

DRAFT
Smithfield Planning Board Minutes
Thursday, July 13, 2017
6:00 P.M., Town Hall, Council Chambers

Members Present:

Chairman Stephen Upton
Vice-Chairman Daniel Sanders
Teresa Daughtry
Mark Lane
Eddie Foy
Ashley Spain

Members Absent:

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Assistant

Staff Absent:

CALL TO ORDER

Mr. Upton announced that upon the direction of the City Manager that CUP-17-08 is removed from the agenda and heard at a later date. Mr. Simmons stated they submitted plans for CUP-17-08 a month and a half ago only to find out 1 day before the meeting it had been pulled from the agenda. Mr. Upton said he understood but intends to honor the City Manager's decision. Mr. Simmons said he was told it was administratively denied and not that it would be heard at a later date. Mr. Mike McLamb asked under what authority was the decision made. Mr. Upton said the City Manager has made an administrative decision in the matter.

THE HONORING OF MR. GERALD JOYNER

APPROVAL OF MINUTES FROM June 1, 2017.

Eddie Foy made a motion, seconded by Daniels Sanders to approve the minutes as written.
Unanimous.

Public Hearings:

After all persons given testimony were duly sworn, Mr. Upton opened the public hearing.

TX-17-03 Town of Smithfield:

Mr. Helmer stated that The Town of Smithfield Planning Department has enlisted the services of Holland Planning Consultants to revise and update the Town of Smithfield's existing Unified Development Ordinance. A Unified Development Ordinance Steering Committee was formed consisting of elected officials, advisory board members and community leaders. The steering

committee conducted a series of meetings and received public comment throughout the process. The steering committee's diligent study and input into the creation of the document has produced a truly worthy ordinance. The Town of Smithfield Planning Board is now requested to review the document, conduct a public hearing and make a recommendation to Town Council.

Mr. Dale Holland of Holland Planning Consultants came before the board and guests to make remarks about the UDO. He stated the ordinance was revised for several reasons. One was to make it consistent with current state statues, secondly to improve its organization, third to clarify a lot of the provisions within the ordinance and fourth to bring it consistent with some current public sentiments about the existing ordinance. I believe we have done all of those things.

There are some items in the draft ordinance that are substantially different from what you currently have in your ordinance. In many cases those substantial differences are the result of federal or state statutory requirements we've had to comply with. One item in particular as an example is sign regulations. If you read those sign regulations you will no longer see any references to signs by message content. There's no reference to a real estate sign, church sign, billboard or off premises advertising sign. All of that is the outgrowth of a Supreme Court decision made in February 2015 as a result of a case initiated by Grafton, Arizona. The Supreme Court decided that it was no longer legal to refer to any sign by message content. We had to get rid of all references to sign content. You will now find references to a sign type, such as a pole sign, a marquee sign or temporary sign.

We now have a reference in the ordinance to Granny Pods. If you have someone that is dependent upon you for continuing health care that you have to allow the person providing that health care to have a secondary living space in a detached building in your yard to allow that person to live in it. When that dependency ends you would be required to remove the Granny Pod. The landscaping requirements have been liberalized to some degree. We changed the provision for issuance of special use permit. They will now go directly to Town Council. This change is due to a statewide concern as well as from the Institute of Government, that special use permits only be adjudicated by one body because it is a quasi-judicial process. We have not rezoned any property and there's no change to be made now of a result of what we have done in this process. As a final comment I will tell you there's currently a bill that has been approved by the house and the senate. It has been ratified and sent to the governor to be signed. It would result in a complete revision of the telecommunications provision that's contained in this draft UDO. If the governor veto's it which by most people's opinion he is expected to do and the house and senate override the veto. It will take a lot of authority away from local governments, primarily municipalities to regulate telecommunication facilities within your jurisdiction and in particular in your town maintained ride of way. Mr. Upton opened up the floor to anyone with questions for Mr. Holland.

Mr. Eddie Foy asked if there was anything in that bill that mentioned changes to the extraterritorial jurisdiction? Mr. Holland said no, not in Smithfield because you don't have any

control over the right-of-way in the ETJ. That's under DOT. Legislature did mention at one time doing away with ETJ and it is still being debated.

Mrs. Teresa Daughtry asked if Conditional Use Permits were being moved along with the Special Use Permits.

Mr. Dale Holland said there's no meaningful difference in the term Special Use and Conditional Use. Under state statutes they are the same thing; it's just what you choose to call it. The reason for the change was the term conditional implies you have the right to impose conditions on the approval of a use but you don't.

Mrs. Daughtry asked when this new procedure would take effect for us as a board. Would it be after we adopt this and the Town Council adopts it?

Mr. Holland said the Town Council would set an effective date or they may adopt it and say it is immediately effective or they may give it a grace period to allow people to prepare for it.

Mr. Daniel Sanders asked if the court system would be involved in this process should the Town Council deny a special use permit.

Mr. Holland said yes the appeal would be to Superior court.

Mrs. Daughtry asked if sending all special use permits directly to Town Council was mandated or recommended by the State.

Mr. Holland said a special use permit can be approved by the Planning Board, Board of Adjustment or Town Council. What the Institute of Government is recommending is that only one of those boards handles these permits. It is the Town's choice which way they go.

Mr. Mark Lane asked could this stay the same and not change.

Mr. Holland said yes it could.

Mr. Lane said he thought there should be alternate members on the Planning Board. He feels they are a vital part of the board. Mr. Upton suggested that Mr. Lane put that request into a motion. Mr. Lane made a motion that alternate planning board members be added back in and it was seconded by Teresa Daughtry.

Mr. Foy asked under statute 3.3.3.3.4 why Planning Board members could request to the Chairman to be excused from a discussion or voting but Board of Adjustment member must be voted upon. Is there any particular reason for that?

Mr. Holland said it was a statutory distinction because the Board of Adjustment is more formal than the Planning Board because it is an evidentiary and quasi-judicial process. If someone on the Planning Board requests to be excused then the board should vote.

Mr. Ashley Spain stated if a person chooses to excuse themselves they know the circumstances as to why they should be removed. He feels it shouldn't be required for the board to vote on the decision.

Mr. Holland said please keep in mind you are a public body and this is subject to public records, if someone says I need to be excused because of a conflict. Anyone in the audience or on the board has a right to ask the reason. You don't have to go into great detail. You have to say it is a financial matter or a personal matter. You have to give some explanation why you're being excused.

Mr. Foy doesn't disagree with that he disagrees with other board members deciding if they think that's appropriate. He feels both boards should follow the same procedure when a board member requests to be recused.

Mr. Foy made a motion that 3.4.2.4.3 regarding the Board of Adjustments be changed to where the wording is the same as 3.3.3.3.4 member responsibilities on the Planning Board. Mark Lane seconded the motion. Unanimous.

Mark Lane made a motion seconded by Eddie Foy to recommend the UDO updates and will move to Town Council on August 1, 2017.

Old Business:

No Report

New Business:

We will not have a Planning Board meeting in August.

Daniel Sanders made a motion to adjourn, seconded by Ashley Spain. Unanimous.

Submitted this 18th day of July, 2017.

Julie Edmonds
Administrative Assistant
Planning Department