

**Town of Smithfield
Planning Board Minutes
Thursday, January 3, 2019
6:00 P.M., Town Hall, Council Chambers**

Members Present:

Chairman Stephen Upton
Vice Chairman Mark Lane
Teresa Daughtry
Oliver Johnson
Ashley Spain
Leslie Lazarus
Alisa Bizzell
Michael Johnson

Members Absent:

Staff Present:

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

Staff Absent:

CALL TO ORDER

Chairman Stephen Upton asked each board member to state their names.

APPROVAL OF MINUTES from November 1, 2018

Oliver Johnson made a motion, seconded by Ashley Spain, to approve the minutes as written.
Unanimously approved

APPROVAL OF THE 2019 MEETING SCHEDULE

Mark Lane made a motion, seconded by Ashley Spain. Unanimously approved

NEW BUSINESS

RZ-18-07 Michael Stewart, P.E.:

Mr. Wensman stated that Michael Stewart is the applicant and he is present tonight. The property is located on Galilee Road about 1900 feet south of Black Creek Road, near West Smithfield Elementary School. The property is partially within the ETJ and partially outside. This came before the Planning Board a few months ago prior to annexation. The board chose to wait until annexation happened before hearing it. It was annexed by the Town Council. Currently it has AR zoning which is a County zoning designation and it needs a Town of Smithfield zoning designation which would be R-20A.

The 32.79 acre parcel with the Johnston County Property ID# 15I09011B received preliminary plat approval by the Johnston County Board of Commissioners around 2007-2008 when the property was fully within the jurisdiction of Johnston County. That development was never constructed and the preliminary plat expired. In 2009, the Town of Smithfield's ETJ was expanded to include the 11.53 acre portion of the property and was rezoned to R-20A (Residential-Agricultural). The remainder of the property, 21.26 acres, remained in the County's jurisdiction. In early 2018, the development was picked up and the County approved the preliminary plat for the 21.26 acres under County jurisdiction into 62 lots meeting the County's zoning and subdivision standards. The Town had first right to serve the property with water and sewer for the portion in the ETJ and the County wanted the entire parcel serviced together. As a result the applicant requested annexation which was approved on December 5, 2018. Smithfield will

provide sewer and water utilities with a master meter on Johnston County's service lines and electricity will be provided by Duke Energy. Johnston County Utilities has requested that the entire development be served by the Town of Smithfield. Staff finds the rezoning to be consistent with the Strategic Growth Plan, which guides this area for low density residential. It's consistent with the Unified Development Ordinance except for the nonconformities that were adopted by the Council with the annexation. The existed platted parcel has different setbacks and there isn't a sidewalk on the residential street.

Mr. Upton asked if the nonconformities have to be acknowledged by the Planning Board.

Mr. Wensman said you can acknowledge it. With a consistency statement you could say it's consistent except those nonconformities that have been identified with the annexation.

Mr. Lane asked what nonconforming is.

Mr. Wensman said the setbacks are. The County setbacks are 20 and the Towns are 30 so that is nonconformity. The Town requires a sidewalk on one side of the street. There are no sidewalks it is a ditch section. Those are the primary nonconformities.

Mrs. Daughtry asked if there was going to be a lift station on this plan.

Mr. Wensman said yes there will be a lift station.

Mrs. Daughtry asked if this subdivision will be built in phases.

Mr. Wensman said he wasn't sure, but the developer is planning to plat the plan as a whole so it will function as one development.

Mr. Spain asked if the Town was responsible for only internal areas. What is the Town responsible for?

Mr. Wensman said the Town is responsible for trash and yard pickup, as well as utilities.

Mr. Lane said he thought the subdivision would be serviced with County water.

Mr. Wensman said no it will be serviced with Town water and sewer pumped to the County lines through a master meter.

Mr. Lane said the plat that was not in the ETJ, is it zoned RA-Johnston County.

Mr. Wensman said that portion is platted already while it belonged to them. It now belongs to the Town, we've accepted vested rights. We are rezoning that portion to match both properties.

Michael Stewart from 4716 Carlton Drive Raleigh, NC came forward to answer any questions anyone might have. He stated this subdivision was turned in years ago before the economy took a downfall. They will have two subdivisions with two cul-de-sacs that will be connected with walking paths along the sewer corridor. The intention is to build this subdivision in two phases.

Mrs. Daughtry asked Mr. Stewart if there would be sidewalks on either side of the street.

Mr. Stewart said at this time it is just designed to be a ribbon street as in a typical county subdivision.

Mr. Lane said he thought one side on the street was required to have a sidewalk.

Mr. Wensman said sidewalks are required on one side the Town streets. With the new unplatted half of the development that will come up in discussion.

Mrs. Daughtry stated she thought when anything came before the board; the applicant would be required to up their standards and have at least one sidewalk on the road.

Mr. Wensman said yes, we are having a similar discussion with our Comprehensive Plan Committee. As long as we have a rural standard, we should ask where would that be appropriate to use and should a sidewalk be included or not given the difficulty of constructing sidewalks with that rural standard. That is

an issue we are working through. It is our policy and we have been trying to enforce that. We definitely need to have this discussion with the unplatted phase.

Mr. Lane asked what does the UDO say.

Mr. Wensman said the UDO requires sidewalks on one side of the street but gives the Town the right to waiver that.

Mrs. Daughtry said she understood the waiver but the requirement wasn't put in the UDO for them to waiver.

Mr. Lane said so at this time we don't need to worry about setbacks, sidewalks or anything other than the rezoning. He asked if this plan would come back before us.

Mr. Wensman said yes it will come back before this Planning Board.

Mrs. Daughtry made a motion to recommend that the Town Council approve rezoning map amendment RZ-18-07, seconded by Oliver Johnson. Unanimously approved

RZ-18-09 Studio TK:

The applicant is requesting to rezone a 3.12 acre portion of a 9.92 acre tract of land from the B-3(Highway Entrance Business) and R-20A (Residential-Agricultural) to the LI (Light Industrial) zoning district. Mr. Wensman stated the owners were Teknion North America LLC. The property considered for rezoning is located on the east side of US 70 Business West, approximately 200 feet north of its intersection with Cloverdale Drive. The Planning Department recommends approval of the Zoning Map Amendment; and recommends that the Town Council approve a consistency statement declaring the request to be consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Mrs. Daughtry made a motion to recommend Town Council approve the rezoning of RZ-18-09, seconded by Ashley Spain. Unanimously approved

ZA-18-08 Town of Smithfield:

Mr. Helmer stated The Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to amend and 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 make certain amendments to other sections as they pertain to the UDO Administrator's duties, the Board of Adjustments, the Planning Board, and the Town Council.

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.
- To define types of work considered as normal maintenance for contributing and noncontributing properties, and work requiring certificates of appropriateness.
- And to update the ordinance as it pertains to demolitions of historic landmarks and buildings.

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.
- Make certain corrections to Section 3.3 Planning Board.
- Make certain corrections to Section 3.4 Board of Adjustments including 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 renumber Section 3.5 Town Council to 3.6 and to amend the procedural requirement for Town Council approval of site-specific development plan.

The Planning Board reviewed ZA-18-08 as it pertains to moving the HPC regulations into Article 3 at the July 2018 Planning Board meeting. Since that time, Staff has found other needed amendments to Article 3. The UDO Sub-committee met to review these changes and recommends approval.

Planning staff finds the zoning text amendment is 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.

Mr. Wensman added when he started working with the Town the ordinance had changed and the second public hearing was taken away from the Planning Board. Now we only have one public hearing at Town Council. Mr. Lane expressed his concern about not having the public hearing at Planning Board any longer. Mr. Wensman stated he went back and looked at older ordinances and never was it required that Planning Board hold a public hearing. It was a historical practice the Town did. So no change took place in the ordinance just in the practice.

Mr. Upton asked if the Planning Board could request to hold the public hearings as an add on, instead of taking it for granted like before.

Mr. Wensman said he'd like to point out in terms of having an official public hearing; the public has an expectation where they would go to leave their comments. If there are two I believe it may be confusion by the public as to which body they should go to in order to present their concerns. As a Town we could publicly notify a meeting at Planning Board but not classify it as a Public Hearing.

Mrs. Daughtry asked if this practice of holding two public hearings worked before, why it was ever changed.

Mr. Wensman said well there are two issues here. Legislatively it doesn't cause real conflict. However with quasi-judicial there is potential for conflict. Testimony gets out to the public, prior to the official public hearing which is at Town Council. At that point, Town Council can catch wind of any information that has been released and it distorts their opinion and creates a legal situation for the Council.

Mr. Lane asked Mr. Helmer if there had been any legal issues by Planning Board holding public hearings in the past.

Mr. Helmer answered yes, the RV Park. It was quasi-judicial. When you have two public hearings with evidence submitted, you make a recommendation to Council based on that evidence. Then Council could be making their decision based on your recommendation and information that was received outside of their public hearing. That is an example of ex parte communication and that's a problem. I think the thought behind the change is the Town is exposed to litigation when two public hearings are held and both boards are not present.

Mr. Upton asked what the Town Councils thoughts were on the public hearing change.

Mr. Helmer said several councilmen were on the UDO committee a couple years ago and they were fully aware of this change. The meeting minutes reflect it was discussed and the ordinance was adopted to make the change. It was a substantial change, so I'd hope everyone was on board when they voted.

Mr. Lane asked why major subdivision final plats aren't coming to the Planning Board.

Mr. Wensman said there's no requirement in statute, even for Council to approve it. It can be administrative. It used to go to both which isn't necessary. We're trying to make the Town developer friendly and speed up the process for them. A Council check-in is useful because they need to dedicate park land and streets anyway. It's a good opportunity for them when requesting final plat to also present their park land and street dedication. In terms of reviewing a final plat, you have to approve them unless there is a significant change.

Mr. Lane asked if the procedure about public hearings was in Article 5.

Mr. Wensman said not entirely, Article 4 has some of it.

Mr. Lane said he'd like to see Article 5 at section 5.8.2.1.3 on page 5-14; he wants Planning Board reinserted where it has been stricken and public hearing added back in. If Town Council turns the Planning Board down to hold Public hearings, the meeting should still be posted. The adjoining landowner should be notified of all meetings.

Mr. Helmer said additional changes need to be made if you intend to have a public hearing. These talks about notification, it's not saying you have to conduct a public hearing. It only says adjacent properties have to be notified.

Mrs. Daughtry said she would be a very upset landowner if a new development or business was coming beside her and the Town didn't notify her.

Mr. Wensman said planning staff will bring these recommendations to Town Council. That you would want both legislative and quasi-judicial to have public hearings twice.

Mr. Upton stated that he thought in the past, Town Council relied upon the Planning Board's recommendations from public hearings.

Mr. Wensman said the board needs to make a recommendation that the Town Council approve for legislative and quasi-judicial public hearings go before both Planning Board and Town Council.

Ashley Spain made a motion to recommend the Town Council approve ZA-18-06, seconded by Mark Lane. Unanimously approved

ZA-18-06 Town of Smithfield:

Mr. Helmer said the Town of Smithfield Planning Department is requesting an amendment to the Unified Development Ordinance (UDO) to update the development review process contained in Article 5. On January 2, 2018 the Town of Smithfield approved an ordinance amendment to allow for administrative approval by the UDO Administrator when major site plans and final plats are found to meet or exceed minimum development standards. Additional amendments are needed and these were reviewed with the UDO sub-committee on December 5, 2018 and recommended for approval. The January 2, 2018 amendment to Article 5 removed the requirement for Planning Board review and Town Council approval for major site plans, returning the process to the pre-UDO update process.

Oliver Johnson made a motion to approve ZA-18-06, seconded by Mark Lane. Unanimously approved

Voluntary Annexation Policy

Mr. Wensman presented a voluntary annexation policy. The purpose of this Annexation Policy is to set forth guidelines for the annexation of parcels to the Town of Smithfield, whether those parcels are in the existing extraterritorial jurisdiction (ETJ) or not, and whether they are contiguous or to be a satellite to the town. You can have annexation which is adding land to the town municipal boundary. If it's contiguous its land that's adjacent to current boundary and it gets annexed in. The legislature treats that as acceptable. Satellite annexation is when you accept land detached from the current corporate boundaries. The Town of Smithfield received an exemption in the statues from that requirement. We can have as much satellite annexation as we want.

1. Parcels Contiguous to Municipal Boundary

It is the policy of the Town of Smithfield to consider most favorably the voluntary annexation of parcels that are contiguous to the existing town boundaries and that are within the ETJ of the Town when:

- a) The site has access to Town of Smithfield utilities, or
- b) A development plan has been approved which will extend utilities to the site.
- c) If a site has access to only one utility, then the Town will have the option of adopting an ordinance of annexation with conditions requiring the property owner to pay all applicable fees and connect to the other utility within ninety (90) days of the date when it becomes adjacent to the site.

2. Noncontiguous Parcels within the ETJ of the Town

The Town of Smithfield will consider voluntary annexation of noncontiguous property that lies within the ETJ of the Town based on whether the property meets the requirements of satellite annexation, prior to annexation or recording of a subdivision plat.

3. Parcels outside the ETJ of the Town

If the property is not contiguous to the municipal limits of the town and not within the defined ETJ of the Town of Smithfield, but meets the requirements of satellite annexation, prior to annexation or recording of a subdivision plat, the property owners shall enter into a binding written agreement with the town that there will be full compliance, if annexed, with the applicable provisions of the Town's UDO prior to further development. All nonconforming issues will be brought into compliance

4. Annexation Required for Provision of Water and Sewer and Electric Services

It is the Town of Smithfield's intent that the future annexations of the town shall match the existing and future utility service extensions of the Town. Therefore, new applicants for utility services shall be required to voluntarily annex to the Town for delivery of those services. If those properties do not meet the requirements of satellite annexation they will enter into a binding written agreement that the present or future owners will voluntarily petition for annexation for the provision of those municipal services. That future petition will be made at the time of any of the following occurrences:

- a) The property meets the requirements for satellite annexation; or,
- b) The property becomes contiguous to any annexed portion of town; or,
- c) At the convenience of the Town of Smithfield.

If the property is annexed into the Town of Smithfield, the property owner shall be responsible for installing any infrastructure necessary for connection to the Town utilities, and all infrastructures shall be turned over to the Town upon final acceptance from the Town.

Connection to Town of Smithfield public water and/or sewer systems is required when a proposed residential structure or subdivision is located within 350 feet of Town water and/or sewer. In such cases where the public water and/or sewer supply system is of insufficient capacity to permit the delivery of

water or sewer supply, the subject proposed structure or subdivision shall be relieved of the requirement to connect to such public system.

Mr. Wensman asked the board if they had any questions before this policy was brought before the Council.

Mr. Upton stated no he didn't.

Mrs. Daughtry suggested everyone read the policy and bring it back before the board.

Mr. Upton said ok then we will table the Voluntary Annexation Policy until next time.

Mr. Oliver Johnson made a motion to table the policy, seconded by Ashley Spain. Unanimously approved

Adjournment

Being no further business, Ashley Spain made a motion seconded by Mark Lane to adjourn the meeting. Unanimous approved.

Respectfully Submitted,

A handwritten signature in black ink that reads "Julie Edmonds". The signature is written in a cursive, flowing style.

Julie Edmonds
Administrative Support Specialist