

The Smithfield Town Council met in regular session on Tuesday, November 19, 2024 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

Roger Wood, Mayor Pro-Tem  
Marlon Lee, District 1  
Sloan Stevens, District 2  
Dr. David Barbour, District 4  
John Dunn, At-Large  
Stephen Rabil, At-Large

Councilmen Absent

Travis Scott, District 3

Administrative Staff Present

Michael Scott, Town Manager  
Elaine Andrews, Town Clerk  
Ted Credle, Public Utilities Director  
Jeremey Daughtry, Fire Chief  
Lawrence Davis, Public Works Director  
Andrew Harris, Finance Director  
Pete Hedrick, Chief of Police  
Gary Johnson, Parks & Rec Director  
Shannan Parrish, HR Director  
Stephen Wensman, Planning Director

Also Present

Robert Spence, Jr., Town Attorney

Administrative Staff Absent

**CALL TO ORDER**

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

**INVOCATION**

The invocation was given by Councilman David Barbour followed by the Pledge of Allegiance.

**APPROVAL OF AGENDA:**

Councilman John Dunn made a motion, seconded by Mayor Pro Tem Roger Wood to approve the agenda, amended as follows:

Add as Business item 1: *Request for Funding from DSDC for a Software Program.*

Unanimously approved.

**PUBLIC HEARING:**

1. **Special Use Permit Request - Country Club Townhomes (SUP-24-03):** Brian Leonard (BRL Engineering) is requesting a special use permit for Country Club Townhomes, a 60-unit Townhome development on 8.06 acres in the B-3 (Highway Entranceway Business District). The proposed development is located at the northwest intersection of South Brightleaf Boulevard and Country Club Road, identified by the Johnston County Tax ID#s 15J11023.

*Town Clerk Elaine Andrews administered affirmations to those wishing to offer testimony during the Public Hearing*

Mayor Pro Tem Roger Wood made a motion, seconded Councilman Steve Rabil, to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman presented stating the property is located at the intersection of US 301 South and Country Club Road. It is in a B-3, property zone with B-3 single family homes to the West, and North, and some R-10 residential to the north. The property sits on Holt Lake to the South. Wensman noted that this application was made prior to the removal of multi-family as a special use in the B-3 zoning district so, this has to be honored by the old ordinance. He stated proposed Smithfield Fire District, Smithfield water and sewer District, served by Duke Electric. The developers are Cranton Land LLC. The project includes 60 Townhouse units on 8.026 acres near Holt Lake, with a density of 7.48 dwelling units per acre. The development features 12 Townhouse buildings, each containing 3-8 units, and over 1,400 linear feet of road. Access is planned from Country Club Road. The property includes floodplain areas and a 50-foot riparian buffer. It was initially proposed with public streets, however the current plan indicates private streets. The development will construct a pump station and force main for water and sewer. Wensman stated the developer initially proposed 25-foot front setbacks for the public streets, however that plan conflicted with B3 zoning requirements of 35-foot front setbacks and 17.5-foot corner side yard setbacks. The developer's engineer submitted a revised plan featuring private streets that meets all requirements while maintaining the same overall layout. Sidewalks and a trail will line Brightleaf Boulevard. Wensman stated that the revised plan submitted in response to staff comments maintains the same overall layout, with the key difference being the designation of streets as easements rather than rights-of-way. This change allows property lines to extend into the streets, enabling the development to meet the 35-foot front setback requirement. While the Town code typically mandates a 60-foot-wide right-of-way for local streets, it allows for a minimum of 50-feet with Town Council approval under special conditions.

The proposed plan features a 50-foot-wide right-of-way, with streets measuring 27 feet wide from curb to curb. Should the streets be designated as private, staff recommends establishing a written agreement with the police

department to enforce parking regulations on these private streets. Additionally, it is suggested that one side of the street be designated as a no-parking zone. Wensman also noted that the Town's ordinance permits private streets in subdivisions under specific conditions. The Town Council must determine that these streets provide adequate ingress and egress to collector streets. Additionally, there must be sufficient assurances, typically through a legally established homeowners association, that the private streets will be properly maintained. This provision allows for flexibility in subdivision design while ensuring proper access and long-term maintenance of private streets within the development. He also stated the proposed development aligns with the Comprehensive Plan's vision for a mixed-use center in this area. The plan encourages high-density residential uses, including Townhomes, alongside commercial properties.

While the Town cannot dictate architectural details under a special use permit, the project's design includes varied building heights and exterior finishes, with end units facing the street where possible. He also stated that the Townhouses have an approximate depth of 38.5 feet, with lot depths of 100 feet. Building footprints may vary in the final development. Staff noted that Section 8.13.14 requires 35-foot front and corner side yards for Townhouses, matching the general district. However, the Townhouse definition only requires a perimeter yard. The initial submittal showed 25-foot setbacks, conflicting with regulations. In response, the developer revised the plan to include private streets, allowing the 35-foot setback to extend into the easement. The Townhouses comply with building separations, landscape plans, and buffer requirements. However, the right-of-way is 50-feet instead of the required 60 feet. In B3 commercial zones, driveways must be 36 feet from intersections, but the general code allows 25 feet, which this plan follows. Driveways can't exceed 50% of property frontage, which Townhomes often can't meet. A 5-foot public sidewalk is included along Country Club Road. Wensman stated the developer proposed a 10-foot multi-use trail on Brightleaf Boulevard and sidewalks on both sides of internal streets are planned. Trash rollout details are missing.

If private streets are allowed, conditions should be added for trash truck access without liability and police enforcement of parking. The plan includes 3 parking stalls per unit plus 16 overflow spaces. Emergency vehicle access must be ensured. A stormwater management pond is proposed adjacent to Holt Lake. Wensman further noted that a homeowner's association would maintain common areas and amenities. The developer plans to install a pump station and force main. The Town will provide water and sewer services. A future identification sign is required. Traffic generated is below the threshold for a study. Staff finds the project will not endanger public health, safety, or welfare and will adhere to Town requirements.

Mr. Wensman reviewed staff's opinion of the findings. They are as follows:

#### STAFF'S OPINION ON THE FINDINGS OF FACT

4.9.4.5.1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare. ***The project will not be detrimental to or endanger the public health, safety or general welfare. The development will adhere to all Town requirements.***

4.9.4.5.2. 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. ***The project will not impede the normal and orderly development and improvement of the surrounding properties. The townhomes provide a transition from commercial uses to the existing detached single family uses. Townhouses in and adjacent to mixed use centers are encouraged in the Town Plan.***

4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided. ***The development will provide adequate utilities, drainage, parking and necessary facilities. For this project to proceed, the developer will extend a forced main and construct a pump station.***

4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. ***The use will not create such nuisances.***

4.9.4.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. ***Proper ingress and egress will be provided with a single access road onto Country Club Road that meets Town of Smithfield standards.***

4.9.4.5.6. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property. ***The use will have no adverse impacts on the abutting or adjoining properties. The adjacent properties are residential, and the townhouse development will provide a 40-foot perimeter buffer with landscaping.***

4.9.4.5.7. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. ***The proposed townhomes will be complementary and in harmony with the adjacent homes. The architectural style will blend well and dormers will break up the scale of the buildings.***

4.9.4.5.8. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located. ***The special use will meet all applicable regulations.***

*Planning Staff recommends approval of SUP-24-03 with the following conditions:*

1. *That the "streets" be dedicated to the public and the front setbacks shall be a minimum of 25 feet.*
2. *There shall be a homeowner's association to own and maintain all common amenities such as the parking lot, sidewalks, landscaping, mail kiosk, and stormwater management facility.*
3. *That NCDEQ approval be obtained for the stormwater management facility and retaining wall within the riparian buffer.*

*If the desire is to allow the private streets:*

1. *That an agreement be in place or within the HOA documents that permit Town trash vehicles to trespass onto the private road for trash collection without liability for normal wear and tear.*
2. *There shall be a homeowner's association to own and maintain all common amenities such as the parking lot, sidewalks, landscaping, mail kiosk, and stormwater management facility.*
3. *That a written agreement to allow the town police department to enforce parking on the private street and the street be signed no parking on one side.*
4. *That NCDEQ approval be obtained for the stormwater management facility within the riparian buffer.*
5. *That site plan be modified to adhere to UDO Section 2.21 to maintain a 36' distance between a driveway and intersection.*

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the November 19, 2024 agenda packet.

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

Councilman John Dunn asked about the 50-foot right-of-way, questioning Wensman's to clarify his statement regarding Townhomes meeting that requirement, noting that the Town has approved 50-foot driveways in the past, and it was never an issue. Wensman stated 50-foot driveways are not feasible, and that it was discovered in a detailed review of the code that this standard existed. He stated this standard is not fit for a Townhouse development.

Mayor Moore asked if this development met the 50-foot driveway UDO requirement. Wensman said it did not. Mayor Moore asked if there was potential that a Town home subdivision could meet it. Wensman stated one could meet the requirement if there were wide lots.

Councilman David Barbour asked if Smithfield has already approved or has existing Townhome developments that are like the current proposal, particularly regarding the mix of private driveways and public streets. Stephen Wensman explained that Smithfield has approved Townhouse developments in the past. Some older ones were approved under different regulations. More recently, Townhouse projects have been approved through conditional zoning, which allows the Town to negotiate specific details with developers. Councilman Barbour asked if of the Town homes approved were the streets designated public or private. Wensman stated that he believed they were public streets.

Councilman David Barbour stated that street ownership in Townhome projects was of importance as it pertains to Town services, and residents not having to reach out to private companies for assistance.

Councilman Sloan Stevens asked since the developer is proposing a 25-foot setback, but the UDO requirement 35 feet in a B-3 zoning district, why was this case before the Board.

There was also discussion among the Board regarding sidewalks and the multi-use path proposed in this development. Given that the code was updated after this development was submitted, the Board wanted clarification for how those regulations would apply in this case. Wensman stated the developer planned to install sidewalks, but he recommended the trail, due to the Mountains to Sea trail coming through. The developer was readily agreeable to comply with the new standards, adding the trail.

Councilman Sloan Stevens asked at what density would a second entrance be required. Wensman stated at least one hundred units, and this development did not trigger it.

Councilman John Dunn stated this development is built with a private road; under the assumption it will always be a private road that the Town would not be required to take over as in other developments in the past. That being the case, it makes it possible for the developer to get around the 35-foot setback. Mayor Moore clarified with Wensman that the developer was proposing public streets. Wensman stated that was the developer's submittal, and that this was what the UDO requires 65-foot-wide rights-of-way. Mayor Moore asked if this development meets that. Wensman stated that it does not.

Councilman David Barbour stated that since the Board keeps finding issues with the development not being in line with the UDO, how can staff's opinion of the finding of facts be ok. Mayor Andy Moore stated that the Board will discover all facts during the quasi-judicial hearing and that opinion should be reserved until all the facts are heard. Councilman Barbour reiterated that the list of UDO violations is a problem. Wensman apologized, stating that there was some back and forth during his review of the project's originally submitted plans versus the alternative plans. He stated if a private street, the developer meets the standards, but that the developer offered alternative plans if the other was not approved.

Mayor Andy Moore clarified that the developer was proposing public streets and stressed that the Board must

hear the case as the Special Use Permit request submitted before them, and that is not up for negotiation. Wensman agreed the developers were proposing public streets with a 25-foot setback, 50-foot right-of-way, and stated it was his fault for not making that clear.

The Mayor asked if there were any further questions from the Board for staff. There were none. He asked for anyone in the audience who wished to speak to come forward.

Attorney Andrew Petesch of Petesch Law of Cary, NC. testified that he represents about twenty-three homeowners near the development, and also wished to present two adjacent property owners as well as a state certified appraiser to speak on the issue. He stated that he proposed to present evidence on standing to show that his party would suffer special damages distinct from the public at large if the project was allowed to move forward, in accordance with North Carolina state law. He stated that in accordance with presenting evidence on standing, it is his allegation that the Special Use Permit is unlawful to approve, and in treating that statement as true for standing purposes only, it satisfies the first element of standing. The second element was that his party would suffer special damages, for which he intended to present witness testimony. He called Eason Kenny to testify.

Marcia Eason Armstrong Kenny, adjacent property owner at 125 Cypress Point was brought forth to testify. She clarified her property boundaries in relation to the proposed project and in congruence with maps presented in evidence by Attorney Petesch.

Attorney Petesch obtained approval from the Board to hand out an opposition notebook to pair with his hearing before the Board. The Board approved. A copy of this document is available as evidence of record in the office of the Clerk.

Attorney Petesch asked Ms. Kenny to testify as to any adverse impacts to her property in relation to this project. Ms. Kenny stated privacy was an issue with the proposal of trees being cleared out to erect the development, given the density of people the development could house. She was also concerned with noise and littering with the development being essentially in her backyard. Ms. Kenny was also concerned about trespassers encroaching in her backyard. She was also concerned that runoff from the development may flood her property, which sits at a lower elevation to the proposed development. She stated she experienced all of these issues before in a past development near which she lived that prompted her to leave that area.

Attorney Petesch asked if the opposing counsel had any questions to ask Ms. Kenny.

Attorney Marcus Burrell of Stewart Law Group in Selma, NC. He addressed Ms. Kenny, asking if the property owner wanted to clear cut their land, would it not be their right to do so. Ms. Kenny asked Mr. Burrell if he could defer that legal question to her attorney, Mr. Petesch. Mr. Burrell asked Ms. Kenny about the neighbors to the North and South who could potentially trespass on her property. Ms. Kenny stated that these were neighbors she already knew and the neighbors in question occupied two homes versus sixty homes in the proposed development. Burrell asked if the real issue was having neighbors she did not know. Ms. Kenny stated the real issue was having a development that abuts hers so closely, with neighbors in such a high density which could infringe upon her privacy and bring noise among other issues.

Attorney Petesch presented Bob Denning of 1052 N Lakeside Drive, an adjoining property owner who is also an attorney. He stated he opposed the Special Use Permit as it would be a disruption to the quiet development that exists there, of which Smithfield should be proud. Denning stated privacy and traffic are of concern. He stated a creek aligns the property, that is sometimes mistaken for a ditch. He states it feeds from Country Club Road to Holts Lake, and it is conducive to flooding. He stated that he enjoys the current quality of life and quiet that exists now. Denning further stated that the proposed 60 Townhomes on 8 acres of land could bring 240 people to the area with children with no good places to play. He was concerned with trespassing that could bring to his and neighbors' properties. He stated he was still confused as to whether the streets would be public or private, but nevertheless the streets would be narrow, and limited parking could present a hazard. He was also concerned with road noise, odor and flooding at the pumping station. Petesch asked the opposing attorney, Attorney Marcus Burrell if had any questions to ask of him.

Mr. Burrell referenced the comments Mr. Denning made regarding flooding and septic issues. Burrell asked whether Denning was a licensed civil engineer. Denning stated no but he has lived in the area, has looked out over the property and knows how the water flows about it from personal experience. Mr. Burrell had no further questions of Mr. Denning.

Attorney Petesch presented a state certified residential appraiser, James Lucas, of Raleigh as an expert in real estate evaluations. Mr. Lucas, a thirty-year appraiser, stated he has appraised over 11,000 properties, taught courses, and trained trainees among other credentials for market analyses of residential properties. He stated he was familiar with the property which adjoins the proposed development having examined and personally visited the site in question. He presented a market impact analysis to the Board, which was included in the Opposition Hearing Notebook entered earlier as evidence. Lucas stated he singled out one factor of value for his adjustment out of about 25 things that could be adjusted for during a full appraisal. That one adjustment factor was whether adjoining property was located away from or built next to a Townhouse development. He stated he found a brand-new neighborhood and a brand-new Town home community across the street from each other. He analyzed the cost, finding that properties facing the Townhouse community sold for less than the same homes located away from the Townhouse community by a five percent loss in value.

Councilman Sloan Stevens asked if these were the same type houses on different sides of the street. Appraiser, James Lucas stated that they were.

The Appraiser, James Lucas asked if there were any questions he could answer for Attorney Marcus Burrell. Attorney Burrell referenced the analysis of Cross Creek Subdivision in Selma, NC that Lucas presented as evidence, pointing out two properties in particular which showed no difference in the price comparison.

Mr. Lucas stated that what he looks for is a trend, and that trend was an average increase of five percent. He stated he wanted the Board to be able to see all the data in his analysis pursuant to whether there was either no difference or a big difference in cost by his comparisons. He directed Burrell to look at the trend and not just the one point of data that he found showed no difference by comparison. He stated the data pointed out common knowledge, which is you don't want to live next to a Town house. Burrell had no further questions for the appraiser.

Attorney Petesch followed up, asking if the methodology used in determining the five percent reduction in valuation was commonly used and accepted in the appraising profession. Lucas said yes.

Attorney Petesch referenced all evidence as stated by his witnesses and experts, which he stated satisfied all three elements of standing as for his clients in opposition to the Special Use Permit.

Petesch stated that the case he has laid out as special damages is in direct alignment with satisfying all three criteria for evidence of standing. He noted that the leading case for quasi-judicial matters is *Mangum vs the Raleigh Board of Adjustment, 2008* is used as the controlling case in North Carolina regarding special damages for adjacent property owners who would be adversely affected by a development. He asked respectfully that the Board consider and find that his clients have standing as he laid out in opposition to the Special Use Permit request.

Mayor Andy Moore asked if there were any objections from opposing counsel. Attorney Marcus Burrell stated that the issues brought up as special damages was that of having neighbors who might trespass, living near a drainage ditch that holds water when it rains and there's going to be a pump station. Burrell stated these are not special damages, as they are present throughout Smithfield and are experienced by lots of people in Town and that he objects to standing.

Attorney Petesch gave a rebuttal stating Mr. Burrell has misapprehended the standing here. The special damages are specific to the effects of this development and the adjacent property owners, irrespective of other property owners are experiencing throughout Smithfield, unless they are near the development in question.

Mayor Andy Moore stated that it is the opinion of the Chair based on the evidence presented in this case that we allow standing in this case.

Mr. Petesch asked if Ms. Kenny's testimony could be allowed to stand in the merits portion of the case so that she can be excused to go home to her children. Burrell stated he had no objection. There was no further testimony needed from Ms. Kenny, so she was allowed to be dismissed.

Marcus Burrell, attorney for the developer, stated that he petitions for the board to approve the special use permit with public streets, not private streets. He stated his clients agree with the three conditions as presented by staff. He referenced the UDO setbacks for Townhomes, stating they are proposing the 25-foot setback as is in compliance with the UDO. He also stated the UDO allows for a 50-foot right of way. He called forth Mr. Brian Leonard, the project engineer to set forth the findings of fact.

Brian Leonard of BRL Engineering and surveying in Smithfield, a civil engineer spoke in favor of approval of the subdivision. Leonard and Burrell had general discussion of the location of the property. Burrell asked specifically if residents would have access to Holt Lake. Leonard stated they would not. In going through the eight finding of fact, which the engineer was in agreement with, stating that the developer planned to comply with the current UDO and the Town of Smithfield's Comprehensive Development Plan, noting that they were before the Board for preliminary approval, and that a lot of in-depth analysis pertaining to storm water and sewer would come after the preliminary approval. Detail design work is yet to be done, but they noted this project can be done to meet the standards dimensionally and be in compliance with code.

Mayor Moore asked if there were any questions from the Council for the engineer. Councilman David Barbour questioned what materials would make up 40-foot perimeter buffer. The Engineer, Brian Leonard stated it would be a Class A landscape buffer, but he was not certain of how many trees and shrubs there would be per hundred feet, but that there is a minimum requirement defined by Town standards. Barbour questioned whether they would leave any existing trees as buffers. Leonard stated that they certainly could. Mayor Moore asked if the current plans showed the trees. Leonard stated they did not. Mayor Moore stated that is a requirement for Town site plans that existing trees be stipulated in the plans. Leonard stated he understood.

Mayor Moore asked Leonard if he was familiar with the area in question and if he lived around here. Leonard stated he lived on the other side of the lake and was familiar with the property as well as its owners. Mayor Moore asked what size homes were proposed. Leonard stated minimum 2-story or 3-story Townhomes and that he did not know the square footage. Mayor Moore asked Leonard if he knew of any other 60, 3-story residential developments in the area. Leonard stated they were not necessarily proposing 3-story units, but that he did not know of any. Mayor Moore clarified that the proposal was not clear, and that there could very well be 3-story units built. Leonard agreed stating it is a possibility and agreed that there were no other such developments in that area.

Mayor Moore further clarified that the developer was proposing public streets. The developer stated yes, this was what they were proposing. Mayor Moore asked if this development was meeting the 60-foot requirement for the right of way for public streets. Leonard stated he was asking the Board to allow them to have a 50-foot right of way. Mayor Moore reiterated that this was a quasi-judicial hearing for a special use, not a conditional use hearing. The developer stated they are not meeting the 60-foot requirement. Mayor Moore further asked if the development met the 50 foot driveway requirement. Leonard stated he didn't know of any other development which met that standard. Mayor Moore stated the question was of what the UDO required. Leonard stated they did not meet that requirement. Mayor Moore asked if there were any further questions from the Council. There were none.

Attorney Andrew Petesch addressed the engineer regarding the eight findings of fact. There was discussion about architectural standards being offered as a condition of approval. Leonard agreed. There was further discussion regarding the pump station and mitigation of odor. Petesch asked what would happen in the event of a power outage. Leonard stated a stand-by generator would come on at that point, and the station would thereby continue to operate. Petesch stated that generator is located near a body of water subject to flooding, Leonard agreed. Petesch asked the applicant if he thought a 60-foot Townhouse development was a good transition for the neighborhood. Leonard stated it was a transition. There was further discussion about the two locations of the playgrounds on the proposed site plans, as to whether to place it near the entrances off a busy street. The developer offered to relocate the playground to the central part of the development as a condition of the approval. There was further discussion between Petesch and Leonard regarding the layout of the proposed dwellings and fencing of the area. There was also discussion as to whether the proposed storm water retention pond is designed to NCDEQ and Town requirements. Leonard stated they have done preliminary planning to address water quantity and quality of water storage are met for the one-year, two-year and ten-year event to be assured to meet and exceed the minimum standards set by state and local government. Petesch questioned if there was excess storm water flow, where would the excess water runoff. Leonard stated Holt Lake.

Attorney Petesch asked if DOT had been contacted regarding the traffic. Leonard stated he did not know what traffic cycle or schedule of accidents would prompt a study. Petesch asked about the planting requirements for the type A plant buffer. The developer stated he was not clear, but each tree on the plan was represented as required. There was discussion regarding final plat approvals during which Leonard clarified that he understood there were multiple levels of approvals yet to be granted. He stated he was not aware that he needed to come back before the board for another quasi-judicial hearing regarding the preliminary plat approval, but that he would adhere to that requirement. Petesch asked the developer if he planned to clear cut the trees. Leonard stated that he would try to preserve as many trees as possible.

Petesoch asked the developer to clarify the 35 versus 25-foot setbacks from the public streets for these properties. Leonard stated that the current plans proposed a 25-foot setback, however they could possibly submit new plans at a later date which adhered to the 35-foot setback. Attorney Petesch stated they could not because Townhomes are no longer permitted in a B-3 zoning district. Leonard concurred, and also stated his position was that 35-foot setbacks was not a requirement of the UDO, and he understands it the requirement is 25-feet.

Councilman Sloan Stevens asked of Planning Director Stephen Wensman and Developer Brian Leonard whether there are any setback requirements for storm water relevant to lots and houses. Wensman stated there has to be a place to clean it out as well as a place for access and a place to put waste. Stevens referenced the map provided to the Board, and asked what was the distance between the back patio and the storm water pond. Leonard stated it was about 15 feet. Stevens expressed concern that children could be in close proximity to the stormwater pond posing danger. Leonard stated they would put a fence up around the pond. Mayor Moore pointed out that there was no fence proposed on the current plan.

There was discussion regarding the proposed pump station, and the Town may ultimately be responsible for maintenance. The Mayor also expressed concern about the generator for the pump station being very loud, reflecting upon how the power supply, which is not Town power, is frequently interrupted in that area. There was further discussion regarding the life of the generator and the location of the manhole cover near Quail Run or the intersection of Country Club Rd. The Mayor was also concerned with the logistics of pumping sewer uphill to an already aging sewer system and back down to the gravity fed line.

Attorney Burrell listed other uses that could be built on the property that would be in compliance with the UDO, stating the builder intended to build the least intrusive and most harmonious development contrary to other uses permitted by the UDO. Attorney Burrell stated they submit that they have met the findings of fact and they recommended approval of the special use permit based on those conditions.

Attorney Petesch went through the findings of fact once more. He stated he did respectfully object to staff's opinion in the staff report, stating staff's findings were conclusory and not based upon fact. Petesch pointed out that staff found certain staff findings conflicted with the UDO.

Attorney Petesch re-called the appraiser, James Lucas, to testify. Reiterating his market analysis, Lucas explained that he felt the proposed development was not in harmony with the immediate community due to its density. Lucas stated his analysis showed there was a five percent loss in property value because the properties were not harmonious with the current neighborhood. He further stated that they would not be before the Board if it were only a few single-family homes proposed, rather than the sixty townhomes.

Lucas was allowed to be dismissed from the public hearing after his testimony reiterating the market analysis.

Petesoch also called on his fellow attorney Joseph Starling, who tendered as an expert witness, Mr. Jim Spangler an environmental consultant to speak regarding the environmental impacts of the development.

Jim Spangler of Raleigh, NC cited his educational background and experience in environmental consulting and land use development in the Carolinas. Spangler prepared an affidavit for the Council that was presented as evidence in the Opposition Hearing Notebook. He stated the Board could not reasonably conclude the findings of fact as they pertained to the issue of odor control. He also cited adverse effects on adjoining private properties in areas of water quality of Holt Lake Pond, sediment build up and lighting from the new development, which may be a nuisance. Spangler cited other violations related to outdated maps, and buffer requirements not being clearly defined, and wetland delineation not defined, nor verified by the US Army Corp of Engineers. He further noted the site plan is subject to change, stating the project as proposed may not be permitted under federal law. He further noted other negative impacts with traffic congestion and noise from the development. He noted the grading plan for the storm water plan was not clear. Spangler noted discrepancies in the site plan and in the narrative. He further noted that it was not clear whether the development would use consistent materials as neighboring developments, citing materials were not clearly defined in the proposal. Spangler stated the plan does not specify what is being built, but that the Board is being asked to blindly approve it.

He also referenced grading with respect to downstream impacts not being clearly defined as well. Spangler stated for all these reasons, it is his belief that the application is deficient, and the Board cannot approve the Special Use Permit, based on the information that is included in the Special Use Permit application.

Mayor Moore asked the Board if there were any questions.

Councilman Sloan Stevens asked Spangler to clarify ownership of Holt Lake as an entity being negatively impacted by this development. Spangler stated yes, the lakebed itself was an asset owned by Holt Lake, LLC.

Mayor Moore received clarification from the Spangler regarding his findings for the development, thereby requesting denial based on the development being a danger to public safety due to no traffic study, drainage issues due to storm water plan not defined, the proposed use being noxious, with regard to noise and odor due to no information in the application regarding odor control nor a traffic study, and also due to no adequate measures for ingress and egress to minimize traffic congestion inconclusive, again discoverable through a traffic study. Mayor Moore further referenced adverse impacts as it relates to the asset of Holt Lake as laid out by the consultant.

Mayor Moore asked for closing arguments for this public hearing.

Attorney Burrell stated that his application was about use, and whether that use met the finding of fact. He stated the developer understood that they do need to come back before the Board for final approval on preliminary things and are willing to do that. He proposed that the finding of fact were all met, and stated he recommended approval for the special use permit.

Attorney Andrew Petesch presented his closing argument stating that this application was not about use, but about a special use. He stated that while he agreed that in a Special Use Permit, not everything was initially laid out in concrete. He emphasized that a lot more than what was presented to the Board needs to be in concrete as such is the nature of special use permits. He stated he felt the developer proposed too many minimums to address the standards required for the development.

Petesch laid out his clients' objections to the finding of fact, restating them as being concerns with finding one, detrimental to public health due to proximity of Townhomes near the drainage pond, finding four, noxious odor due to no odor controls being proposed with the development; finding of fact five, regarding ingress and egress, that there was no expert testimony presented, nor traffic study presented, only hearsay evidence. Also finding six, adverse impact of adjoining property, referencing Ms. Kenny's testimony, Mr. Lucas' testimony regarding property values, and Mr. Spangler's testimony with respect to grading and fill of the lot and retaining walls which may raise flood elevations for adjoining lots, as well as the potential to lower the value of lakebed property belonging to Holt Lake, LLC. Petesch also referenced the high level of nutrients that will flow into Holt Lake from the storm water pond from development which could negatively impact that body of water. He further stated Mr. Lucas testified that the units would not be in harmony with the adjacent properties.

Petesch also noted that the Town's Comprehensive Land Development Plan outlines requirements for interconnectivity and pedestrian facilities, but they were not located in the proposed development where they made sense. Petesch stated the development did not concur with many standards and was missing conditions as necessary in the UDO. Petesch reiterated that during this prima facie hearing if one finding of fact was disproved, that the request should be denied. He noted that there were several findings disproven by expert testimony that have not been rebutted by the applicant that prove that the standards cannot be met. He stated for these reasons he respectfully requested that the Town Council deny the special use application request.

Mayor Moore asked if there were any further questions from the Board.

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

The Board reviewed each finding of fact individually as offered by staff below.

*4.9.4.5.1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare. Councilman Barbour made a motion, seconded by Mayor Pro Tem Roger Wood to deny finding of fact one, due to the development containing a storm water pond within twenty feet of the units, which could pose a hazard to children. Unanimously approved.*

*4.9.4.5.2. 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. Councilman Sloan Stevens made a motion, seconded by Mayor Pro Tem Roger Wood to approve finding of fact number two, that the Town homes are a permitted use for the property. Unanimously approved.*

*4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided. Councilman Barbour made a motion, seconded by Councilman John Dunn to approve finding of fact three, that adequate facilities are being provided. Unanimous.*

*4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. Councilman Barbour made a motion, seconded by Councilman John Dunn to reject finding of fact four due to the noise and odor. Unanimous.*

4.9.4.5.5. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.* **Councilman David Barbour made a motion, seconded by Councilman John Dunn to approve finding of fact number five, stating it meets the Town standards. Unanimous.**

4.9.4.5.6. *That the use will not adversely affect the use or any physical attribute of adjoining or abutting property.* **Councilman John Dunn made a motion seconded by Councilman Rabil to reject finding of fact six due to expert appraiser testimony of the five percent loss in value to adjoining properties. Unanimous.**

4.9.4.5.7. *That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.* **Councilman Sloan Stevens made a motion seconded by Councilman Steve Rabil to reject finding of fact number six due to expert testimony that the development would not be harmonious to the existing neighborhood. Unanimous.**

4.9.4.5.8. *The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.* **Mayor Pro Tem Roger Wood made a motion, seconded by Councilman David Barbour to reject finding of fact number eight. Unanimous.**

Councilman David Barbour made a motion, seconded by Councilman John Dunn to reject Special Use Permit request SUP-24-03 for Country Club Townhomes based on the denials of the findings of fact as reviewed by the Board. Unanimously approved.

Mayor Pro Tem Roger Wood made a motion, seconded by Councilman John Dunn to recess for ten minutes at 10:28 pm.

The Board reconvened at 10:38 pm.

Councilman Marlon Lee left the meeting unexcused at 10:28 pm. Thereby not being excused, his vote counts as a vote in the affirmative.

2. **Special Use Permit Request - Stadler Station Apartments (SUP-24-05):** Brown Investment Properties is requesting a special use permit for Stadler Station, a 168-unit residential apartment project on 13.17 acres of land in the B-3 Highway Entranceway Zoning District. The proposed development is located at the intersection of Peedin Road and Components Drive with the Johnston County Tax ID# 15074012E.

*Town Clerk Elaine Andrews administered affirmations to those wishing to offer testimony during the Public Hearing*

Councilman John Dunn made a motion, seconded Councilman Steve Rabil to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman stated Brown Investment properties was requesting a new development at the corner of Computer and Components Drive. He stated when this project was proposed, residential developments were allowed in the B-3 zoning district. He stated the developers are extending Components Drive to the North to provide for a second entrance into the complex. Wensman referenced the club amenity features and where trash receptacles would be located. He showed an illustrated plan that showed buffers which showed general compliance with the UDO. He stated the perimeter setback was forty feet in accordance with standards, and the front yard setback was fifty feet from the Peedin Road public right of way, with a forty-foot separation between buildings. Wensman stated the site plan provides an area to the north of the site for a storm water facility. Water, sewer and electricity would be provided by the Town of Smithfield. Wensman stated that staff did not see the need for a traffic impact analysis because staff has demonstrated that one was not necessary.

Mr. Wensman reviewed staff's opinion of the findings, stating they have all been met and are as follows:

4.9.4.5.1. *The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare. **The project will not be detrimental to or endanger the public health, safety or general welfare. The development will adhere to all Town requirements.***

4.9.4.5.2. *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. **The project will not impede the normal and orderly development and improvement of the surrounding properties. Most of the adjacent industrial properties are low intensity industrial/office uses. Several undeveloped light industrial parcels remain to be developed, but there is nothing to suggest the development would hinder future development of the area. The site is well buffered by vegetation.***



4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided. **The development will provide adequate utilities, drainage, parking and necessary facilities. Components Drive will be extended to provide a secondary entrance.**

4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. **The use will not create such nuisances.**

4.9.4.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. **Proper ingress and egress will be provided with an extension of Components Drive. NCDOT is not requesting any improvements to their infrastructure with this development.**

4.9.4.5.6. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property. **The use will have no adverse impacts on the abutting or adjoining properties. The site will have required buffers and setbacks and there is adequate existing vegetation that will contribute to the buffer.**

4.9.4.5.7. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. **The development will be in harmony with the area. The development is well buffered from the adjacent industrial sites and located adjacent to commercial development which will be a likely destination for tenants.**

4.9.4.5.8. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located. **The special use will meet all applicable regulations.**

Planning Staff recommends approval of SUP-24-01 with the following conditions:

*Based upon satisfactory compliance with the above 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 approve Special Use Permit Application # SUP-24-05 with the following condition(s):*

1. *That the parking lot entrances be constructed in accordance with the Town's standard driveway detail.*

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the November 19, 2024 agenda packet.

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

Mayor Pro Tem Roger Wood asked whether the Town could still impose a traffic study given the volume of trips per day. Wensman stated the Town Engineer reviewed it and found that there was no need for a traffic study.

Councilman David Barbour asked what is DOT's trip minimum. Wensman stated three thousand trips per day.

Councilman Roger Wood asked about the Town having no architectural standards for commercial, stating the Town should explore that in the future.

Councilman David Barbour asked what was the target group for these apartments. Wensman stated he would defer that question to the developer, who was present.

Councilman Sloan Stevens asked if the buffers were all Class A standards. Wensman answered yes.

Councilman David Barbour asked how this development impacted the planned road that would eventually come through that area. Wensman stated that proposed road was removed from the Comprehensive Growth Plan about one year ago.

Mayor Andy Moore asked if there were any further questions from staff. There were none.

The applicant, Steve Todd of Brown Investment Company, Raleigh, NC spoke on behalf of the development. Mayor Andy Moore asked Todd if he agreed with the testimony as presented by the Planning Director. The applicant stated he did agree. He restated the highlights of the project as presented by the Planning Director, also adding information regarding proposed open space. He asked the Board if they had any questions about the proposed site plan development. There were none, so the developer moved forward with the finding of fact criteria for a Special Use Permit.

4.9.4.5.1. *The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare. Todd stated there were no issues with this development that would raise concern for public health and safety. He further stated that the roads in the project are service level roads with a low volume of traffic compared to what NCDOT says that they can handle. He also stated a low-level study was completed by an expert at Davenport Engineering showed little impact on traffic. He provided the Board with a handout of the study, which was introduced as evidence, which showed no traffic improvements were recommended.*

4.9.4.5.2. *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. Todd stated the proposed development and land use would neither impede nor impact surrounding development.*

*4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided. Todd stated utilities in this project would be provided by the Town. He further noted that storm water facilities would be addressed and will come back before the Town Council for approval, but that he saw no issues. He stated they are anticipating a storm water pond for the project, which will be added as part of the construction drawings.*

*4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. Todd stated that trash collection and storm water would be addressed in the plans. He stated they did not anticipate any storm water spill over that would disrupt the adjacent uses.*

*4.9.4.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. Todd noted that two entryways to the development are being proposed, therefore there is no impact on ingress and egress. He referenced the handout from Davenport experts which detailed that no traffic improvements were required.*

Councilman David Barbour asked to be excused from the meeting at 11:06 pm. Mayor Pro Tem Roger Wood made a motion, seconded by Councilman John Dunn to excuse Councilman Barbour. Unanimously approved.

There being a quorum of Board members present; the petitioner continued his review of the finding of fact was continued.

The petitioner, Steve Todd, introduced the Public Engineer Dionne C. Brown of Davenport Engineering firm to speak on behalf of the traffic analysis that was completed for the project. Ms. Brown stated her credentials for the Board, and explained the report she created. She stated that in coordination with DOT, it was found that traffic for the proposed project did not meet the DOT minimum of three thousand trips per day. She stated the firm further did an analysis of Component and Outlet Center Drive, which included a count of trips per day during peak hour from 7am to 9am, and also from 4pm to 6pm. Brown stated that based on their calculations that it was her professional opinion that no additional turn lanes nor any other improvements were recommended, and the roads will be able to accommodate the traffic from the proposed development.

*4.9.4.5.6. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property. The applicant, Steve Todd, presented an expert to prove that the development posed no adverse impact to adjoining properties;*

Property Impact Reports were distributed to the Board, and introduced as evidence for reference. The developer brought forth a representative from IRR appraisal company, Andy Cable, appraiser, to explain the report. Mr. Cable stated that he worked for Integra Realty Resources of Raleigh, NC. He stated his credentials for the Board, noting that he was a commercial real estate appraiser for Eastern NC. Cable prepared the report, which noted the impact of rents for comparison properties located near a multifamily development. He further stated that his findings were that such rents for industrial, retail and office properties were not impacted by a neighboring multifamily development and did not cause a detriment in value. He asked if there were any questions from the Board.

Councilman Sloan Stevens asked from where did the appraiser acquire the data. Cable stated the data was from Orange, Durham, Wake and Johnston Counties.

Mayor Moore asked if there were any further questions for the appraiser. There were none. The applicant, Steve Todd added that in addition there would be setbacks in compliance with the UDO that would also ensure that there be no adverse impacts, and there are no encroachments.

*4.9.4.5.7. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. Todd stated different uses can exist harmoniously, and he believed this use does as the development will give residents a place to live, work and shop.*

*4.9.4.5.8. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located. Todd stated the site plan provided complies in all respects to the UDO, and will continue to do so.*

Councilman Sloan Stevens asked about the timeline for the project. Todd stated he believed it would be at least a year before they broke ground.

Planning Director Stephen Wensman pointed out that Special Use Permits are good for six months, and if need be, the applicant would need to ask for an extension.

Mayor Moore asked if there was anyone present who wished to speak in opposition to the project. The applicant stated that he was not aware of anyone who opposed the development. There were none. Mayor Moore asked if there were any further questions from the Board. Councilman Sloan Stevens asked the question of target market for the occupants inquired earlier by Councilman Barbour. Todd stated that this was not a kid-focused apartment, but one for multifamily use with rents at market rate.

Mayor Andy Moore asked if there would be a lift station. The applicant stated no, there would be normal tie-ins. Councilman Stevens asked what the current sewer capacity was in that area. Planning Director Wensman stated they are still waiting for the lines to be completed. Town Manager Scott stated there is capacity in the area, that they are just waiting for the lines to be freed up.

Public Utilities Director, Ted Credle spoke in regards to the sewer capacity in the area, stating that in quarter one or two of 2025, there will be adequate capacity to support the project. Credle further stated that if by chance there is no capacity by the time the project gets underway, the County will put the project in the queue on hold until it is available.

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

Mayor Pro Tem Roger Wood made a motion, seconded by Councilman Steve Rabil to close the public hearing. Unanimously approved.

Councilman John Dunn made a motion, seconded by Mayor Pro Tem Roger Wood to approve that the applicant meets all the findings of facts one through eight. Unanimously approved.

Councilman Sloan Stevens made a motion, seconded by Councilman John Dunn to approve SUP-24-05 based on one condition: *That the parking lot entrances be constructed in accordance with the Town's standard driveway detail.* Unanimously approved.

3. **Special Use Permit Request – Heritage Townes at Waddell (SUP-24-02)**: Samuel O'Brien (Shovel Ready Johnson, Inc) is requesting a special use permit for Heritage Townes at Waddell, a 17-unit Townhouse development on 1.88 acres of land in the R-8 Zoning District. The proposed development is located 19 and 21 Waddell Drive, approximately 460 feet north of the Brightleaf Boulevard and Waddell Drive intersection, and further identified by the Johnston County Tax ID#s 15005023, 15005022, 15005022A

*Town Clerk Elaine Andrews administered affirmations to those wishing to offer testimony during the Public Hearing.*

Councilman John Dunn made a motion, seconded by Councilman Steve Rabil to open the public hearing. Unanimous.

Planning Director Stephen Wensman stated the property is zoned R-8 and multi-family land use is a special use in the zoning district. He stated The property considered for approval is comprised of 3-detached single family residential lots. There is an existing home and shed that will be removed by this project. An existing 3' high metal/barbed wire fence runs along the east property line. An existing 20' wide sanitary sewer easement runs north-west from Waddell Drive toward rear of the lot towards the Nursing Home on Berkshire Drive. Waddell Drive is an 18'-wide road with drainage ditches on the sides without sidewalks. Waddell at N. Brightleaf Blvd. is unsignalized. Multi-family residential is a special use with supplemental standards in the R-8 Zoning District according to Article 6, Table 6.6 of the Unified Development Ordinance. Wensman stated that the supplementary standards for multi-family are found in UDO Article 7, Section 7.35. Comprehensive Plan/Density. The Town Plan guides this property for medium density residential with a maximum density of 9.68 units per acre. This proposal will have a density of 9.44 units per acre. There are 3-Townhouse buildings proposed (3-unit, 6-unit and 8-unit each). The Townhome development is being designed to have a central driveway leading to the rear of the units (parking courtyard). Each unit will have a 2-car garage. In the parking area is a landscape island with 7 overflow parking spaces and a kiosk mailbox. The fronts of the Townhouses face outward towards the sides and rear lot lines. Each unit will have a front yard area linked to a shared sidewalk that encircles the buildings. A monument sign is shown on the site plan. The location meets the required setbacks. The amount of traffic generated by this development is below the threshold for a traffic study. Waddell Drive is a substandard road (18' with drainage ditches) and neither intersection onto Brightleaf Boulevard have traffic signals. No upgrades to Waddell Drive are proposed. Wensman stated that staff recommends approval based on the finding of fact for a special use permit with five conditions:

#### **RECOMMENDATION TO TOWN COUNCIL:**

*Planning Staff recommends approval of SUP-24-02 with the following conditions:*

1. *That the driveway be constructed in accordance with the Town's driveway apron detail.*
2. *That the existing sanitary sewer line and easement be relocated with the approval of the Town's Public Utilities Director.*
3. *That rollout trash containers be screened from the public right of way or stored within the garages.*
4. *That the developer constructs a 5' wide public sidewalk in the public right of way, or in an easement for the sidewalk along the right of way.*
5. *There shall be a homeowner's association to own and maintain all common amenities such as the parking lot, sidewalks, landscaping, mail kiosk, and stormwater management facility.*

Mayor Andy Moore asked for clarification for where the sidewalks extended. Wensman clarified that sidewalks do not extend so that they can be connected on with adjacent properties, and that the sidewalks stop just short of that line. That they go internally and around the site.

The applicant Sam O'Brien of Raleigh introduced himself then referred questions to his project manager Dan Danvers. Mr. Danvers stated he was a project manager with Bohler Engineering in Raleigh. Danvers cited his experience as a landscape architect. He stated that they concur with the findings of fact and agree to the conditions of approval as stated by staff.

## FINDING OF FACT (Staff Opinion)

4.9.4.5.1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare. ***The project will not be detrimental to or endanger the public health, safety or general welfare. The development will adhere to all Town requirements.***

4.9.4.5.2. 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. ***The project will not impede the normal and orderly development and improvement of the surrounding properties. The neighborhood is fully developed with only redevelopment occurring, this Townhouse project and commercial development along Brightleaf Boulevard. This development will potentially provide new customers in walking distance to the Brightleaf commercial establishments.***

4.9.4.5.3. Adequate utilities, drainage, parking, or necessary facilities have been or are being provided. ***The development will provide adequate utilities, drainage, parking and necessary facilities. For this project to proceed, an existing sanitary sewer line and easement will need to be relocated.***

4.9.4.5.4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. ***The use will not create such nuisances.***

4.9.4.5.5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. ***Proper ingress and egress will be provided with a single driveway onto Waddell Drive. The developer will likely install a stop sign at the exit lane to Waddell Drive.***

4.9.4.5.6. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property. ***The use will have no adverse impacts on the abutting or adjoining properties. The adjacent properties are residential. The design of the proposed buildings will be complementary to the mostly single-story homes surrounding with dormers that break up the scale of the buildings. Furthermore, the site will be well buffered along all property lines. The design of the home will be such that the front (good) side faces outward. All vehicular access is toward the center of the site.***

4.9.4.5.7. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. ***The proposed Townhomes will be complementary and in harmony with the adjacent homes. The architectural style will blend well and dormers will break up the scale of the buildings. The buildings will be positioned such that they will have minimal impact from the street.***

4.9.4.5.8. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located. ***The special use will meet all applicable regulations.***

Mr. Danvers asked the Board for any questions regarding the project.

Councilman Steve Rabil asked the applicant if they had any visuals for projects that they have done in the area. Danvers stated not on hand.

Mayor Moore asked if what was being proposed was two-story units with two-car garages. Danvers stated that was correct.

Manager Mike Scott asked whether the Town's trash trucks would be traveling down the private road in this development. Wensman stated the Town could make conditions on approval that the Town not be held liable for damage for driving on the private driveway. There was further discussion among the Board with regards to facilitating trash pickup at the development. The developer Sam O'Brien stated that the Town would circle the private drive to pick up each container, illustrating on the plat map that the drive how the drive could accommodate the trash truck. He further mentioned that he is ok with the waiver with regard to the private drive.

Mayor Andy Moore addressed the issue of residents parking on the street, which would hinder the ability for ingress and egress. He asked without it being a public street, how would the Town regulate that, and do we have the authority to regulate it. Mayor Moore stated that it did not matter whether the street was public or private, that the citizens would call the Town with complaints.

Danvers stated the HOA could build in a clause to satisfy that mechanism to allow the police to police, or for the HOA to handle it. Attorney Bob Spence added that it could be written in the HOA covenants that the development allows Smithfield Police to enforce parking on the private drive, and that the development would take care of maintenance. Mayor Andy Moore stated this issue spoke to finding of fact five, and that this was a concern.

Mayor Moore asked if these would be individual units for sale. Danvers stated this was the intent. Moore added that at that point the covenant could be given to the buyer so that they would be aware.

Mayor Moore asked if there were any further questions for the applicant. There were none. He asked if there was anyone else present who wished to speak on the matter.

Pam Lampe of 2<sup>nd</sup> St., Smithfield spoke regarding the project. She stated her concern was with Waddell Road, which is the road into the development. She stated she felt the road was substandard, and too small to allow two cars coming and going at the same point. She also stated that the increased density to the location by adding this development would likely pose a problem, but she was open to hear evidence to the contrary.

Danvers, the architect for the project, stated that the added units to the area did not trigger a traffic study. He further noted, that although Ms. Lampe had a good point, he did not see it as a feasible investment to widen the right of way. He stated that maybe in the future as new developments come improvement to the road would be necessary.

Councilman John Dunn asked how wide was the road. Planning Director Wensman answered 18 feet, where the standard road is 27 feet wide, and the DOT minimum is 20 feet wide. Councilman John Dunn suggested making it a one-way road. The developer Sam O'Brien agreed with and stated he liked the one-way road idea.

There was discussion among the Board regarding other future development near this site.

Mayor Pro Tem made a motion, seconded by Councilman John Moore to close the public hearing. Unanimously approved.

Councilman John Dunn stated he felt that there could be a potential problem with traffic in the development that would need to be addressed. Architect, Dan Danvers asked if the Board could allow a traffic study as a condition of approval, so that they can move forward from a plan development standpoint on their timeline. Mayor Andy Moore suggested that the request be tabled for a later time to give staff and the developer more time to address the issue of the Waddell Dr., potentially not being wide enough a road to handle traffic leading into and away from the development. Attorney Bob Spence stated the Board was not asking for them to redesign the private drive in the proposed development, but to come back before the Board with better ideas on how Waddell Road can be safe.

There was general discussion among the Board regarding moving tabling this case, to December 17<sup>th</sup>.

Councilman John Dunn made a motion seconded by Mayor Pro Tem Roger Wood to table the request (SUP-24-02) until the December 17, 2024 Town Council Meeting. Unanimously approved.

Mayor Pro Tem Roger Wood made a motion, seconded by Councilman Sloan Stevens to table the final item on the agenda, Powell Tract request (S-24-05) to the December 3, 2024 Town Council Meeting. Unanimously approved.

#### **CITIZEN'S COMMENTS:**

There were no citizens comments.

#### **CONSENT AGENDA:**

Councilman John Dunn made a motion, seconded by Mayor Pro Tem, Roger Wood, to approve the following items as listed on the Consent Agenda. Unanimously approved:

1. **Minutes**
  - a. September 17, 2024 – Regular and Closed Session
  - b. October 1, 2024 – Regular Session
  - c. October 15, 2024 – Regular Session
2. **Resolution No. 758 (20-2024) and Grant Project Ordinance for the Town of Smithfield Spring Branch Drainage Repairs** – 2nd Street and 4th Street Project (Project #SRP-S-134-0013)  
(Finance Director – Andrew Harris)
3. **Resolution No. 757 (21-2024) and Grant Acceptance for the Town of Smithfield—East Smithfield Water Main Project (#SRP-D-134-0037)**  
(Finance Director – Andrew Harris)

#### **BUSINESS ITEM:**

1. **Request for funding for DSDC Software Program:** The DSDC is requesting funding for budgeting and accounting software.

Town manager Mike Scott stated DSDC is needing software to better manage events and make business more accountable. Manager Mike Scott stated the corporation needed a way to have an accurate accounting of managing events as well as vendor payments. Manager Scott asked that the Board allow them to use some of the Town's tourism money to pay for a contract with software company. Over a three-year period, the cost would be about \$5,700.00. Manager Scott stated that he confirmed that this was a justifiable expense for marketing. Manager Scott itemized the cost for all three years separately.

Mayor Andy Moore asked how much money was in the tourism fund. Manager Scott stated almost a half million dollars.

Councilman Sloan Stevens made a motion, seconded by John Dunn to approve the DSDC request for funds using the tourism money. Unanimously approved.

ADJOURN

Councilman John Dunn made a motion, seconded by Councilman Steve Rabil, to adjourn the meeting at approximately 12:30 pm. Unanimously approved.

  
M. Andy Moore, Mayor

ATTEST:  
  
Elaine Andrews, Town Clerk

