

DRAFT
Smithfield Planning Board Minutes
Thursday, October 2, 2014
6:00 P.M., Town Hall, Council Room

Members Present:

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

Members Absent:

Teresa Daughtry
Ashley Spain

Staff Present:

Mark Helmer, Senior Planner
Veronica Hardaway, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

APPROVAL OF MINUTES FROM SEPTEMBER 4, 2014.

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

Public Hearings:

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

Mr. Helmer discussed Ex Parte Communication with the Board. He reminded the Board to avoid one on one contact with the applicant outside of the quasi-judicial environment. There appears to be some Ex Parte Communication during the last few weeks regarding this particular case. The Town Attorney has requested the Planning Board to sign a waiver acknowledging their decision will not be made based on this communication.

Mr. Sanders asked if the Board can explain to the Council about hearings if they ask questions.

Mr. Helmer stated representing the Board yes you may answer questions, but if you are speaking as an individual to the Council outside your Planning Board title than that could be questionable.

Mark Lane asked if the Council follows this procedure as well.

Mr. Helmer stated yes.

Mr. Foy suggested that Mr. Helmer ask the Town Attorney to come to the next Planning Board meeting to discuss this in detail as he has some disagreements regarding this issue and stated that they are just an advisory board.

Mr. Helmer agreed and stated a refresher would be good.

CUP-14-07 Guy C. Lee Manufacturing Company:

Mr. Helmer stated the Planning Board did hear this case in September and it was requested that the case be tabled until the October meeting. There were some unanswered questions that some board members wanted to hear from the actual tenant, but the tenant is not present at this time.

Mr. Helmer stated the applicant is requesting a conditional use permit to operate an automobile storage yard on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of West Market Street approximately 350 feet south of its intersection with Wilson's Mills Road and further identified as Johnston County Tax ID# 15078199K.

Mr. Helmer stated the applicant is seeking a conditional use permit to allow for a vehicular storage lot 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 a Conditional Use Permit to include flood plains or designated wetlands. The proposed facility may be required to comply with the Town of Smithfield storm water regulations to include detention and nitrogen offset payments.

Mr. Helmer stated the applicant had originally provided a sketch plan for an automobile sales lot or a manufactured home sales lot in the front portion adjacent to West Market Street and a vehicle storage lot in the rear of the lot. The applicant provided staff with a letter dated September 2, 2014 stating his intent to remove automobile sales from consideration at this time. Manufactured home sales are not a permitted use within a B-3 (Business) zoning district and must not be considered for approval at this time. The applicant has provided a revised preliminary site plan with landscape plan on September 2, 2014. The plan indicates that 234 cars can safely be accommodated on the rear portion of this 6.04 acre tract of land. The preliminary site plan indicates the existing fence will remain and no office building location is shown on the plan. The applicant has stated that the front portion of the lot will not be improved beyond perimeter landscape yards at this time and it is unclear from the site plan how paved access from the West Market Street to the vehicle storage lot will be executed.

Mr. Helmer stated buffer yards are shown on the sketch plan and appear to meet minimum development standards as found in Article 17 of the Smithfield UDO. This includes a 15 foot street yard adjacent to West Market Street, 10 foot buffer yard adjacent to Sunset Memorial Cemetery, a 12.5 foot transition yard adjacent to Windsor Place Housing Development, a 40 foot buffer yard adjacent to an undeveloped residential zoned property in the rear and an 8 foot transition yard adjacent to the commercial strip center to the north. The applicant's

intention is to not plant any interior landscaping on the front portion of the lot until such time that a tenant for this portion of the property has been secured.

Mr. Helmer stated vehicle storage is considered a commercial parking lot by definition as found in Article 2 of the Smithfield UDO and must be graded and surfaced with blacktop, concrete, brick, or other such surfacing material to ensure a dustless surface condition in accordance with Article 18 of the Smithfield UDO. Storm water facilities are shown at the rear of the lot and will be constructed if required. Access will be provided by an NCDOT approved driveway located on West Market Street and will be required to conform to current NCDOT driveway standards. The applicant will be required to submit a detailed landscape plan, lighting plan and storm water permit application prior to final site plan approval and zoning permit.

Mr. Helmer stated the comprehensive growth plan has identified the majority of the property as being suitable for commercial uses and the very rear of the property being reserved for a buffer. Vehicle storage lots are permitted uses within a B-3 (Business) zoning district with a valid conditional use permit. Manufactured homes sales are not and should not be considered for permitting at this time. 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. Compatibilities issues with surrounding land uses can be anticipated given the type size and intensity of the proposed automobile sales lot/vehicle storage given its close proximity to adjacent senior living facility and cemetery. The site has an existing ground sign that appears to qualify for a permit that would allow the sign to be refaced. The Town of Smithfield will provide fire protection as well as water and sewer. Duke energy progress will provide electric.

Mr. Helmer stated the Planning Board at its September 4, 2014 meeting voted 4 to 3 to table the request for thirty days. The Planning Board requested the proposed tenant of the vehicle storage lot to appear before the Planning Board at its October 2, 2014 public hearing.

Mr. Helmer stated the Planning Department recommends that the Planning Board make a determination if any adverse impacts on adjacent land uses will occur and that the site plan meets or exceeds all minimum development standards to include adequate buffers as required by the Town of Smithfield UDO.

The Planning Board is requested to review the application for vehicular storage lot on property within a B-3 (Business) zoning district and make a recommendation to Town Council in accordance with the finding of fact for a conditional use permit. If the Planning Board determines that adverse impacts are created by the request, then the Planning Board shall make a recommendation to either deny part or all of the request or place conditions on the conditional use permit that will mitigate such impacts.

Mr. Helmer stated the applicant had originally provided a sketch plan of showing a storage lot of 234 cars. However, the applicant has just submitted a revised plan showing storage for 123 cars. Since its outdoor storage, screening needs to completely hide car storage area. The

applicant has provided a plan that shows requirements. The applicant will also build a retention pond that is consistent with the UDO.

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

Mr. Foy asked if the Planning Board has subpoena powers.

Mr. Helmer stated yes, it is a quasi-judicial environment.

Mr. Helmer stated the Planning Board has determined the area where storage lot is must be paved. The applicant has shown in the new plan the entrance will be paved.

Mr. Sanders asked where the oil will go if there's a leak.

Mr. Helmer stated there will be some oil but if there are crushed cars in the lot most of them wouldn't have fluids in the vehicle. Parking lots generally don't have issues.

Mr. Lampe apologized for communicating to the Board via email. He stated a 10 foot buffer strip will be installed along all the way around the storage area. There are no windows in the direction of the storage lot from the senior apartments.

Mr. Foy stated if Mr. Lampe complied with the site plan provided it will be a great addition.

Jack Matthews asked if the proposed plan will have landscaping.

Mr. Lampe stated yes.

Daniel Sanders asked if there will be lighting.

Mr. Lampe stated whatever is expected of the plan will be in place.

Mr. Helmer stated that the existing lighting may not meet the regulations.

Gerald Joyner asked if there will be any security installed.

Mr. Lampe stated that would be up to the tenant.

Mr. Foy closed the public meeting for CUP-14-07 and asked for a motion.

Stephen Upton made a motion, seconded by Mark Lane, 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 vehicle storage lot at this location will not materially endanger the public where shown because the site has adequate parking available and layout of the site facilitates safe movement of automobiles and pedestrian traffic with little additional congestion. **All members agreed.**

- 2. Based on the evidence and testimony presented it is the finding of 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 Unified Development Ordinance or other applicable regulations or is approved with the following additional stated conditions.**

The proposed vehicle storage lot at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance providing the applicant submits a detailed site plan for planning staff approval that shows required landscaping, lighting, storm water retention and utility connections prior to issuance of site plan approval and issuance of a valid zoning permit for a vehicle storage lot. **All members agreed.**

- 3. Based on the 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 vehicle storage lot at this location 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 providing required landscape buffers and street yards are installed and maintained in accordance with minimum development standards and that no more than 123 automobiles are on the lot at any given time. **All members agreed.**

- 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 vehicle storage lot at this location will not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development proving all minimum development standards are met to include pavement of storage areas, landscaping, lighting and storm water detention. **All members agreed.**

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;

Stephen Upton made a motion, seconded by Daniel Sanders, to recommend approval to operate an automobile storage yard on property located within a B-3 (Business) zoning district. Unanimous.

The Planning Board reviewed Articles 25 through 28 of the Unified Development Ordinance.

25. This amendment reflects the intent of the above paragraph (B).

Section 8-3: Extension or Enlargement of Nonconformities.

~~(G)~~ **(F)** Notwithstanding paragraph (E), any structure **(except manufactured homes)** used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. ~~In particular, a manufactured home may be replaced with a larger manufactured home, and a “single-wide” manufactured home may be replaced with a “double-wide”. This paragraph is subject to the limitations stated in Section 8-5 on abandonment and discontinuance of nonconformities.~~

26. This amendment will permit class B manufactured homes in the R-20A zoning district as a use by right.

Article 10 Table of permitted uses.

ARTICLE 10. TABLE OF PERMITTED/CONDITIONAL USE DISTRICTS																	
PERMITTED USES	ICS*	R-6	R-8	R-10	R-20A	R-MH	PUD**	RHO***	O/I	B-1	B-2	B-3	ECOD***	LI****	HI****	AD	OS
MANUFACTURED HOME, CLASS B On individual lot (see Note 13)					€ P	P											

27. This amendment will permit class B manufactured homes in the R-20A zoning district as a use by right.

Article 13-18 Table of Regulations for Conditional Uses

~~Manufactured Home, Class B~~ ——— ~~R-20A~~

28. The following amendment will reflect existing standards that limit the use manufactured homes for residential purposes only. There is no such thing as a manufactured home office unit.

Use – ~~Manufactured and~~ Modular Office Units

Conditional Use in these Districts: [B-1, B-2, B-3]

Minimum Lot Area: None

Parking: One space for each person employed in the office at any given time during a 24-hour period.

Requirements: A temporary certificate of occupancy/compliance, allowing ~~manufactured homes~~ **modular office units** used solely as offices or for purposes of exhibition to be temporarily parked, maintained, and/or occupied on a designated lot or land location, may be issued by the supervisor of inspection services or his authorized agents where the Town Council finds as a fact that the use of such ~~manufactured-home~~ **modular office unit** does not violate the town or state building, electrical, or plumbing codes, or health regulations. All such certificates of occupancy/compliance shall be valid for a period of 12 months, after which they may be renewed upon similar evidence of use of such manufactured home.

Notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a ~~manufactured home~~ **modular office unit** for use as a temporary field office for contractors by the Administrator or his authorized agents without approval of the Town Council, if the ~~manufactured-home~~ **modular office unit**: (1) And the structure under construction are located on the same property; (2) is not moved to the site more than 30 days prior to construction and is not removed later than 30 days after construction has been completed.

(3) is not used for any other purpose other than that connected with on-site construction;

(4) is justified by the size and nature of the construction project;

(5) is to be used for a period not to exceed 18 months;

(6) is utilized only incidental to on-site construction during daylight hours and not for residential living quarters;

(7) is parked in a location approved in advance by the supervision of inspection service or his authorized agents;

(8) sanitary facilities are connected with an approved sewer system;

(9) electrical facilities are connected in compliance with regulations as set forth in the Town of Smithfield Building Code.

Also notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a ~~manufactured home~~ **modular office unit** for use as a ~~manufactured~~ modular office, and for a manufactured home sales office without approval of the Town Council, if the ~~manufactured home~~ **modular office unit**:

(1) sanitary facilities are connected with an approved sewer system;

(2) electrical facilities are connected in compliance with regulations as set forth in the Town of Smithfield Building Code;

~~(3) Provisions pertaining to a manufactured home foundation and anchorage of the manufactured home to the foundation, as contained in the State of North Carolina Regulations for Manufactured Homes, 1972 edition, are adhered to.~~

Old Business:

No report.

New Business:

No report.

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

Submitted this 2nd day of October, 2014.

Veronica Hardaway
Administrative Support Specialist
Planning Department