

The Smithfield Town Council met in regular session on Tuesday, , 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
Sidney Broadwell
Andy Moore
Tom Bell
Clayton Narron

Councilmen Absent:

Staff Present:

Pete Connet, City Manager
Debra Holmes, Town Clerk/Personnel
Steve Gillikin, Police Chief
Bobby Tripp, Public Utilities Director
Mark Stephens, Finance Director
Patrick Harris, Fire/EMS Director
Mark Helmer, Planning/GIS Technician
Tim Johnson, Parks/Rec Director

Also Present:

Bob Spence, Jr, Town Attorney

Staff Absent:

Paul Embler, Planning Director

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

APPROVAL OF AGENDA

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

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

PUBLIC HEARING

Item 1: Special Use Permit Request to operate a restaurant establishment with two pool tables on property located at 150 South Equity Drive approximately 520 feet north of its intersection with Industrial Park Drive - John Dupree - SUP-06-09

Mayor Johnson opened the public hearing.

Planner Mark Helmer addressed the Council on a request for a Special Use Permit to allow for a restaurant with two billiard tables and a bar within the Equity Plaza shopping center. The Planning Department recommended that a Special Use Permit for two pool tables at "Fred's Sports Bar" restaurant be considered null and void if, at any time, the establishment fails to operate as a restaurant and failure to operate the establishment as a restaurant will be in direct violation of the zoning permit and such permit may be revoked and the use be made to cease until the appropriate permits by the Town Council and Planning Department have been secured. The Planning Board voted to recommend approval of the request as submitted.

Mayor Johnson asked for comments from the Council.

Councilman Williams questioned if the applicant would apply for full ABC permit privileges. Mr. Helmer advised that the applicant had stated yes he would.

Councilman Broadwell questioned if this was in an urban redevelopment area. Mr. Helmer stated no.

Councilman Bell observed that the only matter before the council was a permit that would allow a pool table to be operated in Mr. Dupree's business.

Mayor Johnson asked for comments from the audience.

John Dupree, petitioner, stated that he was placing an upscale restaurant with two pool tables with ABC privileges. He stated that he wanted to obey the ordinances by requesting the Special Use Permit for the pool tables.

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

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

Item 2: Special Use Permit Request to construct and operate a private sports field on property located on the east side of the intersection of Whitley Farm Road and Brogden Road - Joey Boykin - SUP-06-11

Mayor Johnson opened the public hearing.

Planner Mark Helmer addressed the Council on a Special Use Permit request to construct and operate a private sports field (110' x 250') on property located on the east side of the intersection of Whitley Farm Road and Brogden Road. Additional parking spaces are proposed specifically for the soccer field. Restroom facilities are proposed and shown on the plan. Access to the site is from a 50 foot NCDOT approved driveway off Brogden Road. The site plan does not indicate any proposed sports field lighting for the soccer field nor are any stadium seats proposed at this time. Two 1500 watt flood lights are proposed on existing poles. It is not the intent for these lights to provide sports field lighting, but rather to provide security lighting.

The Planning Board voted to recommend approval with the following conditions: (1) Any addition of

field lighting and/or stadium seating be considered a major revision to the Special Use Permit and shall require additional recommendation from the Planning Board and approval by the Town Council; (2) Required buffer between commercial and non commercial properties to the south be shown on a site plan and the applicant be encouraged to save old growth trees as practical; (3) Parking be increased from 38 spaces to 80 spaces and that all required parking lot landscaping be shown on the plan in accordance with the Town of Smithfield Zoning Ordinance; and (4) A minimum 24' drive isle from the public right-of-way to the required parking be shown on a site plan for approval.

The Appearance Commission voted to recommend approval with the following condition: Provide a 15' street yard as required by the Smithfield Zoning Ordinance on a site plan for approval along the I-95 Corridor.

Mayor Johnson asked for comments from the Council.

Councilman Broadwell questioned if staff felt that the increase in traffic warranted a traffic study for this area. Mr. Helmer stated no.

Councilman Williams questioned if the Special Use Permit would follow the property if owners changed hands. Mr. Helmer stated that the Special Use Permit would be attached to the land.

Councilman Moore stated that his biggest issue was the problem with parking.

Councilman Bell stated that operation during daylight hours only would mitigate adverse impacts from noise on the local community. Councilman Bell further stated that he was pleased to see private investment being made for local recreational opportunities.

Police Chief Steve Gillikin stated that he would like to see food sales regulated and no alcohol allowed on the premises.

Mayor Johnson asked for comments from the audience.

Joey Boykin, petitioner, stated that there would be a maximum number of 40-50 people at one time during tournaments. He further stated that there would be no alcohol on the premises and the gates would be locked when his business closed, usually around 7-8 pm.

Councilman Bell questioned if Mr. Boykin would have any problem with the restriction that the soccer field be available during daylight hours only. Mr. Boykin stated no.

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

The Council reviewed the Findings 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 are 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 Moore made a motion, seconded by Councilman Williams, to approve the Special Use Permit request based on the Findings of Fact being met with the conditions that there be no parking on the I-95 access ramp or service road or Brogden Road as well as the conditions as requested by the Planning Board as follows: (1) Any addition of field lighting and/or stadium seating be considered a major revision to the Special Use Permit and shall require additional recommendation from the Planning Board and approval by the Town Council; (2) Required buffer between commercial and non commercial properties to the south be shown on a site plan and the applicant be encouraged to save old growth trees as practical; (3) Parking be increased from 38 spaces to 80 spaces and that all required parking lot landscaping be shown on the plan in accordance with the Town of Smithfield Zoning Ordinance; and (4) A minimum 24' drive isle from the public right-of-way to the required parking be shown on a site plan for approval. (5) The sports field only operate during day light hours (6) Food sales be conducted only with appropriate permits and licenses. Unanimous.

Item 3: Special Use Permit Request to operate an outdoor mobile food vending establishing establishment on property located on the east side of the intersection of Whitley Farm Road and Brogden Road - Joey Boykin - SUP-06-11

Mayor Johnson opened the public hearing.

Planner Mark Helmer addressed the Council on a request for a Special Use Permit to operate a food vending establishment near the proposed soccer field (see Item 2). The proposed use is classified as outdoor sales. The Planning Board voted to recommend approval with the following conditions: (1) The proposed mobile food vending establishment location be shown on a site plan and shall not remain in place overnight; and (2) Garbage receptacles be made available to the patrons of the mobile vending establishment and shown on the site plan.

Mayor Johnson asked for comments from the Council.

Mayor Johnson asked for comments from the audience.

Joey Boykin, petitioner, stated that there would only be a mobile food cart but no alcohol.

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

The Council reviewed the Findings 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 are 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 Bell made a motion, seconded by Councilman Moore, to approve the Special Use Permit request based on the Findings of Fact being met with the condition that activity be restricted to daylight hours only along with the conditions as recommended by the Planning Board as follows: (1) The proposed mobile food vending establishment located by shown on a site plan and shall not remain in place overnight; and (2) Garbage receptacles be made available to the patrons of the mobile vending establishment. Unanimous.

Item 4: Zoning Ordinance Amendment # _____ Request - Section 307.1 “Table of Permitted Uses” to allow for auction houses within the B-3, B-2, and B-1 zoning districts - JE Wilson, Jr. - ZA-06-01

Mayor Johnson opened the public hearing.

Planner Mark Helmer addressed the Council on a request for a Zoning Ordinance amendment to Section 307.1 for the permitting of auction houses within all business zoning districts to include the B-1 district. The Planning Board voted to recommend approval.

Mayor Johnson asked for comments from the Council.

Councilman Williams questioned the amount of parking needed. Mr. Helmer stated that marked parking spaces would be available in the downtown area.

Mayor Johnson asked for comments from the audience.

Chris Johnson, Executive Director with the Downtown Smithfield Development Corporation, stated that he had polled his Board members and 10 out of 15 responded with no problems. He stated that their only concern was the presence of concession trailers.

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

Mayor Pro-Tem Evans made a motion, seconded by Councilman Moore, to adopt the Zoning Ordinance Amendment. Unanimous. ATTACHMENT I

Item 5: Zoning Ordinance Amendment Request - Section 501.5 “Permitted Sign Table” to allow for expanded use and control of banners, sports field signs, window signs, folding signs and mobile signs - Town of Smithfield - ZA-06-02

Mayor Johnson opened the public hearing.

Planner Mark Helmer addressed the Council on a request by the Smithfield Planning Department for a zoning ordinance amendment to allow more flexibility in the use of banner signs in order to assist businesses in advertising special and seasonal sales events. Planning staff is also requesting further permitting definition for folding signs and window signs to aid in code enforcement associated with non-compliant signs in various locations in Town. Presently, the Town's zoning ordinance does not allow commercial advertising on sports field fencing. Staff is requesting to amend the sign ordinance to all for the sports field advertising. Window signs are not sufficiently addressed in the sign ordinance and staff is requesting consideration of an amendment that will further define what constitutes a window sign and how large the window sign can be. Staff is further requesting amendment to the sign ordinance to define signage on vehicles as well as to where and how these vehicles and trailers can park in proximity to roadways. The Planning Board voted to postpone changes to the sign ordinance at this time and to revisit the proposed changes in the context of a new sign chart of the proposed Unified Development Ordinance.

Mayor Johnson asked for comments from the Council.

Councilman Broadwell questioned the square footage of the vehicle signage and if the magnetic signs would need to be in compliance with this proposed revision. Mr. Helmer stated the size of the signs to be 2'x3'. Further, Mr. Helmer stated that the vehicular signage would be a part of the revision.

Councilman Bell asked Mr. Helmer why small "A" type roadside signs would be allowed in the Downtown District but not in other parts of town. Mr. Helmer stated that they were needed in the Downtown District because the opportunity for other types of signs were limited. Councilman Bell stated that use of the "A" type signs was valuable for all small businesses and that allowing that to be available to some business and not to others was inappropriate. Councilman Bell further observed that the Downtown District received significant support from Town Government that more than off-set any unique Downtown issues.

Councilmen discussed the issues with business names on vehicles, parked vehicles near businesses and window and folding signs.

Mayor Pro-Tem Evans stated that he would like to see the amendment regarding sports complex fencing approved as it produces income for the parks.

Councilman Narron requested that staff put together a presentation of the issues and problems associated with the signage before any action is taken.

Mayor Johnson asked for comments from the audience.

Mike Flemming, resident, stated that he hoped the Council would continue to be pro-business and look at situations regarding sign regulation. Further, he offered to work with staff on re-defining the ordinance should the Council desire.

Teresa Daughtry, realtor, stated that she would like to see signs being place in Smithfield to draw businesses to Johnston County and not other areas.

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

Following discussion, Mayor Pro-Tem Evans made a motion, seconded by Councilman Broadwell, to adopt the Zoning Ordinance Amendment, section 501.5, that includes only the approval of the sports ballfield fencing signs that was previously approved by Council and to postpone action on the

other proposed changes until such time as staff can provide a presentation for Council. Unanimous. ATTACHMENT II

Following council action, City Attorney Spence commented that while many of the ordinance changes presented to the council at this meeting needed additional work, the fact that the planning staff had taken the initiative to address problems with a portion of the city code that was somewhat cumbersome and that might be outdated should be commended and encouraged.

Councilman Bell stated that he recognized that Smithfield had a highly professional planning staff with a level of expertise that was unmatched by any other Town of Smithfield's size. He joined with the Town Attorney in commending the planning staff for taking the initiative to identify problems in the Town Code and to attempt to resolve those problems. Councilman Bell noted that his key opposition to the proposed changes to the sign ordinance related to the fact that the changes were overly restrictive and harmful to small business as well as generally unworkable. Councilman Bell stated that the Town Council, over the past ten to fifteen years, had enacted a number of ordinances that were restrictive on small businesses and that posture by the Town Council was harmful to Smithfield's growth. Councilman Bell stated that it was incumbent on the sitting council to communicate a more business friendly policy in order for Smithfield to grow and prosper.

CITIZEN COMMENTS

There were none.

CONSENT AGENDA

Councilman Broadwell made a motion, seconded by Councilman Ogburn, to approve the following item as listed on the Consent Agenda:

- Minutes of July 11, 2006
- Suzanne Carter to a fourth term on the Planning Board
- Declaration of Bingham Park playground equipment as surplus and to be donated to the Smithfield Housing Authority

Unanimous.

NEW BUSINESS

Resolution authorizing the filing of an application for approval of a financing agreement authorized by NCGS 160A-20 for the Street Resurfacing Project

Finance Director Mark Stephens addressed the Council on approval of a resolution to begin the process of obtaining the Local Government Commission's approval for the installment agreement on the street resurfacing project.

Mayor Pro-Tem Evans made a motion, seconded by Councilman Ogburn, to approve the resolution. Unanimous. ATTACHMENT III

OTHER BUSINESS

Councilman Ogburn requested that the Police Chief look into the feasibility of leaving First Street as a one-way street or a recommendation to make it a two way street.

There being no further business, the meeting was adjourned.

Norman R. Johnson, Mayor

ATTEST:

Debra W. Holmes, Town Clerk