

**Smithfield Planning Board  
Minutes  
Thursday, November 2, 2006  
7:00 P.M., Town Hall, Council Room**

**Members Present:**

Max Gardner  
Joe Patterson  
Eddie Foy  
Suzanne Carter  
Ed Self  
Leo Fetzer  
Mike Gibbons

**Members Absent:**

Chris Howell

**Staff Present:**

Paul Embler  
Mark Helmer  
Latanya Merritt

Chairman Gardner opened the public meeting and was followed by the Pledge of Allegiance and Invocation led by Chairman Gardner.

APPROVAL OF MINUTES FROM OCTOBER 5, 2006.

Mr. Self made motion that was seconded by Mr. Patterson to approve the minutes as written. The vote was unanimous.

Mr. Self made motion that was seconded by Mr. Patterson to move case SUP-06-17 and case SUP-06-18 before case RZ-06-06.

Mr. Helmer stated the applicant for case SUP 06-16 Rebecca Garcia has requested that the Board table her request until further notice.

All persons wishing to speak were duly sworn.

Chairman Gardner welcomed Mr. Harold Mitchell a new member to the Board.

Mr. Mitchell stated that he has lived in Smithfield since early 1990. He is the Pastor of Word of Faith Ministries in Four Oaks, NC and works for the Sheriff Department where he is currently employed at Smithfield Selma Senior High School as their Resource Officer. He stated that he is honored to serve on the Board.

**RZ-06-05 Richard Braswell:** The applicant is requesting to rezone a 75.63-acre tract of land from R-20A (Residential) to R-10 (Residential). The property is located on Buffalo Road, approximately 550 feet north of its intersection with Hospital Road. The property is further identified as NCPIN# 169112-95-4286.

Mr. Helmer stated that the Planning Board is requested to review the petition and recommend action to the Town Council for the approval of a zoning reclassification request.

Chairman Gardner stated that he had gone by and looked at the land and asked if the land was considered wetland?

Mr. Helmer stated that is correct. The wetland abuts the Buffalo Creek and also the Buffalo Creek Greenway. Developing in the flood plan is permitted providing that all structures are elevated 2-feet above base flood elevation. The Army Corp of Engineers permits wetlands.

Chairman Gardner opened the public hearing.

Mr. Richard Braswell a resident of 3950 US Hwy 70-A Princeton, NC, being duly sworn stated that there would be only 32½ acres developed. The owner has expressed an interest in donating the remainder portion of the property to the Town of Smithfield to never be developed. Since submission of application we have surveyed the land and established the 100 flood points.

Mr. Braswell stated that this tract is in proximity to the schools, the hospital, and the Community Park. We have shown on the drawing three pedestrian trails that will be paved and provide access to the greenway project. He stated that he would like to see the land zoned R-10 so whatever the use, it would fit the thoroughfare plan.

Mr. Patterson asked about Hospital Road having an underpass.

Mr. Braswell stated that the state of North Carolina installed a box culvert under Buffalo Road. It will be between this property and Hospital Road and tie into the New Greenway Project.

Mr. Helmer stated that this rezoning case is not a special use zoning district and it does not require a site plan. It is important for the Board to consider all potential uses for the R-10 zoning district, which includes single-family dwelling, family, care homes, schools, college, universities, nursery schools, and daycare establishments.

Mr. Mitchell asked how many homes would be developed in the area.

Mr. Helmer stated that we are not talking about homes being developed on the property.

Mr. Braswell stated that the 32½ acres is usable land that is out of the 100-year flood plan. He stated that the uses for R-10 would make it more stringent for development verses the uses for R-20. What we want is a nice community of single-family homes with 2200 square footage.

Mr. Patterson asked if the road going in would be in the flood plan?

Mr. Braswell stated no. The roads will be significantly higher than the flood plan.

Mr. Foy asked if the only road going into the development would be from Buffalo Road?

Mr. Braswell stated yes.

Mr. Helmer stated that if the applicant does choose to have a single family dwelling subdivision that plan would require a Planning Board review, which the Board would have to approve.

Chairman Gardner asked if a connection could be made back into Bradford Park.

Mr. Braswell stated that he could, as long as he had cooperation from other property owners. We want to establish is a master plan. In hopes that adjacent property owners who have undeveloped land would lend itself to the development, once this property is developed. Mr. Braswell thanked the Board for their time.

Mr. Jimmy Hooks a resident of 203 Parkway Drive in Bradford Park, being duly sworn stated that he was not against development. However, he is concerned about the flooding situation and the traffic control. What is the impact on the flood plan? What is the impact of the drainage that this development will have?

Mr. Helmer stated that we are considering the rezoning of this property, which ultimately dictates the density that could be built here. There is no specific site plan at this time and the questions that Mr. Hooks have will be answer once the property is rezoned. These are all site-specific questions that will be answered when the applicant submits a subdivision plan for the Boards review at that time.

Mr. Patterson asked what objection did he have against the Greenway being next to your lot?

Mr. Hooks stated that he is against the Greenway because physically, it is going to run right next to my property line. If I'm sitting on my patio and people are walking by my lot, I don't particularly care for that. Also, there are some homeless camps in the woods and it is an opened door for people to come on my property.

Being no further comments, Chairman Gardner closed the public hearing.

Mr. Patterson made motioned that was seconded by Mr. Mitchell to approve the rezoning of the tract of land from R-20A Residential to R-10 Residential. The vote was unanimous.

The case will go before Town Council on Tuesday December 5, 2006.

**SUP-06-17 Interstate Outdoor:** The applicant is requesting a special use permit to construct and operate an off-site advertising billboard on property within a B-3 (Business) zoning district. The property is located on the east side of the intersection of Holding Street and South Bright Leaf Boulevard and further identified as NCPIN# 169309-15-8239.

Mr. Helmer stated that the Planning Board is requested to review the petition and make a recommendation to Town Council based on the finding of fact for a special use permit to construct and operate an off-site advertising billboard.

Mr. Patterson asked if the sign is keeping with the neighborhood?

Mr. Helmer stated that in researching this project all conditions have been found to be true. We have recently completed a survey of billboards and there are no signs within 2,000 feet. The drawing that the applicant provided does meet the requirements of this ordinance and they are not proposing stacking.

Mr. Gibbons stated that he lives in the area where the proposed billboard will be located. That part is acceptable, but what you have to be careful of is the affects increased level of signage can have on a town.

Mr. Patterson stated according to the plot plan the sign is hanging over a building, is this permissible?

Mr. Helmer stated that the planning staff had concerns about that and would like to see the sign stay clear of the existing building. The Board could make conditions that the sign be set back far enough not to hang over the building.

Mr. Self stated that signs of 2,000-feet are huge sign. He stated that signs of this magnitude should not be located in town, but should be placed in areas outside of town.

Mr. Helmer stated that maybe in the future we might need to look at these types of ordinances in more detail, but currently as the ordinance reads, the application is valid.

Chairman Gardner asked what does the UDO say about signs of this magnitude?

Mr. Helmer stated that they we cannot exclude them from our zoning jurisdiction. However, we can pick and choose what zoning districts we would like to see them in. Our current ordinance allows billboards in B-3 districts, Industrial districts, and along the I-95 overlay.

Chairman Gardner opened the public hearing.

Mr. Warren Stancil a resident of 434 E. Rose Street, being duly sworn presented pictures of the site plan showing the Northern and Southern view of the billboard. He stated that

the billboard does meet all the Towns requirements and billboards are an affordable way for local businesses to promote their business.

Mr. Patterson asked how do you feel about having the sign hang over the building?

Mr. Stancil stated that the sign will be right up next to the building, but it will not over hang the building.

Ms. Carter asked if the sign is the same as the sign at the hospital?

Mr. Stancil stated yes. The face is 8 foot tall and 25 foot long.

Mr. Gibbons asked if the sign by the K&S bank was the same?

Mr. Stancil stated that the sign by K&S bank is 10 x 20 with a different configuration. The only difference is the face is 10 foot tall and 20 foot long.

Being no further comments, Chairman Gardner closed the public hearing.

After reviewing the Findings of Fact:

- (a) All applicable specific conditions pertaining to the proposed use have been or will be satisfied; *all members stated yes.*
- (b) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency; *all members stated yes.*
- (c) Off-street parking, loading, refuse and other service areas are located so as to be safe, convenient, allow for access in case of emergency and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood; *all members stated yes.*
- (d) Utilities, schools, fire, police and other necessary public and private facilities and other services will be adequate to handle the proposed use; *all members stated yes.*
- (e) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; *Mr. Patterson stated on conditions that the sign does not over hang the building.*
- (f) The type, size and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be

attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood; *all members stated yes.*

Mr. Foy made motion that was seconded by Ms. Carter to approve the special use permit to construct and operate an off-site advertising billboard on property within a B-3 zoning district. The vote was unanimous.

The case will go before Town Council on Tuesday December 5, 2006.

**SUP-06-18 Interstate Outdoor:** The applicant is requesting a special use permit to construct and operate an off-site advertising billboard on property within a B-3 (Business) zoning district. The property is located on the Northeast side of the intersection of Oak Street and East Market Street and further identified as NCPIN# 169308-99-8750.

Mr. Helmer stated that the Planning Board is requested to review the petition and make a recommendation to Town Council based on the finding of fact for a special use permit to construct and operate an off-site advertising billboard.

Chairman Gardner opened the public hearing.

Mr. Warren Stancil a resident of 434 E. Rose Street, being duly sworn stated that this billboard would attract people from the I-95 corridor to businesses on Bright Leaf Boulevard as well as other local businesses.

Chairman Gardner asked if the property where the billboard will be located is sold for development could the property owner ask you to take the billboard down?

Mr. Stancil stated that it depends on the property owner's lease agreement.

Mr. Tony Nixon a resident of 8 Cedar Drive, being duly sworn stated that he was against the signage. These billboards are annoying, visual pollution, sky trash, they're junk mail of the American highway. What we are asking our visitors and tourists that visit Smithfield to see when they come into our town is this huge billboard that does not advertise any business on that site. This is a residential area, the gateway to Smithfield. Is this billboard what we really want there?

Mr. Nixon asked the Board to deny the special use permit for a billboard to be posted on this parcel because the future land use is not conducive. Let us make this area where tourists from all over the country enter into Smithfield an attractive area and not allow a 30 x 200 billboard be put on this property.

Mrs. Flora Grantham a resident of 400 Dogwood Street, being duly sworn stated that she is against having a billboard placed at the entryway of Smithfield. With Pine Acres

subdivision on the other side of the billboard it puts us in a bad situation. Therefore, I hope that this Board will deny this application.

Mrs. Bertha Jenkins a resident of 8 Aspen Drive, being duly sworn stated that she is against billboards. Mrs. Jenkins stated that the intersection for which this billboard is being proposed for is a very busy intersection, there's traffic coming from the interstate, the college, and the Pine Acres residence. Not long ago we upgraded our covenant and under the residential section it states that no signs can be placed there. She expressed that she did not want to see our state engulfed with billboards like other states.

Being no further comments, Chairman Gardner closed the public hearing.

Mr. Gibbons stated that we should make it known that the citizens are concern with keeping our town and entryway as attractive as we can. These signs/billboards are eyesores. There is enough information placed on the highway by DOT that will direct you where you want to go.

After reviewing the Findings of Fact:

- (a) All applicable specific conditions pertaining to the proposed use have been or will be satisfied; *all members stated yes.*
- (b) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency; *all members stated yes.*
- (c) Off-street parking, loading, refuse and other service areas are located so as to be safe, convenient, allow for access in case of emergency and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood; *all members stated yes.*
- (d) Utilities, schools, fire, police and other necessary public and private facilities and other services will be adequate to handle the proposed use; *all members stated yes.*
- (e) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; *all members stated no.*
- (f) The type, size and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood; *all members stated no.*

Mr. Mitchell made motion that was seconded by Mr. Self to deny the special use permit to construct and operate an off-site advertising billboard on property within a B-3 (Business) zoning district. The vote was unanimous.

The case will go before Town Council on Tuesday December 5, 2006.

**RZ-06-06 Dale Sparks:** The applicant is requesting to rezone 3 tracts of land totaling 11.33 acres from R-20A (Residential Agricultural) to B-3 (Business) zoning district. The property is located on the northeast end of Dogwood Street approximately 200 feet northeast of its intersection with Aspen Street. The properties are further identified as NCPIN# 2604-11-1631, 2604-12-3147 and 2604-12-4179.

Mr. Helmer stated that the Planning Board is requested to review the petition and make a recommendation to Town Council based on the finding of fact for rezoning.

Chairman Gardner opened the public hearing.

Mr. Dan Simmons a resident of 125 Everett Lane, being duly sworn stated that we were here some months ago looking at this same piece of property for a rezoning request. We received a lot of input from the community as well as the adjoining property owners. We have withdrawn both applications that were submitted. A meeting was held with representatives from the Town of Smithfield, adjacent property owners, and the Town's attorney.

Mr. Simmons pointed out on the map the outline of the road configuration. We are here tonight to have the property zoned from O&I back to B-3. We need to recoup some of the monies that we have lost by making the concession of having the road go where the Town and adjacent property owners want the road to go.

Mr. Foy asked if O&I was approved at the last meeting?

Mr. Simmons stated yes, you approved the zoning of O&I and tabled the subdivision. We have since withdrawn both applications.

Mr. Foy asked what types of businesses are envisioned for the property?

Mr. Simmons stated that he could not answer that question because it would be up to the individual property owners.

Mr. Foy asked if the businesses would have to come before this Board.

Mr. Helmer stated if the property is rezoned to B-3, all potential uses that are permitted within the B-3 district could be considered for those properties by this Board and Town Council. Some uses within the B-3 are administratively approved while others request a special use permit that would be reviewed and have to be approved by Town Council.

Mr. Simmons stated that it was our intent when we submitted the subdivision plan, to reserve a 50-foot under serve buffers that had been reserved on the adjoining properties when they were rezoned to B-3.

Chairman Gardner stated that the land couldn't be requested to be rezoned to B-3 SUD because there is no site plan represented and it would infringe upon a subdivision?

Mr. Bob Spence the Town's attorney stated the difference between the regular granted uses and the Special Use District, is the SUD is designed and was specifically carved out for areas where there is a need for a buffer between inconsistent uses.

Mr. Spence stated that the developer does not have to state the type of businesses they are going to put in, it is their investment.

Mr. Foy asked did we not put in a stipulation that there had to be a vegetated berm between O&I and the resident the last time we considered this?

Mr. Spence stated that conditions could not be put on it; the conditions are in the ordinance.

Mr. Simmons stated that we would be back before this Board with the subdivision approval. Town Council and this Board can place restriction for buffers upon it at that time.

Chairman Gardner stated that according to the map the theater is zoned B-3 SUD

Mr. Embler stated that it was originally zoned B-3 and was rezoned to B-3 SUD to allow for certain thing without having to come back to this Board and the property owner requested that the property be zoned B-3 SUD.

Mr. Carl Evans a resident of 23 Cedar Drive, being duly sworn stated that this issue has galvanized the Pine Acres community. Mr. Evans stated that an open letter has been generated that will be given to the Planning Board as well as Town Council.

Mr. Evans recommended denial of the rezoning request until the following takes place:

- ❖ An environmental impact review has been conducted by the City to ascertain potential causes/effects of I-95 Plaza Development at to air quality, noise pollution, drainage and runoff issues for Pine Acres.
- ❖ The City declares opposition to any requests to open Dogwood Street into O&I development areas for foot or vehicular traffic.
- ❖ The City implements a feasibility study and plan for the erection of a wall and vegetative buffer that would serve as permanent barrier to O&I development areas.
- ❖ The appropriate City Managers meet with Pine Acres Homeowners Association to discuss proposals if any for commercial development of

Market Street Corridor and plan to enforce building code violations for crumbling buildings and other sites.

Mr. Patterson asked Mr. Evans if he was strictly against a 50-foot wide wooden buffer?

Mr. Evans stated we go from an O&I situation where we had a potential list of businesses to come in, to now go to a B-3, which expands the area in terms of what can potentially go there.

Mr. Evans stated we feel that a permanent buffer should be provided to keep people from invading our community; we do not feel that a vegetated buffer would be sufficient in doing so.

Mr. Mitchell asked would a brick wall such as the one in Raleigh be a sufficient buffer?

Mr. Evans stated that the City engineers could come up with some sort of plan to address the noise, and prevent the ingress and egress through Pine Acres.

Mr. Tony Nixon a resident of 8 Cedar Drive, being duly sworn asked if a special use permit has been granted for the property?

Mr. Helmer stated that from the best of his knowledge there has never been a special use permit granted.

Mr. Simmons point out on the map the outline of where the special use permit is permitted and stated that the permit does not expire.

Mr. Nixon stated that his concerns were the buffer situation. According to the Planning Comprehensive Growth Management plan for the Town of Smithfield, the exact size of buffer has not pre determined.

Mr. Helmer stated that the current standards require a 16-foot buffer.

Mr. Nixon stated that the B-3 does incumbent a few things and the landowner at this time is not obligated to let us privy into to that now. But I hope the Board would consider certain things that the B-3 would entail which are not buffers for residential.

Mr. Nixon asked if we could possibly be back before this Board or Town Council addressing a special use permit.

Mr. Helmer stated that is correct. If the property is zoned B-3 and the developer chooses to develop the property out and make available lots, as applicant come in for specific site plan approval if it is a use that requires a special use permit then adjoining property owners will be notified.

Mr. Nixon stated that he agreed that the property should be developed, but give the citizens the proper buffer, the proper privacy that they may enjoy a quite neighborhood. Not be in fear of what is being developed on the other side of it. We need to get something out of this.

Chairman Gardner closed the public hearing.

Ms. Carter asked what is the zone for Booker Dairy Plantation and Edenwood and how much buffer is allowed between the residential area and office in that location?

Mr. Helmer stated that the code requires a 16-foot buffer between residential and nonresidential. There is a standard buffer required however, what the applicant is proposing is a 50-foot undisturbed buffer. Then during the site plan review phase we will look at addition planting to create additional screening from the back of the buildings.

Ms. Carter stated with a 50-foot buffer and additional screening it seem that it would take care of the situation.

Chairman Gardner asked giving that he is asking about a B-3 we can not talk about any stipulations, it's either a yes or no vote? Discussion of buffers will come up when someone is requesting a business on the property.

Mr. Helmer stated that is correct. We can discuss the buffer issue again with the subdivision and then again with the site plan.

Mr. Mitchell asked if the B-3 zoning is approved would it be approved with the understanding that there would be a 50-foot buffer along with screening.

Mr. Helmer stated that the applicant has gone on record as volunteering a 50-foot undisturbed buffer.

Mr. Spence stated that once the property has been zoned B-3 the applicant would be allowed all uses. There is nothing in B-3 about a 50-foot buffer. We can't contract with the applicant to do a 50-foot buffer. We cannot zone by contract therefore, we have no power to force the 50-foot buffer.

Mr. Mitchell stated by the applicant's good faith of promising to providing a 50-foot buffer to the residents of Pine Acres, isn't that a promise from him to the Board.

Mr. Spence stated that the 50-foot buffer is unenforceable. The owner could make his good faith offer legally binding and between now and then he can sit down and have a discussion with Mr. Nixon and the residents of Pine Acres to try and satisfy the community.

Mr. Emblar stated that any potential business use that could be an impact to the area or less than a desirable situation is generally conditional uses. As a special use or

conditional uses they would have to come before the Planning Board and the Board of Adjustment before they would be approved.

Mr. Simmons stated what we can do is set down and review the restrictive covenants and restrict what can go on the property. Through the restrictive covenants bind the 50-foot buffer on any buyer of any lot.

Mr. Simmons also stated that we would like to have a discussion with the community and go over the restrictive covenants and come up with a covenant that will be binding and protect the interest of the community. We cannot spend more for the infrastructure than what you can get back for the lots.

Mr. Spence stated that he would be glad to mediate the discussion between Mr. Simmons and representatives of the community and answer any questions they might have.

Chairman Gardner closed the public hearing.

Ms. Carter made motion that was seconded by Mr. Foy to rezone 3 tracts of land from R-20A to B-3 zoning district. The vote was unanimous.

The case will go before Town Council on Tuesday December 5, 2006.

**RZ-06-07 First Presbyterian Church:** The applicant is requesting a to rezone a 1.46 acre tract of land from R-8 (Residential) to O&I (Office and Institutional) zoning district. The property is located on the northeast corner of South Third Street and Church Street and further identified as NCPIN# 169418-40-3832.

Mr. Helmer stated that the Board is requested to review the petition and recommend action to Town Council for the approval of a zoning reclassification request.

Mr. Foy stated that he wanted to recruise himself, because he would be representing First Presbyterian Church.

Chairman Gardner opened the public hearing.

Being no comments, Chairman Gardner closed the public hearing.

Mr. Patterson made motion that was seconded by Mr. Self to approve the rezoning from R-8 to O&I. The vote was unanimous.

The case will go before Town Council for approval on Tuesday December 5, 2006.

**SUP-06-16 Rebecca Garcia:** The applicant is requesting a special use permit to operate a mobile food trailer on undeveloped land within a B-3 (Business) zoning district. The

property is located on the west side of South Third Street, approximately 150 feet south of its intersection with Brogden Road. The property is further identified as NCPIN# 1693-27-7654.

Mr. Helmer stated the applicant asked to table the application.

**Old Business.**

There was none.

**New Business.**

There was none.

**Adjournment.**

Being nothing further, the meeting was adjourned.