

The Smithfield Town Council met in regular session on Tuesday, December 7, 2021 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, M. Andy Moore, Mayor presided.

Councilmen Present:

Marlon Lee, District 1  
Travis Scott, District 3  
David Stevens, District 2  
Dr. David Barbour, District 4  
Stephen Rabil, At-Large

Councilmen Absent

John Dunn, Mayor Pro-Tem  
Roger Wood, At-Large

Administrative Staff Present

Michael Scott, Town Manager  
Michael Brown, Fire Chief  
Ted Credle, Public Utilities Director  
Lawrence Davis, Public Works 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

Also Present

Bob Spence, 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 Scott followed by the Pledge of Allegiance.

**APPROVAL OF AGENDA:**

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

**PRESENTATIONS:**

**1. Proclamation: Honoring Jonathan "Jon" Moore's 20+ years of service to the Town of Smithfield**

Mayor Moore presented the following proclamation to retiring Parks and Recreation Program Supervisor Jon Moore. The Town Council expressed their appreciation for Mr. Moore's years of dedicated service.

**PROCLAMATION**

**In Honor of Jonathan "Jon" Moore's 20+ Years of Service to the Town of Smithfield**

**WHEREAS**, Jonathan Moore has been a dedicated employee for over 20 years and retired on November 24, 2021; and

**WHEREAS**, Jonathan Moore has served the Town of Smithfield as the Parks and Recreation Athletic Program Supervisor; and

**WHEREAS**, Jonathan Moore devoted countless hours to planning and supervising athletic programs for children and adults; and

**WHEREAS**, programs such as youth baseball, basketball, football and soccer have helped develop some of Johnston County's best athletes; and

**WHEREAS**, Jonathan Moore has earned the admiration of his colleagues, staff, participants and citizens; and

**WHEREAS**, Jonathan Moore will be missed both professionally and as a friend, and we extend our very best wishes for his continued success in his life's pursuits.

**NOW, THEREFORE, I, M. Andy Moore**, Mayor of the Town of Smithfield along with the members of the Town Council, express our sincere appreciation to Jonathan Moore for his distinguished service to the Town of Smithfield, and urge our citizens to join with us as we extend our sincere appreciation for his work, and wish him well in his future endeavors.

**2. Administering Oath of Office to new Police Officer Anthony Moss**

Mayor Moore administered the Oath of Office to new Police Officer Anthony Moss and welcomed him to the Town of Smithfield.

### 3. Fiscal Year 2020-2021 Annual Audit Report

Finance Director Greg Siler introduced Alan Thompson from the auditing firm of Thompson, Price, Scott and Adams, PA.

Mr. Thompson informed the Council there were no significant audit findings, no difficulties were encountered, no uncorrected misstatements and no disagreements with management. Management did provide a representation letter dated November 8, 2021 and his firm was unaware that management was consulting without accountants or auditors. The main reason the Town hires an auditing firm is to issue an opinion on the financial statements. Mr. Thompson stated the Town was financially healthy in the general fund, the water/sewer fund and the electric fund.

#### PUBLIC HEARINGS:

1. **Rezoning Request – Thomas Moyer (RZ-21-05):** The applicant was requesting to rezone two parcels of land totaling approximately 1.31 acres from the R-10 (Residential) to the R-8 (Residential) zoning district. The properties considered for approval are located on the northeast side of the intersection of White Oak Drive and Azalea Drive and further identified as Johnston County Tax ID# 14056027B and 14056012.

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

Planning Director Stephen Wensman explained the property owners of 18 Azalea Drive and 2 White Oak Drive are requesting their properties to be rezoned from R-10 to R-8.

The applicant was requested to align the existing land use with the appropriate zoning district. The multi-family dwelling on 2 White Oak Drive and the duplexes on 18 Azalea Drive are legal nonconforming uses in the R-10 district. It is likely the properties were developed prior to current zoning and the application of the R-10 zoning made them legal nonconforming.

The R-10 district only allows detached single-family uses. According to Article 9 of the UDO, if the properties were destroyed, they could only be reconstructed as conforming single-family structures. The applicant of 18 Azalea Drive requested a loan from the bank and was rejected as a result of its legal nonconforming status.

Furthermore, the property to the East of 2 White Oak Drive (with the Tax ID 14056010) is a duplex and zoned R-8. It is the only spot of R-8 zoning in the area. This rezoning would make a larger 3-lot R-8 Zoning District and make the uses legal and conforming.

Planning Staff and the Planning Board recommend approval of RZ-21-03 with a statement declaring the request 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.

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the December 7, 2021 agenda packet.

Mayor Moore asked if there were any questions from Council.

Councilman Scott questioned if the request was from both property owners. Mr. Wensman responded that the two properties would be rezoned to R-8.

Mayor Moore asked if there was anyone in attendance who wished to speak on the matter. There was no one in attendance that wished to speak on the matter.

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

Councilman Barbour made a motion, seconded by Councilman Rabil, to approve zoning map amendment, RZ-21-03, finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest. Unanimously approved.

2. **Conditional Zoning Request – Harvest Run (CZ-21-10):** requesting conditional rezoning of two parcels of land totaling 45.6 acres from the R-20A (Residential-Agricultural) zoning district to the R-8 CZ (Conditional Zoning) district for the construction of a 165-lot residential development. The properties considered for approval are located on the north side of NC Hwy 210 approximately 200 feet west of its intersection with Skyland Drive and further identified as Johnston County Tax ID# 15077017 and 15077009

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

Planning Director Stephen Wensman explained the Timmons Group was requesting a conditional rezoning of 45.67-acres of land from R-20A to R-8 CZ with a master plan for a planned development consisting of 165 lots; 96 detached single family residential lots and 69 attached single-family townhome lots.

The property considered for approval is a mix of agricultural and woodland containing a blueline stream, two small wetland areas, a small pond, and areas within the 500-year flood zone.

Comprehensive Land Use Plan and Density.

The Town's Comprehensive Growth Management Plan guides the site for mixed use along NC Highway 210 and remainder of the site for medium density residential. The proposed development is 3.61 dwelling units per acre which is less than the maximum density allowed within areas guided for medium density residential.

The Town's Transportation Plan identifies the need for a road connection between West Market Street and NC Hwy 210.

The Conditional Rezoning Master Plan is in conformance with the Comprehensive Growth Management Plan. The Master Plan should reserve future right of way for a future road connection where a trail is currently shown. This strip of land is too narrow for a full right of way (37' wide); however additional right of way could be added to it if the adjacent land redevelops in the future.

Site Access. The site is accessed by a proposed public road off of NC Highway 210 and from proposed lateral access road connecting the site to the proposed Marin Woods development to the west. A pedestrian trail also provides access from W. Market Street.

Highway Improvements. A Traffic Impact Analysis (TIA) has been prepared and the developer is committed to the required NCDOT improvements. The developer will be dedicating 10.8 acres of the site for NCDOT right-of-way.

Streets. The primary access is a north-south 34' wide road, back of curb to back of curb, in a 60' wide public right-of-way serving as the primary access road to the townhomes and detached single-family areas.

The remainder of the roads within the development are proposed as 29' wide, back of curb to back of curb in a 55' wide public-right of way, including the east west connector street coming from Marin Woods.

The east-west connector street should match between developments; therefore, staff is recommending a 34' wide street, back of curb to back of curb in a 60' right-of-way.

Curb and gutter. B6-12 curb and gutter is proposed throughout the development except in front of townhouse units and within ten feet of the end units. This is consistent with other recent subdivision approvals.

Site Amenities. The developer is proposing decorative sign posts and street lighting throughout the development. This represents an improvement that exceeds UDO requirements.

Open Space/Recreational Amenities. The development preserves 16.41 acres of land as open space comprised of undisturbed wetlands/woodlands, Neuse Riparian Buffers and passive and active pocket parks, including a dog park area. Pocket Parks and open space areas will be owned and maintained by the Homeowner's Association.

Mail Kiosk. A proposed mail kiosk is conveniently located along Road D (entrance road) just at the north end of the townhouse area within a 7-space parking lot.

Trails. The plans show a paved trail from W. Market Street to the Road F cul-de-sac which will provide convenient walking to shopping. Another trail is shown connecting the cul-de-sac on Road A to the cul-de-sac on Road C over the riparian buffer connecting the detached single-family area to the attached townhouse area. This trail may require a boardwalk crossing. The trail corridor to West Market Street should be dedicated as right-of-way for a future road connection as suggested in the Town's Transportation Plan.

Riparian Buffer. The blue line stream that crosses the site is protected by a riparian buffer that is 50' wide following the center line of the stream.

Sidewalks. Five-foot public sidewalks are proposed on both sides of the streets throughout the development as compared to the Marin Woods development to the west which is proposing sidewalks on only one side of the streets. A 5' wide sidewalk is also proposed along NC Highway 210. Staff will be working to encourage Marin Woods developers to install a public sidewalk on both sides of a segment of Road C that connects the two developments.

Landscaping and Buffering. The landscape plan is incomplete as it does not clearly articulate the type and location of plantings. The submitted plan has been summarized below:

- A 20' wide Type C buffer is proposed along the boundary with the industrial zoning to the north edge of the detached single-family development area which consists of 3 canopy trees, 12 shrubs and a 6' high fence per 100'.
- A 20' Type B buffer is proposed along the northeast boundary adjacent to the existing residential properties with commercial and institutional zoning consisting of 1 canopy tree and 8 shrubs per 100'.
- No buffer is proposed to the south and east adjacent to the Pine Knoll multi-family development off of Skyline Drive.
- A 20' Type B buffer is proposed alongside of the B-P gas station located on NC Highway 210.
- A Street yard buffer is proposed along NC Highway 210, but it is unclear as to the type and location of plantings.
- No buffer proposed adjacent to Marin Woods Subdivision.
- Keener Lumber has requested a 6' privacy fence be installed along the boundary adjacent to its industrial property to protect against trespassing.

Utilities. Public water will be provided by connecting to an existing watermain along the NC Hwy 210 frontage of the site. Public sanitary sewer has been coordinated with the adjacent Marin Woods development to eliminate the need for a pump station.

Stormwater Management. The developer is committed to meeting all stormwater quantity and quality reduction requirements. Proposed stormwater control measures (SCMs) will typically consist of wet ponds and other approved measures. SCMs are shown located within open space areas and be maintained by the Homeowner's Association.

Trash and Recycling. Trash and recycling roll-off containers in the townhouse units be stored within a garage or within the rear yards of each unit. This should be made a condition of approval.

Subdivision Signs. No subdivision sign has been proposed, but easements for entry monuments are shown on the master plan at the entrance to the development from NC Highway 210.

Homeowner's Association. An HOA will own and maintain the recreation and open space areas, stormwater facilities, pump station, trails and landscaping on townhouse front and side yards and HOA property.

Townhouses. The applicant is proposing 69 townhouse lots in a mix of four- and five-unit buildings. The images of example townhouse products in the narrative shows all units having single-car garages with 8-10' wide driveways.

Minimum Lot Dimensions and Size. The minimum lot size is 1,991 sq. ft. All lots are 2,000 sq. ft. or larger with the exception of lot 54 which is 1,991 sq. ft. in size. The average townhouse lot size is 2,045 sq. ft.

Setbacks. Front – 35', Rear - 15'. The rear setback is a deviation from the required 25' setback in the R-8 zoning district.

Building Heights. The developer is proposing 2-3 story townhomes which according to the developer, should comply with the maximum 35 feet building height.

Townhouse Unit Sizes. The developer is planning on working with NVR/Ryan Homes as the townhouse builder with the following products:

- 3-story Juniper, 1220 sq.ft., 3 bedrooms, 2 bathrooms
- 2-story Poplar, 1442 sq.ft., 3 bedrooms, 2 bathrooms

Target Sales Price: \$230,000-250,000

Parking. The development provides 2.5 parking spaces per townhome unit. With a 35' building setback, it is feasible to park on vehicle within a garage and two on the townhouse driveway. Some limited on-street parking will be available.

Architectural Standards. The developer is proposing an 18" masonry water table on the front façade of all townhomes. All elevations must have windows on all exterior sides of dwellings. All front windows will have shutters or trim. Corner side yard windows will be treated as a front elevation. The written narrative provides images of example townhomes.

Detached Single-Family Residential. The developer is proposing to create 96 detached single family residential lots. The images of example single-family homes all show 2-car garages and covered entryways.

Minimum Lot Dimensions and Size. The minimum lot size is 6,308 sq. ft. with a minimum lot width of 55' and lot depth of 114.7'. The lot dimensions and size represent a deviation from the R-8 zoning which requires 8,000 sq. ft. lots with a minimum frontage width of 70 feet. The average lot size proposed is 8,103 sq. ft.

Setbacks. Front – 30', Side – 6', Rear - 20'. Corner side – 16' The side and rear setbacks represent a deviation from the R-8 zoning which requires a 10' side and 25' rear setback.

**Building Heights.** The homes will comply with the maximum building height of 35'

**Home Sizes.** The developer is planning on working with NVR/Ryan Homes as the single-family home builder with the following products:

- Birch – two story, 1680 sq.ft, 4 bedrooms, 2 bathrooms
- Cedar - two story, 1903 sq.ft, 4 bedrooms, 2 bathrooms
- Elm - two story, 2203 sq. ft, 4 bedrooms, 2 bathrooms
- Spruce – one story, 1296 sq. ft, 3 bedrooms, 2 bathrooms

Target Sales Price: \$280,000-\$320,000

**Parking.** With 2-car garages, each single-family home should have a minimum of 4 parking spaces per unit.

**Architectural Standards.** The developer is proposing a 24" masonry water table on the front façade of all single-family homes. All elevations must have windows on all exterior sides of dwellings. All front windows will have shutters or trim. Corner side yard windows will be treated as a front elevation. Single-family detached dwellings should not have the same elevation with parcels adjacent to or directly across the street as the subject parcel's elevation. The written narrative provides images of example homes.

#### Conditional zoning

The developer is seeking deviations from the UDO as part of the rezoning. The purpose of conditional zoning is to provide flexibility from conventional zoning and to allow creative projects to occur through a negotiated (give and take) approach to achieve the desired project that both the developer and town mutually can be satisfied with. The applicant is seeking the following deviations from the following UDO Requirements:

Item	R-8/UDO	R-8 CZ
Townhouse Streets	34' wide b/b in 60' R/W	29' wide b/b in 55' R/W.
Townhouse curb and gutter	B6-12 curbs	Valley curbs in front of units and within 10' of end unit.
Townhouse Rear Setback	25'	15'
Detached Single-family lot width	70'	55'
Detached Single-family lot area	8,000 sq. ft.	6,308 sq. ft.
Detached Single-family side setbacks	10'	6'
Detached Single-family rear setbacks	25'	20'
Building Separation	40'	20'

Proposed improvements exceeding UDO requirements:

- Decorative street signs and light posts.
- Sidewalks on 2-sides of each street vs. one side.
- Trails to Market Street and between the Townhouse and single-family home areas.
- Increased townhouse front setback to 35'
- Off-street parking at 2.5 units per dwelling exceeds required 2 units per acre.
- Architectural Standards
- Landscaping in single family development areas.
- Privacy fence along Keener Lumber if agreed to by applicant.

Mr. Wensman explained the following changes to the plan since the Planning Board meeting.

- B6-12 curb and gutter in front of single-family lots
- Valley curb and gutter on townhome streets
- 96' bulb on all cul-de-sacs
- Removal of pump station and connect to stubs provided by Martin Woods
- 55' ROW on 29' B-B streets
- Trail connection from Martin Woods at the end of the cul-de-sac on Road E
- Update lighting detail to provide decorative street poles
- Tree Survey to be provided with CDs
- vegetated buffers to utilize existing landscape where possible
- Add entrance island
- Left and right-turn lanes into the site (off NC-210).

Planning Staff and the Planning Board recommend CZ-21-10 with 8-conditions with a statement declaring the request consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans and the request is reasonable and in the public interest:

1. That the future preliminary plat and development plans for the subdivision be in accordance with the approved Master Plan, R-8 Zoning District, and UDO regulations with the with the following deviations:

<u>Item</u>	<u>R-8 CZ</u>
Streets	29' wide b/b in 55' R/W
Townhouse curb and gutter	Valley curbs in front of townhomes and within 10' of end unit.
Townhouse Rear Setback	15'
Detached Single-family lot width	55'
Detached Single-family lot area	6,308 sq. ft.
Detached Single-family side setbacks	6'
Detached Single-family rear setbacks	20'
Building Separation	20'

1. That the parking lot entrances be constructed in accordance with the town's standard driveway detail.
2. That a revised landscape plan be provided that clearly articulates the types and locations of proposed landscaping including a landscaped berm with a privacy fence along NC Highway 210.
3. That the trail corridor to Market Street be dedicated as public right-of-way.
4. That the trash and recycling roll-off containers in the townhouse units be stored within a garage or within the rear yards.
5. That the architectural standards be incorporated into the HOA declarations.
6. That Road C between Road D and the boundary with Marin Woods be constructed as a 34' wide b/b Street in a 60' public right-of-way.
7. That the pedestrian trails between cul-de-sacs and to Marin Woods development be designed with a grade acceptable to the Town Engineer.

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the December 7, 2021 agenda packet.

Mayor Moore asked if there were any questions from Council.

Councilman Barbour questioned if the developer was going to install a fence along the Keener Lumber property line. Mr. Wensman responded the developer was going to install a type C buffer, but the Council could specify that a privacy fence be installed as a condition of approval. Mr. Wensman stated the applicant has agreed to install the privacy fence.

Councilman Barbour further questioned if the single-family homes could be included in condition 5. Mr. Wensman stated it could be added to the HOA agreement.

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

Beth Blackmon with the Timmons Group expressed her appreciation to Town Staff for their assistance. She stated she, along with other members of the group, were available for any questions.

Brian Massengill of 1903 North Harrison Avenue Cary, North Carolina expressed his appreciation for allowing the developers to bring Harvest Run to the Town of Smithfield.

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

Councilman Barbour made a motion, seconded by Councilman Stevens, to approve zoning map amendment CZ-21-10 with 9 conditions, finding the rezoning 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. Unanimously approved.

Conditions:

1. That the future preliminary plat and development plans for the subdivision be in accordance with the approved Master Plan, R-8 Zoning District, and UDO regulations

with the with the following deviations:

<u>Item</u>	<u>R-8 CZ</u>
Streets	29' wide b/b in 55' R/W
Townhouse curb and gutter	Valley curbs in front of townhomes and within 10' of end unit.
Townhouse Rear Setback	15'
Detached Single-family lot width	55'
Detached Single-family lot area	6,308 sq. ft.
Detached Single-family side setbacks	6'
Detached Single-family rear setbacks	20'
Building Separation	20'

2. That the parking lot entrances be constructed in accordance with the town's standard driveway detail.
3. That a revised landscape plan be provided that clearly articulates the types and locations of proposed landscaping including a landscaped berm with a privacy fence along NC Highway 210.
4. That the trail corridor to Market Street be dedicated as public right-of-way.
5. That the trash and recycling roll-off containers in the townhouse units and single-family units be stored within a garage or within the rear yards.
6. That the architectural standards be incorporated into the HOA declarations.
7. That Road C between Road D and the boundary with Marin Woods be constructed as a 34' wide b/b Street in a 60' public right-of-way.
8. That the pedestrian trails between cul-de-sacs and to Marin Woods development be designed with a grade acceptable to the Town Engineer.
9. Type C buffer around the Keener Lumber Property include a privacy fence.

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

**3. Preliminary Plat Approval – Harvest Run (S-21-07):** The applicant was preliminary subdivision approval of a 165-lot residential subdivision on property located within an R-8 CZ (Residential–Conditional Zoning) district. The properties considered for approval are located on the north side of NC Hwy 210 approximately 200 feet west of its intersection with Skyland Drive and further identified as Johnston County Tax ID# 15077017 and 15077009

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

Planning Director Stephen Wensman testified the property was just rezoned to R-8 CZ with a master plan consisting of 165 lots; 96 detached single family residential lots and 69 attached single-family townhome lots. Since the rezoning was approved, the preliminary plat needs to be substantially consistent with the approved master plan. Staff finds the preliminary plat consistent with the approved master plan.

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

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

1. The plat is consistent with the adopted plans and policies of the town; **The plat is consistent with the adopted plans and policies of the town.**
2. The plat complies with all applicable requirements of this ordinance; **The plan complies with all applicable requirements of this ordinance and the R-8 Conditional Zoning District.**
3. There exists adequate infrastructure (transportation and utilities) to support the plat as proposed. **There is adequate infrastructure**
4. The plat will not be detrimental to the use or development of adjacent properties or other neighborhood uses. **The plat will not be detrimental to the use or development of**

**adjacent properties or other neighborhood uses.**

Planning Staff recommends the Town Council approve the preliminary plat of Marin Woods, S-21-03, with the following conditions based on finding of fact for preliminary subdivisions:

1. That the future preliminary plat and development plans for the subdivision be in accordance with the approved Master Plan, R-8 Zoning District, and UDO regulations with the with the following deviations:

Item	R-8 CZ
Streets	29' wide b/b in 55' R/W
Townhouse curb and gutter	Valley curbs in front of townhomes and within 10' of end unit.
Townhouse Rear Setback	15'
Detached Single-family lot width	55'
Detached Single-family lot area	6,308 sq. ft.
Detached Single-family side setbacks	6'
Detached Single-family rear setbacks	20'
Building Separation	20'

2. That the parking lot entrances be constructed in accordance with the town's standard driveway detail.
3. That a revised landscape plan be provided that clearly articulates the types and locations of proposed landscaping including a landscaped berm with a privacy fence along NC Highway 210.
4. That the trail corridor to Market Street be dedicated as public right-of-way.
5. That the trash and recycling roll-off containers in the townhouse units be stored within a garage or within the rear yards.
6. That the architectural standards be incorporated into the HOA declarations.
7. That Road C between Road D and the boundary with Marin Woods be constructed as a 34' wide b/b Street in a 60' public right-of-way.
8. That the pedestrian trails between cul-de-sacs and to Marin Woods development be designed with a grade acceptable to the Town Engineer.
9. That Park dedication fee-in-lieu be paid prior to final plat in accordance with UDO Section 10.114.8.
10. That public utility service fees be paid in full prior to final plat.
11. That the HOA declarations and covenants be submitted for Town Attorney review prior to final plat.

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the December 7, 2021 agenda packet.

Mr. Wensman testified the additional conditions from the conditional rezoning could be added to the preliminary plat approval.

Mayor Moore asked the applicant if they agreed with the testimony provided by Mr. Wensman and if they had additional testimony to offer. Beth Blackmon of the Timmons group testified that she was in agreement with the testimony offered by Mr. Wensman. She further testified that the four finding of fact were met. Thy have followed the UDO, the Comp Plan and Town policies. The property was rezoned so it complies with all applicable requirements of the ordinance. There was adequate infrastructure and it would not be detrimental to any of the adjacent properties.

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

Councilman Stevens asked if there were any plans for NC Highway 210. Jeff Hochanadel, the traffic engineer for the project, testified they were looking at a left turn lane off NC 210 into the site with 100 foot of full width storage, and a right turn lane off of NC 210 into the site with 75 feet of storage.

Mayor Moore asked if there was in attendance that was duly sworn in who wished to testify on the matter. There was no one in attendance who wished to testify on the matter.

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

Councilman Barbour made a motion, seconded by Councilman Stevens, to approve zoning



map amendment, S-21-03, with 12 conditions of approval, based on the 4 finding of fact for preliminary subdivision. Unanimously approved.

Approved Conditions:

1. That the future preliminary plat and development plans for the subdivision be in accordance with the approved Master Plan, R-8 Zoning District, and UDO regulations with the with the following deviations:

Item	R-8 CZ
Streets	29' wide b/b in 55' R/W
Townhouse curb and gutter	Valley curbs in front of townhomes and within 10' of end unit.
Townhouse Rear Setback	15'
Detached Single-family lot width	55'
Detached Single-family lot area	6,308 sq. ft.
Detached Single-family side setbacks	6'
Detached Single-family rear setbacks	20'
Building Separation	20'

2. That the parking lot entrances be constructed in accordance with the town's standard driveway detail.
3. That a revised landscape plan be provided that clearly articulates the types and locations of proposed landscaping including a landscaped berm with a privacy fence along NC Highway 210.
4. That the trail corridor to Market Street be dedicated as public right-of-way.
5. That the trash and recycling roll-off containers in the townhouse units and single-family residential units be stored within a garage or within the rear yards.
6. That the architectural standards be incorporated into the HOA declarations.
7. That Road C between Road D and the boundary with Marin Woods be constructed as a 34' wide b/b Street in a 60' public right-of-way.
8. That the pedestrian trails between cul-de-sacs and to Marin Woods development be designed with a grade acceptable to the Town Engineer.
9. That Park dedication fee-in-lieu be paid prior to final plat in accordance with UDO Section 10.114.8.
10. That public utility service fees be paid in full prior to final plat.
11. That the HOA declarations and covenants be submitted for Town Attorney review prior to final plat.
12. Type C buffer around the Kenner Lumber Property include a privacy fence

**4. Conditional Zoning Request – Franklin Townes (CZ-21-11):** The applicant was requesting conditional rezoning of one parcel of land totaling 15.9 acres from the R-20A (Residential-Agricultural) and R-8 (Residential) zoning district to the R-8 CZ (Conditional Zoning) district for the construction of a 134-lot residential development. The property considered for approval is located on the southeast side of the intersection of Wilson's Mills Road and M. Durwood Stephenson Parkway and further identified as Johnston County Tax ID# 15083049E

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

Planning Director Stephen Wensman explained R&R Development of NC, LLC was requesting a conditional rezoning of 15.9-acres of land from R-20A and R-8 to R-8 CZ with a master plan for a planned development consisting of 134 attached single-family townhome lots.

Mr. Wensman further explained the property considered for approval was agricultural with some woody vegetation along the perimeter. There are neighbor encroachments onto the development parcel, fences and a building that should be addressed with the development of the site. The applicant has indicated that all the encroachments will be removed except for a portion of the church driveway which encroaches only a few feet. There is no wetlands or other environmental features on the site.

**MASTER PLAN/ANALYSIS:**

Comprehensive Land Use Plan and Density. The Town's Comprehensive Growth Management Plan guides the site for medium density residential which has a maximum density of 9.61 dwelling units per acre. The proposed development is 8.43 dwelling units per acre. There are some encroachments onto the property from adjacent property owners. There is a garage and a fence that encroaches on the property. Also, the church has a driveway coming off Wilson's Mills Road that overlaps the property by a few feet.

**Site Access.** The primary access to the development will be off Wilson's Mills Road about 440 feet south of the centerline of M. Durwood Stephenson Parkway as required by NCDOT. A secondary access will be off of Sunrise Avenue which is a requirement of Fire Code.

**Streets.** The Streets within the development are proposed to be 27' wide b/b in a 50' public right-of-way. The Town's standard street is a 34' wide b/b street in a 60' public right of way. The 27' wide streets were chosen to discourage on-street parking. The applicant has indicated the HOA will restrict on-street parking. The street widths represent a deviation from the Town's standard street detail.

**Highway Improvements.** The developer is providing a 10' public right-of-way dedication for the widening of Wilson's Mills Road and restriping near the entrance drive the road area to accommodate the new road as required by NCDOT.

**Curb and gutter.** Valley curbs are proposed throughout the Franklin development; whereas the Town's standard is a B6-12 curb and gutter. In several recent development approvals, the Town Council has allowed valley curbs in front of townhouses and within 10' of the end unit. If this standard were implemented with the Franklin development B6-12 curb and gutter would be used for the first 60 feet of the entrance drive off Wilson's Mills Road, along the entrance drive off Sunrise, around the park area, the cul-de-sac and around/in the off-street parking areas. The use of valley curb represents a deviation from the Town's standard curb and gutter.

**Site Amenities.** A private neighborhood open space/park with a pergola and fire pit, playground, 18 space parking lot, mailbox kiosk of about  $\frac{3}{4}$  acres in size. Also, a dog park and walking trail loop is proposed around the stormwater pond facility. The developer plans to include decorative street lamps throughout the development.

**Sidewalks.** A five-foot-wide concrete sidewalk is proposed along Wilson's Mills Road frontage and on one side of the public streets as required by the UDO.

#### Landscaping and Buffering.

The developer is proposing a 10' wide Type A landscaped buffer with a 6' opaque perimeter fence adjacent to existing residential properties. No fence detail has been provided.

The continuous 10' wide Type A buffer with an opaque perimeter fence will continue behind Building F to deter Franklin residents from using the open space between Parcel ID 15083045 and Parcel ID 15083044A. There will be a gate access with a lock for maintenance access only.

The buffer behind buildings A-C will have double the required plantings where the Townhouses are closer to the property boundary (the rear yards range in depth from 15' – 20' and the landscape buffer is 10 wide). Additional plantings have been added behind buildings H-I.

The Planning Board recommended a landscaped berm along Wilson's Mills Road and the developer has agreed. Staff recommends a fence or opaque landscaping with the berm to screen back yards along the highway.

Section 8.13.1 Multi-Family Dwellings requires a 40' spatial buffer (townhouses are considered multi-family in the UDO, although a single-family product). Recently approved developments have provided varying buffers from adjacent property (Floyd's Landing – 100', Whitley Townes – 25', Marin Woods – 15'). This may be considered a deviation from the UDO requirements.

#### Townhouse unit landscaping:

Center units will have 6 shrubs

Center end units will have 9 shrubs and a small upright evergreen tree

Road end units will have a mix of 13 plants consisting of shrubs, evergreen trees.

**Tree Preservation.** The developer has indicated that some existing perimeter trees will be preserved with the construction. A tree survey was provided, but it is unclear which trees will be preserved after development. The UDO provides for some credit for trees preserved.

**Utilities.** The development will be served by Town water and sewer. There exists Town gravity sanitary sewer and water mains in both Wilson's Mills Road and Sunrise Avenue. There is currently enough sewer capacity to serve this project, although the Town has about reached its capacity limits with all the developments currently proposed. The west side of Smithfield is within the Duke Energy service area.

**Stormwater Management.** The site is within the WS-IV-CA (Watershed Critical Area Overlay District) and is required to manage stormwater to a higher standard than elsewhere in the Town. The developer has shown a stormwater management facility in the northeast corner of the site.

**Trash and Recycling.** Individual townhouse lots are configured such that some lots have no access to their back yards except through the dwelling. This limits the ability to store trash and recycling in the rear yards. Storage of trash and recycling roll offs within a garage or rear yards should be made a condition of approval.

**Subdivision Signs.** A monument sign is proposed adjacent the main entry on Wilson's Mills Road in the common open space.

Homeowner's Association. An HOA will own and maintain the recreation and open space areas, stormwater facilities, trails and landscaping on townhouse front and side yards and HOA property.

Townhouses. The applicant is proposing 134 townhouse lots in a mix of 3-, 4-, 5- and 6-unit buildings.

**Minimum Lot Dimensions and Size.** The minimum lot size is 1,800 sq. ft. the minimum lot width is 20' and lot depth is 90'. The smallest lots are associated with buildings A-C. The remainder of the lots are larger with a typical depth of 100'. End lots have a width of 25'

**Setbacks.**

- Front – 30'. Setback from Wilsons Mills Road – 50'. This matches the R-8 setback requirement.
- Rear - 15'. Most of the lots meet the R-8 rear setback requirement of 25' except for the lots in buildings A-C and Y. Building Y has ample open space behind the rear yards, but buildings A-C have 15' rear yards up against the proposed 10' buffer. The townhouse walls alternate between 25' and 30' from the development boundary. The reduced rear setbacks on lots A-C and Y represent deviations from the UDO.
- Corner side – 15'.

**Building Separation.** Section 8.13.1.2 requires multi-family buildings to have a separation of 40'. The developer is showing a minimum separation of 20' similar to other recent approved townhouse projects. This represents a deviation from the UDO requirements.

**Building Heights.** The developer is proposing 3 story townhomes with a building height of 39'-6 1/4" which exceeds the maximum building height of the 35'. This represents a deviation from the UDO requirements.

**Townhouse Unit Sizes/Estimated Sales Price.** The developer has shown two townhome types:

- The Rose - 2,106 sq. ft. -\$275,000
- The Akamatsu. 1,792 sq. ft. - \$250,000

**Parking.**

- Each unit can park up to 3 cars per unit; one in the garage and two stacked in a driveway. With a 30' setback, there may be some encroachment into the public sidewalk with larger vehicles. The Planning Board recommended a reduced utility strip (from 5' to 3') to alleviate parking encroachments in the public right-of-way.
- The development provides 45 overflow/guest parking spaces between 3 parking lots. There are 18 spaces in the central park area, 18 spaces in the cul-de-sac lot and 9 in the dog park lot.
- Total parking = 3.33 parking spaces per unit. UDO requires 2 per unit. The parking exceeds the UDO standard.
- There is adequate overflow parking although it is not convenient for all units.

**Architectural Standards.** The developer has not provided proposed architectural standards in writing; however, the two identified townhome models come in a type A or B.

- The townhome facades show a mix of shakes, lap and board and batten siding. Covered entryways and some second story balconies. Windows show a mix of mullion types, some with shutters. Single-car garages have decorative doors with divided windows.
- The rear elevations of the townhomes have a small second story deck over the rear sliding doors and patio area.
- No details have been shown for end units.

The developer is seeking deviations from the UDO as part of the rezoning. The purpose of conditional zoning is to provide flexibility from conventional zoning and to allow creative projects to occur through a negotiated (give and take) approach to achieve the desired project that both the developer and town mutually can be satisfied with. The applicant is seeking the following deviations from the following UDO Requirements:

Item	R-8/UDO	R-8 CZ
Streets & right-of-way	34' wide b/b in 60' R/W with 5' utility strip	27' wide b/b in 50' R/W with 3' utility strip
Curb and gutter	B6-12 curbs	Valley curbs
Rear setback	25'	15'
Perimeter buffer	40'	10'

Building separation	40'	20'
Building height	35'	39'-6 ¼"

Proposed Improvements Exceeding UDO requirements:

- o Parking at 3.3 spaces per dwelling
- o 6' opaque perimeter fence
- o Enhanced landscaping behind units A-C and H-I
- o Open space/recreational amenities exceed UDO standards.
- o Architectural Standards
- o Landscaped berm (and fence or opaque landscaping) along Wilson's Mills Road.
- o Decorative streetlamps.

Mr. Wensman explained an adjacent property owner attended the Planning Board meeting to voice concerns about the townhomes being too close to the property line. The developer has proposed a very robust landscape plan that would screen the development from the adjacent properties.

Planning Staff recommends approval of CZ-21-11 with the following conditions:

1. That the future preliminary plat and development plans for the subdivision be in accordance with the approved Master Plan, R-8 Zoning District, and UDO regulations with the with the following deviations:

Item	R-8 CZ
Streets & right-of-way	27' wide back-to-back in 50' R/W with 3' utility strip
Curb and gutter	Valley curbs in front of units and within 10' of an end unit.
Rear setback	15'
Perimeter buffer	10'
Building separation	20'
Building height	39'-6 ¼"

2. That the parking lot entrances be constructed in accordance with the town's standard driveway detail.
3. That a tree preservation plan be provided that identifies the trees to be removed and preserved.
4. That the trash and recycling roll-off containers in the townhouse units be stored within a garage or within the rear yards.
5. That B6-12 curb and gutter be installed except in front of Townhouse units and within 10 feet of an end unit where a valley curb will be allowed.
6. That the landscape plan be amended to include a plant schedule indicating the type, number and size of proposed trees, mulch type and planting bed edges, and any required replacement trees.
7. That a landscaped berm with a privacy fence or opaque planting be installed along the Wilson's Mills Road frontage.
8. That structures encroaching on the development property be removed except for the church driveway.
9. That architectural standards be included in the HOA declarations.
10. That an HOA be responsible for the ownership and maintenance of all common amenities including landscaping, including front and side yard landscaping, the stormwater SCM, parking lots, recreational amenities, and open space.
11. That a prohibition of street parking be incorporated into the HOA declarations.
12. That the 5' sidewalk within the development be installed 3' off the back of the curb with the remaining 2' feet of grass strip to be adjacent to the public right-of-way line.

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the December 7, 2021, agenda packet.

Mayor Moore asked if there were any questions from Council.

Councilman Barbour questioned the type of buffer. Mr. Wensman responded the developer was proposing a 10' wide Type A landscaped buffer with a 6' opaque perimeter fence adjacent to existing residential properties. The buffer behind buildings A-C will have double the required plantings where the Townhouses are closer to the property boundary (the rear yards range in depth from 15' – 20' and the landscape buffer is 10 wide). Additional plantings have been added behind buildings H-I. The Planning Board recommended a landscaped berm along Wilson's Mills Road and the developer has agreed. Staff recommends a fence or opaque landscaping with the berm to screen back yards along the highway.

Town Attorney Bob Spence expressed some concerns about the structures that were encroaching on the property and the proposed removal of the garage and fence. Mr. Wensman responded the alternative would be to process a lot line adjustment and give that land to the person that is encroaching on this property. The reason for condition 8 is so that it does not become an issue in the future.

Mayor Moore asked the Town Attorney about his suggestion to remove condition 8. Mayor Moore suggested that instead of requiring the developer to remove the structures, the Council could choose to require the developer and the property owner to come to some type of encroachment agreement. Mr. Spence responded to add to condition 8: *That structures encroaching on the development property be removed except for the church driveway unless the developer and the property owner of the encroaching structures enter into a satisfactory encroachment agreement.*

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

Alice Bryan of 101 Poplar Drive asked if a traffic light could be installed at the intersection of Wilson's Mills Road and Sunrise Street. Mr. Wensman responded that since that was an NCDOT road, the Town had no control of that road.

Rob Bailey with R & R Development explained that he was the developer on this project. Mr. Bailey explained one of the things that we have done to consider your concern is on Wilson's Mills Road, our secondary access, we chose to use the one that's the furthest towards Wilson's Mills Road, instead of having the one that was further back, we felt that that would have fewer people coming out of the community would use that to go turn back and go across to Sunrise. There would be fewer of our residents cutting in and impacting quality of life for the residents of Sunrise. Since traffic on Wilson's Mills Road was a major concern, the developer has worked with NCDOT and there will be turn lanes into the development. Mr. Bailey explained they were proposing to install a serpentine berm instead of having one that was just straight with a fence on top. Evergreens will be installed in a staggered pattern on either side of the berm.

Councilman Barbour expressed his concerns backyards being exposed to the roadways.

Mr. Bailey explained he spoke with the adjacent property owner, Mr. & Mrs. Britt because their property does not have any existing vegetation. He heard and understood their concerns about residents of the townhomes being able to see into Mr. & Mrs. Britt's backyard. Mr. Bailey explained that to mitigate their concerns and impact, taller evergreens would be installed to screen their property from the development. Mr. & Mrs. Britt were happy with those accommodations.

Tony Tate landscape architect and land planner with TMTLA Associates in Durham provided a PowerPoint presentation to the Council outlining the design of the development. He provided the following:

- Franklin is a 15.9 acre for sale townhome neighborhood providing an alternate housing option positioned in transition from Durwood Stephenson Parkway and the existing residential neighborhood and the Smithfield First Pentecostal Church.
- Franklin provides the homeowners 5.41 acres of active open space consisting of walking trails around both the stormwater pond and the central gathering space, a playground, children's activity field, pergola with patio and fire pit, and a dog park with dog washing station. The wide range of activities is intended on providing activities for children and adults.
- Franklin maintains existing vegetation along the property perimeter, especially the large mature oaks along Stephenson Parkway
- Provides enhanced streetscapes with canopy and ornamental trees.
- Provides enhanced landscaping along the boundary line between the residents on Sunrise Avenue and Hillcrest Drive.
- Provides a 6 foot tall privacy fence screening along the boundary with adjacent single family homes on Sunrise Avenue and Hillcrest Drive.
- Guest parking is off the street and dispersed throughout the neighborhood. Each home will have 3 parking spaces.

Mr. Tate further explained they were proposing a five-foot-tall earthen berm with trees on top, but there would also be midge range plants too in a staggered off-set pattern. The evergreens on the top would be 6' to 8' tall at the time of planting. This would provide a nice look from Wilson's Mills Road.

Councilman Barbour questioned if there would be any landscaping along Durwood Stephenson Parkway. Mr. Tate explained there were large oak trees on the corner and all those trees would be preserved. Other vegetation would be installed between the oak trees and the stormwater pond.

Mayor Moore questioned the type of fencing that would be installed on the side of the development adjacent to Hillcrest Drive. Mr. Tate responded it would be a six-foot tall wood or PVC privacy fence.

Mayor Moore asked for an example of the types of plantings that would be installed adjacent to the properties of Hillcrest Drive and Sunrise Avenue. Mr. Tate responded that they would install 5' to 6' tall Nelly Stevens Hollies and to add an additional layer, 8' tall Green Giant Arborvitae could be planted since they grow much taller than the Nelly Stevens.

Mayor Moore asked that the size of the plants be stipulated in the conditions.

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

Councilman Barbour made a motion, seconded by Councilman Stevens, to approve zoning map amendment CZ-21-11, with 13 conditions, finding the rezoning 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. Unanimously approved.

Conditions:

1. That the future preliminary plat and development plans for the subdivision be in accordance with the approved Master Plan, R-8 Zoning District, and UDO regulations with the with the following deviations:

Item	R-8 CZ
Streets & right-of-way	27' wide back-to-back in 50' R/W with 3' utility strip
Curb and gutter	Valley curbs in front of units and within 10' of an end unit.
Rear setback	15'
Perimeter buffer	10'
Building separation	20'
Building height	39'-6 ¼"

2. That the parking lot entrances be constructed in accordance with the town's standard driveway detail.
3. That a tree preservation plan be provided that identifies the trees to be removed and preserved.
4. That the trash and recycling roll-off containers in the townhouse units be stored within a garage or within the rear yards.
5. That B6-12 curb and gutter be installed except in front of Townhouse units and within 10 feet of an end unit where a valley curb will be allowed.
6. That the landscape plan be amended to include a plant schedule indicating the type, number and size of proposed trees, mulch type and planting bed edges, and any required replacement trees.
7. That a landscaped berm with a privacy fence or opaque planting be installed along the Wilson's Mills Road frontage.
8. Those structures encroaching on the development property be removed or and encroachment agreement be put in place or a lot line adjustment be made to accommodate them. The church driveway would remain unchanged.
9. That architectural standards be included in the HOA declarations.
10. That an HOA be responsible for the ownership and maintenance of all common amenities including landscaping, including front and side yard landscaping, the stormwater SCM, parking lots, recreational amenities, and open space.
11. That a prohibition of street parking be incorporated into the HOA declarations.
12. That the 5' sidewalk within the development be installed 3' off the back of the curb with the remaining 2' feet of grass strip to be adjacent to the public right-of-way line.
13. Plantings along Hillcrest Drive be at least 6' tall at the time of installation.

5. **Zoning Text Amendment – Town of Smithfield (ZA-21-07):** The applicant was proposing an amendment to Article 3 of the Unified Development Ordinance that will revise ethical standards for greater consistency with (G.S. 14-234 (a) (4) and (G.S. 160D-109)

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

Planning Director Stephen Wensman explained the Town Council adopted amendments to the Unified Development Ordinance (UDO) to comply with NCGS 160D. These amendments included an amendment to Section 3.2 Ethics which was more restrictive than State statutes. This draft amendment more closely aligns Section 3.2 with N.C.G.S. 14-234 and N.C.G.S. 160D-109.

Mr. Wensman further explained the UDO amendment to Section 3.2 Ethics updated the ethics requirements for appointed boards to follow NCGS 160D legislation, however the adopted Town ordinance did not consider exceptions found in the statutes which as a result effectively prohibits any Town Council appointed board member from having a contract with the Town of Smithfield whether the appointed board member had any influence over the contract or not. Currently, one or more of the Town's appointed board members are in violation of the Town's ethics regulations, making them ineligible for reappointed. The proposed amendment to Section 3.2 remedies this by making the Town's ordinance better aligned with State statutes.

A revised ordinance (different from that provided in the agenda) was provided to the Council for consideration based on further recommendation from Town Attorney Bob Spence.

Planning Staff and the Planning Board recommend Staff and the Planning Board recommend the Town Council approve UDO amendment, ZA-21-07, with a statement finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest.

Mayor Moore asked the Town Attorney to summarize the changes from the ordinance submitted in the agenda packet and the one being considered by the Council at the meeting. Town Attorney Bob Spence responded that after further review, he used language that directly quoted the statute. The other language was a summary in nature. Mr. Spence explained he directly quoted the principle provisions of the statutes.

Planning Director Stephen Wensman has incorporated his entire record and provided it to the Council in written form in the December 7, 2021, agenda packet.

Mayor Moore asked if there were any questions from Council.

Councilman Scott questioned if there were any appointed members that would be affected by this change. Town Attorney Bob Spence responded there would be members that would not be in violation under the new provision that would have been under the old ordinance.

Mayor Moore asked if there was anyone in attendance who wished to speak on the matter. There was no one in attendance that wished to speak on the matter.

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

Councilman Stevens made a motion, seconded by Councilman Barbour, to approve zoning text amendment, ZA-21-07, finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest. Unanimously approved.

**DRAFT ORDINANCE # ZA-21-07  
AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD  
UNIFIED DEVELOPMENT ORDINANCE  
ARTICLE 3, SECTION 3.2 ETHICS**

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 permit short-term rentals in certain zoning districts with supplemental standards.

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

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

**PART 1**

[Revise Article 3, Section 3.2 Ethics]

**SECTION 3.2 ETHICS.**

**3.2.1. *Ethics.***

**3.2.1.1 Prohibitions.** No appointed board member of the Town shall violate the provisions of GS 14-234 which are summarized below for convenience but the statute, as amended from time to time, should be reviewed for full context.

**3.2.1.1.1 Direct Benefit.** No board member of the Town who are involved in making or administering a contract on behalf of the town may derive a direct benefit from the contract except as provided in GS 14-234 or as otherwise allowed by law. A board member of the Town has a direct benefit from the contract if he or she or his or her spouse has more than a 10 percent ownership or other interest in an entity that is a party to the contract, derives any income or commission directly from the contract, or acquires property under the contract as set forth in GS 14-234 (a) (1) & (4).

**3.2.1.1.2 Improper Influence.** A board member of the Town who will derive a direct benefit from a contract with the town, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

**3.2.1.1.3 Improper Consideration.** No board member of the Town may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the town.

~~**3.2.1.1 Prohibitions.** As prohibited GS 14-234, the prohibitions of which are too numerous to duplicate herein, but are incorporated herein, no public officer or employee may:-~~

~~**3.2.1.1.1 Derive A Direct Benefit.** Appointed board members shall not derive a direct benefit from a contract with the town. One has a direct benefit fit from the contract if he or she or his or her spouse has more than a 10 percent ownership or other interest in an entity that is a party to the contract, derives any income or commission directly from the contract, or acquires property under the contract (G.S. 14-234 (a1) (4))~~

**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.

**CITIZEN’S COMMENTS:**

- Emma Gemmel of Hancock Street acknowledged how much she has enjoyed the new holiday lights and decoration in the Town Hall Park.

**CONSENT AGENDA:**

Councilman Barbour made a motion, seconded by Councilman Stevens, to approve the following items as listed on the Consent Agenda:

1. The following minutes were approved:
  - November 9, 2021 – Regular Meeting
  - November 9, 2021 – Closed Session
2. Approval was granted to promote a Police Officer II to the rank of Master Police Officer.
3. Approval was granted to allocated the Town’s portion of \$22,929.20 to the Public Library of Johnston County and Smithfield for the installation of a new HVAC system.
4. The following advisory board appointments were approved:
  - Carmen Zepp was appointed to serve a first term on the Appearance Commission.
  - Mark Lane was reappointed to serve a fifth term on the Board of Adjustment and the Planning Board representing the Extraterritorial Jurisdiction.
5. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Athletic Programs Supervisor	P&R – Recreation	10-60-6200-5100-0200	\$19.80/hr. (\$41,184.00/yr.)
IT Support Specialist	General Government	10-10-4100-5100-0200	\$19.80/hr. (\$41,184.00/yr.)
	PU – Water/Sewer (1/3)	30-71-7220-5100-0200	
	PU – Electric (1/3)	31-72-7230-5100-0200	
P/T Pool Staff	P&R-Aquatics	10-60-6220-5100-0220	\$8.00/hr.
P/T Pool Staff	P&R-Aquatics	10-60-6220-5100-0220	\$10.00/hr.



P/T Aquatics Instructor	P&R-Aquatics	10-60-6220-5100-0230	\$12.00/hr.
Sanitation Equipment Operator	PW – Sanitation	10-40-5800-5100-0200	\$15.48/hr. (\$32,198.40/yr.)
Utility Line Mechanic	PU – Water/Sewer	30-71-7220-5100-0200	\$15.48/hr. (\$32,198.40/yr.)

## Current Vacancies

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Electric Line Technician	PU – Electric	31-72-7230-5100-0200
Fire Marshal	Fire	10-60-6220-5100-0200
Police Officer I – Patrol (6 positions)	Police	10-20-5100-5100-0200
Police Officer – Administration	Police	10-20-5100-5100-0200
P/T Collections Assistant	PU – Electric/CS	31-72-7230-5100-0200
P/T Firefighter I/Responders (Up to 5 positions)	Fire	10-20-5300-5100-0200
Payroll/Accounting Technician II	Finance	10-10-4200-5100-0200
	PU – Water/Sewer (1/3)	30-71-7220-5100-0200
	PU – Electric (1/3)	31-72-7230-5100-0200
Pump Station Mechanic	PU – Water Sewer	30-71-7220-5100-0200
Sanitation Equipment Operator	PW - Sanitation	10-40-5800-5100-0200
Sanitation Worker	PW - Sanitation	10-40-5800-5100-0200
Water Plant Operator	PU – Water Plant	30-71-7200-5100-0200

**Business Items:****1. Annexation Request – Twin Creeks Phase 1A (ANX 21-02):**

Planning Director Stephen Wensman explained this was the second step in the annexation process. The first step was ordering the Clerk to investigate the sufficiency of the petition which she has completed. The request before the Council was to adopt Resolution No. 690 (18-2021) setting the date for the Public Hearing to be held at the January 4, 2022, regular Town Council meeting.

Councilman Barbour made a motion, seconded by Councilman Rabil, to adopt Resolution No. 690 (18-2021) setting the date of the public hearing on January 4, 2022, to consider the request of non-contiguous annexation. Unanimously approved.

**TOWN OF SMITHFIELD  
RESOLUTION No. 690 (18-2021)  
FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION  
PURSUANT TO G.S. 160A-58.2**

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the Town Council has by Resolution No. 689 (17-2021) directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SMITHFIELD THAT:

Section 1: A public hearing on the question of annexation of the non-contiguous area described herein will be held in the Council Chambers of the Town Hall located at 350 East Market Street, Smithfield North Carolina at 7:00 pm on January 4, 2022.

Section 2: The area proposed for annexation is described as follows:

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

Being that certain Parcel in Smithfield Township, Johnston County, North Carolina and lying to the south of Black Creek Road / S.R. 1162, to the west of property owned by Derek E. Thompson (Deed Book 4881, Page 505), and being more particularly described as follows:

BEGINNING at an existing P. K. Nail (control corner) in the center of Black Creek Road / S.R. 1162 (a 60' Public Right of Way), thence leaving the above mentioned road in a southerly direction South 11 ° 29' 47" East 214.95 to a large poplar; thence South 40° 28' 08" West 167.89 feet to a point; thence North 66° 43' 24" West 242.34 feet to a point; thence North 25° 19' 35" West 86.25 feet to an existing railroad spike in the center of Black Creek Road/ S.R. 1162 (a 60' Public Right of Way); thence along the center of the above mentioned road the following two (2) calls, North 63 ° 51' 59" East 265.01 feet to an existing P. K. Nail; thence North 61 ° 21' 38" East 99.95 feet to the POINT OF BEGINNING and containing 1.61 total acres more or less.

See Map Book 66, Page 114, Johnston County Registry from which this legal description was

taken.

Section 3: Notice of the public hearing shall be published once in the Johnstonian News, a newspaper having general circulation in the Town of Smithfield, at least ten (10) days prior to the date of the public hearing.

**2. Consideration and request for approval to adopt a Cash Management Policy and an Investment Policy. The request also includes adoption of Resolution No. 691 (19-2021)**

Finance Director Greg Siler addressed the Council on a request to adopt a cash management policy and an investment policy. He explained the policies are a written account of what the Town is already practicing. The policies will be a guide for future Finance Directors, but they also satisfy requirements of the Federal Government. In July, the Town received funding from the American Rescue Plan Act and with receipt of those funds, there were a lot of stipulations. Mr. Siler stated he wanted to be prepared in the event the Town was audited. He further stated that other Town policies would need to be updated or created to align with the federal government's requirements for accepting federal funding.

Councilman Barbour made a motion, seconded by Councilman Rabil, to adopt the Cash Management and Investment policies. Unanimously approved.

Councilman Barbour made a motion, seconded by Councilman Rabil, to adopt Resolution No.691 (19-2021) Unanimously approved.

**TOWN OF SMITHFIELD  
RESOLUTION NO. 691 (19-2021)  
GOVERNING MANAGEMENT OF INVESTMENTS**

BE IT RESOLVED by the Smithfield Town Council in regular meeting assembled that:

I

Pursuant to law, G.S. 159-30, the finance director is hereby designated to manage deposits and investments on behalf of the Town of Smithfield, subject to the control and direction of the town manager or, in his/her absence, the designee and the restrictions herein imposed or as may be hereafter imposed by official action of the Council.

II

The finance director shall have the right and power to purchase, sell and exchange securities approved as eligible securities for investment on behalf of this unit's governing board subject to the approval of the town manager or, in his/her absence, the designee. The securities approved for investment, shall be deemed exclusive to all other securities notwithstanding that other securities may by statute be eligible for investment. Funds of this unit may be deposited at interest or invested in the following securities/investment vehicles:

- (a) Obligations of the United States or obligations fully guaranteed as to principal and interest by the United States;
- (b) Obligations of the State of North Carolina;
- (c) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the secretary of the N.C. Local Government Commission may impose;
- (d) Deposits at interest or saving certificates of deposit with any bank, savings and loan association or trust company in North Carolina, provided such deposits or certificates of deposit are fully collateralized;
- (e) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest (A1, P1, F1) by any nationally recognized rating service that rates the particular obligation;
- (f) Banker's acceptances provided the accepting bank or its holding company is (1) incorporated in the State of North Carolina or (2) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest (Aaa or AAA) by any nationally recognized rating service that rates the particular obligations; and
- (g) Participating shares in a mutual fund for local government investment (such as the N.C. Capital Management Trust) that is certified by the N.C. Local Government Commission.

III

The finance director shall require that all trades where applicable will be executed by delivery vs. payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds.

IV

The finance director shall whenever practicable seek competitive bids in all securities transactions to the end that the purchases and sales are made at the best available price at the time of the transaction.

V

The finance director shall provide semi-annually a summary report to the town manager of the current investment portfolio and transactions made during the last six months. The report shall include a listing of individual securities held at the end of the reporting period, maturity dates, and the percentage of the total portfolio which each type of investment represents. The summary will disclose whether investment activities during the reporting period have conformed to the investment policy.

### 3. Consideration and request for approval to adopt the 2022 Town Council Regular Meeting Schedule

Town Manager Michael Scott addressed the Council on request to adopt the 2022 Town Council regular meeting schedule.

Mayor Moore stated the staff was requesting Council to specifically review the July meeting date and determine if that should be changed from July 5<sup>th</sup> to July 12<sup>th</sup> because of the Fourth of July holiday. Mayor Moore informed the Council that Mayor Pro-Tem Dunn would like for the July date to be moved to July 12<sup>th</sup>.

Mayor Moore reminded the Council there had been some discussion about having some planning type meetings. He stated the Council could determine those dates now or in the future.

Councilman Scott questioned if the regular meetings could be held earlier than 7:00 pm possibly 6:00 pm or 6:30 pm. Councilman Scott stated having work session meetings could reduce the length of the regular meetings.

Councilman Scott made a motion, seconded by Council Stevens, to adopt the 2022 regular Town Council meeting scheduled. Unanimously approved.

Approved meeting dates are as follows:

#### 2022 Town Council Meeting Schedule

January 4<sup>th</sup>  
 February 1<sup>st</sup>  
 March 1<sup>st</sup>  
 April 5<sup>th</sup>  
 May 3<sup>rd</sup>  
 June 7<sup>th</sup>  
 July 12<sup>th</sup>  
 August 2<sup>nd</sup>  
 September 6<sup>th</sup>  
 October 4<sup>th</sup>  
 November 1<sup>st</sup>  
 December 6<sup>th</sup>

### 4. Consideration and request for approval for drainage repairs at 5 Sherwood Court

Public Works Director Lawrence Davis addressed the Council on a request for drainage repairs at 5 Sherwood Court. Mr. Davis explained that Crawler Pipe Services be contracted to repair the drainage pipe at 5 Sherwood Court.

Mayor Moore questioned why the pipe needed repair. Mr. Davis responded there were seven points of erosion in that area. The pipe is 139' and what staff is attempting to do is avoid the removal of the driveway and the fencing by piping the storm drain instead of excavating and replacing the pipe.

Councilman Barbour questioned if the Town was obligated to repair the pipe. Mr. Davis responded it was the responsibility of the Town to fix the pipe.

Councilman Stevens made a motion, seconded by Councilman Rabil, to award the bid to Crawler Pipe Services for drainage repairs at 5 Sherwood Court and move forward with the repairs. Unanimously approved.

#### Councilmembers Comments:

- Councilman Barbour reminded everyone that on January 20<sup>th</sup> there will be a Pedestrian Plan Public Meeting. He explained there was a need to connect certain parts of the Town to other parts of the Town. This was an opportunity for citizens to have input on this plan.

- Councilman Stevens expressed his appreciation to Town staff for their hard work. He stated the financial position of the Town had greatly improved over the past 10 years due in part to the work of staff.
- Mayor Moore expressed his appreciation to Town Staff and to Sarah Edwards for a successful tree lighting event. He reminded everyone of the upcoming Christmas parade.

### Town Manager's Report:

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

- **Squad Concept Update:**  
Fire Chief Mike Brown provided an update on the squad concept to the Council. The squad concept was put in place in July and while it was effective a good portion of the time, he felt improvements could be made. He requested Council allow him more time to assess the program because it was too early to provide accurate performance standards. Chief Brown stated it was his understanding that the squad concept was put in place to reduce the mileage and wear and tear on the large Fire apparatus. He informed the Council that from July 1<sup>st</sup> until October 31<sup>st</sup>, the department responded to 569 medical calls. Of those calls, the squad responded to 196. He explained there were times when medical calls were overlapping, meaning there were at least two calls at the same time. The squad only runs from 6 am until 6 pm, but medical calls do happen when the squad is not on shift. 72.7% of the medical calls are run out of Station 1 and 27.3% run out of Station 2. Station 2 does not have a squad based at that location.

Councilman Barbour questioned how many calls Johnston County EMS stationed in Smithfield responds to in comparison to the number of medical calls Smithfield Fire Department responds to. Chief Brown responded that he did not have access to that information, but he would contact the Johnston County EMS Director to try and obtain that information.

Mayor Moore questioned if since implementation of the squad concept, the goal was to reduce the number of calls the large apparatus responded to, but at this time, there has not been enough evidence to confirm the reduction in large apparatus responding to medical calls. Chief Brown responded he did not have enough data to confirm it.

Councilman Scott stated the county recently completed a fire study which might bring some changes. The results of that study may have a huge impact on how this program is set up.

- **Christmas Parade:** The annual Parade is on this Thursday, December 9th at 7:00 pm on Market Street.
- **Santa's Sleigh:** Santa will be visiting the neighborhoods throughout Smithfield with the assistance of the fire department on December 11th from 1:00 to 5:00.
- **Water Line:** The Durwood Stephenson water line extension continues construction. The drilling is complete to Wilson's Mills Road. The dry weather has helped to accelerate the project.
- **Leaf Pick-up:** The Sanitation Department is managing a large influx of leaves due to the fall season. Unfortunately, one leaf truck is not operating properly and is being repaired. It is likely leaves may be picked up one day late until the department catches up. We ask our citizens to be patient. This will not impact regular sanitation or construction debris/large yard waste pick-up schedules.
- **State Grants:** The Town has received information from the State on how to access and appropriate the \$3 million in grant funds for water and sewer infrastructure. Staff is already preparing for these construction projects. We await state contact regarding the remaining grants. A zoom meeting is scheduled with CSX later this week to discuss the storm drainage upgrade in the 1500-1600 block of South 301.

### Adjourn

Being no further business, Councilman Scott made a motion, seconded by Councilman Stevens to adjourn the meeting. Unanimously approved. The meeting adjourned at approximately 9:31pm.

ATTEST:

  
Shannah L. Parrish, Town Clerk



  
M. Andy Moore, Mayor