

**Draft
Town of Smithfield
Planning Board Minutes
Thursday, March 7, 2019
6:00 P.M., Town Hall, Council Chambers**

Members Present:

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

Members Absent:

Teresa Daughtry

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

CALL TO ORDER

Chairman Stephen Upton asked each board member to acknowledge themselves.

APPROVAL OF MINUTES from February 7, 2019

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

APPROVAL OF THE AGENDA

Mark Lane made a motion, seconded by Leslie Lazarus. Unanimously approved

REVIEW OF PLANNING BOARD MINUTES FROM OCTOBER 6th, 2016

The October 6, 2016 Planning Board Minutes were passed out. Chairman Stephen Upton requested that each member please review RZ-16-03 for a few moments before beginning the new business.

NEW BUSINESS

RZ-19-01 John A. Whitley:

The applicant is requesting to rezone a 0.11 acre tract of land from an R-8 (Residential) zoning district to the O/I (Office Institutional) zoning district. The property considered for rezoning is located on the northeast corner of the intersection of South Third Street and Woodall Street and further identified as Johnston County Tax ID# 15030016. The property is located within the 100 year floodplain.

Mark Helmer pointed out that Mr. Whitley made application to rezone this same property on October 6, 2016 and on October 17, 2016 he withdrew his request. Mr. Whitley was undecided whether to rent the home out or use for commercial use in the wake of Hurricane Matthew.

Mr. Lane asked if Mr. Whitley withdrew his rezoning at that time because he was undecided on what he should do with it.

Mr. Helmer answered yes, after Hurricane Matthew he wanted to reevaluate the situation.

The property considered for rezoning to O/I is small (0.11 acres), shares a driveway with the residential property to the east, is entirely within the 100 year floodplain and would likely be considered a spot zoning. Staff recommends denial of the rezoning for the following reasons:

- The rezoning would result in a non-conforming O/I lot. The minimum lot size in the O/I district is 6,000 sq. feet; the subject parcel is only 4,792 sq. feet. The existing structure (home) would not meet the structure setbacks in the O/I district.
- Off-street parking and handicap accessible parking meeting UDO requirements for an office use would likely be difficult to provide given the small size of the lot.
- The property to the north is zoned O/I CUD, which is a different and district zoning district and could be considered a spot zone given its size. The zoning of this parcel to O/I would likely be a spot zoning which is prohibited.
- The proposed office use would be an intensification of land use in the 100 year flood zone.
- Office uses should be buffered from residential uses with a Type B landscape buffer which would be difficult given the small size of the lot and the configuration of the shared parking access on the rear of the lot.
- The rezoning is inconsistent with the comprehensive land use plan. The Plan guides the property as medium density residential.
- The rezoning would be an encroachment of commercial uses into a residentially zoned and guided area.

In order to approve the rezoning, the Town Council must find the rezoning consistent with Town Plans and Policies:

Consistency with the Strategic Growth Plan

The subject property is not consistent with the Strategic Growth Plan. The Plan guides the property as medium density residential.

Consistency with the Unified Development Code

The rezoning would create inconsistencies with the UDO creating nonconformities such as side yard setbacks, minimum lot sizes for the O/I District, buffer yards and potentially off-street parking.

Compatibility with Surrounding Land Uses

The property to the north is an office use and would be compatible, but the other properties surrounding the parcel are all residential and incompatible given the lack of buffering, shared driveway access to the east.

Mr. Helmer stated that The Planning Department recommends denial of the Zoning Map Amendment; and recommend that the Planning Board recommend denial with a statement declaring the request to be inconsistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is not reasonable nor in the public interest. He opened the floor up for any questions board members might have.

Mr. Lane said in 2016 we approved this same request. What has changed since then?

Mr. Helmer said I think the Planning Department has gained a healthier respect for the Comprehensive Land Use Plan. We have a greater respect for the complications that come with rezoning.

Mr. Lane said I understand what you're saying, but the applicant knows what he is getting into being he was flooded from Hurricane Matthew. If it was approved in 2016, I don't see why it should be denied this time around.

Mr. Helmer stated the Planning Departments recommendation may have changed but he doesn't think their reservations about the rezoning have changed. We've always been concerned about the number of variances needed from the Board of Adjustments; to get a site plan that provides off-street parking in accordance with the UDO. When you rezone, you're creating all these nonconformities. They are detrimental to the property in the long run. It's a good idea to avoid rezoning's that will create nonconformities and a need for variances. The development plan for commercial is going to require parking. He read the minutes from the previous meeting in October 2016 about parking in the street and that doesn't satisfy parking requirements for the UDO.

Mr. Lane asked if it satisfied requirements in 2016.

Mr. Helmer said no and he clearly stated that.

Mr. Lane asked why he didn't recommend denial at that time.

Mr. Helmer said the Planning Department is under different leadership now; we're trying to do it correctly. We have to give our best professional judgement.

Mr. Upton said in October 2016 this board listened to all that was said and analyzed the information given to them. They took the recommendations and asked Mr. Whitley about the parking situation.

Mrs. Lazarus said despite the fact the rezoning was previously approved, it also was withdrawn. I think now we have to reconsider it. We have to reanalyze it now and see if it complies with the UDO.

Mr. Oliver Johnson stated he was not on the Planning Board at the previous meeting in 2016, but asked if any adjacent property owners had shown any concerns.

Mr. Helmer said no not yet.

Mrs. Lazarus asked if they had been notified.

Mr. Helmer said no, the property was posted which is above what we're required to do.

Mr. Spain asked if there was something specific that was different now than in October 2016.

Mr. Helmer stated perhaps he made an error then, when reviewing the plan thinking the property was outside the 100 year floodplan. The maps have changed since then, we've adopted new ones. They are higher resolution, much easier to read now.

Mr. Spain said if the applicant is aware of the flooding and this property being in the 100 year flood plan, shouldn't that responsibility fall upon him.

Mr. Helmer said the structure is there, regardless what it is zoned it could suffer damages and we can't do anything about that. When you look at it in terms of the Comprehensive Land Use Plan it talks about the conservation district and the intensity of its land uses and preventing additional land development. If you rezone the property there could be an increase in value and an increase in loss.

Mr. Upton asked the applicant, Mr. Whitley to come forward for questions.

Mr. Spain asked Mr. Whitley if he had talked with any neighbors about his intentions to rezone his property.

Mr. Whitley stated yes that he had talked with Travel Odyssey which is beside his property. He also has talked with his adjoining property owner, Thomas Berkau and he is present at tonight's meeting as well.

Mr. Lane stated so you already have a business beside you.

Mr. Whitley said yes that is correct.

Mr. Whitley said his neighbors across the street Jonathan & Jennifer Gaskins are certainly aware of the rezoning.

Mr. Spain asked who shares the driveway with Mr. Whitley.

Mr. Whitley said I share a driveway with Mr. Thomas Berkau.

Mr. Spain asked if Mr. Berkau's house was residential and if so, if it was a rental house.

Mr. Berkau said yes it is a rental house.

Mr. Spain asked Mr. Whitley if the tenant living in Mr. Berkau's house had been talked to about the rezoning.

Mr. Whitley said he had not talked with the tenant.

Mr. Lane asked if Mr. Whitley could address the parking issues.

Mr. Whitley said his law business doesn't generate a lot of vehicular traffic at all. He predominately does business by phone, email and fax. Besides his car and his secretary's car, there should never be more than a couple cars at the business at any given time.

Mr. Upton asked where the cars would park that did come.

Mr. Whitley said the courthouse, one block away provides parking. He wouldn't encourage any parking on Woodall Street because there is no room. He would even put a no parking sign out by the office if needed. The only other option would be to park on Third Street.

Mr. Lane asked how many cars the rear of the property would hold.

Mr. Whitley said two cars

Mr. Oliver Johnson stated as a member of the UDO Sub-Committee, they make updates and edits to the Unified Development Ordinance (UDO). Individuals and businesses that might be

affected by those changes or edits are grandfathered in. He suggests that the Planning Board take the same approach with the issue before them.

Mr. Lane stated really there haven't been any changes in the UDO, just in leadership.

Mr. Helmer stated that was correct, we are enforcing the UDO as it is written.

Mrs. Lazarus asked Mr. Helmer what kind of buffer is considered a Type B landscape buffer.

Mr. Helmer said Type B is a 20 foot buffer with 12 shrubs per 100 Sq. feet. You count the linear feet of the lot line and multiply that by 100 which gives you the square feet and divide by 12 to get to total.

Mrs. Lazarus said not only is the lot size too small for an O/I zoning district but it also wouldn't meet the landscaping regulations in the UDO.

Mr. Helmer said I have not seen a site plan but it is only 0.11 acre lot. Parking in general as well as handicap parking accessibility would be a challenge and the ability to do landscaping. He would anticipate those three items needing a variance from the Board of Adjustment.

Mr. Upton asked if it was possible for the site plan to be presented to the Planning Department.

Mr. Helmer said no it would go before the Board of Adjustment for a variance.

Mr. Lane said so the Planning Department wouldn't see the site plan first.

Mr. Helmer said yes the Planning Department would receive the site plan for staff review. We wouldn't be able to approve it because it doesn't meet code. The applicant would then need to request a variance.

Mr. Spain asked Mr. Whitley if he had a site plan.

Mr. Whitley said no he did not at this time.

Mr. Whitley said he would like to address the handi-cap accessibility. The front of the property is ground level. He doesn't plan to change that. It can be made handicap accessible very easily. He brought a map of the surrounding properties and showed to the Planning Board. He said a buffer was mentioned earlier and Woodall Street is a man-made buffer.

Mr. Whitley said it's not about the money he has spent improving the home. It's about him trying to enhance an area he can be proud of. The house has been repainted; he added a metal roof on top. He plans to do some landscaping at some point. He is aware there will need to be a variance due to the size of the property. The business he owns will not be open late therefore it will be very compatible with the residential area.

Mr. Spain asked Mr. Helmer wouldn't the handicap parking and access be a requirement.

Mr. Helmer said the UDO will require on-site parking; the handicap accessibility is different because it falls under building code.

Mr. Upton stated that he thinks the site plan will answer a lot of questions once it has been reviewed.

Mr. Lane made a motion to recommend the Town Council approve the rezoning, RZ-19-01, from the R-8 (Single, Two and Multifamily Residential) zoning district to the O/I (Office/Institutional) zoning district finding 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, seconded by Oliver Johnson. **Mark Lane, Stephen Upton, Oliver Johnson, Michael Johnson, Ashley Spain, and Alisa Bizzell's vote is to approve. Leslie Lazarus's vote is to deny. Vote: 6-1 to approve. Motion passed.**

Mr. Upton stated to the applicant that their next meeting would be with the Town Council on Tuesday, April 2nd, 2019 at 7pm in Town Hall Council Chambers.

Old Business

Mr. Lane mentioned at the special meeting held on January 21st, the Town Council approved the recommendation from the Planning Board to include public hearings. He was under the impression it would have gone before Town Council on March 5th.

Mr. Helmer said no we will have a revised ordinance and bring it back to the UDO Sub-Committee.

Mr. Helmer said the Hampton Inn site has been approved and construction will begin in the next couple of months. It will be located beside Golden Corral restaurant in Smithfield Business Park. He also stated he did a final inspection on Classic Ford and they were denied because they made modifications to their lighting plan that wasn't reflected on the plan they provided to the Planning Department. There were also some storm water/erosion issues that needed to be addressed.

Adjournment

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

Respectfully Submitted,



Julie Edmonds
Administrative Support Specialist