

**Town of Smithfield  
Planning Board Minutes  
Thursday, October 1, 2020  
Town Council Chambers  
6:00 PM**

Members Present:

Chairman Stephen Upton  
Vice Chairman Mark Lane  
Teresa Daughtry  
Michael Johnson  
Debbie Howard

Members Absent:

Alisa Bizzell  
Ashley Spain  
Doris Wallace

Staff Present:

Stephen Wensman, Planning Director  
Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Assist

Staff Absent:

**CALL TO ORDER**

**IDENTIFY VOTING MEMBERS**

**APPROVAL OF AGENDA**

Michael Johnson made a motion, seconded by Teresa Daughtry to approve the agenda.  
Unanimously approved

**APPROVAL OF MINUTES** from August 6, 2020

Mark Lane made a motion, seconded by Michael Johnson to approve the minutes as written.  
Unanimously approved

**NEW BUSINESS**

**ZA-20-03 Town of Smithfield** the applicant is requesting an amendment to the Town of Smithfield Unified Development Ordinance (UDO) Articles 3, 4, 5, 6 and 7 to allow conditional zoning, provide for quasi-judicial approvals of preliminary subdivision plats, adoption of Historic Preservation Commission regulations, incorporating of 160D enabling legislation changes and corrections to text designed to reduce ambiguities and provide additional clarity.

Mr. Wensman stated that conditional zoning was a negotiated approach to a legislative decision (rezoning) allows maximum flexibility to tailor regulations to a site and project. Essentially, it's like our PUD ordinance that is a type of conditional zoning that we already have. We will also change Major Preliminary Plat approvals from Administrative to Quasi-Judicial. This will allow the Town Council to conditionalize subdivision approvals and provide for public comment/expert comments.

This change will also allow developers to submit preliminary plats without complete engineered construction plans as currently required. The Town Council approval of plats will allow for conditions to be incorporated into the preliminary plat approval, such as requiring construction drawings conform to the UDO. As mentioned earlier, adopting 160D enabling legislation by July 1<sup>st</sup>, 2021. We also want to adopt the Historic Preservation Commission and its regulations into the UDO. Some of the key points for tonight are conditional zoning will follow the same process as rezoning. The Planning Board will review the rezoning's and make recommendation to the Town Council. For Special Use Permits and Preliminary Subdivisions; these are both Quasi-Judicial. The current draft before you have the same process for both Subdivisions and Special Use Permits. There will be noticed public meetings, so adjacent property owners will be notified. This will provide an opportunity for community involvement outside of the quasi-judicial process. The Town Council will hold the quasi-judicial hearing and the Planning Board will hold an informal hearing for people to talk. The developer will receive feedback, neighbors will be allowed to express their concerns and the Planning Board will be able to direct them to what you think is a more palatable project. The feedback will go to the developer but not to the Town Council.

Mr. Lane asked if this was for Special Use Permits only.

Mr. Wensman said no, this is for Preliminary Plats and Special Use Permits.

Mr. Lane said how about Conditional Zoning.

Mr. Wensman said Conditional Zoning is legislative and it's what we do now with PUDs.

Mr. Lane asked if the public would still be invited to attend.

Mr. Wensman said the current code doesn't have any notice requirements.

Mr. Upton asked why not.

Mr. Wensman said it just isn't in the code that way.

Mr. Upton asked could it be added to the code.

Mr. Wensman said it could be but it's not a Quasi-Judicial process at the Council so people can speak freely at the Council. Our concern was people didn't have a say in these decisions because their locked out of the process because they aren't expert witnesses. With a legislative decision they can conduct business at the Council.

Mr. Wensman said this board can make a recommendation to the Town Council that you want the same notification for all application types.

Mr. Lane doesn't want to make a recommendation he wants it added into the UDO. It was his understanding after the August 24<sup>th</sup> meeting with Town Council that the Planning Board would have public hearings for legislative cases. For Quasi-Judicial cases they would have a public forum. They

would listen to the people and Stephen would take something to the Town Council but the Planning Board wouldn't actually make a recommendation because it was Quasi-Judicial.

Debbie Howard said she thought it was decided that the Planning Board would have public hearings on about anything but we wouldn't make a recommendation. Stephen would then present the boards thoughts and feelings to the Town Council.

Mr. Wensman said yes for Quasi-Judicial I would. For legislative we never really talked about a hearing requirement. There's already a legislative hearing at Town Council.

Mr. Upton said in his opinion the August 24<sup>th</sup> meeting with Town Council was supposed to be an opportunity to come to a conclusion along these lines.

Mrs. Daughtry said she thought they were trying to shorten the waiting period for the applicants.

Mr. Lane said it doesn't bother him that an applicant has to wait an extra 30 days for the citizens to come out and make their comments twice. The citizens are who we're supposed to be representing.

Mrs. Daughtry agrees with the some of the things that will be done in house. She agrees with Mr. Lane about the public being heard but they want growth. Developers work on a timeframe and if we can't work fast, we lose them.

Mr. Lane asked when Town Council could hear the amendment before us tonight.

Mr. Helmer said next month. It requires 30 days between Planning Board and Town Council to meet the legal requirements for notification.

Mr. Upton said all this board is looking for is for is a hearing with the public showing up before this board with a notice.

Mr. Wensman said yes, a noticed hearing before this board on all applications.

Mr. Wensman got back to the key points of this meeting. He said in the current draft major final plats will be administratively approved; currently they go to Town Council. The public dedications will still go to Council. The Final Plat is just a stamp saying it looks the same as a Preliminary Plat. If for reason a final plat is denied and the denial is appealed, the appeal would be heard by Board of Adjustments.

The current draft reestablishing the R-6 zoning district as an active zoning district to which land could be rezoned to it. Right now, it's an historic district, it's a placeholder for existing R-6 districts that no one else can rezone land to.

Multi-family residential development currently requires a special use permit and there are no standards. Mr. Wensman was going to make this a permitted use with supplementary standards but since we're having similar hearings for Special Use Permits as we are for Rezoning it will require two

stops in both cases; there really isn't a reason not to keep it as a Special Use, providing Council control in shaping approvals in both cases.

Mr. Wensman said there are proposed changes to the Table of Uses and he would like many special uses turned into permitted uses with supplemental standards. He asked the board if there were any specific uses, they would like to see remain special uses.

Mr. Wensman said he would suggest this board request noticed meetings for all rezoning's and text amendments. He also suggests that the board request multi-family become a special use.

After further review, Mr. Wensman agrees that all quasi-judicial should be treated the same way for consistency in process. He's in full agreement that if we if we are going to have Planning Board quasi-judicial reviews of plats, it should be the same process for quasi-judicial special use permits.

Mr. Wensman stated that some members of the Planning Board could attend the Town Council meeting as long as they didn't have a quorum. No more than 3 could attend.

Debbie Howard made a motion to recommend approval of ZA-20-03 with the addition of noticed public meetings for rezonings and zoning text amendments finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adoptive plans and the amendment is reasonable in the public interest; seconded by Teresa Daughtry. 4 Yay and 1 Nay. Mark Lane voted against the motion because he was told Planning Board wouldn't hold public hearings for legislative matters.

Pam Lampe came forward and stated she didn't understand the conditional zoning. She asked could it be used in everything but residential zoning.

Mr. Wensman said it's a process where it is parallel to the existing district. So, all districts would be subject to that option.

Mrs. Lampe asked why even allow conditional zoning when you have existing zoning that protects you.

Mr. Wensman said it is least likely to impact existing neighborhoods unless you're on the edge of the Town. It is in the growth areas where this would likely be utilized most or for redevelopment.

Mrs. Lampe asked what other towns were doing as far as Conditional Use zones.

Mr. Wensman said most towns have a conditional zoning option and quasi-judicial subdivision processes.

Mrs. Lampe asked what a Special Use Permit and Conditional Zoning were.

Mr. Wensman said there is an extra degree of scrutiny over quasi-judicial hearing where the Council can add conditions to an approval. Special use permits are typically required for daycares, multi-

family and any use that could be problematic. Conditional Zoning is a rezoning, a legislative process. People can speak freely; it is not like a court proceeding. In government we have legislative, quasi-judicial and administrative type decisions. Administrative is typically done by staff, zoning decisions are legislative and special use permits and preliminary plats are typically quasi-judicial processes. Final plats are most often administrative.

Mrs. Lampe asked if anything in a conditional zone would be considered a special use.

Mr. Wensman said no, but they are similar in that conditions can be placed on both. Currently our code lists some uses as special uses requiring a special use permit. They are listed in the Table of Uses.

Mr. Helmer said an easy way to understand conditional zoning is that you get to see the plan with the rezoning request. If you don't like the plan you can deny it for any reason or can conditionalize the approval.

Mr. Wensman said you can't necessarily deny a special use permit but you can put conditions on it. You have to base decisions on findings of fact.

Mrs. Lampe said so you're saying you don't have to do findings of fact on conditional zoning.

Mr. Wensman said no, you can reject it for any reason.

Mrs. Lampe asked what do you get when someone submits a preliminary plat.

Mr. Wensman said a preliminary plat shows the lot lines, elevations and typical lot layouts.

Mrs. Lampe said the minutes from the legislative meetings should go to Town Council.

Mr. Wensman said quasi-judicial minutes can't go to Town Council but for everything else they will.

Emma Gemmell asked what HPC stood for.

Mr. Wensman said Historic Preservation Commission.

Mrs. Gemmell said from the State level down it is pro-development; it's not for citizens, individuals and communities that are older. She and Mrs. Lampe have tried to point out the older places in Smithfield that aren't necessarily in historic districts but they are smaller lots. They keep their houses looking nice. She thinks we need to continue being careful and allow the public to give input. When you do quasi-judicial you have expenses and the people, I'm talking about don't have that kind of money. They are having a hard time even paying their light bills. The harder and more complicated you make things; they won't show up if they need to. So, by allowing a longer window of time for the process to take place and making it more open; people will appreciate what the town is doing for them. If you cut them out, they don't even have a voice. I feel like that is happening now. She doesn't mind telling the Mayor that he is wrong when all that he wants is quick.

One issue that Mr. Wensman said there were no regulations for are the occupancy in a single-family home. She said in some homes specifically on Hancock Street, there may be 8 to 10 trucks at one residence.

Mr. Wensman said it's possible to control where people park. He thinks there can be driveways standards where they must be paved and people couldn't park all over the yard.

Mrs. Gemmell said appearance makes a big difference and nothing is being done about it. She does appreciate the notifications being sent; she thinks it is important for longer periods of time. The less you have quasi-judicial the more people can actually discuss and carry on a conversation. Unless you have some communication going on, they have no idea what is going on.

Mrs. Daughtry asked how far ahead does the public get a notice to the Planning Board meetings.

Mr. Helmer said 10 to 25 days.

Mr. Wensman said public hearings are held at Town Council meetings so the public gets a notice. Planning Board meetings don't require a public notice according to statute.

See page 4 for the voting of ZA-20-03

**ZA-20-04 Town of Smithfield:** The applicant is requesting an amendment to Article 6, Table 6.5 Table of Uses and Activities to allow columbarium as an accessory use to Churches/Places of Worship with supplemental regulations in the O/I Office- Institutional Zoning District and adding two definitions to Appendix A.

Mr. Helmer said staff is requesting the amendment to Article 6, Table 6.5 Table of Uses and Activities to allow columbarium as an accessory use to Churches/Places of Worship in the O/I Office-Institutional. Zoning District. A Columbarium is defined as a structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person. A Columbarium is typically associated with a cemetery and in fact, GS 65-48 (3) defines cemetery as: "Cemetery" means any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes:

- a. A burial park, for earth interment.
- b. A mausoleum.
- c. A columbarium.

The Town recently had an inquiry about adding a columbarium to a church and after researching the issue found that there are at least 2 columbaria's already on church property in the town. The Episcopal Church has an urn plot in a small garden setting and the presbyterian church as an even larger columbarium. Upon research of other towns, there seems to be columbarium on church properties throughout Raleigh and in many other smaller towns across North Carolina and across the Nation. Some jurisdictions are regulating columbaria on church properties to address potential issues, such as:

- Internment of cremated remains require maintenance in perpetuity just as with a cemetery plot. A church with a columbarium could be abandoned at some future date leaving the fate of the deceased remains in question.
- The location of a columbarium adjacent to residential property could become a nuisance when there are ceremonies, or the columbarium is large.
- Internment of remains in a columbarium can be expensive, \$1200 or more, and could become a potential revenue source for a small congregation. Regulation on the size of the columbarium might be needed so it does not become fundamentally a cemetery.

The attached UDO Amendment would make columbaria accessory to churches and places of worship in the O/I Zoning District with supplemental regulations. The O/I District contains most of the towns large places of worship and is where the existing columbaria are known to exist presently. The placement of columbaria with places of worship in the O/I District are unlikely to be a nuisance or cause problems for adjacent properties, unlike with places of worship located in residential districts. The amendment addresses the various columbarium situations: an indoor or outdoor columbarium, or an urn plot. The supplemental regulations include regulations to address long term maintenance costs and alternate plans for future internment, dimensional considerations, number of allowed interments, appearance, and signage. The ordinance amends Table 6.5 Table of Uses and Activities, Article 7 Supplemental Regulations, and Appendix A Definitions.

Debbie Howard asked if restrictions could be placed on these columbarium's in the event that 75 or 100 years from now the Church has been abandoned.

Mr. Wensman said well this is saying there would be a maintenance plan and a future internment plan should something happen to the columbarium.

Mrs. Howard asked if a restriction can be placed on the size of the columbarium.

Mr. Helmer said it is in the text here in your agenda in Section 7.35.

Planning Staff recommends the Planning Board recommend approval of the zoning text amendment ZA-20-04 with a statement declaring the request is consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Debbie Howard made a motion to recommend approval of zoning text amendment ZA-20-04, adding Columbarium as an accessory use to Churches/ Places of worship with supplementary standards finding the amendment consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest; seconded by Teresa Daughtry. Unanimously approved

Old Business: None

Adjournment

Being no further business, Debbie Howard made a motion seconded by Teresa Daughtry to adjourn the meeting. Unanimously approved

Next Planning Board meeting is November 5<sup>th</sup>, 2020 at 6pm.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Julie Edmonds".

Julie Edmonds  
Administrative Support Specialist