

Smithfield Planning Board Minutes
Thursday, February 4, 2016
6:00 P.M., Town Hall, Council Room

Members Present:

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

Members Absent:

Teresa Daughtry

Staff Present:

Mark Helmer, Senior Planner
Veronica Hardaway, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

APPROVAL OF MINUTES FROM JANUARY 7, 2016.

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

Public Hearings:

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

RZ-16-01 Royal Property:

Mr. Helmer stated the applicant is requesting to rezone approximately a .18 acre tract of land from R-8 (Residential) zoning district to the B-3 (Highway Entrance Business) zoning district. The property considered for rezoning is located on the east side of Waddel Drive approximately 120 feet north of its intersection with North Bright Leaf Boulevard. The property is further identified as Johnston County Tax ID# 15005031.

Mr. Helmer stated all uses within the B-3 (Highway Entrance Business) zoning district may be considered for future site plan approval. The property considered for rezoning does not appear to contain environmentally sensitive areas such as regulated streams or designated wetlands. The property is currently being used for residential purposes. The property contains one single family dwelling and one accessory structure. The property is served with city water and sewer located within the right-of-way of Waddel Drive. The rezoning to B-3 (Highway Entrance Business) zoning district is not consistent with the Strategic Growth Plan which recommends the property be utilized for high density residential development and office and institutional land uses. However the property is adjacent to an existing B-3 (Highway Entrance Business) zoning district and the proposed rezoning is a logical extension of this district. The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance (UDO) provided that

all proposed future land uses and developments are constructed in accordance with minimum development standards.

Mr. Helmer stated the property considered for a rezoning is fronting on a residential street but is immediately adjacent to property fronting on Bright Leaf Boulevard which is zoned B-3 (Highway Entrance Business). Rezoning this property from a residential zoning district to a commercial zoning district will not create compatibility issues with the adjacent residential uses to the north provided that adequate buffers are installed as part of any future site development plan to include landscaping, fencing, earthen berm or any combination thereof. The Town of Smithfield will provide fire protection as well as water/sewer, and electric services.

Mr. Helmer stated the Planning Department recommends approval of the request to rezone approximately .18 acres of land from the R-8 (Residential) zoning district to B-3 (Highway Entrance Business) zoning district.

The Planning Board is requested to review the rezoning proposal and make a recommendation to Town Council in accordance with the approval criteria for a rezoning request.

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

Mark Lane asked if the applicant was buying or renting the property.

Mr. Helmer stated he was buying.

Mark Lane asked if this property was to be changed to B-3, would it stay changed.

Mr. Helmer stated the residence is permitted in the B-3 zoning area. If the applicant wanted to use the structure as office space it could still be reverted back to residential.

Mike McLamb, Four Oaks, stated he is the applicant for the proposed project and owns Sun Auto Wash. He stated the purpose in purchasing this property and have it rezoned is to create an expansion on his existing business. His intention is to tear down the residential building structure.

Daniel Sanders asked if there were any neighbor complaints about the project.

Mr. McLamb stated he was not aware of any complaints.

Stephen Upton stated that due to the condition of the residential structure, having in torn down would add to the surrounding properties.

Mr. Foy closed the public meeting for RZ-16-01.

Stephen Upton made a motion, seconded by Jack Matthews, to move to the Finding of Fact.

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 governing body has the responsibility to determine if the zoning map amendment is warranted. The Planning Board shall recommend and 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:***

All members stated true.

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

All members stated true.

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

All members stated true.

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

All members stated true.

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

All members stated true.

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

All members stated true.

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

All members stated true.

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

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 Ashley Spain to recommend approval requesting a to rezone approximately .18 acre tract of land from the R-8 (Residential) zoning district to the B-3 (Highway Entrance Business) zoning district.

CUP-16-01 Extra Mile Motors:

Mr. Helmer stated the applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the north side of West Market Street approximately 500 feet east of its intersection with NC Hwy 210. The property is further identified as Johnston County Tax ID# 15080019.

Mr. Helmer stated the applicant is requesting a conditional use permit to operate an automotive sales lot designed to accommodate 10 vehicles and located within a B-3 (Highway Entrance Business) zoning district. There does not appear to be any environmentally sensitive areas on the property considered for a Conditional Use Permit to include flood plains or designated wetlands. 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 .76 acre site showing improvements to the property to include a paved parking area for 9 automobiles and 8 required parking spaces. The site plan also indicates that an unpaved area in the rear of the existing building will be used for parking of automobiles. The only landscape improvements shown on the site plan are those provided by the proposed NCDOT corridor improvement plan. The proposed automobile sales lot is inconsistent with the recommendations of the Comprehensive Growth Management Plan which calls for Conservation/Open Space land uses in areas where there is the potential for flooding (100 year floodplain) or the need to become conflicting land uses. The future land use map indicates areas having the potential existence of wetlands. Any development in these areas should be at low density and closely coordinated with regulations governing wetlands development.

Mr. Helmer stated an automobile sales lot is a permitted use within the B-3 (Highway Entrance 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 paved vehicular storage with screening. An automobile sales lot at this location will pose a compatibility issue with surrounding land uses and may contribute to the urban blight found throughout this portion of the entrance corridor. Signs shall be permitted in accordance with the UDO which will allow for a maximum height of 6 feet and 75 square feet in area for all ground signs located within the B-3 (Highway Entrance Business) zoning district. The Town of Smithfield will provide fire protection as well as water/sewer, and electric services.

Mr. Helmer stated the Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces are paved and screening of the storage yard is installed in accordance with the minimum development standards of the Town of Smithfield UDO.

The Planning Board is requested to review the petition for an automobile sales lot on property located within the B-3 (Highway Entrance Business) corridor and make a recommendation to Town Council in accordance with the finding of fact for a conditional use permit.

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

Mr. Foy asked if this property was on the right side after the going over the bridge in West Smithfield, and if it was near the flood plain.

Mr. Helmer stated that some of the property is actually in the flood way.

Daniel Sanders asked if there were wetlands.

Mr. Helmer stated yes wetlands are involved but it does not appear they will be affected.

Daniel Sanders asked if the applicant will be doing any automobile repairs.

Mr. Helmer stated that is a question for the applicant; however it was not requested specifically for auto repair.

Stephen Upton asked why the plan states parking area for 9 automobiles and 8 required parking spaces.

Mr. Helmer stated the plan is based on the first copy of the plan that was submitted, all of the details were not included. However, the parking will be shared between the existing tenant and the new tenant. When the final zoning permit is written it will be based on the final plan submitted.

Ashley Spain asked if the storage area in the rear needs to be paved.

Mr. Helmer stated the area would have to be paved if there is more than a total of 5 total parking spaces.

Ashley Spain asked if the vehicles being displayed or stored are driveable.

Mr. Helmer stated that's a question for the applicant.

Ashley Spain stated he was concerned for the environmental sensitive area behind the storage portion.

Mr. Helmer stated that's why it's important to have that area paved.

Mr. Foy asked where the fence with fabric would be on the property.

Mr. Helmer stated the fence will be around the storage area located in the rear.

Mr. Foy asked if cars will be displayed in the front of the building.

Mr. Helmer stated the applicant is proposing employee parking as well as cars for sale which is considered display.

Mark Lane asked if there is a need for landscaping.

Mr. Helmer stated that NCDOT has approved the landscaping improvement plan in its corridor, but due to the age of the building it wouldn't be practical to be in full compliance unless you're ripping out concrete.

Mark Lane asked how many vehicles can be in storage at one time.

Mr. Helmer stated that is a question for the applicant.

Jack Matthews asked if the property will look better than it does at this present time.

Mr. Helmer stated we're not against outdoor storage; it just needs to be screened.

Stephen Upton asked if this property was grandfathered in.

Mr. Helmer stated yes. The building is very old; however any additional parking calls for a paved parking lot. The property doesn't trigger full compliance, but it does trigger paving.

Daniel Sanders asked that since the parking will be shared with the existing tenant, how many tractor trailer trucks will be parked there at one time.

Mr. Helmer stated 4-5 max.

Roy Willard Whitley, Hatteras, stated he has managed this property for the last 15 years. The show room area in the front of the building will be office space. Mr. Whitley stated there cannot be more than 10 cars on the lot at one time. The tenant usually has 5 vehicles or less out for display and does this through internet sales. He stated he is interested in improving the property. The existing tenant, PTI, has been renting for about 3 years and has approximately 7 trucks. The trucks that are parked there are either waiting for new assignment or repair. The fence on the side of the building will be moved to the rear storage for screening.

Mr. Foy asked if there's 10 parking spaces and one is handicapped, that will only give you 9 spaces that doesn't include customer parking. In reality there will only be about 7 spaces for cars on display.

Mr. Helmer stated there will be 10 spaces, enough for the tenant to get his dealer license, and make sure they will have adequate parking for employees and for business. There may only be 2-3 vehicles on display at a time.

Mr. Whitley stated the storage in the rear is for vehicles that can't be displayed yet.

Mr. Helmer stated he was uncertain if the drawing that was submitted for this property will work. It is not drawn to scale with a few other things.

Daniel Sanders asked where the trucks are getting repaired.

Mr. Whitley stated they are repaired inside the building.

Gerald Joyner asked if any of the vehicles being sold will be worked on premise.

Mr. Whitley stated PTI could do the repairs but that is something both tenants would have to work out. Cars on display come and go very quickly.

Mr. Foy closed the public meeting for CUP-16-01.

Stephen Upton made a motion, seconded by Jack Matthews, to move to the Finding of Fact.

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 governing body has the responsibility to determine if the zoning map amendment is warranted. The Planning Board shall recommend and 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. That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved:**
- 2. That the use meets all required conditions and specifications:**
- 3. That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and:**

4. ***That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b):***

Daniel Sanders made a motion, seconded by Jack Matthews to table CUP-16-01 until the applicant submits a professional site plan, paved parking, and adequate screened storage. Unanimous.

CUP-16-02 Run Right Auto:

Mr. Helmer stated the applicant is requesting a conditional use permit to allow an outdoor storage yard of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The property considered for approval is located on the south side of Whitley Farm Road approximately 5200 feet southwest of its intersection with Brogden Road. The property is further identified as Johnston County Tax ID# 15K11026H.

Mr. Helmer stated the applicant is requesting a conditional use permit to allow an outdoor storage yard of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance Business) zoning district. The southwest property is the centerline of a regulated stream with an existing 50 foot undisturbed riparian buffer. Run Right Auto received administrative site plan approval on February 21, 2014 with a condition that no outdoor storage was permitted. The applicant is now requesting a conditional use permit to allow for outdoor storage. The applicant has submitted a revised site plan showing a paved and screened parking lot designed to accommodate 16 automobiles. Outdoor storage is consistent with the Comprehensive Land Use Plan and permitted at most locations providing screening requirements are met.

Mr. Helmer stated outdoor storage is a permitted use within the B-3 (Highway Entrance Business) zoning district with a valid conditional use permit. The applicant has submitted a preliminary site plan that shows all applicable screening requirements being met. Outdoor storage at this location will not pose a compatibility issue with surrounding land uses due to screening requirements of the UDO being met. Sign permits have been issued for this site and no additional signs are requested or permitted. The Town of Smithfield will provide fire protection, Johnston County will provide water/sewer, and Duke Energy Progress will provide electric services.

Mr. Helmer stated the Planning Department recommends approval of the proposed storage yard of automobiles providing that all parking spaces are paved and screening of the storage yard is installed in accordance with the minimum development standards of the Town of Smithfield UDO.

The Planning Board is requested to review the petition for an automobile storage yard on property located within the B-3 (Highway Entrance Business) corridor and make a

recommendation to Town Council in accordance with the finding of fact for a conditional use permit.

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

Mark Lane asked if the property is in compliance.

Mr. Helmer stated yes it is.

Mark Lane asked if it was always in compliance.

Mr. Helmer stated no it hasn't. The applicant's storage in the rear is not requested in his permit and needs to be paved.

Ashley Spain asked if everything on the plan conforms.

Mr. Helmer stated yes.

Mr. Foy asked if this was for storage of cars he is repairing or are they for sale.

Mr. Helmer stated they are for repair.

Stephen Upton asked if this storage was in the rear of the building and wanted to know if that area will be paved.

Mr. Helmer stated that area needs to be paved. The applicant's permit can be revoked per Town Council if they are not following guidelines.

Stephen Upton stated guidelines need to be followed by all.

Mohammad Purmul, 106 Muirfield Lane, Clayton, started this project about 3 years ago. It took 2 years to build the shop. When the application was submitted, he stated he bought the building. He stated he's been in front of the board a few times regarding this project. He stated Mr. Embler told him he could use gravel in the rear of the building, but now is being told he needs to have it paved. He feels as though he doesn't need to do concrete because he has about 6" of gravel and you cannot see the cars from the road. He stated he doesn't know what he's done to Mr. Helmer because he is always driving by and taking pictures of his property. He stated he doesn't know why he was told he could use gravel and spend \$3,000-\$4,000 on gravel and is now being told to do something else and every time he turns around money is coming out of his pocket. He feels he does not have to do the paving when gravel is already put down.

Stephen Upton stated that what has been done is done. We are here tonight to discuss this current request not to discuss the past.

Mark Lane asked how long concrete has been written in the UDO.

Mr. Helmer stated it's been in the UDO since 2008.

Mr. Helmer stated the proposed plan showed a gravel surface with no cars. The Planning Department went out on a site visit and saw that it wasn't constructed according to the original plan and didn't meet any of the standards.

Ashley Spain stated maybe there was a miscommunication between storage and parking.

Mr. Purmul agreed.

Mr. Helmer stated the applicant said the landscape was a hardship so the Planning Department worked with the applicant and reduced the landscaping and also reduced the screening on the dumpster.

Ashley Spain stated the applicant is trying to correct his mistake by coming to the board.

Mark Lane asked if there have been any complaints coming from the neighbors.

Mr. Helmer stated he is not aware of any complaints but wanted to add that vehicles in violation is \$100 per day per vehicle.

Mr. Foy closed the public meeting for CUP-16-02.

Stephen Upton made a motion, seconded by Jack Matthews, to move to the Finding of Fact.

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 governing body has the responsibility to determine if the zoning map amendment is warranted. The Planning Board shall recommend and 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. That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved:

All members stated true.

2. That the use meets all required conditions and specifications:

All members stated true.

3. *That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and:*

All members stated true.

4. *That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b):*

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 Daniel Sanders to recommend approval requesting a conditional use permit to allow an outdoor storage yard of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance Business) zoning district.

Old Business:

Mr. Helmer distributed the 2016 Planning Board Calendar.

Stephen Upton made a motion, seconded by Daniel Sanders to approve the 2016 Planning Board Calendar.

New Business:

Mr. Helmer reviewed legislative updates; Zoning Design Standards, Protest Petitions.

Stephen Upton made a motion to adjourn, seconded by Jack Matthews. Unanimous.

Submitted this 4th day of February, 2016.

Veronica Hardaway
Administrative Support Specialist
Planning Department