

The Smithfield Town Council met in regular session on Tuesday, February 7, 2006 at 7:30 p.m. in the Council Chambers of the Smithfield Town Hall. Mayor Norman Johnson presided.

Councilmen Present:

Charles Williams  
Vic Ogburn  
Daniel Evans  
Clayton Narron  
Andy Moore  
Tom Bell  
Sidney Broadwell

Councilmen Absent:

Staff Present:

Pete Connet, City Manager  
Debra Holmes, Town Clerk/Personnel  
Steve Gillikin, Police Chief  
Bobby Tripp, Public Utilities Director  
Tim Johnson, Parks/Recreation Director  
Patrick Harris, Fire/EMS Director  
Marty Anderson, Public Works Director  
Paul Embler, Planning Director

Also Present:

Bob Spence, Jr, Town Attorney

Staff Absent:

The invocation was given by Councilman Evans, followed by the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Councilman Moore made a motion, seconded by Mayor Pro-Tem Evans, to approve the agenda as presented. Unanimous.

Mayor Johnson recognized three members of Boy Scout Troop 77, sponsored by the First Baptist Church, who were present at the meeting.

**PRESENTATION OF PLAQUES TO RETIREES**

Mayor Johnson presented Resolutions of Service by the North Carolina League of Municipalities to the 2005 retirees: Muriel Wilson, Carl Watson, Dennis Ashby and Billie Stevens. The retirees thanked the Town for allowing them to serve the citizens.

Town Clerk Debbie Holmes swore in persons wishing to speak during the public hearings.

**PUBLIC HEARINGS**

1. Special Use Permit Request to operate an automobile sales establishment with outdoor sales at 1003 North Bright Leaf Boulevard (former Sonic Restaurant) - Joe Yanulevich - SUP-03-01

Mayor Johnson opened the public hearing.

Planning Director Paul Ember addressed the Council on a request by Joe Yanulevich to operate an automobile sales establishment with outdoor sales on property located at 1003 North Bright Leaf Boulevard and currently the site of the former Sonic Restaurant. The property is approximately .74 acres in size and has parking to accommodate 28 vehicles. Customer parking is being proposed along the curbing adjacent to the required transition yard. The 1000 square foot structure will be utilized as the sales office. The Planning Board recommended approval of the Special Use Permit request with the conditions that the applicant bring the landscape yards into compliance with new plantings and the dumpster screening be repaired. The Appearance Commission recommended approval.

Mayor Johnson asked for comments from the Council.

Councilman Narron questioned if approval of the Special Use Permit would be specific to the property or just to the petitioner. Mr. Emblar stated that the Council could make that determination.

Mayor Johnson asked for comments from the audience. There were none.

There being no comments, Mayor Johnson declared the public hearing closed.

The Council reviewed the Finding of Fact as follows:

- a. The Council agreed that all applicable specific conditions pertaining to the proposed use have been satisfied per staff with regard to meeting the zoning code.
- b. Councilmen agreed that access roads or entrance and exist drives are 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.
- c. Councilmen agreed that off-street parking, loading, refuse and other service areas being located so as to be safe, convenient, allow for access in case of emergency, and will minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
- d. Councilmen agreed that utilities, schools, fire, police and other necessary public and private facilities and other services will be adequate to handle the proposed use.
- e. Councilmen agreed that the location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways will harmonize with adjoining properties and the general area and minimize adverse impacts.
- f. Councilmen agreed that 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.

Councilman Ogburn made a motion, seconded by Councilman Narron, to approve the Special Use Permit request based on the Findings of Fact being met with the condition that the Special Use Permit be specific to the petitioner, and not remain with the property should be owners change. Unanimous.

## **2 Special Use Permit to allow for the construction and operation of a digital sign on property located at 1691 Market Street - Checkers Restaurant - SUP-06-02**

Planning Director Paul Emblar addressed the Council on a Special Use Permit request by Checkers Restaurant to allow for the construction of an on-site computerized copy sign at the location. The proposed sign will be a monopole design with decorative pole coverings, a traditional back lit cabinet, and digital cabinet. The proposed ground sign will be fronting on East Market Street. The Planning Board voted to recommend approval. The Appearance Commission also voted to recommend approval.

Mayor Johnson asked for comments from the Council.

Councilman Williams questioned the wattage of the lights and questioned if it would interfere with traffic. Mr. Emblar state that he would check with the NCDOT to insure compliance.

Mayor Johnson asked for comments from the audience.

Mitch Messer with the Messer Group and representing the petitioner, stated that the lighting would be 110 volts and would be the same as the sign at the current CVS.

There being no comments, Mayor Johnson declared the public hearing closed.

The Council reviewed the Finding of Fact as follows:

- a. The Council agreed that all applicable specific conditions pertaining to the proposed use have been satisfied per staff with regard to meeting the zoning code.
- b. Councilmen agreed that access roads or entrance and exist drives are 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.
- c. Councilmen agreed that off-street parking, loading, refuse and other service areas being located so as to be safe, convenient, allow for access in case of emergency, and will minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
- d. Councilmen agreed that utilities, schools, fire, police and other necessary public and private facilities and other services will be adequate to handle the proposed use.
- e. Councilmen agreed that the location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways will harmonize with adjoining properties and the general area and minimize adverse impacts.
- f. Councilmen agreed that 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.

Councilman Evans made a motion, seconded by Councilman Ogburn, to approve the Special Use Permit request based on the Findings of Fact being met. Unanimous.

### **3 Special Use Permit to allow for the construction and operation of an establishment with bulk storage of volatile material - WalMart, Inc. - SUP-06-03**

Planning Director Paul Embler addressed the Council on a Special Use Permit request by WalMart, Inc. on North Bright Leaf Boulevard, to construct a fueling station within the existing parking lot to include five gasoline fuel pumps and a 194 square kiosk underneath a proposed canopy. The proposed fuel station will consume 117 existing parking spaces with a remainder of 888 spaces for the retail center. The Planning Staff recommended approval of the proposed site plan with the condition that the applicant bring the site back into full compliance with the parking lot landscaping requirements and address the screening requirements for outdoor sales and storage within the parking lot and storage behind the building. The Planning Board voted to recommend approval with the conditions that the applicant bring the site back into full compliance with the parking lot landscaping requirements and as well as the screening requirements. The Appearance Commission recommended approval on the conditions that all Planning Staff's recommendations are met, that all plantings be maintained continually, and that the applicant receive all necessary permits for outdoor sales, display and storage.

Mayor Johnson asked for comments from the Council.

Councilman Narron noted the lack of trees and buffer along the property line with regard to the neighboring area at the back of the Walmart Center and requested that the screening be planted.

Councilman Williams requesting that the term "volatile" be defined as gasoline, diesel, ethanol and hydrogen and requested that a limitation to sell motor fuel be placed on the permit.

Councilman Bell noted that the traffic flow could be impacted by this fueling station.

Following discussion of outside sales at the kiosk and garden center, Town Attorney Bob Spence recommended that the Council restrict the sales to "tax paid motor fuels" which could include transmission and automobile lubricants.

Councilman Moore stated that there should only be inside sales for the Kiosk.

Chief Gillikin requested that a traffic safety engineer study the intersection inside the parking lot due to inadequate signage.

Mayor Johnson asked for comments from the audience.

William Ragsdale III stated that the Town has a great opportunity to help the citizens by approving this request as motor fuel within the town would drop with the low prices that WalMart can offer.

There being no further comments, Mayor Johnson declared the public hearing closed.

The Council reviewed the Finding of Fact as follows:

- a. The Council agreed that all applicable specific conditions pertaining to the proposed use have been satisfied per staff with regard to meeting the zoning code.
- b. Councilmen agreed that access roads or entrance and exist drives are 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.
- c. Councilmen agreed that off-street parking, loading, refuse and other service areas being located so as to be safe, convenient, allow for access in case of emergency, and will minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
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- e. Councilmen agreed that the location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways will harmonize with adjoining properties and the general area and minimize adverse impacts.
- f. Councilmen agreed that 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.

Councilman Williams made a motion, seconded by Councilman Ogburn, to approve the Special Use Permit request based on the Findings of Fact being met with the conditions that: (1) there be no outside sales at the kiosk; (2) No outside display of merchandise at the kiosk; (3) study of the intersection within the parking lot by a traffic safety engineer; (4) and the recommendations of Planning Staff, Planning Board and Appearance Commission (above noted) be completed. Unanimous.

## **CITIZEN COMMENTS**

1. Elton Evans, representing the Disabled American Veterans, requested the closing of Bridge Street to Caswell Street from 10:30 a.m. - 2 pm on February 11, 2006 for an open house at 213 North Seventh Street. Councilman Ogburn made a motion, seconded by Councilman Broadwell, to approve the street closing. Unanimous.
2. Julie Evans, 23 Cedar Drive, requested information regarding recreational activities for children after school and during summer break. Parks/Recreation Director Tim Johnson was asked to contact Ms. Evans with the information.

## **CONSENT AGENDA**

Councilman Broadwell made a motion, seconded by Councilman Evans, to approve the Consent Agenda as presented:

- Minutes of January 3, 2006
  - Board Appointments
    - Wallace Ashley, Jr, Regina Sanders and Kay Long to a second term on the Appearance Commission
    - Chap Ragland, Jr. to a first term on the Board of Adjustment as Alternate In-Town member
    - Wallace Ashley III to a second term on the Parks/Recreation Commission
  - Appoint Finance Director to the serve on the Firemens Relief Fund Board
- Unanimous.

## **OLD BUSINESS**

### **4 Approval of new Ordinance regulating the care of public trees within the Town (tabled at January 2006 meeting)**

Joe Morgan, representing the Appearance Commission, addressed the Council on a public trees ordinance.

Councilmen Moore, Broadwell and Evans had concerns about certain parts of the ordinance in relation to the type of trees to be planted, easements by property owners for plantings, restrictions on types of trees planted and procedures for pruning.

Following discussion, Councilman Broadwell made a motion, seconded by Councilman Williams, to table action on the ordinance until the Appearance Commission makes further revisions. Unanimous.

### **5 Acceptance of Appearance Commission's recommendations of initial entryway Beautification Program for Brogden Road (tabled at January 2006 meeting)**

Upon Appearance Commission member Joe Morgan's request, Councilman Moore made a motion, seconded by Councilman Evans, to adopt the Commission's recommendations for the entryway beautification program for Brogden Road. Unanimous.

### **6 Authorization to enter into a joint-use agreement with the Johnston County School System concerning the Smithfield Community and Spartan Activity Center (tabled at January 2006 meeting)**

Councilman Moore made a motion, seconded by Councilman Ogburn, to table action on this item until specific details are worked out by the School Board. Unanimous.

### **7 Approval of Ordinance # 427 repealing and replacing the entire Chapter 4 "Animals and Fowl" (tabled at January 2006 meeting)**

Planning Director Paul Embler presented a revised "Animals and Fowl" ordinance and requested that it be adopted.

Councilman Evans made a motion, seconded by Councilman, Ogburn, to approve the ordinance amendment. Unanimous.

**New Business** - There was none.

**Closed Session**

Councilman Broadwell made a motion, seconded by Councilman Bell, to go into Closed Session to discuss Personnel, Real Estate Matters & Potential Litigation. Unanimous.

Closed Session Minutes

The Council discussed (1) authorizing sick leave time donations to two employees who are on short-term disability and one who is out on FMLA leave; (2) potential litigation; and (3) property purchase and condemnation proceedings.

Following discussion, Councilman Narron made a motion, seconded by Councilman Broadwell, to reconvene into open session.

Councilman Ogburn made a motion, seconded by Councilman Broadwell, to authorize the Town Attorney to continue negotiations for property on Buffalo Road near the Community Park up to an amount agreed upon in closed session and subject to condemnation proceedings if necessary. Unanimous.

Councilman Broadwell made a motion, seconded by Councilman Narron, to allow employees to donate their sick leave to three employees with extenuating circumstances, per the Town's personnel regulations. Unanimous.

There being no further business, the meeting was adjourned.

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Norman R. Johnson, Mayor

ATTEST:

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Debra W. Holmes, Town Clerk