

The Smithfield Planning Commission held its regular meeting on Tuesday, October 14<sup>th</sup>, 2014. The meeting was called to order at 7:30 p.m. Members present were Mr. Bill Davidson, Chairman; Mr. Charles Bryan, Mr. Larry Odom, Mr. Mike Swecker, and Dr. Thomas Pope. Ms. Julia Hillegass and Mr. Randy Pack were absent. Staff members present were Mr. William T. Hopkins III, Director of Planning, Engineering, and Public Works; Mr. William H. Riddick III, Town Attorney; and Mr. William G. Saunders IV, Planner/GIS Coordinator. There were eleven (11) citizens present. The press was represented by Ms. Abby Proch of The Smithfield Times.

Chairman Davidson – I would like to welcome everyone to the October 14<sup>th</sup>, 2014 Planning Commission meeting. If everyone will stand, we will say the Pledge of Allegiance.

*Everyone present stood and recited the Pledge of Allegiance.*

Chairman Davidson – For those who would like to remain standing, Mr. Odom will offer a word of prayer.

Mr. Odom – Lord, we thank you for this opportunity to meet tonight. We thank you for our great community that we live in. God, we ask that the decisions that are made tonight are made through wisdom and guidance provided by you. We ask this prayer through your holy name. Amen.

Chairman Davidson – The first item on the agenda is the Director of Planning, Engineering, and Public Works Activity Report.

Director of Planning, Engineering, and Public Works – Thank you, Chairman. As you can see in your package there are three items that are still active as far as review that is Cypress Creek Phase 7-B and C while Cypress Creek Phase 7-A is actually under construction. The second item is O'Reilly Auto Parts which is under review also. It is proposed to be next to Advanced Auto. Our Comprehensive Plan is still under review with changes being made by staff. It will not be long before we meet with the subcommittee on that.

Chairman Davidson – Next we have Upcoming Meetings and Activities. The Board of Zoning Appeals has been cancelled for October 21<sup>st</sup>. The Board of Historic and Architectural Review will meet on October 21<sup>st</sup> at 7:30 p.m. On October 27<sup>th</sup> and 28<sup>th</sup>, the Town Council Committee meetings will be held at 4:00 p.m. The Town Council

meeting is on November 4<sup>th</sup> at 7:30 p.m. The next Planning Commission meeting is on November 11<sup>th</sup> at 7:30 p.m. The next item on the agenda is Public Comments. The public is invited to speak on any matter except scheduled public hearings. Do we have anyone who wishes to speak? Next is Planning Commission Comments. Are there any comments? Next is the Child Care Home Occupation Ordinance Amendment Review. Could we have a staff report please?

Director of Planning, Engineering, and Public Works – Mr. William Saunders will speak on that. Mr. Saunders and I have been involved with this in great detail. He is very familiar with it.

Planner/GIS Coordinator – Good evening. I am not going to read through the whole report. You are probably aware at the July Town Council meeting there were some folks who spoke about the restrictive nature of our ordinance as it relates to home daycare as a home occupation. It was forwarded to the Planning Commission for the July 8<sup>th</sup> meeting. It was discussed with the subcommittee which brought recommendations back to the September Planning Commission meeting. The consensus at that meeting was to explore ordinance changes that would allow for up to six to eleven children as a home occupation with a special use permit in single family detached residential districts. The reason that eleven children came up was because the desire of the subcommittee as well as the Planning Commission was to allow more children in a home daycare situation. It would not exceed the other restrictions that are put on home occupations such as amount of floor space dedicated to the business and the number of employees from outside the family that are allowed. In this case, the eleventh child was the one that would max out the square footage of floor space based on the new requirements by the state for child daycare. It would also put you into the realm of requiring more outside of the family employees to handle the children. So what you have in your packet tonight is a redlined version of some ordinance sections that are related to the change that was decided upon at last month's meeting. The first section in your packet is Article 2. This is the general section of the ordinance that deals with home occupations. As you can see under item 15 babysitting for not more than five children was struck from section D. In tem 15-L about child daycare provider, babysitting for not more than five children however a special use permit may be an

option for six to eleven children in some zoning districts. Item 16-B is uses that were specifically prohibited as a home occupation daycare provider or babysitter serving than more than five children was struck from that section. On the next page item L had other parts of the ordinance refer to it as a center rather than a provider. The word provider was struck to make it more consistent with the language in other parts of the ordinance. The next section is 3-A which is the Community Conservation District. Number 37 on page 4 was added under the special use permit items showing child daycare as a home occupation for six to eleven children. The next section is the Neighborhood Residential Zoning District 3-B. Item C-28, was added to the uses by special use permit for child daycare as a home occupation for six to eleven children. Section 3-C for Suburban Residential District and Section C-27 for child daycare as a home occupation for six to eleven children was added. In Article 3-D for the Downtown Neighborhood Residential District Section C-28 for child daycare as a home occupation for six to eleven children was added. I would like to make a couple of points about how it ended up the way that it did. There are some zoning districts that allow residential use but they are basically commercial districts. The changes were not put in those because there is the ability to have a child daycare center as a commercial venture there that is not available in the single family residential districts. We would prefer to have those there as a commercial project. Also, a multi-family or attached residential zoning district which is made up of apartments, condominiums, or townhomes typically does not have the exterior space to accommodate this type of home occupation. The only zoning districts brought to you tonight for a potential amendment are those four that mostly relate to single family detached residences.

Mr. Bryan – I would imagine that there is some distinction between home care providers and child daycare provider. What is the home care provider specifically?

Planner/GIS Coordinator – It can also relate to the care of the elderly or infirm adults not just children.

Mr. Bryan – Okay.

Chairman Davidson – We will open up the Public Hearing. Is there anyone who would like to speak on this matter?

Mr. Clark – My name is George Clark. I live at 320 Grandville Arch in Wellington Estates. I am here on behalf of a good friend Mr. James Oliver. His wife runs the daycare center at Wellington Estates. You changed the zoning so that she can have six to eleven children at any given time. Are we in a zoning area where she can do that?

Chairman Davidson – Whether or not the Oliver's will be issued a special use permit has nothing to do with tonight's meeting. Their situation did start this whole thing. We are talking about possibly changing the zoning to allow it. Their application would be a separate entity.

Mr. Clark – What do you mean by a separate entity?

Chairman Davidson – We are not talking about their special use permit tonight. We are talking about amending the zoning as it stands. If in fact this is approved then they would apply for a special use permit.

Director of Planning, Engineering, and Public Works – The Planning Commission is going to make a recommendation to the Town Council. The Town Council will make the final decision. If they authorize all of the amendments to the ordinance which would allow for the daycare then they would need to apply for a special use permit for that type of business.

Mr. Clark – So we are still in the process.

Director of Planning, Engineering, and Public Works – Yes, sir.

Town Attorney – Mr. Clark, if you support it or are against it then now is the time to say what you want to say.

Mr. Clark – We support it. She has been doing it for ten years. This is the first time that it has come up.

Town Attorney – The laws right now do not permit it. This is the opportunity for the public to say that the law should change so that she can be allowed to do this or that it is not a good idea. It is what this whole process is about. This is a public hearing.

Mr. Clark – I support it. Those who are here support it. Personally, I feel that the process is moving a little slow but I understand the process. As it stands right now, she can only have six children until the process is done.

Chairman Davidson – She can only have five children.

Mr. Clark – Is there a time frame for this process?

Town Attorney – No it is just starting.

Mr. Clark – I am just asking if it will be two to three months down the road. There are families who are definitely interested that would like to get back into the system.

Director of Planning, Engineering, and Public Works – If I am not mistaken this is not really the time for this conversation but I will try to answer that question. It will take at least one more month but we are allowed up to one year. I have never seen it take a year but it is the amount of time allowed.

Chairman Davidson – If the Planning Commission feels that this is something that should be amended then we would forward it to Town Council with our recommendations. We do not have the authority to bind the town to changing the ordinance. Our job is just to see if it meets all of the specifications which staff has done a good job of doing. If it goes to Town Council then they would have to advertise for public hearings involved in that.

Town Attorney – There is another public hearing. No decision is made here. A decision is made either to send it to Town Council with a recommendation to approve it or deny it or any other comments that the Planning Commission wants to make. The Town Council is the only body that can actually change the law. This is just the first step. It may be frustrating but that is the way it is.

Mr. Clark – I understand the process. I just need to know the time frame.

Town Attorney – The most helpful thing that you could say is that you support it and give the reasons why you support it. A lot of the considerations are going to be traffic, disruptions in neighborhoods, and things like that. Any information that you can offer to the Planning Commission to make them better understand why you support it and why in the past it has not been a problem is the kind of information that would be helpful.

Mr. Clark – It has never been a problem. The kids are quiet. You never notice that they are even there. They are delighted to see the kids coming in and out. There has never been a traffic problem whatsoever in the ten years that it has been open. I have been on that block for ten years. Those who continue to go to the daycare center enjoy it. There is a waiting list. It is a supportive entity in that community.

Chairman Davidson – I understand the frustration but it has to be done by the book. Any change to zoning has to be done in a certain way. It is why we are having a public hearing tonight. We need to hear from all of you about whether we should or should not change the zoning.

Mr. Clark – I also know that she abides by all of the laws and nutritional laws. She follows the rules regarding safety. All of her employees are certified. We support it.

Chairman Davidson – Next we have Ms. Leah Klinger.

Ms. Klinger – My name is Leah Klinger. I live at 312 Grandville Arch. We are across the street from the Oliver's. We have been here for a little over a year. We were aware of the daycare when my husband checked out the neighborhood. I thought it was interesting. Unfortunately, our kids were already in school so we would not be able to participate. It has not been an issue whatsoever. It has been a joy. It is really not an issue being near the daycare as far as traffic, activities, and things like that. Actually it has been positive for me.

Chairman Davidson – Thank you. Is there anyone else who would like to speak on this matter? Please state your name and address.

Mr. Wigginton – My name is Rick Wigginton. I live at 103 Manchester Court. I have been bringing my kids to the Ms. Sharon Oliver's house for about five years now. I have never been there when there were more than two or three cars in the driveway at one time. The ladies who run the place are basically like family to my kids. I always feel they are completely safe. She is doing things the right way. I feel that by not approving the amendment then you will actually encourage other people to not get licensed and certified like she has. I think that people need to do things the right way. Mrs. Oliver has been doing the right thing. I hope that you will approve it.

Chairman Davidson – Are there any other comments?

Ms. Flemming – My name is Laura Flemming. I live at 22281 Watch Court in Carrollton. My daughter has been going to the Oliver's for three years. I work in Smithfield so it is convenient for me to take her there. I know that she is fed following all of the USDA regulations for food. It is a safe environment. I actually like that it is in a neighborhood not an institution. I feel she is safe there.

Chairman Davidson – Are there any other comments?

Ms. Backus – My name is Kathy Backus. I live at 304 Grandville Arch. I have lived there for seven years and did not realize she was babysitting until I saw it on the back of her car. I have never seen any traffic. I do not have kids myself but it has never been an issue as far as traffic or anything.

Mr. Klinger – My name is Kirk Klinger. I live at 312 Grandville Arch. I live across the street from Ms. Sharon Oliver. You would not know that there is a daycare there if it was not for the name on the back of the car. I lived across from daycares which were disasters. I was skeptical when I moved in but there have not been any issues.

Chairman Davidson – Are there any other public comments? Hearing none, I declare the public hearing closed. Are there any questions from the Planning Commission members?

Mr. Odom – Do you have a homeowner's association in your community?

Mr. Clark – Yes.

Mr. Odom – How do they look upon a business in the Wellington Estates community?

Ms. Backus - It is not the same kind of business but my husband has an insulation company. It is licensed in the Town of Smithfield at our residence. We do not have traffic. It is just where we have our office. It is not frowned upon. Nothing has been said about it because we are licensed with the town.

Mr. Odom – So it is okay with the homeowner's association.

Ms. Backus – Yes.

Mr. Klinger – As long as it does not change the visuals of the neighborhood then it is allowed.

Mr. Odom – Thank you.

Dr. Pope – I would like to make a motion to recommend to Town Council that we amend our daycare home occupation ordinance to permit six to eleven children by special use permit and forward to Town Council.

Mr. Bryan – Second.

Chairman Davidson – A motion has been made and properly seconded that we consider amending our daycare home occupation ordinance to permit six to eleven

children by special use permit and forward that to Town Council. All those in favor say aye, opposed say nay.

On call for the vote, five members were present. Mr. Bryan voted aye, Dr. Pope voted aye, Mr. Odom voted nay, Mr. Swecker voted nay, and Chairman Davidson voted aye. There were two votes against the motion. The motion passed.

Chairman Davidson – The motion passes three to two.

Town Attorney – It will be forward to Council for a public hearing at the November meeting.

Chairman Davidson – The next item is a Discussion of Town Boundary Expansion.

Town Attorney – The town is currently in the process of bringing to you a process for reviewing the Comprehensive Plan which we are required to review every five years. We went through a pretty extensive review five years ago. It is being done in house right now by staff. At the last Town Council meeting they directed the Planning Commission as part of your Comprehensive Plan to start looking at areas around the town that might be considered for expansion of town boundaries. Mr. Chairman, you should probably put together a Comprehensive Plan committee to work on that and start getting things ramped up to bring to the Planning Commission for full consideration. At some point, we probably need a work session. What do you think, Mr. Hopkins?

Director of Planning, Engineering, and Public Works – We will definitely need a work session to amend the future land use map. Right now there is a subcommittee for the Comprehensive Plan but we have not met with them yet. Staff has been working on it in great detail once we are done then we will meet with them.

Town Attorney – What prompted this was the town and the county had an agreement with respect to the Scott Farm which is out on Battery Park Road. There was going to be a simple boundary line adjustment but the County has rejected that agreement that we had. Town Council thought about this a little more and decided that if we are going through this process then we need to start thinking about the long term future of the Town of Smithfield and part of that is looking at its current and future boundaries. It has been identified as one of things that the Planning Commission should look at. It is just a piece of information for the Planning Commission to consider tonight.

It is really up to you as a Planning Commission to roll up your sleeves and look at everything around the town and how it might affect the growth of the Town of Smithfield. It is up to you to come up with some vision for what might happen in the future. It is actually a very interesting and fun process.

Chairman Davidson – I was involved in the one five years ago it is a very grueling process at best.

Director of Planning, Engineering, and Public Works – That was the Comprehensive Plan as far as the future land use map was probably done twelve or thirteen years ago. As our Town Attorney mentioned that is something for us to look further into not just down Battery Park Road but Route 10, Route 258, North Church Street, and everywhere.

Chairman Davidson – We do have a committee already in place. But we will check the minutes to verify that.

Town Attorney – If you do not already have one then you as the Chairman can constitute a new one. When the new Chairman takes over you essentially start over again. The Chairman has the prerogative to name whoever you want for whatever committee you want to.

Chairman Davidson – Are there any other questions on the boundary expansion?

Director of Planning, Engineering, and Public Works – As far as the map that you see I would like for you to look at it after the meeting. It shows the town boundaries and where we may want to consider expanding them further. It shows where Gatling Pointe is and going down Route 258 towards the courthouse. Mr. Saunders went through a lot of detail to get this printed out.

Chairman Davidson – Next item on the agenda is Approval of the September 9<sup>th</sup>, 2014 Meeting Minutes.

Town Attorney – Mr. Chairman, I would recommend the minutes be approved as presented.

Mr. Swecker – So moved.

Mr. Odom – Second.

Chairman Davidson – A motion has been made and properly seconded that we approve the minutes. All those in favor say aye, opposed say nay.

On call for the vote, five members were present. Mr. Bryan voted aye, Dr. Pope voted aye, Mr. Odom voted aye, Mr. Swecker voted aye, and Chairman Davidson voted aye. There were no votes against the motion. The motion passed.

Chairman Davidson – Is there any further business?

Mr. Bodson – You said that you were going to discuss the map. Is that going to be in public or in closed session?

Chairman Davidson – Anybody can go and look at it.

Mr. Bodson – I just wanted that to be clear.

Town Attorney – He is just going to look at it.

Mr. Bodson – I just wanted to make sure that the map is available for the public to review.

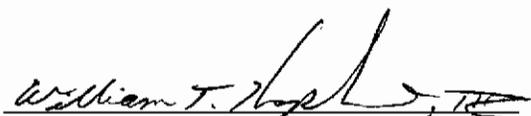
Town Attorney – You can look at it too.

Chairman Davidson – The meeting is adjourned.

The meeting adjourned at 8:01 p.m.



Bill Davidson  
Chairman



William T. Hopkins III  
Director of Planning, Engineering, and  
Public Works