

**Draft**  
**Smithfield Planning Board Minutes**  
**Thursday, September 6, 2018**  
**6:00 P.M., Town Hall, Council Chambers**

**Members Present:**

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

**Members Absent:**

Vice Chair-Daniel Sanders

**Staff Present:**

Stephen Wensman, Director  
Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Support Specialist

**Staff Absent:**

**CALL TO ORDER**

Michael Johnson was sworn in by Stephen Upton as a new Planning Board member.

Mr. Upton asked the Planning Board members to identify themselves and he identified Planning Department staff.

**AMENDMENTS TO THE AGENDA**

None

**APPROVAL OF AGENDA**

Oliver Johnson made a motion to approve the agenda, seconded by Mark Lane. Unanimous

**APPROVAL OF MINUTES from August 2, 2018**

Ashley Spain made a motion, seconded by Mark Lane to approve the minutes as written.  
Unanimous

**HONORING OF EDDIE FOY:** Stephen Upton presented Mr. Foy with two plaques for his 15 years of service on the Planning Board and Board of Adjustment.

**New Business**

**RZ-18-08 Navaho Investment Company LLC:** The applicant is requesting to rezone a 32.88 tract of land from Johnston County AR (Agricultural-Residential) zoning district to the Town of Smithfield R-20A (Residential-Agriculture) zoning district. The property considered for rezoning is located on Black Creek Road approximately 1700 feet southwest of its intersection with NC Highway 210. The property is further identified as Johnston County Tax ID# 15I09011B.

Mr. Stephen Wensman came forward to present RZ-18-08. He showed an exhibit of the property stated it was near West Smithfield Elementary School. He said about 12 acres of the property was in the Town of Smithfield ETJ the remainder of the property to be rezoned is in the County. Sometime between 2007 and 2008 both parts of this property were preliminary plated by the County. Then the Town of Smithfield expanded its ETJ. More recently the developer revised the preliminary plat with the County and plated the western half due to it sitting in the County; they received plan approval for it. They then came to us and asked to develop the portion of the property that is in the Town. The County doesn't want to serve this property with their utilities. The County told the Town's Utilities Director to serve the whole development. An annexation petition has been put together by the applicant. The Smithfield Town Council instructed the Town Clerk to certify the petition. The next step would be to call a public hearing. If the Town chooses to annex it, then we would bring the rezoning forward at the same meeting for the Town Council to hear. Whatever is decided tonight would be contingent on annexation, because it isn't in the Town right now. Mr. Wensman checked with the School of Government in Chapel Hill about whether or not the Town can bring up the rezoning with the Planning Board given it is still in the County. They said it is fine because this is a recommended body. The Town can recommend the rezoning but it will not take effect until after annexation. Our concern is if this portion gets annexed, what should the zoning should be. The applicant is requesting R-20A which is the lowest density residential category which is the same as the other portion of the site. The portion they're rezoning has invested rights associated with it. It was developed under the County under AR zoning rules. If the Town does accept the annexation, it's not going to meet our current standards, it would be County standards. It'll be a DOT road standard.

Mr. Lane asked why we wouldn't approve it under the Unified Development Ordinance.

Mr. Wensman said because it comes with vested rights. That will be an issue the Town Council will have to take on.

Mr. Spain asked if part of the site is not within the Town's ETJ, then they have nothing to do with governing the property. So it would go back to the County correct?

Mr. Wensman answered yes that is correct.

Mr. Lane asked if this was one lot or two.

Mr. Wensman said it is one lot divided by a creek.

Mr. Lane said you can have a lot that is half in the ETJ and the other half not in the ETJ.

Mr. Wensman said yes that is what happened.

Mr. Lane said that isn't right because I know people that couldn't get in the ETJ because all of their property wasn't in it.

Mr. Spain asked how this situation can be considered but not the same way on the East side.

Mr. Helmer said it must not have been picked up on, that this property was split into part County and part Town.

Mr. Spain asked if the Town annexes this property in, why should it not conform or have to conform to the Town and couldn't the question be answered before a decision is made.

Mr. Wensman said if the Council thinks the property should conform then the applicant more than likely wants to become part of the Town. He will make more money if he stays in the County. We need to choose the land that we annex wisely. If this property becomes part of the Town, we would have to serve it with utilities, police, fire and garbage.

Mrs. Daughtry said if we say we don't want to rezone the property just leave it as is, are we hurting the applicant.

Mr. Wensman said if the property does get annexed into the Town then we need to rezone it into something. It can't be in the ETJ and have County zoning.

Mr. Lane said in his opinion the Town of Smithfield has nothing to do with either piece of this property.

Mr. Helmer said the applicant wants something to do with the Town though.

Mr. Lane said it isn't going to conform to the UDO; he has a problem with that. He understands the Town wants them as a customer. The Council has a lot of decisions to make.

Mark Lane made a motion to table RZ-18-08 until it has been annexed, seconded by Teresa Daughtry. Unanimous

**ZA-18-03 Town of Smithfield:**

The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission into the Unified Development Ordinance, Article 3, and to amend the UDO Administrator's duties, and to amend the Board of Adjustments voting procedure to reflect statutory requirements, and other minor updates to Article 3.

The proposed ordinance amendment to the Unified Development Ordinance (UDO) will:

1) Incorporate the Town of Smithfield Code of Ordinances, Chapter 15, Planning, Article III, Historic Properties Commission (HPC) into the Unified Development Ordinance, Article 3 with a few minor changes:

- Title of the Historic Properties Commission is recommended to be renamed to Historic Preservation Commission. Renaming the Commission will be consistent with the title of the

Town of Smithfield Historic Preservation Design Guidelines manual and more accurately reflect the intent and mission of the Commission as defined by Section 3.5.1.

- The proposed ordinance amendment will require the Commission to meet a minimum of one time per calendar year.

2) Provide needed corrections and clarifications including:

- Minor edits to UDO Administrator's duties to reflect code changes.
- Add Historic Preservation Commission throughout Article 3 as needed.
- Correcting the Board of Adjustments quorum and voting procedure (3.4.2.4.1) to reflect state statutes.
- Minor additions and deletions as needed to reflect Town operations and code changes, (i.e., eliminating reference to Town Building Inspector as secretary for boards).
- To amend the procedural requirement for Town Council approval of site-specific development plan.

Mr. Upton asked if we could postpone future Board of Adjustment meetings knowing everyone can't attend them.

Mr. Helmer said if you don't have the ability to have a 4/5th vote then you can't hear the case.

Mr. Upton asked if the BOA didn't have a quorum at the last BOA meeting held on July 26, 2018.

Mr. Helmer said yes you had a quorum for the meeting, but you didn't have a unanimous vote.

Mr. Lane said I understand statues; I have emailed every legislature I can find. I know that two BOA votes have been reversed, this one was held onto. The new ordinance needs to state if the full board is not present; the applicant is to be notified and can table their request. It doesn't apply to vacant seats or recused members.

Mark Lane made a motion to add if the full board is not present the applicant will be notified and can table the request. Vacant and recused seats do not apply, seconded by Teresa Daughtry. Unanimous

Mr. Wensman presented some ordinance amendments he has proposed for Article 10. He said he wanted to just go through the highlighted areas and give everyone some of his ideas. This first one is on page 10-4, rather than state what's in 10.94 possibly in different words I prefer to reference it and have rules in one place. The first striking here is just getting rid of the ordinance language where the parking and loading should be. Just say it needs to comply with 10.94 where that language sits. Then further down the strike through would be where it says No required off-street parking shall be located on any public right-of-way or encroach by more than 50% on any required setback, or into any required streetyard. According to Mr. Helmer this has never been enforced or used. To enforce it would create hardship that others didn't have to comply with. Also it would create different setbacks within the same corridor, depending on the site.

Mr. Oliver Johnson asked Mr. Wensman to go back to page 10-4, it mentions 10.94, where is that.

Mr. Wensman said Section 10.94 is on page 10-125. He asked Mr. Helmer to explain this strike through. It's conflicting because we have a building setback then we have a required streetyard. Essentially what this says is you can use 50% of the building setback but that is not what the landscape code says. It says you can't be in the 50%, and this is saying you can't even have pavement in there.

Mrs. Daughtry said it was a lot to absorb when we're given all these changes. Could we not pick a night when we focus on these changes only in a different setting? I feel like we are going back and creating a whole new UDO like before that took 18 months.

Mr. Wensman said his original intent was to do small little bits. He realized it would be confusing so he thinks the best way is to make the changes article by article. He talked with Town Manager, Michael Scott and he thinks the Town Council would want to do this in a workshop setting instead of the way Planning Board meetings are held.

Mr. Helmer said he noticed something unusual about this UDO and the previous one. The stuff is engrained throughout the entire document, like the site plan review stuff. It is in 5 or 6 articles, to make one change you have to make many changes in various places.

Mr. Wensman said until you use the code like Mr. Helmer and I do, you probably never grasp it. We learn as we use it ourselves.

Mr. Upton asked the Planning Board how they felt about having separate sessions to meet on these ordinance changes.

Mr. Oliver Johnson said it would be more beneficial in a workshop setting.

Mr. Wensman said it might be a good idea to ask the Town Manager about the UDO committee and Planning Board reconvening and starting over with the UDO.

Mrs. Daughtry said I know you have worked hard on correcting this UDO and to be honest it is more than what we learned when we were in the UDO committee sessions.

Mr. Upton asked what would be wrong with having the Planning Board on the UDO Committee if they choose to be.

Mr. Wensman said well you wouldn't want a quorum of the Planning Board.

Mr. Helmer said anytime we are all together to meet as a board we have to advertise it.

Mrs. Daughtry said it would be fine with her for Planning staff to clean up the UDO completely and tell her and anyone else on the UDO committee a date and time to meet. She says they

need to be focused and take a vote of who is willing to be on the committee from the Planning Board.

Mr. Wensman said he wasn't sure if the Town Council would want to be part of a committee but he has a feeling they may want to come along to the meetings as well.

Mrs. Daughtry said they did this for nothing the first time. She is willing to go through these UDO meetings again for nothing, although food would be nice.

Mr. Wensman said it makes sense to reform the UDO committee; however he needs to talk to the Town Manager first to see if that is the approach he would like to take. He had expressed an interest in a few members of each group discussing these changes in a workshop setting.

### **Old Business**

Mrs. Daughtry asked how Mr. Daniel Sanders was doing, if there had been any updates on his condition. I spoke up and told the board there had not been any change.

Mr. Upton said a flower would be sent on behalf of the Planning Board should Mr. Sanders pass away.

### **Adjournment**

Ashley Spain made a motion to adjourn, seconded by Teresa Daughtry. Unanimous

Submitted this 7th day of September, 2018

Julie Edmonds  
Administrative Assistant  
Planning Department