

**Smithfield Planning Board  
Minutes  
Thursday, May 3, 2007  
7:00 P.M., Town Hall, Council Room**

**Members Present:**

Max Gardner  
Joe Patterson  
Eddie Foy  
Mike Gibbons  
Harold Mitchell  
Ed Self

**Members Absent:**

Suzanne Carter  
Chris Howell

**Staff Present:**

Mark Helmer  
Latanya Merritt

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

APPROVAL OF MINUTES FROM MARCH 1, 2007.

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

Chairman Gardner opened the public meeting.

All persons wishing to speak were duly sworn.

**RZ-07-05 Alberto R. Treiyer.** Mr. Helmer stated the applicant is requesting to rezone one tract of land totaling .63 acres from R-20A (Residential-Agricultural) to O&I (Office and Institutional) zoning district. The property is located on the west side of the intersection of Packing Plant Road and Hillcrest Road and further identified as NCPIN# 168207-59-7974.

Mr. Helmer stated that South Atlantic Conference of Seventh Day Adventists Inc. is the property owner. The tract of land considered for rezoning has access to city water and sewer and is within the Town of Smithfield Extended Extraterritorial Planning Jurisdiction.

Mr. Helmer asked the Board to review the petition and make a recommendation to Town Council for a rezoning classification.

Mr. Patterson asked what type of building would be put on the lot for a school.

Mr. Helmer stated at this time there is no proposal for an expansion to the existing church. With the lot being built out, it is unlikely addition construction would occur.

Chairman Gardner opened the public meeting.

Mr. Wilbur E. Hines a resident of 41 Hillcrest Road, being duly sworn stated that he is against the rezoning of the property.

Mr. Helmer stated if the property is rezoned to Office and Institution all permitted uses within O&I could be considered, which would include schools, library, museums, parks, playgrounds, community centers, and cemeteries.

Mr. Helmer stated if additional construction were to occur at this site, site plan approval would be required.

Being nothing further, Chairman Gardner closed the public meeting.

Mr. Self made a motion that was seconded by Mr. Foy to approval the rezoning request. The vote was unanimous. The case will go before Town Council on June 5, 2007.

Mr. Helmer stated this case was also advertised for a special use permit and has since been withdrawn.

**SUP-07-05 Mark and Aimee Pucket:** Mr. Helmer stated The applicant is requesting a special use permit to operate a mobile food vending establishment on property located with a B-3 (Business) zoning district. The property is located on the southeast side of the intersection of Holding Street and South Second Street. The property is further identified as NCPIN# 169309-15-1420.

Mr. Helmer stated that the proposed use would be conducted in the parking lot of Twisters nightclub and would be adjacent to the south side of the existing building.

Mr. Helmer asked the Board to review the petition and make a recommendation to Town Council based on the find of fact for a special use permit.

Mr. Patterson asked how often are the police called out to this property?

Mr. Helmer stated that he did not have access to the police records.

Chairman Patterson opened the public meeting.

Mr. Alton Bizzell a resident at 108 E. Stevens Street, being duly sworn stated that he was in opposition to this mobile food-vending establishment. His concerns are the noise, trash, later hours, and loitering from this establishment. Mr. Bizzell presented a report with 42 police calls from this establishment since January 1, 2007.

Mr. Keith Long a resident of 106 E. Stevens Street, being duly sworn stated that he is opposed to the request and would like to know the hours of operation for the mobile food unit.

Mr. Mark Pucket owner of Twister's Nightclub, being duly sworn stated the hours of operation would be during business hour on Friday and Saturday nights.

Mr. Pucket stated that they have had a mobile food unit for the past year and he was not aware that a permit was needed. Therefore, he was here tonight requesting a permit so he would be in compliance with the city ordinance.

Chairman Gardner asked how many exits were in the building?

Mr. Pucket stated that there is a front entrance and several exit door; (1) exit door to the right, (2) rear exit doors, and (2) exit doors on the left side of the building.

Chairman Gardner asked Mr. Pucket if he owned the mobile food unit?

Mr. Pucket stated that he did not own the mobile food unit. The mobile food unit is owned by LaCocina Restaurant and would be operated by LaCocina Restaurant.

Mr. Mitchell asked if Twisters and LaCocina are establishing a joint venture?

Mr. Pucket stated that LaCocina would be a separate venture from Twisters.

Mr. Self asked if the mobile food unit would provide hot/cold water for patrons to wash their hands, and restroom facilities.

Mr. Pucket stated the patrons would be allowed to use the nightclubs facilities for those uses.

Mr. Pucket stated he did not want to be disrespectful, but the mobile food unit north of his business on Brightleaf Boulevard does not have any outside facilities for their patrons so why should he be made to have anymore than what they have.

Mr. Self stated that the mobile food unit would not be an asset to the nightclub or the adjacent neighbors.

Mr. Mitchell stated that the mobile food unit north of your business is not adjacent to residential however the property you are proposing to put a mobile food unit is adjacent to residential.

Mr. Mitchell stated residents have invested a lot of money into making their neighborhood a place where they can raise their families and retire. The neighbors see this as a decrease to their property value and not an increase. The traffic from the

nightclub alone is tremendous and adding a mobile food unit would only increase the problem.

Mrs. Pucket owner of Twisters nightclub, being duly sworn stated that for the past 10 years they have had a taco unit in the parking lot. She stated their main purpose for the request is to come into compliance with the ordinance by getting a valid permit.

Mr. Mitchell stated this Board is not trying to stop you from having a business however we have to make sure that all persons involved are taken into consideration before a decision is made on this request.

Mr. Will R. Crocker a resident of 113 E. Stevens Street being duly sworn, stated that he is for free enterprise but, he is opposed to having a mobile food unit establishment on property located within a B-3 district.

Mr. Crocker asked what are the rules for a B-3 zoning district?

Mr. Helmer stated that the B-3 zoning district is a general business district that has a wide range of uses.

Mr. Crocker asked if the permit would be in the property owner's name or the name of the persons operating the mobile food unit?

Mr. Helmer stated that the special use permit runs with the land, which means that any or all property owners can change but the permit will still be valid.

Mr. Crocker stated that the owners of Twister nightclub is doing a good job keeping the property clear of litter, but this is a residential neighborhood and this mobile food unit should not be allowed at this time.

Ms. Kathy Daughtry a resident of 105 E. Stevens Street being duly sworn, stated that she is a new neighbor to the neighborhood and is opposed to the nightclub having a mobile food unit adjacent to the building.

Ms. Daughtry stated on numerous occasions she has had to call the nightclub about the noise and feels if this mobile food unit is approved it would only increase the noise problem.

Being no comments, Chairman Gardner closed the public meeting.

Mr. Foy made a motion that was seconded by Mr. Patterson to move to the finding of facts. The vote was unanimous.

After reviewing the Findings of Fact:

- (a) All applicable specific conditions pertaining to the proposed use have been or will be satisfied; *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; *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; *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; (4) *members stated yes* (1) *member stated no.*
- (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; *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. Self made a motion, seconded by Mr. Foy that the request not be recommended for approval to the Town Council based on the Finding of Fact (d, e, and f). The vote was unanimous. The case will go before Town Council on June 5, 2007.

**Old Business.**

There was none.

**New Business.**

Mr. Foy asked if there was an existing ordinance that addresses mobile food unit/stands?

Mr. Helmer stated that the issue is going to have to be addressed to allow mobile food units in specific places.

Mr. Foy stated there needs to be something in writing specifically addressing portable food units.

Mr. Helmer stated that the Planning Department would be more than willing to study the issue and bring forward a proposal at the next scheduled Planning Board meeting.

Mr. Foy made a motion that was seconded by Mr. Mitchell directing the Planning Department to study mobile food unit and make a proposal to refine the ordinance on the regulations of mobile food units. The vote was unanimous.

**Adjournment.**

Mr. Gibbons made a motion that was seconded by Mr. Foy to adjourn. The vote was unanimous. The next Planning Board meeting will be held on June 7, 2007.