

ITEM #: PH3

Ordinance



City Council
City of Wilmington
North Carolina

CERTIFIED TO BE A TRUE COPY.
CITY CLERK
Paula Spina Sidbury

Introduced By: Anthony N. Caudle, City Manager

Date: February 4, 2025

Ordinance Granting a Special Use Permit for a Private Recreation Facility Located at 4950 Holly Tree Road & 340 Westchester Road (SU-1-125)

The City Council for the City of Wilmington held a quasi-judicial hearing on February 4, 2025, to consider the following application:

Application Number:	SU-1-125
Applicant:	Mike Harms
Owner:	Holly Tree Racquet Club, Inc. / James R. Lee PO Box 3722, Wilmington, NC 28406
Location:	4950 Holly Tree Road & 340 Westchester Road
Tax Map:	R06119-004-015-000 & R06119-004-013-000
Proposed Use:	Private Recreation Facility
Zoning District:	R-15, Moderate-density Single-dwelling Residential District
Meeting Dates:	City Council 1/21/2025 & 2/4/2025

The City Council, having heard all evidence and arguments presented at the quasi-judicial hearing, makes the following findings of fact:

1. The site includes approximately 7.56 acres of land (approximately 329,313 sq. ft.) that is currently zoned R-15, Moderate-density single-dwelling district and contains an existing private recreation facility, Holly Tree Racquet Club, that was constructed circa 1994.
2. Private recreation facilities are defined in the City's Land Development Code as a facility that is restricted to use by members and their invited guests, including country, golf, and tennis clubs. This also includes athletic fields and stadiums not classified as public parks.
3. Private recreation facilities require a Special Use Permit for operation in the R-15 zoning district. The use is currently considered a legal nonconformity.
4. An application for a conditional rezoning was submitted to City staff on July 22, 2024. The applicant requested a conditional rezoning to RB(CD), Regional Business (Conditional District) for an expansion to the private recreation facility. This submittal included the construction of golf driving range.

5. The applicant modified their conditional rezoning request to the O&I(CD), Office & Institutional (Conditional District). The item was continued at the September 4, 2024, and October 2, 2024, Planning Commission hearings. The item was withdrawn by the applicant prior to the November 13, 2024, Planning Commission hearing. No action was taken by the Planning Commission.
6. The applicant proposes a modification and expansion of an existing private recreation facility.
7. The site currently contains the existing Holly Tree Racquet Club, which consists of 10 tennis courts, a swimming pool, and clubhouse building.
8. The proposal includes utilizing two of the existing tennis courts, converting the remaining tennis courts into 10 outdoor pickleball courts, formalizing and expanding the existing parking area, renovating a 5,776 square foot clubhouse, and adding a 33,375 square-foot indoor pickleball facility.
9. Compliance with all site plan requirements shall be enforced as part of the final review and approval by the TRC.
10. Access to the site would be from two driveways located along Wallington Road.

Based upon the foregoing FINDINGS OF FACT, the City Council draws the following conclusions, as required by Section 18-589 D(2)(a) of the City of Wilmington Land Development Code:

- a. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the special use permit; and,
- b. The use meets all required conditions and specifications; and,
- c. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
- d. 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 and in general conformity with adopted comprehensive plans, the CAMA plan, and adopted special area plans.

Therefore, because the City Council concludes that all general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have been satisfied, IT IS ORDERED that the application for the issuance of a SPECIAL USE PERMIT be GRANTED, subject to the following conditions:

1. The applicant shall fully comply with all of the specific requirements stated in the Land Development Code for the proposed use, as well as any additional conditions stated below.

2. If any section, subsection, paragraph, sentence, clause, phrase, or portion of this permit is for any reason held invalid or unconstitutional by any court of competent jurisdiction, this special use permit shall be null and void and of no effect.
3. The use and development of the subject property shall be in substantial compliance with the site plan and renderings, as submitted and accepted by City Council on February 4, 2025.
4. The use and development of the subject property shall comply with all other supplemental regulations and requirements imposed by the Land Development Code or any other applicable federal, state, or local law, ordinance, or regulation. In the event of a conflict, the more stringent requirement or higher standard shall apply.
5. The permit shall be limited to two existing tennis courts, 10 outdoor pickleball courts, a renovated 5,776 square feet clubhouse, and a 33,375 square-foot indoor pickleball facility.
6. Approval of this special use permit does not constitute technical approval of the site plan. All Technical Review Committee comments shall be followed prior to issuance of a construction release or final zoning approval.
7. All conditions of Sec. 18-165 of the LDC shall be met prior to issuance of construction release, and shall maintain compliance at all times the property is operated pursuant to this permit.
8. All City, State, and Federal regulations shall be met.
9. Hours of operation for the outdoor pickleball courts and related lights shall be limited to 9:00 a.m. until 9:00 p.m., Monday through Friday, and 8:30 a.m. until 9:00 p.m. on Saturday and Sunday. Operation of the indoor facilities may begin at any time, but shall be limited to a closing time of 10 p.m., seven days a week.
10. Outdoor pickleball courts shall be bordered by sound proofing materials with a covered awning.
11. Outdoor pickleball courts shall be limited to the use of sound-reducing paddles, and no tournament play shall be allowed on outdoor pickleball courts at any time.
12. Club membership shall be limited to no more than 800 members.
13. The internal walkway that will be connected to Kirby Smith Drive as part of the project shall remain as an open access walkway with no physical barriers between Kirby Smith Drive and the walkway.

Adopted at a regular meeting

On February 4, 2025



Bill Saffo, Mayor

Approved As To Form:

Attest:

Penelope Spicer Sidbury
Penelope Spicer-Sidbury, City Clerk

Meredith T. Everhart
City Attorney

