

MEMO FOR FILE

RE: Smithfield Township Zoning Ordinance Amendments

DATE: March 26, 2008

The following are substantially the amendments set forth in the comprehensive amendment and re-enactment of the Smithfield Township Zoning Ordinance.

Under Section 302, the Schedule of District Regulations is amended by amending "Accessory use or structure" as an accessory use in all zoning districts.

Also, the language "*** See Sec. 401.1.A(1) for exception for non-residential structures." is added with respect to "Building height" in the C-1 and B-1 zoning districts.

Section 303.10 is added as follows:

"10. Any structure or use within the minimum required front, side or rear yard setback on a lot or parcel, except as may be otherwise specifically allowed under this ordinance."

Section 304 is amended to provide as follows:

"§304. Prohibited Uses in C-1, M-1 and B-1. Residential uses of any type are prohibited in any C-1, M-1 or B-1 District, unless they exist as a nonconforming use. "Medical and Health and Care Uses" as defined in Section 1002 shall not be deemed a residential use prohibited by the foregoing provision even if such use as proposed includes an element whereby persons otherwise receiving services of a medical, health or life care nature reside within units located in a B-1 zone."

Under Section 401.1.A, entitled "Lot, Yard and Height Regulations", amended height standards for nonresidential structures within the C-1 District are included to allow amended height standards for office buildings, hotels and motels, and continuing care and life care facilities within a C-1 District.

Under Section 401.1.A.1.b.1, no building shall exceed a height of 65 feet or 5 stories under any circumstances in the B-1 District, and no building height shall exceed 50 feet, which may contain no more than 42 feet of occupied space and 8 feet of necessary mechanical appurtenances or equipment, usually carried

upon the roof level, or 3 stories, under any circumstances in a C-1 District.

The lot area of any such use shall be a minimum of 225,000 square feet plus 50,000 square feet per additional 5 feet of additional building height proposed within the B-1 District, and a minimum of 43,560 square feet plus 30,000 square feet per additional 5 feet of building height within the C-1 District.

Under subsection 7, within the B-1 District, building coverage shall be limited to a maximum of 30% of lot area but shall be reduced by 2% for each additional 5 feet of building height involved in excess of 35 feet, except that the maximum coverage area shall be no lower than 20%. Within the C-1 District, building coverage shall be limited to a maximum of 35% of lot area but shall be reduced by 2% per each additional 5 feet of building height involved in excess of 35 feet. The Township may also, in the case of a parcel exceeding 525,000 square feet in land area, limit building coverage on that portion of the property that is necessary to accommodate the higher building, at the standards herein, to 20%.

Furthermore, under Subsection 12 thereunder, any building or structure exceeding 50 feet in height or containing 4 or more stories shall have elevators that are provided with the fire department key control and are powered by an emergency generator.

Sections 401.3.E.2 and 401.3.E.3 are amended as follows:

"(2) All applications for land development approval in areas where very steep slopes are proposed to be disturbed or where forty (40%) percent or more of the lot area exceeds fifteen (15%) percent slope shall be considered and processed as conditional uses.

(3) Contiguous areas of steep slope that are less than three thousand (3,000) square feet in size shall be exempted from these standards and shall not be used in the calculation of the total square footage of steep slopes or the percentage of disturbance of steep slopes on a lot or development tract. Additionally, where the applicant demonstrates to the satisfaction of the Supervisors that such increased disturbance is necessary for the applicant to eliminate an existing non-conforming structure on the lot or development tract then the amount of the square footage which shall be exempt from these standards may be increased to 6,500 square feet of steep slope which shall not be used in the calculation of the total square footage of steep slopes or the percentage of disturbance of steep slopes on a lot or development

tract."

Section 504.6, entitled "Permit Exceptions", provides that replacing sign copy, or maintaining sign copy, shall be permitted, but provided that same does not include the activities prohibited under an amended Subsection 14.

Section 504.14, entitled "Prohibited Signs", is amended by adding additional restrictions regarding artificial lighting, under Subsections E and F, as follows:

"E. (1) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving fluttering or revolving devices. The said devices, shall not be used for the purpose of advertising or attracting attention. Nor shall any sign use revolving panels or electronically or computer directed change or otherwise direct an advertisement or copy. No multivision, otherwise known as multi-message, sign or variable signs shall be permitted nor shall changing of an advertisement or copy otherwise than manually be permitted or deemed to be maintenance, repair or an incidental alteration to any sign.

(2) No sign shall utilize technology to send, transmit or communicate with cellphone or global positioning system devices in vehicles passing by the sign.

F. (1) Any illuminated sign or lighting device shall employ only lights or leds emitting a light of constant intensity, not to exceed the levels specified in the chart below, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights or revolving panels, whether or not such illumination, lighting device or projection lights are employed to change an advertisement or copy of any kind. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

<u>COLOR</u>	<u>INTENSITY LEVEL NITS</u>	
	<u>DAYTIME</u>	<u>NIGHTTIME</u>
Red Only	3,150	1,125
Green Only	6,300	2,250
Amber Only	4,690	1,675
Full Color	7,000	2,500

(2) Prior to the issuance of a sign permit, the

applicant shall provide a written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 7000 NITS, and the intensity level is protected from end-user manipulation by password-protected software or other appropriate method.

(3) No sign may be converted to a multivision, otherwise known as multi-message, or variable sign. Existing multivision, otherwise known as multi-message, or variable signs shall provide that (a) the static display time for each message shall a minimum of 30 seconds; (b) the time to completely change from one message to the next shall be a maximum of two seconds; and (c) the change of message shall occur simultaneously for the entire sign face.

(4) In the event, the prohibition of multivision, otherwise known as multi-message, or variable signs is adjudicated to be invalid, the following provision shall become effective at the time that the adjudication of invalidity becomes final: Multivision, otherwise known as multi-message, or variable signs shall be prohibited in all districts other than industrial or commercial. No such sign shall be in excess of three hundred (300) square feet. Each such sign shall have only one face. Such sign shall comply with all other provisions of township ordinances.

(5) Each sign shall provide (a) the static display time for each message is a minimum of 30 seconds; (b) the time to completely change from one message to the next is a maximum of two seconds; and (c) the change of message occurs simultaneously for the entire sign face."

Section 505.3.D is amended to require a minumum area of 250 acres for a planned residential development.

The entire Part 6 dealing with nonconforming uses and structures is amended and restated as follows:

"Part 6

Nonconforming Uses and Structures

§601. Nonconforming Uses. A nonconforming use or structure is any lot, structure, building or use that lawfully existed on May 22, 1973, or at the effective date of any subsequent applicable amendment to this Ordinance, or was legally established through the granting of a variance by the Zoning Hearing Board, but which, as a result of the enactment of this Ordinance, does not comply with the provisions of this Ordinance.

§602. Registration of Nonconforming Uses.

1. The zoning officer shall, upon adoption of this ordinance, identify and register all nonconforming uses and structures.

2. The owner of the premises occupied by a lawful nonconforming use or structure may secure a certification of nonconformance from the zoning officer. Such certificate shall be authorized by the Zoning Hearing Board and shall certify to the owner his right to continue such nonconforming use.

§603. Nonconforming Lots. Nonconforming unimproved lots may be improved or built upon provided the yard requirements of this ordinance are observed, or a variance is granted by the Zoning Hearing Board.

§604. Alteration of Nonconforming Uses. Nonconforming uses shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions:

1. Such alteration, reconstruction, extension or enlargement shall be permitted only by special exception as may be approved by the Zoning Hearing Board pursuant to this ordinance.

2. Such alteration, reconstruction, extension or enlargement shall only be upon the same lot as in existence at the date the use became nonconforming.

3. Any increase in volume or area of the nonconforming use or structure shall not exceed an aggregate of more than one-third of said volume or floor area during the life of the nonconformity, except as provided hereafter.

4. A nonconforming structure, building, or any structure or building contained a nonconforming use, which is wholly or partially destroyed by fire, explosion, flood or other cause, may be reconstructed and used for the same nonconforming use, provided that:

A. Reconstruction of the structure or building shall be commenced within one year from the date of destruction.

B. Reconstruction shall proceed without interruption to completion of the structure, building or use, or the structure, building or use shall be subject to a rebuttable presumption of abandonment. Notice of presumed abandonment shall be issued in writing by the zoning officer to the owner(s) of record. Any challenge to the presumption of abandonment shall be heard by the

Zoning Hearing Board within forty-five days of receipt by the zoning officer of a written challenge from the record owner(s) which sets forth in detail any reason or reasons why an abandonment has not occurred.

C. There shall be no increase in the size or extent of any nonconformity from the existing state prior to destruction, unless such increase is permitted in accordance with the provisions of this section. The zoning officer may refer the application for reconstruction to the Zoning Hearing Board for a determination of compliance. The Board shall conduct a hearing on the matter within forty-five days of the referral by the zoning officer.

§605. Change of Nonconforming Use. Whenever a lot, structure, building or use is sold or conveyed to a new owner, the previous nonconforming use may be continued by the new owner.

1. Notwithstanding the foregoing, should the new owner wish to change the use of the lot, building or structure to another nonconforming use, the owner shall apply to the Zoning Hearing Board for approval of the change of use. The Zoning Hearing Board shall conduct a hearing on the request within forty-five days of the application. In its deliberation, the Board shall consider whether the proposed change of use is consistent with the character of the neighborhood in which the use is proposed.

§606. Abandonment or Termination of Nonconforming Use. If a nonconforming lot, structure, building or use is discontinued for twelve consecutive months, the same shall be subject to a rebuttable presumption of abandonment, unless the owner has filed a written request for extension, which request shall be heard by the Zoning Hearing Board within forty-five days.

1. If no request for extension is filed, a notice of presumed abandonment shall be issued to the record owner(s) in writing by the zoning officer. A challenge to the presumption shall be heard by the Zoning Hearing Board within forty-five days of receipt by the zoning officer of a written challenge from the record owner(s) which sets forth in detail any reason or reasons why an abandonment has not occurred.

§607. Conversion to Conformance. Once a lot, building, structure or use has been converted to a conforming lot, building, structure or use, the same shall not be permitted to revert to a nonconforming status, except upon an amendment to this ordinance which renders the same as nonconforming.

§608. Zoning Hearing Board Action. Whenever the Zoning

Hearing Board is required to hear a matter arising under this part, the Board shall render its decision within forty-five days of the last hearing date and shall set forth findings and conclusions of law in support of its decision."

Under Section 1002, a following new definition is added:

"MEDICAL AND HEALTH AND CARE USES - includes the following uses defined herein: "Assisted Living and Personal Care Facilities", "Continuing Care or Life Care Facilities", "Hospital", "Medical Residential Campus", "Personal Care, Rest or Retirement Homes", and "Skilled Nursing Facility"."

Note: The first potential correction for later enactment may change the front yard setback to 65 feet and the rear yard set back to 60 feet in the B-1 zoning district.

RED:dmj

F:\SMITHFIELD TWP\ZONING\RE-ENACTMENT\M05.WPD