

The Gulley's Issue

Chris Smithson, Southern Pines native, resident, and Councilmember

Recently, the Pilot published a story about a zoning violation letter sent by the Town to Gulley's Garden Center. The violation happened to be an old semi trailer they use to store stuff like pine straw bales. Gulley's response to the letter was that since it had been there since before the UDO was passed, he thought it was grandfathered. Unfortunately, there is no grandfather clause in the ordinances that would cover Gulley's use of the "vehicle."

Some, including letter writers to the Pilot, have suggested that the Town is being unreasonable in some way by not accommodating Gulley's long-time use of the trailer by ignoring the law. Additionally, a letter writer claimed the Council was extorting Gulley's in an effort to fill our "coffers." The Council or other Town departments do not have the luxury of choosing to ignore our ordinances as they wish. The Council also does not have the authority to override a decision of the Planning Administrator. The only recourse is to file an appeal with the Board of Adjustment or apply for an amendment to the ordinance.

Some say Gulley's trailer "is not hurting anyone," and maybe it is not. I personally find all their tall pallets of bagged peat moss and mulch stacked right next to the road much more objectionable than the trailer, but that is not the point. If there is an ordinance in place and the enforcement body (Planning and Inspections Dept.) is aware of it, they must enforce it with consistency. Even as benign as some might find Gulley's particular trailer to be, it is probably not a good idea, appearance-wise, to open things up to allow everyone who wants to use storage trailers in the Central Business district to do so.

The interesting thing here is Gulley's claim that since a trailer has been there since before the ordinance was enacted and since it might be the only one existing under those circumstances, it should be allowed to stay. He has a point that many find valid. Since there is no ordinance currently in place that would allow the trailer to stay, the Town would need to amend the ordinances to allow it to. Sometimes the Town initiates an ordinance amendment on its own. More often, someone else applies for an amendment. Either way, the amendment goes through a public hearing process. In this case, the amendment would basically be to the benefit of one particular business and probably wouldn't apply to anyone else. Especially because the amendment would pretty much be specifically for Gulley's, is it the Town who should be the applicant for it, or should it be Gulley's?

Should the Town make a habit of applying for amendments which benefit only individual businesses? I don't think so. If any person or business wants an amendment, they are free to apply for an amendment and pay the fee like everyone else has to. It will go through the public hearing process in front of the Planning Board and the Council and all who wish to be heard will be heard. Any ordinance amendment takes staff time and there are real costs involved. The application fee helps fund the department, which keeps everyone's taxes lower. Fees collected by our Planning and Inspections Department

offset about two cents from our property tax rate. Any fees collected keep property tax money in the pockets of Southern Pines residents and out of Town “coffers.”

There’s a very good chance I and a majority of the Council would vote in favor of an ordinance amendment which would allow Gulley’s to keep their trailer, but Gulley’s needs to apply for an amendment and go through the public hearing process just like everyone else has to. For the Town to willfully ignore a violation it has enforced against other parties in the same district or take the unusual step of initiating an ordinance amendment of this type for the intended benefit of only one party would be unfair and possibly illegal.

Agree or disagree with what you just read? Want to provide feedback? Please do so. It’s not even necessary to send anonymous letters or create anonymous “concerned citizens” websites. Just send an e-mail. e-mail: Chris@ChrisSmithson.com