayor Moore stated the Council could restrict the number of people to 150 if the church was agreeable

The Written Finding

Councilman Ashley made a motion, seconded by Mayor Pro-Tem Scott, to vote in the affirmative to Findings 1, 4 5, 6, 7, and 8 as written and Finds 2 and 4 with the changes below. 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.
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.

2. This shopping mall was intended for retail purposes with each leasable space attracting traffic, both pedestrian and vehicular from one use to another. The existing retail uses, Papa Johns and Office Max, are generally low traffic uses; don not generating high volumes of vehicular or pedestrian traffic and approve LifeSpring church as their neighbor. This shopping mall has had vacancies for quite a lot period of time. The church will bring to life 4 of the 6 retail spaces, but mostly on Sunday mornings when retail is closed or not busy. Therefore, locating the church in this shopping mall will not be a detriment to existing retail. Overall, there will not be a substantial decrease to commercial traffic within the area and is therefore, in harmony with the area.
3. The commercial area is fully developed and has had vacancies for many years. The location of a church in this shopping mall will not impede the normal and orderly development of the area

Record of Decision: Approval of Conditional Use Permit Application Number SUP-18-08

Mayor Pro-Tem Scott made a motion, seconded by Councilman Lee, 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-18-08 with the following condition:

- That the sanctuary be limited to no more than 176 seats

Unanimously approved.

3. **Zoning Amendment Request Town of Smithfield (ZA-18-05):** The Planning Department was requesting an ordinance amendment to the Town of Smithfield Unified Development ordinance, Article 10, Part III, Regulations for Signs, to allow for on-site high-rise identification signs on properties located within the B-3 zoning district and that are within 660 feet on the Interstate 95 right-of-way.

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

Planning Director Stephen Wensman addressed the Council on a request by the Planning Department to amend the Unified Development Ordinance (UDO) that would allow for the return of high-rise business identification signs as a permitted use in the B-3 (Highway Entrance Business) zoning district when the property is within 660 feet of the right-of-way of I-95.

The purpose was that high-rise signs would allow quality branded restaurants, hotels and retailers to adequately advertise their locations for travelers along I-95 and to ensure the Town of Smithfield remains North Carolina's premier stop along the I-95 corridor. Recently, a hotel developer inquired about high-rise signs and staff realized they were inadvertently eliminated from the sign code with the 2017 UDO update. The state does not allow outdoor advertising "pole" signs near the interstate, but does allow high-rise signs. Eleven high-rise sign were previously permitted under the old UDO sign code. The old code allowed a max height of 100' – 400 sq. ft. per side and available to single tenant developments within 660 feet of the I-95 corridor with a conditional use permit which is now a special use permit. A minimum height of 50 feet was added to the high-rise sign requirements to eliminate confusion between ground mounted and high-rise signs.

The proposed high-rise business identification sign ordinance will allow for:

- High-rise signs to advertise activities conducted on the property upon which it is located only.
- An expedited administrative approval process for high-rise business sign applications.
- A single tenant development to qualify for one high-rise business identification sign if the property is located within a B-3 zoning district AND is within 660 feet of the right-of-way of Interstate 95.

- A maximum height of 100 feet and a minimum height of 50 feet.
- Up to 400 square feet of sign area per side.
- Ground mounted, free standing and of mono-pole design only.
- One High-rise identification signs to be permitted in addition to all other allowable signs.
- Existing high-rise signs to be repaired or replaced if substantial damage occurs.

The proposed ordinance amendment would also create a definition of a high-rise business identification sign and provide a photograph of a typical installation. Because they are permitted for on-site advertising only, high-rise signs are not affected by the State of NC's prohibition on outdoor advertising signs adjacent to the Interstate Highway system.

The Planning Department and Planning Board recommend the Town Council approval of the proposed amendment to Article 10 of the UDO and recommended the Town Council approve a statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the August 7, 2018 agenda packet.

Mayor Moore asked if there were any questions from the Council

Mayor Pro-Tem Scott asked if this ordinance amendment address damaged signs. He questioned if a damaged sign had to be replaced with its current design or would it have to conform to the new ordinance. Mr. Wensman responded that he believed a nonconforming sign could be replaced with another nonconforming sign.

Town Attorney Bob Spence questioned if there were density limitation. Mr. Wensman responded that there was not a provision for density. In speaking with the Senior Planner, it was determined that these signs are expensive and would not be built if they were not beneficial for the business.

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

Tony Nixon of 8 Cedar Drive questioned the type of lighting that would be allowable for these signs stating that the type of lighting and the illumination should be considered. Mr. Nixon further questioned if there was a stipulation that defined the distance between a high-rise sign and an advertising sign. Mr. Wensman responded that he was unsure of the lighting requirement and that there were no restrictions on distance between signs. Mr. Nixon asked the Council to be mindful of the height of the high-rise signage because the Town should want uniformity along the I-95 corridor.

Councilman Barbour questioned if the Council could make it a standard height for every new sign installed. Mr. Wensman responded that there are currently sixteen signs of various heights in the corridor and creating a standard at this point was probably too late.

Mr. Wensman stated he was unsure how to respond to the spacing between signs because it would hinder one business's marketable space simply because another business was constructed first.

Mr. Nixon stated the Council could make whatever restrictions necessary so that the signage did not get out of control. The appearance of the signs in the area should be consistent.

Town Attorney Bob Spence questioned if staff could take the ordinance back to review it further. Mr. Wensman responded the draft ordinance was inadvertently omitted in the packet; therefore the Council couldn't consider the request at this time. Mr. Wensman did questioned the proposed height the Council would like staff to consider. Stating he could review the heights of the 16 signs and come up with an estimate

Mayor Moore stated that he did not disagree with having uniformity, but the high-rise signs are extremely expensive. A business may not want a certain size nor could they afford it.

Councilman Barbour asked Mr. Wensman to provide an estimated cost of various high rise signs so they Council knew what they were asking businesses to do.

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

Councilman Barbour made a motion, seconded by Councilman Ashley, to table the request until the September 4th meeting pending further information from the Planning Department. Unanimously approved.

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

4. Special Use Permit Request – Market Street Automotive (SUP-18-09): The applicant was requesting a special use permit to expand an automotive repair shop located on a .242 acre tract of land and within a B-2 (Business) zoning district. The property considered for approval was located on the southwest side of the intersection on East Market Street and South Fifth Street. The property is further identified as Johnston County Tax ID# 15025063.

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

Planning Director Stephen Wensman testified that the applicant, Will Gainey, was requesting a special use permit to allow outdoor storage in association with auto repair on a .24 acre parcel in the B-2 General Business zoning district. Mr. Wensman explained the existing condition was an Auto Repair Building with two pass through service doors and a lobby area. The entire property was impervious with bituminous and concrete paving up to the sidewalks in the public right-of-way and the alley in the rear of the property. An existing nonconforming metal carport canopy located between the existing building and the Hopkins Carpet building would be removed as a condition. Driveway access includes a 45' curb cut on Market Street, a 30' and a 10' curb cut on 5th Street and alley access the full width of the property (79.91'). A condition of the variance approval was to close the 30' 5th Street access and to restore the curbing and boulevard that was done for safety reasons. The application was proposing the following: 5 parking stalls for guests with one being handicapped accessible to be striped, a 19'.5 x 50' fenced/screened vehicle storage area between the new addition and the adjacent Hopkins Carpet building. In a screened enclosure, the cars could be parked in close to each other rather than in a standard striped parking stall, saving space on such a small property.

The variance they received was with their inability to meet the landscaping and buffer yard requirements because obviously they have not existed for years. The variance addressed the setback to the alley. The requirement was 15 feet and they requested 7 feet.

STAFF'S FINDINGS OF FACT

1. The land use, outdoor storage in association with auto repair, will be in a paved storage area entirely screened from the public view and located between the proposed structure and the adjacent business building and will therefore, not be a deterrent to the public, health, safety or welfare.
2. The land use is an improvement the existing auto repair business in that the parking will be regulated or limited such that vehicles will need to be either within the building, in the outdoor vehicle storage area screened from the public, or in designated parking stalls, therefore in harmony with the area.
3. The land use will have no impact on the orderly development or improvement to the area. In fact, the one of the driveways on 5th Street will be closed lessening the impact on the normal and orderly development of the district.

4. Adequate utilities and parking exist and will be provided, and drainage will remain unchanged because they are exempt from drainage requirements.
5. There are adequate means of ingress and egress. The driveway on 5th Street closest to the Market Street intersection will be closed.
6. All regulations have been conformed with, or a variance from them have been approved.
7. The access conforms to plans.
8. The access conforms to plans.

The Planning Department recommends approval of the request for a special use permit to allow outside storage in association with auto repair with the following conditions:

1. That the five parking stalls be striped according to the lot survey dated 06-11-18.
2. That the vehicle storage area be fenced and screened from public view.
3. That no more than (5) vehicles be parked outside on the property except for vehicles parked in the fenced/screened outdoor storage area.
4. That the metal carport be removed from the property.
5. That the driveway on 5th Street nearest the intersection be closed and the landscape boulevard and curbing be restored according to Town of Smithfield Standards.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the August 7, 2018 agenda packet.

Mayor Moore asked if there were any questions from the Council

Councilman Rabil questioned why the Fifth Street access would be eliminated. Mr. Wensman responded it was a safety concern and they didn't utilize that access. The applicant would restore the curb.

Councilman Scott questioned if the applicant was expanding the building. Mr. Wensman responded in the affirmative.

Councilman Ashley stated the parking spots closest to Market Street appeared to be in the road. Mr. Wensman responded there would be three parking spaces closest to the building and two parking spaces under the canopy.

Mayor Moore stated that outdoor storage was not allowed. Mr. Wensman responded it is allowed only if it is screened.

Councilman Ashley stated that it doesn't seem consistent with the area. Mr. Wensman responded that they currently have a carport to store vehicles and Planning Staff is making them fence in the area so the cars cannot be seen.

Councilman Barbour stated that it appeared to be an improvement of the area.

Mayor Moore stated that the applicant was not present for the hearing.

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

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

The Written Finding

Councilman Rabil made a motion, seconded by Councilman Barbour, to vote in the affirmative to 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-18-09

Mayor Pro-Tem Scott made a motion, seconded by Councilman Dunn, 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-18-09 with the following conditions:

1. That the five parking stalls be striped according to the lot survey dated 06-11-18.
2. That the vehicle storage area be fenced and screened from public view.
3. That no more than (5) vehicles be parked outside on the property except for vehicles parked in the fenced/screened outdoor storage area.
4. That the metal carport be removed from the property.
5. That the driveway on 5th Street nearest the intersection be closed and the landscape boulevard and curbing be restored according to Town of Smithfield Standards.

Unanimously approved.

5. USDA Financing Application: The purpose of the public hearing was to allow citizen input on an application to the USDA for the financing of a 100 foot aerial platform ladder fire

truck.

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

Finance Director Greg Siler addressed the Council on a request to allow staff to move forward with an application to the United States Department of Agriculture for the financing of a 100 foot aerial platform ladder truck. Mr. Siler explained that during the current budget year, the Council chose to move forward with the purchase of a ladder truck. Financing could possibly be obtained through a federal funding source; the USDA. Mr. Siler explained as required by the USDA, the Town must hold a public hearing to receive and consider public input. Since delivery of the truck was some sixteen to eighteen months away, staff believed it was best to have USDA for a financing option. Mr. Siler explained that he would also be soliciting commercial bids for the financing. Unlike commercial loans, the USDA allows the Town to finance the ladder truck for up to twenty years. Mr. Siler further explained that using an indicative interest rate of 3.88% for 20 years and semi-annual estimated payments of \$40,716 or \$81,432 annually, total repayment would be \$1,629,699. Also, if the application for financing was approved through USDA, there may be an opportunity to receive grant funding not to exceed \$100,000.

Mayor Moore asked for questions for comments from the Council.

Mayor Pro-Tem Scott inquired if there was any penalty for early payoff of the loan. Mr. Siler responded that with a USDA loan you either pay as agreed or you pay the debt off early. Also, there are no refinancing options with a USDA loan.

Mayor Moore asked if there was anyone in attendance that would like to speak on the matter. There was none.

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

Mayor Pro-Tem Scott made a motion, seconded by Councilman Barbour, to approve the filing of an application with the USDA for the financing of the ladder truck for the fire department with the possibility of the grant funding. Unanimously approved.

CITIZENS' COMMENTS:

- Irene Alford and Gregory Alford of 108 Heritage Drive addressed the Council on a concern about the fire hydrant located in the middle of their front yard. Mrs. Alford explained that for the past five years, she and her husband have had to fill in the area around the fire hydrant with dirt and grass seed because it was always sinking. Mrs. Alford stated the former Town Manager told her she would receive an annual credit on her utility bill in the amount of \$120.00 for the inconvenience of having the fire hydrant in the middle of the yard. She informed the Council she received a letter from Finance Director Greg Siler stating such. Recently, she received a letter from Town Manager Michael Scott informing her that she would no longer receive the credit. When she talked with the Town Manager Michael Scott, she requested to have the hydrant removed and relocated from her front yard. The Town Manager explained the Town would not relocate the hydrant, but if Mrs. Alford wished to have it relocated then she would have to pay for it. Mrs. Alford claimed that the Town Manager was rude to her and her husband. Mr. Alford stated the hydrant was the Town's responsibility, but no one wants to do anything about it. Mrs. Alford stated that the hydrant could be moved because it was never tested and never used. Mr. and Mrs. Alford also stated they are concerned about the location of the fire hydrant because they fear a child playing in their yard will be injured.
Mayor Moore asked if the hydrant was in place before they bought the house. Mrs. Alford responded that it was already there when she bought the house. She further stated that she was not concerned about the fire hydrant when she bought the house.
Mayor Moore asked Fire Chief John Blanton if fire hydrants in Town were routinely tested. Chief Blanton responded that all hydrants were routinely tested and he could provide those records to

Mr. & Mrs. Alford.

Mayor Moore suggested that Mr. & Mrs. Alford allow the Town two weeks to look into this matter. He asked the Town Attorney to research the recorded plat because there probably was a utility easement which allowed the fire hydrant to be located where it is on the property. Mayor Moore stated that Town Manager Michael Scott would inform Mr. & Mrs. Alford of the Town's findings.

Councilman Lee stated that the Council needed to get some answers concerning this matter. If the former Town Manager authorized a credit and the Finance Director wrote a letter to that effect, then the credit should be honored.

- Jud Patterson part owner of Oak City Collection expressed his appreciation for Councilman Barbour's enthusiasm for retail businesses. Mr. Patterson explained that he would like to see something done about the parking in downtown. The Town was enforcing the two-hour parking limit, but they are no longer doing that. Town Attorney Bob Spence asked if Mr. Patterson had any ideas on how to resolve the issue. Mr. Patterson responded that South Third Street could be made a one-way street with angled parking since many people do not know how to parallel park. He further suggested there should be a designated parking area for Sheriff Deputies that have to appear for court. Councilman Barbour stated that many Towns have metered parking. Mr. Patterson responded they would be agreeable to metered parking. Mayor Moore thanked Mr. Patterson for expressing his concerns stating the Town would continue to try to make it easier for downtown parking.

CONSENT AGENDA:

Councilman Ashley made a motion, seconded by Mayor Pro-Tem Scott, to approve the following items as listed on the Consent Agenda:

1. Special Event – Annual Martin Luther King, Jr. Parade: Approval was granted to the Johnston County Branch of the NAACP to permanently move the annual parade to the third Saturday in February. Ordinance # 495 was also adopted.

ORDINANCE # 495 AN ORDINANCE DECLARING ROAD CLOSURES FOR THE ANNUAL CHRISTMAS TREE LIGHTING, THE ANNUAL CHRISTMAS PARADE AND THE ANNUAL MARTIN LUTHER KING, JR. PARADE

WHEREAS, the Town Council of the Town of Smithfield acknowledges a long tradition of providing an annual Christmas Parade and annual Tree Lighting Ceremony for the pleasure of its citizens; and

WHEREAS, the Town Council of the Town of Smithfield acknowledges a new tradition of providing an annual Martin Luther King, Jr. Parade for the pleasure of its citizens; and

WHEREAS, the Town Council of the Town of Smithfield acknowledges its citizens realize a financial benefit from holding these annual events; and

WHEREAS, the Town Council of the Town of Smithfield acknowledges each event requires approximately two hours to install signing and traffic control to be provided by the Smithfield Police Department, and also requires approximately two hours for removing signs, traffic control and litter.

WHEREAS, any ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect as an ordinance of the Town of Smithfield from the date of its adoption by the Town Council of the Town of Smithfield.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Smithfield pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the days and times set forth below on the following described portion

of a State Highway System route:

Annual Tree Lighting Ceremony

Date: First Thursday of every December
Time: 5:00 pm to 9:00 pm
Route Description: North 3rd Street between Market Street and Bridge Street
Market Street (US70) from 2nd Street to 4th Street.

Annual Christmas Parade

Date: Second Thursday of every December
Time: 5:00 pm to 9:00 pm
Route Description: Market Street (US70) from South 6th Street to South 2nd Street

Annual Martin Luther King, Jr. Parade

Date: Third Saturday of every February
Time: 2:00 pm to 4:00 pm
Route Description: Market Street (US70) from South 6th Street to South 2nd Street

2. Special Event – Halloween Event: Approval was granted to allow the Department of Social Services to close Seventh Street, between Hancock and North Street, on October 31st, 2018 from 2:00-5:30 pm to hold a children’s Halloween Event.
3. Approval was granted to allow the Smithfield Police Department to retire its K-9, Argo, to his handler Master Police Officer Kenneth Hundley in accordance with NCGS 20-187.14
4. Bid was awarded to W. Landis Bullock Industrial and Contractor Supply in the amount of \$12,157.92 for the purchase of a 2018 Scag zero turn mower for the Appearance Division of the Public Works Department. Bids received were as follows:
 - W. Landis Bullock Industrial and Contractor Supply \$12,157.92
 - East Coast Equipment \$16,695.00
 - Musgrave Equipment \$18,517.76
5. Bid was awarded to Deacons Jones in the amount of \$ 29,051.00 for the purchase of a 2019 Ford F250 for the Public Utilities – Water/Sewer Department. Bids received were as follows:
 - Deacon Jones \$29,051.00
 - Capital Ford \$29,061.00
 - Ford Direct \$36,240.00
6. Bid was awarded to R.D. Braswell Construction Company in the amount of \$ 49,972.00 for a water line tie in on Old Goldsboro Road. Bids received were as follows:
 - R.D. Braswell Construction Company \$49,972.00
 - Corbett Contracting, Inc. \$66,200.00
7. Bid was awarded to Terex in the amount of \$203,923.00 for the purchase of a bucket truck for the Public Utilities – Electric Department. Bids received were as follows:
 - Terex \$203,923.00
 - Altec \$216,847.00
 - Nesco Did not submit a bid
 - Custom Trucks Did not submit a bid
8. Approval was granted to purchase 1,000 automatic electric meters from Nexgrid in the amount of \$166,187.90
9. Approval was granted to promote a Police Officer to the rank of Police Sergeant

10. Adoption of Resolution # 622 (09-2018) approving amendments to the Triangle J. Council of Governments Charter

{Attached by reference and made a part of these official minutes is a copy of Resolution #622 (09-2018) which is on file in the Office of the Town Clerk}

11. The following advisory board appointments were approved:

- Art Andrews was reappointed to a second term on the Historic Properties Commission.
- Mary Nell Ferguson was reappointed to a second term on the Historic Properties Commission.

12. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
P/T P&R Gen. Services	P & R – Recreation	10-60-6200-5100-0220	\$8.00/hr.
P/T SYCC Gen. Services	P & R – Recreation	10-60-6240-5100-0220	\$9.00/hr.
P/T SYCC Gen. Services	P & R – Recreation	10-60-6240-5100-0220	\$9.00/hr.
Utility Line Mechanic	PU – Water / Sewer	30-71-7220-5100-0200	\$12.46/hr. (\$25,916.80/yr.)

Current Vacancies

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Marketing and Communications Specialist General	Government	10-10-4100-5100-0200
Police Officer I	Police	10-20-5100-5100-0200
P/T Lifeguard	P & R – Aquatics	10-60-6220-5100-0220
Utility Line Mechanic	PU – Water / Sewer	30-71-7220-5100-0200

13. Special Event – Back to School Community Day: Approval was granted to St. Mark’s AME Church hold an annual Back to School Community Day on August 18, 2018 from 10:00 am until 3:00 pm on the church’s property located at 409 Bridge Street.

14. Amendments to the FY 2018 – 2019 Fee Schedule for SRAC rates for Town of Smithfield will be brought before the Council at the September 4, 2018 meeting.

Unanimously approved.

Councilmembers Comments

- Mayor Pro-Tem Scott informed the Council that after he and Councilman Ashley met with the Downtown Smithfield Development Corporation on several occasions concerning amendments to the Bylaws, it was determine that the issue concerning ex-officio members being voting members could not be resolved.
- Councilman Lee expressed his appreciation to Parks and Recreation staff, Public Works staff, Police staff, Fire Department staff and the Town Clerk for their assistance at the 6th Annual Fun in the Park Event. Councilman Lee informed the Council that earlier this evening, he attended the Police Department’s First National Night Out. The event was a great and well attended event. He suggested that the Council consider changing its August meeting to enable the Council and Staff to attend the event.
- Councilman Barbour informed the Council he was confident the Town still needed a newspaper

Town Manager’s Report:

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

- Amphitheater: The design for the amphitheater at the Town Commons is nearing completion. We should be in a position to present the work completed at the September Council Meeting.
- Work/Comp Insurance: Staff had meetings with our work comp insurance provider. We were advised the Town has enjoyed the lowest Experience Modification rating (Mod) in the State of North Carolina during the last year. This low rating is evaluated on the most recent three years of claims. This goes a long way toward keeping our workers compensations annual rates low for all three funds in the Town.
- Pavement Condition Study: The study conducted by Withers and Ravenel was provided to the Council. A list of the streets that would be resurfaced in the fall was also included. The two worst streets, White Oak Drive and Equity Drive, were not included. White Oak Drive was not included due to the construction in the area, but it would be included in the spring resurfacing project. Equity Drive was not included due to the cost of repairing the road.
- Reduction in Crime: The Town Manager commended the Police Department for the continuing trend of reduction in crime rates. The Town Manager explained that serious crimes were down 21% as compared to last year and property crimes were down 13% as compared to last year. He explained this was a great effort by the Police Department with a limited amount staff. Reductions in crime helps with economic development and improves the quality of life for all the citizens.

Department Reports

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

Adjourn

Mayor Pro-Tem Scott made a motion, seconded by Councilman Ashley, to adjourn the meeting. The meeting adjourned at approximately 10:32 pm.

ATTEST:

M. Andy Moore, Mayor

Shannan L. Parrish, Town Clerk