

**DRAFT**  
**Smithfield Planning Board Minutes**  
**Thursday, February 5, 2015**  
**6:00 P.M., Town Hall, Council Room**

**Members Present:**

Chairman Eddie Foy  
Vice-Chairman Stephen Upton  
Daniel Sanders  
Gerald Joyner  
Mark Lane  
Jack Matthews  
Ashley Spain  
Teresa Daughtry

**Members Absent:**

**Staff Present:**

Mark Helmer, Senior Planner  
Veronica Hardaway, Administrative Support Specialist

**Staff Absent:**

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM DECEMBER 4, 2014.**

Stephen Upton made a motion, seconded by Teresa Daughtry to approve the minutes as written. Unanimous.

**Public Hearings:**

After all persons giving testimony were duly sworn, Mr. Foy opened the public hearing.

**RZ-15-01 Nell Howell Estate, Etal:**

Mr. Helmer stated the applicant is requesting to rezone a 50.4 acre portion of a 66 acre tract of land from LI (Light Industrial) to B-3 (Business) and a 15.6 acre portion of a 66 acre tract of land from LI (Light Industrial) to R-8 (Residential). The request also includes the rezoning of a 28.8 acre portion of a 238.57 acre tract of land from R-6 (Residential) to B-3 (Business) and a 6.6 acre portion of a 238.57 acre tract of land from R-10 (Residential) to R-8 (Residential) and a 4.3 acre portion of a 238.57 acre tract of land from R-20A (Residential-Agriculture) to R-8 (Residential) and a 132.8 acre portion of a 238.57 acre tract of land from R-8 (Residential) to B-3 (Business). These properties are bound to the north by Buffalo Road, to the south by Ava Gardner Avenue to the east by US 70 Bypass and to the west by Booker Dairy Road. The properties considered for rezoning include only the portions of properties located within the Town of Smithfield Planning and Zoning Jurisdiction and are further identified as a 173.8 acre portion Johnston County Tax ID#14057009 and the entire 66 acres of Johnston County Tax ID# 14054010F.

Mr. Helmer stated the applicant is requesting to rezone approximately 238.5 acres of land from predominantly residential and light industrial zoning districts to the B-3 (Business) district and

R-8 (Residential) zoning districts. The property considered for a rezoning has been identified by the Town of Smithfield Future Land Use Plan as containing a few acres of wetlands and a regulated stream. The property considered is a large area of undeveloped land adjacent to, and west of, US Highway 70. The southern-most portion of the property is accessed from Ava Gardner Avenue while the north side of the property is accessed from Buffalo Road. The bulk of the property will be intersected by the proposed Booker Dairy Road Extension which will provide access to the subject property from the west. As proposed, the western most portions of the properties are to be zoned for medium density residential while the remainder of the property will be zoned for commercial land uses.

Mr. Helmer stated the Strategic Growth Plan has identified this property as being suitable for low density residential land uses. However, the Booker Dairy Road extension is identified on the plan and it is reasonable to assume that upon its construction this land will be attractive to commercial development. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance (UDO) provided that all proposed future land uses construct the minimum required parking and meet ADA accessibility standards. Any use requiring outdoor storage will require conditional use permit approval by Town Council. The portion of the property considered for a rezoning is north of, and adjacent to, Smithfield Plaza and any future commercial development along the proposed Booker Dairy Road extension will be a logical expansion of this existing commercial district. The properties fronting on Booker Dairy road will remain zoned for residential and will serve a buffer from any future commercial development to the east. The northern most portion of the property will be better served by the B-3 (Business) zoning district and will be positioned to capitalize on its close proximity to the US Highway 70 and Buffalo Road interchange. The Town of Smithfield will provide fire protection as well as water/sewer and electric services.

Mr. Helmer stated in connection with a legislative decision for a rezoning request, the Planning Board may consider certain approval criteria. Planning staff generally accepts these findings as fact as part of a complete application submitted by the petitioner. The Planning Department recommends approval of the request to rezone approximately 238.5 acres of land adjacent to US Hwy 70 from the R-20A (Residential-Agricultural), R-8 (Residential), and LI (Light Industrial) zoning districts to the B-3 (Business) and R-8 (Residential) zoning districts. The Planning Board is requested to review the proposal and make a recommendation to Town Council for the rezoning of 238.5 acres of land.

Mr. Foy asked if anyone wanted to speak for or against the proposal.

Mr. Foy asked if Booker Dairy Road extension is where the road turns towards Bright Leaf Boulevard out to 70 bypass.

Mr. Helmer stated that was correct.

Mr. Foy asked if there was any indication when this would start.

Mr. Helmer stated probably within the year.

Jack Matthews asked if Bayhill Drive would be part of this project.

Mr. Helmer stated currently there are no plans to extend Bayhill Drive at this time.

Mark Lane asked who the property owners are.

Mr. Helmer stated Nell Howell Estate and Roberts and Wellons are the owners.

Teresa Daughtry asked how much the 100 year flood plane would affect this property.

Mr. Helmer stated our maps currently show some wetlands on the site but the new maps have studied that area and it is recommended that a map that shows a 100 year flood plain is adopted. Any future development is usually designed for limited impacts on the flood plain.

Teresa Daughtry asked if NCDOT have been involved with the land owners as far as purchasing and what their plans are.

Mr. Helmer stated the road project is not being reviewed as of right now but Ron Sutton is here to answer those questions.

Daniel Sanders asked if Army Corp Engineer has anything to do with this development.

Mr. Helmer stated Army Corp will be permitting the wetlands and are a part of the development review process. However, the development is not at that stage, right now it just needs to be rezoned.

Daniel Sanders asked how big the proposed highway is supposed to be.

Mr. Helmer stated the plans that he has been shown looks like a four lane divided highway on the extended portion of Booker Dairy Road.

Mark Lane asked what about the surrounding areas and what the difference is between R-8 and R-10.

Mr. Helmer stated to the south is zoned R-20A and to the north is R-10. An area zoned as R-10 is typical residential zoning and R-8 allows for slightly higher density such as townhouses and apartment complexes.

Teresa Daughtry asked if the applicant is requesting all of this to be rezoned at one time.

Mr. Helmer stated that was correct.

Ron Sutton, with Herring-Sutton Associates, is representing Nell Howell Family Trust as well as Mr. Wellons and partners who own the property being considered for rezoning. He stated he

agrees with the recommendations that staff has presented and asked the Board if they had any questions he may answer for them.

Mr. Foy asked Mr. Sutton if he had anything he would like to add to what has already been said.

Mr. Sutton stated that NCDOT has delayed completion of the Booker Dairy Road plan about 180 days. They were supposed to be completed by December 31<sup>st</sup> of 2015 but that has not been confirmed to date. Once the plan is completed, a right-of-way acquisition has to be made but at this time there hasn't been one initiated. It is understood, in discussion, that NCDOT is looking to build two lanes at this time.

Teresa Daughtry asked if NCDOT is planning on making the proposed road a controlled road.

Mr. Sutton stated the environmental review that was approved for this project on Booker Dairy Road actually called for one point of access which crosses the Howell property.

Teresa Daughtry asked if water was being put on the Wellons property.

Mr. Sutton stated he is not familiar with any utility expansion in that area.

Daniel Sanders asked Mr. Sutton if this would have to be presented back to the Board if NCDOT does not approve.

Mr. Sutton stated that NCDOT does not have any authority over how a piece of property is sold.

Teresa Daughtry asked if changing the zoning would affect the price of the property.

Mr. Sutton stated he does not have that answer as he is not a real estate broker.

Mr. Foy closed the public meeting for RZ-15-01 and asked for a motion.

Stephen Upton made a motion, seconded by Daniel Sanders, to move to the Finding of Fact.

In connection with a legislative decision for a rezoning request, the Planning Board may consider certain approval criteria. Planning staff generally accepts these findings as fact as part of the complete application submitted by the petitioner.

Article 13 Section 13-17 of the Town of Smithfield Unified Development Ordinance requires all applications for a zoning map amendment to address the following eight findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application.

The Council has the responsibility to determine if the zoning map amendment is warranted. The Town Council of the Town of Smithfield shall decide the matter of this rezoning application by motion and vote on each of the following eight findings of fact. Any motion to find against

the application must be supported by statement of specific reason or conclusions reached in support of the motion.

**1. *The zoning petition is in compliance with all applicable plans and policies of the Town of Smithfield:***

The existing land use plan of the Town of Smithfield indicates the property to be developed as commercial, office and institutional/high density residential, medium density residential, and open space low density residential. It should be noted that the open/space low density residential area as shown on the future land use plan was zoned industrial in recent years and is located adjacent to US Highway 70. In discussions with the Town of Smithfield officials it was indicated that commercial land uses were compatible with current visions of the Town of Smithfield. ***All members stated true.***

**2. *The rezoning petition is compatible with established neighborhood patterns of the surrounding area:***

It is our opinion that the proposed rezoning request is compatible with established neighborhood patterns due to existing and proposed highway patterns and proposed buffering of commercial zoning adjacent to existing residential land uses. ***All members stated true.***

**3. *The rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning:***

The rezoning request as proposed is compatible with changing neighborhood patterns that will result from the proposed extension of Booker Dairy Road. ***All members stated true.***

**4. *The rezoning request is in the community interest:***

It is our opinion that this rezoning is in the communities best interest by providing opportunities for both commercial and multi-family land uses where the highway infrastructure can best support these types of land uses. ***All members stated true.***

**5. *The request does not constitute "Spot Zoning":***

In our opinion the proposed rezoning request does not in any way constitute "spot zoning" ***All members stated true.***

**6. *Present regulations deny or restrict the economic use of the property:***

While present regulations do not deny or restrict economic use of the property, the majority of the current zoning is not compatible with the presences of an/extensive multi-lane highway system or soil conditions that are not conducive to residential development on an economic or quality of life view point. **All members stated true.**

**7. The availability of public services allows consideration of this rezoning request:**

As previous stated the area of the proposed zoning request is bounded by an extensive highway system both existing and proposed. Also water, sewer, electrical and gas utilities are readily available to the site. **All members stated true.**

**8. Physical characteristics of the site prohibit development under present regulations:**

Due to the nature of the soils in the area and its properties proximity to existing US Highways and existing commercial land uses, the property is not conducive to being developed in a residential land use pattern. **All members stated true.**

Based upon satisfactory compliance with the above stated eight findings and fully contingent upon full incorporation of all statements entered into the record by the testimony of the applicant and applicant's representative;

Stephen Upton made a motion, seconded by Jack Matthews, to recommend approval to rezone approximately 238.5 acres of land from predominantly residential and light industrial zoning districts to the B-3 (Business) district and R-8 (Residential) zoning districts.

**CUP-15-01 NC 210 Car Lot:**

Mr. Helmer stated the applicant is requesting a conditional use permit to construct and operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of the intersection of Swift Creek Road and NC Hwy 210. The property is further identified as Johnston County Tax ID# 15I09015H.

Mr. Helmer stated the applicant requesting a conditional use permit to operate an automotive sales lot is designed to accommodate 20 cars for sale and located on property located within a B-3 (Business) zoning district. There does not appear to be any environmentally sensitive areas on the property considered for Conditional Use Permit to include flood plains or designated wetlands. The proposed facility will be required to comply with Town of Smithfield water regulations to include detention and nitrogen offset payments.

Mr. Helmer stated the proposed automobile sales lot is a permitted use within the B-3 (Business) zoning district with a Town Council approved conditional use permit. The applicant has provided a sketch plan of the 3.228 acre site showing improvements to the property to include a gravel parking area for 30 automobiles and 5 required parking spaces. A 30 foot wide driveway is proposed allowing access from NC Highway 210. Landscaping will be provided in accordance with the Unified Development Ordinance (UDO) and will include a 40 foot

landscape buffer and no privacy fence along southwestern property line. A location for a modular constructed building is shown on the plan. No building elevations have been provided by the applicant at this time. A lighting plan will be required showing all lamp fixture locations with required full cutoff design. This required lighting plan must also show that no more than 2 foot candles of light will be leaving the property at any given time. All areas for the storage of automobiles that can accommodate more than 5 vehicles must be paved in accordance with minimum development standards of the Town of Smithfield UDO. A variance to the parking requirement must be requested and granted by the Town of Smithfield Board of Adjustment prior to staff approving site plan with gravel parking. Staff recommends that the street yard landscaping be planted adjacent to the parking area and that vehicular screening be installed around all areas containing vehicular surface areas.

Mr. Helmer stated the sales lot is inconsistent with the recommendations of the Comprehensive Growth Management Plan which calls for low density residential development and uses near the intersection of NC Hwy 210 and Swift Creek Road. An automobile sales lot is a permitted use within the B-3 (Business) zoning district with a valid conditional use permit. The applicant will be responsible for submitting a preliminary site plan that shows all applicable minimum development standards can and will be met prior to site plan approval and issuance of a valid zoning permit to include paved parking and vehicular storage. An automobile sales lot at this location will pose a compatibility issue with surrounding land uses given that it is in a rural setting and adjacent to establish residential homes. Signs shall be permitted in accordance with the Town of Smithfield UDO which will allow for a maximum height of 6 feet and 75 square feet in area. The Town of Smithfield will provide fire protection as well as water/sewer services. Duke Energy Progress will provide electric.

Mr. Helmer stated the Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces are paved and landscaping is installed in accordance with minimum development standards and that vehicular surface screening is installed adjacent to all vehicular surface areas. The Planning Board is requested to review the application and make a recommendation to Town Council based on the Finding of Fact for a conditional use permit for an automobile sales lot.

Mr. Foy asked if anyone wanted to speak for or against the proposal.

Daniel Sanders asked if this proposed property was zoned residential in the past.

Mr. Helmer stated the proposed project was zoned residential before the Board recommended to Council the current zoning.

Mark Lane asked if the site plan shows a gravel driveway.

Mr. Helmer stated the site plan does show a gravel driveway however, Dan Simmons was notified earlier in the week that the driveway needs to be paved.

Daniel Sanders asked if NCDOT was in charge of the driveway.

Mr. Helmer stated NCDOT will permit the driveway.

Stephen Upton asked if a trailer will be used for the office building.

Mr. Helmer stated a modular type building will be used for the office.

Dan Simmons, Triangle Civil Workers, stated the owner has no intentions of leaving the driveway gravel and will be paved. He stated he objects with moving this project forward because he does not agree with the UDO Article 17 item 7a which states "Vehicular surface areas used for parking and circulation, or commercial display or storage of motor vehicles which are located within 50 feet of a street right-of-way must have a planting screen consisting of shrubs a minimum of 18 inches to 24 inches in height when installed with a minimum expected mature height of 36 inches. Shrubs shall be planted with gaps no greater than five feet. Forty percent of the shrubs may be deciduous. When practicable, plans to meet this requirement may be formulated in conjunction with the requirement of subsection (6)(b) above." Basically if this project is moving forward, a hedge needs to be placed which will prevent anyone from seeing the cars from the lot. There will be no maintenance on site; this is strictly a sales lot.

Stephen Upton asked about lighting.

Mr. Simmons stated lighting would basically be security lighting after dark. A lighting plan will be submitted to staff that would meet code requirements of 2ft candles. No lighting will flood neighboring properties.

Teresa Daughtry stated that dealerships have been increasing landscape.

Mr. Helmer stated that is correct.

Mr. Helmer pointed out that staff disagrees with the applicant. Planning staff requests that vehicular surface screening be installed around the entire perimeter of the vehicle surface area regardless whether it can be seen. Prior to adoption of the UDO there have been problems in the past due to car lots being exempt from a standard that all other businesses have to meet. Car lots were moving vehicles onto landscape yards because there was no screen there to keep them from doing this. So essentially they were abusing a reduced standard that was being applied to only car sales. With the current UDO we apply the vehicular surface screening to all businesses equally and the standards published in the UDO are only minimum development standards that can be increased by recommendation from the Planning Board and approved by Town Council if they feel it's needed to protect the health, welfare, and safety of the public and impacts to adjacent properties. The proposed project looks as though it could benefit from vehicle surface screening.

Teresa Daughtry stated she agreed with the vehicle surface screening due to heavy traffic on Highway 210 and Swift Creek Road that could pose dangerous.

Mark Lane asked if the landscaping is in the UDO or if that was a recommendation.

Mr. Helmer stated that vehicle surface screening (VSA) should be within 50ft of public right of way. The proposed project pushed the building back so that VSA wouldn't have to be used, however that's where problems were in the past with car lots putting vehicles on landscape yards.

Mark Lane asked if the purpose of the screening is for safety.

Mr. Helmer stated that is correct.

Mr. Simmons stated he disagrees with staff regarding bushes being planted 5ft apart. They will need to be trimmed constantly to maintain 36" in height and will eventually grow together creating a solid screen. No other car lot in Smithfield is that way.

Teresa Daughtry stated her concern with landscaping height and if it would pose a problem with traffic being able to see from Swift Creek Road to Highway 210. Large trucks come through those roads all the time.

Mr. Helmer stated the applicant has submitted a plan showing small groupings of shrubs around the trees.

Dan Simmons stated unless the UDO is changed, those plantings have to be there.

Mr. Helmer stated if the Board wanted to place a condition to the corner of the lot and plant bushes instead of trees that could be done.

Teresa Daughtry asked if the tree on the corner can be removed and have bushes in its place.

Mr. Helmer stated staff wants street trees.

Teresa Daughtry stated trees are environmentally good but the safety of the intersection is also a concern.

Mr. Helmer asked if it would be better if the tree was moved back. He stated those trees shown in the plan submitted will not be large trees and the road will be able to be seen.

Teresa Daughtry asked if NCDOT would have a problem with not having a second driveway located on Swift Creek Road.

Mr. Simmons stated he spoke with NCDOT and they do not see this project as generating additional traffic and does not see the need for an additional driveway.

Teresa Daughtry asked how wide the driveway will be.

Mr. Helmer stated 30ft.

Mike Caporale, 2190 NC Highway 210, stated he has spent the last three years building his home and originally the proposed project was zoned as residential. He wouldn't have built such a large expensive home if he knew that land would be changed to commercial. His main concerns is having the car dealership right next to him and have potential break-ins or people cutting through his property.

Mr. Foy asked where Mr. Caporale's house is in reference to the car lot.

Mr. Caporale stated he is right beside the proposed lot on the left. He stated he would like to see a white vinyl fence go up to separate the properties like the Family Dollar and State Employees Bank had done. Trees do nothing for his property and will be staring at this car lot from his home. The plantings look great on paper but it will take at least 20 years for the trees to mature. And as far as the traffic on Highway 210, tractor trailers hum by his home. He believes the intersection of Swift Creek Road and Highway 210 will be dangerous and feels the driveway should be moved to Swift Creek Road.

Ashley Spain asked if the applicant would be willing to negotiate with the home owners.

Dan Simmons stated he would think they would.

Teresa Daughtry asked if a condition of a fence being installed is placed, how that would cut back on the plants.

Mr. Helmer stated it would be a reduction in plant material if the fence is included. There could be a 50% reduction if berm and a fence were installed.

Teresa Daughtry asked what the height the fence would have to be.

Mr. Helmer stated 8ft.

Teresa Daughtry asked if the Town required the Family Dollar and State Employees buildings to install a white vinyl fence.

Mr. Helmer stated there is no particular code that states it has to be vinyl, wood, or any other material however, vinyl has more longevity and is more attractive.

Cathy Caporale, 2190 NC Highway 210, stated there is in fact heavy traffic on Highway 210 and can be very dangerous. She would like to see the driveway of the proposed site be accessed on Swift Creek Road as well as having the white vinyl fence installed.

Franklin Watson, 2267 Highway 210, stated he lives directly across the street from the proposed project. He stated he will see this car lot from his front door and there are single family homes surrounding this property. This project may not increase traffic but cars coming

in and out of the lot will definitely affect traffic. He requests the Board to just think about the home owners.

Antonette Griffin, 363 Clayton Point Drive, stated her concern for decrease in property values and for possible traffic issues. She feels the driveway should be accessed on Swift Creek Road.

Daniel Sanders asked if the water was from the Town or County.

Mr. Helmer stated water was provided by the County.

Ashley Spain asked if the sewer system would have to be in conjunction to the area.

Mr. Helmer stated the proposed building has one bathroom so it would be according to that.

Mr. Foy closed the public meeting for CUP-15-01 and asked for a motion.

Stephen Upton made a motion, seconded by Teresa Daughtry, to move to the Finding of Fact.

The Smithfield Planning Board shall recommend and the Town Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

- 1. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.***

The proposed use does not materially endanger the public health, safety or general welfare. Emergency services access is fully provided to the developed site. ***All members stated true.***

- 2. Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Smithfield UDO or other applicable regulations or is approved with the following additional stated conditions.***

The proposed use shall meet all required conditions resulting from the application for conditional use authorization. All other applicable requirements of the Town of Smithfield UDO shall be met. ***All members stated true.***

- 3. Based on evidence and testimony presented it is the finding of the Planning Board that the application, if approved, will not substantially injure the value of adjoining or***

***abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses or is approved with the following additional stated conditions.***

The proposed use does not restrict the existing uses or future development potential of adjacent properties. ***All members stated true.***

- 4. *Based on the evidence and testimony presented it is the finding of the Planning Board that the application, if approved, would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.***

The proposed use is in conformance with other uses within the Town of Smithfield zoned B-3 highway entrance and abutting corridors bringing traffic into the Town of Smithfield. This use conforms to the commercial nodes designated in the future land use plan, at NC 210 and SR 1010. Due to that node's partial location in a flood plain, the intersection of Swift Creek Road and NC Hwy 210. ***All members stated true.***

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative;

Teresa Daughtry made a motion, seconded by Jack Matthews to recommend approval of a conditional use permit to operate an automotive sales lot designated to accommodate 20 cars for sale and located on property located within a B-3 (Business) zoning district with the following conditions:

1. A vinyl fence is installed on the west side buffer yard at 8ft high.
2. Street trees nearest the intersection are set back an additional 10 feet.
3. Vehicular Surface Area is moved to the south up to and adjacent to the 15ft street yard.

Motion unanimous.

**Old Business:**

No report.

**New Business:**

No report.

Mark Lane made a motion to adjourn, seconded by Jack Matthews. Unanimous.

Submitted this 5th day of February, 2015.

Veronica Hardaway  
Administrative Support Specialist  
Planning Department