

**Smithfield Planning Board Minutes**  
**Thursday, September 7, 2017**  
**6:00 P.M., Town Hall, Conference Room**

**Members Present:**

Chairman Stephen Upton  
Oliver Johnson  
Michael Taylor  
Mark Lane  
Eddie Foy  
Teresa Daughtry

**Members Absent:**

Ashley Spain  
Daniel Sanders

**Staff Present:**

Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Assistant  
Steve Medlin, Interim Planning Director

**Staff Absent:**

**CALL TO ORDER**

**INTRODUCTION OF MICHAEL TAYLOR**

Oliver Johnson came forward and was sworn in as a Planning Board Member by Mr. Steve Upton.

**APPROVAL OF AGENDA**

Mark Lane made a motion, seconded by Eddie Foy to approve the agenda. Unanimous.

**APPROVAL OF MINUTES FROM AUGUST 10, 2017**

Eddie Foy made a motion, seconded by Teresa Daughtry to approve the minutes. Unanimous.

**APPROVAL TO OPEN THE PUBLIC HEARING**

Teresa Daughtry made a motion, seconded by Oliver Johnson to open the Public Hearing. Unanimous.

**TX-17-04 Town of Smithfield Planning Department is requesting to amend the Unified Development Ordinance:**

Steve Medlin stated the Unified Development Ordinance was recently adopted by Town Council at their August 1, 2017 meeting. However, at the time of drafting the UDO, the consultant tried to incorporate all the text amendments necessary based on what he knew was pending before the General Assembly. Unfortunately he wasn't able to include them all. Part of what you'll be looking at this evening is a text amendment to incorporate those required elements that the General Assembly passed that we're required to incorporate into the UDO. There's a second piece that I will get into in a few moments, dealing with modifications to the current Watershed

Restrictions for Smithfield. The Town is asking for the ability to modify the Watershed Ordinance to allow what is commonly referred to as High Density Option which would allow for an increase in impervious services. Currently in the general statute there's a list of things that are subdivision exemptions. The Town of Smithfield has historically followed that, but this year the General Assembly added a fifth exemption which is for division of properties in probated wills. Practice wise we've always done that throughout the state but this makes it law that everyone has to adhere to.

Teresa Daughtry asked if these changes would be added into the newly adopted UDO.

Mr. Medlin said once the Council adopts it, it'll be integrated into the ordinance and we'll send out revised pages with those modifications as well as update the website. As you're familiar in the new UDO, you'll have a quarterly process where you'll be evaluating the UDO. Hopefully these things will be coming on more of a quarterly basis, because of the changes being mandated we felt like we needed to go ahead and get them in there.

Mr. Medlin stated the next modification is to our enforcement provisions as it relates to land use violations. The General Assembly established there's a Statute of Limitations for local jurisdictions to be able to enforce land use violations. They put a two-tiered version of enforcement responsibilities in. A town has to enforce an issue in reasonable time; the General Assembly has now established what that reasonable time frame is. First time is five years once known to the staff. If you know there's a violation the Town has to enforce it within five years. After five years once that threshold passes then the use becomes a non-complying excusal. The 2<sup>nd</sup> threshold is the seven year when it is reasonably apparent from a public right-of-way or a place where the public has reasonable access. Generally what this is trying to do is make sure that local government doesn't come back on property that has been operating for years knowingly and then try to enforce an ordinance on those properties. This is the first time that the General Assembly has spent time on this and I think it is important that from the land use, planning and enforcement perspective we now have clear guides that we have lacked for a long time.

Mr. Medlin discussed the next modification, Small Wireless Communication Infrastructure Facilities. Basically they're the next generation of Wireless Communication that gets attached to poles. You'll stop seeing as many big towers, you'll see these instead. If they meet these parameters in size the actual equipment can be no more than 6 cubic feet, they can be put up by right with no local government review.

Mr. Medlin stated currently as you're aware we have an area in north Smithfield that is in a Watershed Protection Area and Watershed Protection Critical Area that currently caps the maximum impervious surface allowed to 24% of the overall site. When the Town adopted that Watershed Ordinance years ago it didn't have a stormwater Program in place which was critical in order to take advantage of the high density option provisions. Obviously since the time of the initial ordinance the Town does now have a storm water program. It is now able to take advantage of these provisions in the state code that allow for properties within the watershed area to go up to 70% provided that there are engineered stormwater devices put on site. At

some point the Town would probably need to put in an inspection program on an annual or bi-annual basis to go out and make sure they're operating properly.

Mrs. Daughtry asked what brought this about.

Mr. Medlin said I think it was a realization that the Town was actually able to take advantage of it. It's voluntary, there's nothing that forces anyone to do this. It was something that had been identified by staff; former Planning Director Paul Embler had been looking at this for a period of time. One of the first things I was handed as the interim was to explore this and carry it forward.

Mrs. Daughtry asked what have been the issues to bring this forward.

Mr. Medlin said he wasn't aware of a specific property, I am aware of a number of properties that may take advantage of it. There are some properties on Buffalo Road that potentially could take advantage of this. One thing I didn't tell you that I worked for the City/ County of Durham for over 30 years and 2/3 of the city is covered by watershed protection overlays which is huge. Obviously in order to develop and create that economic condition that you want to create you had to create alternatives to allow for the impervious surface increases. This doesn't mean you get any more density necessarily it just means you can have more impervious surfaces. Your density is still capped by your underlined zoning requirements.

Mrs. Daughtry asked if there's not an HOA then the property owner will be required to maintain it that will never change where it would fall on the Town.

Mr. Medlin said correct, you will enter into an agreement that has to have the Town as a third party; if for some reason that entity goes belly up. That's the reason you have a performance pond. If done correctly it will minimize the exposure of the Town.

Part of this will also allow for what is commonly referred to as transferred impervious surfaces from non-contiguous properties.

Eddie Foy asked in a town situation like this is there any issue as to how close those properties have to be.

Mr. Medlin said they have to be in the same watershed. It's a way of allowing for more intensification as well without having to do a high density option. One of the things the Town Manager asked me when I came on board was what are some things we can do to make Smithfield more sophisticated in how we do business and what opportunities are available for people to come in and do business. The cost of a stormwater facility is not cheap, so that's part of the factor that every developer will take into consideration; the perpetual maintenance and bonding.

Mrs. Daughtry asked if it was enforceable for Towns to be made to do the higher density.

Mr. Medlin said no it is not, it is a voluntary approach.

Brian Leonard from BRL Engineering and Surveying said this is voluntary on the town to enact; it's not voluntary on the property owner to do this. It will increase impervious area limitation; it increases the development area of a site. The town has opted to do this to allow more development on a particular site.

Mr. Helmer asked if the property that you're transferring impervious surfaces from has been encumbered by conservation easements do those have to be in our jurisdiction.

Mr. Medlin answered yes; it has to be in our zoning jurisdiction.

One of the good things about watershed protection overlays are you can now do cluster subdivisions. There are no minimum lot sizes. You want people to cluster homes. It's a design alternative.

Mr. Lane asked if the lot size setbacks would remain the same.

Mr. Medlin said they're basically prorated based on the size of the lot, so the setbacks could be less.

Finally, because of all these modifications mandated by the legislative actions and watershed actions we have to add a lot of additional definitions to bring our current code into compliance.

Mr. Foy asked why the mandatory changes to the ordinance can't just be put in.

Mr. Medlin said because legally we were advised to do it that way. Any time there's modification to state legislation you should always modify your codes.

Mr. Johnson asked if there were any health or safety concerns regarding the Small Wireless Communication.

Mr. Medlin said basically the wireless communication is regulated by the federal government for the most part and the State too to some degree. Both of those entities have said there is no health issue associated with wireless communication.

Eddie Foy made a motion, to approve text amendments Section 1.3.4.3, Section 1.8.7.1 and Section 10.84.4 seconded by Teresa Daughtry. Unanimous.

Teresa Daughtry made a motion to approve text amendments Sections 10.90.2, 10.90.6.2.3, 10.90.7.2.2, 10.90.7.2.3, 10.90.8, 10.90.9 and 10.90.16, seconded by Eddie Foy. Unanimous.

Teresa Daughtry made a motion to close TX-17-04, seconded by Eddie Foy. Unanimous

**SP-17-09 Tire and Wheels Service Shop:** Mr. Helmer stated the applicant is requesting site plan approval of an automotive tire and wheel shop on property within a B-3 (Business) zoning district and located at 2301 South Brightleaf Boulevard. The Planning Board is requested to review the preliminary site plan for compliance with the Town of Smithfield Unified Development Ordinance minimum development standards. Planning Staff recommends approval of the site plan with the condition that all Unified Development Ordinance standards are met prior to issuance of final site plan approval and issuance of a valid zoning permit. On December 2, 2016, the Smithfield Town Council approved CUP-16-12 to allow Amalia Felix Mireles to construct an automobile repair facility with tire sales and service on property located within the B-3 (Business) zoning district. The property which received the conditional use permit is located on the southwest corner of Wal-Pat Road and South Brightleaf Boulevard and further identified as Johnston County Tax ID#15A61047D.

On August 8, 2017, BRL Engineering submitted a site plan for an automotive repair facility. The site plan as submitted generally meets the requirements of the UDO and provides paved parking, required landscaping and one access point on South Brightleaf Boulevard. Key site elements include: 2,830 square foot building, paved parking provided as required by current development standards, access provided by one proposed driveway to be permitted by NCDOT, required landscape yards, public utilities connections and screened dumpsters.

Mrs. Daughtry asked how many feet the stoplight was from the entrance to this proposed facility.

Mr. Helmer said it was DOT right-of-way so they would be the one permitting that location.

Mr. Upton asked if there were stipulations for curb and gutters.

Mr. Helmer said DOT is not requiring the applicant to put curb and gutters in. Our code does speak to required landscaping and parking. It's not shown on the plan but some kind of barrier on this particular plan would need to be installed. Usually concrete curb stops would be used.

Mr. Upton asked if the flea market was still using this property as a parking lot.

Mr. Helmer said not that he was aware of, that the applicant would have to answer that.

Mrs. Daughtry asked where the applicant would be storing their tires.

Mr. Helmer said the applicants conditional use permit does not allow for outdoor storage of tires. They can be displayed but after hours they must be removed.

Mr. Lane asked what the rule was about vehicles being left in the parking lot overnight.

Mr. Helmer stated it was a private parking lot and if the applicant wanted to leave vehicles there he could. He can have as many cars on the lot as he has parking spaces.

Mr. Foy asked if the existing 2,930 sq. ft. building was going to stay or go.

Mr. Helmer said it would be torn down.

Mr. Lane asked if the proposed landscape plans were from the old UDO.

Mr. Helmer said yes they appear to meet the outgoing UDO standards. The applicant submitted the plan after council adopted the new UDO.

Mr. Medlin said the law as it relates to submittal of application is that you have to meet the ordinance in that at the time you submit your application. However if an ordinance is modified after you submit, it is to your advantage.

Brian Leonard came forward and introduced himself. He said they were not aware that they could reduce some of the plantings for landscaping so he would bring the plans back before the landscape architect. In reference to the question about the driveway and stoplight, Mr. Leonard said the entrance could be shifted. We basically centered it up with the site and building. We can revisit the plan and get with DOT about it. Mr. Leonard stated they applied for a conditional use permit to be able to store tires and they're fully aware they can't be stored outside.

Mrs. Daughtry asked if the dumpsters are enclosed.

Mr. Helmer said dumpster screening is required.

Mr. Foy asked what is required of the Planning Board. I know we are requested to review the site plan, but are we required to vote on anything.

Mr. Medlin said in the planning world there are three types of processes, Legislative, quasi-judicial and administrative. This is an administrative approval and there's no discretion. The Town's job is to review the application for compliance with the ordinances and development standards. If the applicant has satisfied all those standards you have to approve the plan.

Mr. Foy asked if the board would still make recommendations and vote on them.

Mr. Upton said yes we do.

Mr. Foy asked if it was correct that planning staff has reviewed the site plan and after their review they feel the site plan has met requirements.

Mr. Medlin said if you get a site plan before you and there are no outstanding technical corrections necessary then the staff is going to recommend approval. If there are issues that come before you on that site plan we're going to enumerate those for you so you can see what those conditions are.

Eddie Foy made a motion for a recommendation of approval of site plan SP-17-09, seconded by Teresa Daughtry. Unanimous.

## **Site Plan Review Training**

### **Old Business:**

No Report

### **New Business:**

Our next Planning Board Meeting is scheduled for October 5th, 2017.

Mark Lane made a motion to adjourn, seconded by Eddie Foy.  
Unanimous.

Submitted this 8<sup>th</sup> day of September, 2017.

Julie Edmonds  
Administrative Assistant  
Planning Department