

The Smithfield Planning Commission held its regular meeting on Tuesday, January 10<sup>th</sup>, 2017. The meeting was called to order at 6:30 p.m. Members present were Mr. Bill Davidson, Chairman; Mr. Charles Bryan, Vice Chairman; Ms. Julia Hillegass, Mr. Mike Swecker, Dr. Thomas Pope, Mr. Michael Torrey, and Mr. Randy Pack. The staff members present were Mr. William H. Riddick III, Town Attorney and Mr. William G. Saunders IV, Planning and Zoning Administrator. There were two (2) citizens present. The media was represented by Diana McFarland of the Smithfield Times.

Chairman Davidson – I would like to welcome everyone to the Town of Smithfield's Planning Commission meeting of January 10<sup>th</sup>, 2017. Please rise for the Pledge of Allegiance.

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

Chairman Davidson –The first item on the agenda is the Planning and Zoning Administrator's Activity Report.

Planning and Zoning Administrator – Thank you, Mr. Chairman. I just have a couple of items. Happy New Year to everyone. The Smithfield Foods Parking Lot Expansion project has finally gone to permitting. We should see progress over there in the next couple of months at least. The Joseph W. Luter Jr. Sports Complex held its groundbreaking ceremony last week. If you have been by there, you can see that they are breaking ground. The RFP/IFB for the architectural element of that project is about to be put back out for the concession stands and other structures. Other than that, site work is ongoing. Thank you.

Chairman Davidson – Thank you, sir. Our next item is Upcoming Meetings and Activities. On January 13<sup>th</sup> and 16<sup>th</sup>, town offices will be closed in observance of Lee/Jackson Day and Martin Luther King Day. At 6:30, on January 17<sup>th</sup>, we will have our Board of Historic and Architectural Review meeting. The Board of Zoning Appeals meeting for this month has been cancelled. On January 23<sup>rd</sup> and 24<sup>th</sup>, at 4:00 p.m., we will have our Town Council Committee meetings. Town offices will be closed on January 26<sup>th</sup> for employee training day. Our next Town Council meeting is February 7<sup>th</sup> at 7:30 p.m. The Planning Commission will meet again on February 14<sup>th</sup>, 2017. Our next item is Public Comments. Anyone can speak on any matter except scheduled public hearings.

We have three (3) scheduled tonight. Hearing no public comments, we will move to Planning Commission Comments. Hearing none, we will move to Election of Officers. I will turn the meeting over to our Town Attorney, Mr. William Riddick.

Town Attorney – Mr. Chairman and members of Planning Commission, it is your first meeting of the year. It is time to elect officers for 2017. With that being said, the floor is open for nominations for Chairman of the Planning Commission.

Chairman Davidson – I would like to nominate Mr. Randy Pack.

Mr. Swecker – Second.

Town Attorney – Are there any other nominations? Hearing none, all those in favor of electing Mr. Randy Pack as Chairman say aye, opposed say nay.

On call for the vote, seven members were present. Mr. Swecker voted aye, Dr. Pope voted aye, Mr. Torrey voted aye, Ms. Hillegass voted aye, Vice Chairman Bryan voted aye, Mr. Randy Pack voted aye, and Mr. Davidson voted aye. There were no votes against the motion. The motion passed.

Town Attorney – Mr. Pack, you have been elected Chairman.

Town Attorney – Nominations are now open for Vice Chairman. Are there any nominations?

Mr. Swecker – I nominate Ms. Julia Hillegass.

Dr. Pope – Second.

Town Attorney – Are there any other nominations?

Mr. Davidson – I would like to nominate Mr. Charles Bryan.

Chairman Pack – Second.

Town Attorney – Are there any other nominations? Hearing none, the nominations are closed. All in favor of Ms. Hillegass for Vice Chair signify by raising your hand. There are three votes (3) for Ms. Hillegass. All in favor of Mr. Bryan for Vice Chairman signify by raising your hand. There are four (4) votes for Mr. Bryan. Mr. Bryan has been elected as the Vice Chairman. Mr. Pack, it is your meeting.

Chairman Pack – I was not exactly expecting that.

Mr. Davidson – I did not figure you were.

Town Attorney – He is following in the steps of the late Mr. Dan Smith.

Mr. Davidson – Absolutely, that is what I was thinking of today.

Town Attorney – He was on Town Council, Chairman of the Planning Commission, and Vice Mayor.

Mr. Davidson – And then Mayor.

Chairman Pack – Tonight, our first order of business is a Public Hearing: Special Use Permit – Temporary, Private Water and Sewer System – 18220 Cypress Run Drive (TPIN #32-01-002) – Brian H. White, Cabco Properties, LLC, applicants. This is behind the Farm Fresh supermarket off of Route 10. Could we have a staff report please?

Planning and Zoning Administrator – Yes sir, Mr. Chairman. Mr. Brian H. White and Cabco Properties, LLC are representing this application. The Special Use Permit is related to the subdivision of a single family lot from an existing property on Cypress Run Drive. Mr. White owns adjacent property. As you can see in your packet, he would like to make a boundary line adjustment as well as a subdivision to create one (1) single new family lot for his son to build a home on. Previously, this lot had two (2) residences on it. One was, basically, a mobile home. It had an addition on it which was 18210 Cypress Run Drive and 18220 Cypress Run Drive is a wood frame home. A year or so ago, 18210 Cypress Run Drive was demolished. Currently, on this property, there is just one (1) address and one (1) residence which is typically how we like to keep it. Mr. White would like to subdivide out an area which would create a building lot where 18210 Cypress Run Drive is. In our ordinance though, if there is not water and sewer utilities adjacent to the property, there is a possibility of subdividing and building a new home with a Special Use Permit to allow for a temporary, private water and sewer system. Previously, both of these residences on this lot were on the same well and the same septic tank. Basically, what they need to do is get a Special Use Permit approved; if that is your choice, to allow them to put in private water and sewer systems with the new lot. The reason this says ‘temporary,’ and a condition that is recommended here, is that it be temporary until such time in the future that there would be town water and sewer adjacent to this. At that time, it would be hooked up to that. This applicant would like to create the new single family lot. He would also like to take some of the residue and add it on to his adjacent property which you can see on the plat. That is basically the gist of it. If anyone has any questions, I will be happy to try and answer them.

Chairman Pack – Are there any questions for staff? I think we did this in the same neighborhood in the last year or two. Is that correct?

Planning and Zoning Administrator – Yes. Right across the street for Mr. Henry Layden. He built a new residence back there. He had to do the exact same action. At the same time that Mr. Layden's application came through, there was another one on the road behind Rite Aid. These are not zoned for a neighborhood. These are zoned as Community Conservation which is the closest thing we have for agriculture. This does allow for the potential of some small subdivisions in that area. It is subject to change when utilities come in there.

Vice Chairman Bryan – Is there a timeline for the town putting utilities back there?

Planning and Zoning Administrator – Just at such time as either a developer brings it back or the town extends it at some time. If it ends up adjacent to their property, the recommendation is that they would hook up to it at that time.

Vice Chairman Bryan – So, there is not a schedule for that right now.

Planning and Zoning Administrator – No, sir.

Dr. Pope – Where does it stop now; at the shopping center?

Planning and Zoning Administrator – Yes.

Chairman Pack – Are there any comments from the applicant? Hearing none, we will now open the public hearing. Is there anyone signed up? Seeing no comments from the public, we will close the public hearing. Is there any further discussion from the Planning Commission?

Town Attorney – Mr. Chairman, the only thing I would say is that this provision, of which they made application, was designed for just this type of situation. The town has not extended water and sewer to every part of the town. This is a very low density area. There are no plans, to my knowledge, to extend utilities out there; although, that could change if someone decided to acquire all of that property for a subdivision. Without this type of mechanism, it would render some properties not usable. This is not setting a precedent. It has been done before.

Mr. Swecker – Mr. Chairman, I recommend that we accept the application as presented.

Mr. Davidson – Second.

Town Attorney – It is a recommendation to the Town Council for approval.

Mr. Swecker – Does it have to go before the Town Council for approval?

Town Attorney – Yes, sir. The motion should be a recommendation to Town Council to approve it if that is what you intend.

Mr. Swecker – I recommend that it go before Town Council for their approval.

Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded. Roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass voted aye, Chairman Pack voted aye, Dr. Pope voted aye, Mr. Swecker voted aye, and Mr. Torrey voted aye. There were no votes against the motion. The motion passed.

Chairman Pack – As much as I am enjoying being the Chairman of the Planning Commission, I have business tonight before the Planning Commission. I will have Vice Chairman Bryan take over for a Public Hearing – Chesapeake Bay Preservation Area Exception – 505 Jordan Avenue – Randy Pack, applicant. I will recuse myself for this item.

Vice Chairman Bryan – Could we have a staff report please?

Planning and Zoning Administrator – Thank you, Mr. Vice Chairman. This is an application for a Chesapeake Bay Preservation Area Exception. The home was built in 1957. It was built when that lot was in Isle of Wight County. It was also built before the Chesapeake Bay Act. Those are two (2) items that are relevant here because it is deemed to be a legal, nonconforming structure as it relates to the Chesapeake Bay Act and our ordinance. Being subsequently annexed into the town, it did fall under our zoning. The applicant proposes to build a garage/office/work shop addition to the home. It is proposed to encroach approximately twenty-five (25) feet into the landward fifty (50) feet of the one hundred (100) foot RPA buffer. Even though there will be this encroachment, there will be a net reduction of impervious area within the RPA buffer as the application includes the demolition of a good amount of the home before the addition is put on. This addition would either encroach more into the RPA or either

would not be possible if the applicant had also not applied for a Special Yard Exception from the Board of Zoning Appeals to encroach into the thirty-five (35) foot front yard setback by approximately eighteen (18) feet. That has allowed the applicant to shift the addition quite a bit away from the RPA. Basically, there is a net reduction of one hundred, twelve (112) square feet of impervious surface in the one hundred (100) foot RPA buffer from what currently exists. However, outside the RPA buffer but also on the lot, there is an increase of impervious surface of approximately five hundred (500) square feet. Due to this, the applicant proposes to replant eight hundred (800) square feet of the RPA buffer with natural plantings to state standards for RPA restoration. In your packet, you have a Water Quality Impact Assessment that outlines this. You also have an existing, as well as a proposed, survey that shows the RPA buffer and the home as it exists today. It also shows the home as it would exist if this was approved and the addition was put on the home. Under staff comments, Section 4 under Exceptions, there are several items there that should be considered by you when you consider an application such as this. As far as staff is concerned, there are strengths related with this application. There will be a net decrease of impervious area within the RPA buffer, improvement in stormwater treatment infiltration in the RPA buffer, an increase of natural plants, and an improved use of a legal nonconforming site in the Town of Smithfield. The weaknesses identified are the encroachment of the structure into the RPA buffer. That is all I have right now. I will be glad to answer any questions that anyone may have.

Vice Chairman Bryan – Thank you. We will now open the public hearing portion of this application. Is there anyone signed up to speak? Is there anyone who would like to speak?

Mr. Randy Pack – Thank you. I live at 505 Jordan Avenue. I am the applicant. It is also important, tonight, that I acknowledge that I am a member of the Planning Commission. I was just elected Chairman; thank you. Tonight, I am acting in my role as a private citizen as an applicant in this particular application. What you have in front of you this evening is an addition of a garage to my home where I reside. It is a three (3) car garage. I have a three (3) acre lot. It is laid out kind of funny. Much of it is over the marsh. When the house was built in 1957, it was not in the town and there was no

Chesapeake Bay Preservation Act. When the Chesapeake Bay Preservation Act came around in the early 1990's, much of the house fell into the RPA including a portion of my living room, carport, and decks. My wife and I are proposing to remove quite a bit of this. We want to remove and replace which is why we are in front of you tonight. We will have a net reduction in the RPA of one hundred and twelve (112) square feet. We have some foundation issues that are failing and some decks that are not pretty in some of the areas. They are not quite as usable as we would like it. We would like to remove the existing and replace back in that same area. We will actually extend twenty-five (25) feet into the RPA. I do not know the exact measurement but it is approximately fifteen (15) feet less than what is exists into the RPA now. In doing so, the whole lot with the addition, will have an increase in coverage; all of which is outside the RPA. We are offering mitigation as per state standards. It has kind of been an interesting process because there is actually per square foot of coverage of replacement that is required. In my water quality analysis, you will see that the surveyor followed those standards and has replaced specific plantings to the tune of eight hundred (800) square feet inside the RPA which will become natural again as opposed to a groomed surface. I am happy to answer any questions for you. We are requesting an exemption. My biggest strength to this, and the reason I feel okay about it, is that it is a net reduction. If we do nothing now we will still have more area covered in the RPA. With this change, we are having a net reduction in the RPA. I am happy to entertain any questions.

Vice Chairman Bryan – Does anyone have any questions? Hearing none, this portion of the public hearing is closed. We will have consideration or a motion.

Dr. Pope – My only consideration is what does this do for a precedent for other people that live within a RPA buffer? I hear people fuss about it at work. I have known others that cannot get things approved because of the RPA. Does this set anything for the town if someone else wants to do something in the RPA? Is this different because it is attached to the house? Since it was built back in the 1950's, does it allow other people to be able to do things in the RPA?

Town Attorney – There is a distinction because new homes that have been built since the day of the adoption of the Chesapeake Bay Act would probably not be well considered in such an application. They have a property that was created within the

standards of a new act with all of that taken into consideration. This property was platted at a time when the Chesapeake Bay Act did not exist. The house was constructed at a time when it was not around as well. None of those factors were ever considered. The whole purpose of including the exception provision was to deal with situations like this. It is kind of like applying zoning to the old part of the town. The lots were created at a time, and it was never contemplated, that they would ever be zoned. You are applying new, modern regulations to something that is old so you need to take that into consideration. This is not something that is uncommon. The Planning Commission has done this before in similar circumstances. There is a distinction and you recognize that between a new property that has been platted since 1989 and anything prior to that. I hope that answers your question.

Dr. Pope – It does.

Vice Chairman Bryan – I think it was a year or so before you came on the Planning Commission, we had two (2) similar applications in this same situation. They were approved. There is precedent.

Town Attorney – An important fact is mitigation. The standards require that you do the most you can to mitigate the impact and to minimize your footprint. There are guidelines that have been propagated by the state in considering applications like this. That is what you are charged with doing. In this case, Mr. Pack has pointed out that he is reducing the net impact within the RPA. That is a factor for you to consider.

Dr. Pope – Hearing all of that, I would like to make a motion to approve the recommendations to the impact buffer to allow this to go through the Chesapeake Preservation Area Exception rule.

Mr. Swecker – Second.

Chairman Pack – A motion has been made and properly seconded. Roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass voted aye, Chairman Pack abstained, Dr. Pope voted aye, Mr. Swecker voted aye, and Mr. Torrey voted aye. There was one (1) abstention. The motion passed.



Chairman Pack – Thank you, Vice Chairman Bryan. I appreciate you handling that business for us. Our next item is a Public Hearing – Zoning Ordinance Amendment Review – Article 3.G, Residential/Office (R-O) Zoning District – Town of Smithfield, applicant. Could we have a staff report please?

Planning and Zoning Administrator – Thank you, Mr. Chairman. This was discussed at the last meeting as a review. It has to do with the R-O Zoning District Ordinance. It is for residential/office. It is a transitional zoning district in areas that are on main thru-fares that have a heavy residential flavor. However, we expect them to be commercial in the future. This Residential/Office is just as it says. It is heavy on residential but allows transitioning into offices and low impact, highly regulated retail. It is so highly regulated that it currently only allows ‘retail currently with interior display and sales of high technology, scientific, electronic, and medical equipment of a type not customarily retail to the general public provided that there shall be no exterior storefront displays.’ At the time that this was passed, twenty (20) or so years ago, there was not as much commercial in the area which is predominately South Church Street from the bridge at Cypress Creek down to about Gwaltney Motor Company. This is where the majority of it is; but it extends all the way down to the Tastee Freeze on the west side of the road. It has gotten quite a bit more built up than it was when this was passed. These restrictions are, arguably, unreasonable; but they also seem to be deterring some business opportunities for that area that, I think, would be productive to the town. Due to this, we recommend relief from some of these restrictions. If you look at the draft ordinance in your packet, on page 3, which states: ‘Uses by Special Use Permit.’ Currently, we recommend striking ‘Offices with retail sales’ and just leave it ‘Retail sales’. We would also strike ‘high technology, scientific, electronic and medical equipment of a type not customarily retailed to the general public.’ This would open it up to any type of retail sales provided that there still be no exterior or store front displays. It would make the use broader; but still provide protections for what the exterior would like as it relates to residences that may still be in the area. It would also remain as a Special Use Permit item. The Planning Commission and the Town Council will still be able to review proposals on a case by case basis and put any conditions on them that they deem necessary so that they are not negatively impacting the district. There are a

couple of other minor changes on page 2 in the ordinance. They just include some of the language to make it read better which includes office, studio, and conditional retail. I struck an 'a' which was a previous grammatical error. Those are the only two (2) changes recommended there but it opens up retail sales to more types of retail sales while still minimizing the impact to the exterior of the structures. Strengths identified with this change are that it would open up existing commercial areas to new commercial opportunities and minimize the impact to the transitional district through the limitations that remain. I did not identify any weaknesses with this application.

Chairman Pack – Thank you. At this time, I would like to open up the public hearing. There are no signups but we are willing to hear anyone who wishes to speak on the subject. Hearing none, I will close the public hearing. Is there any discussion from the Planning Commission?

Vice Chairman – They would still be subject to the sign ordinance. Is that correct?

Planning and Zoning Administrator – This is basically displays such as displays of merchandise. To look at these businesses, it would still look just as if someone had turned it into a general or professional office which is one of the main uses in this area other than residential. The idea here is that it does not just make it look like a regular retail outlet with exterior displays of merchandise. It would still look similar to a home or a general or professional office. This would not limit signage. The signage would still remain as it relates to that zoning district and other offices are making use of it in that district today.

Chairman Pack – Are there any other questions or comments? I will entertain a motion.

Ms. Hillegass – I would make a motion to recommend approval to the Town Council.

Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded. Roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass voted aye, Chairman Pack voted aye, Dr.

Pope voted aye, Mr. Swecker voted aye, and Mr. Torrey voted aye. There were no votes against the motion. The motion passed.

Chairman Pack – Our next item is Approval of the December 13<sup>th</sup>, 2016 Meeting Minutes.

Town Attorney – Mr. Chairman, I would recommend approval as presented.

Ms. Hillegass – So moved.

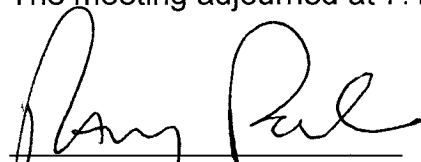
Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded. All in favor say aye, opposed say nay.

On call for the vote, seven members were present. Mr. Swecker voted aye, Dr. Pope voted aye, Mr. Torrey voted aye, Ms. Hillegass voted aye, Vice Chairman Bryan voted aye, Mr. Davidson voted aye, and Chairman Pack voted aye. There were no votes against the motion. The motion passed.

Chairman Pack – Is there any further business for the Planning Commission?  
Hearing none, we are adjourned.

The meeting adjourned at 7:10 p.m.



Mr. Randy Pack  
Chairman



William G. Saunders, IV  
Planning and Zoning Administrator