

The Smithfield Planning Commission held its regular meeting on Tuesday, February 8th, 2022, at 6:30 p.m. at the Smithfield Center.

Members present:

Charles Bryan - Chairman
Julia Hillegass – Vice Chair
Michael Swecker
Dr. Thomas Pope
Randy Pack
Michael Torrey
Raynard Gibbs

Members absent: None

Staff present:

Tammie Clary - Community Development & Planning Director
Jack Reed – Director of Public Works and Utilities
William Riddick – Town Attorney
Valerie Butler – Town Councilwoman
Beth Haywood – Town Councilwoman

Press: Stephen Faleski - The Smithfield Times

Citizens: Approximately 55

Chairman Bryan welcomed everyone to the meeting. All in attendance stood for the Pledge of Allegiance.

Community Development & Planning Director's Report:

Tammie Clary, the Community Development and Planning Director, reported that a zoning permit and Isle of Wight County Demolition Permit have been issued for the demolition of the partial structure located at 1400 South Church Street.

She continued that at the January 2022 Planning Commission meeting, Dr. Pope inquired about the distracting lights for two retail vape shops located in Smithfield Plaza and Cypress Run Plaza. Both locations have been sent notices of violations. Additionally at the last Planning Commission meeting, Dr. Pope inquired about clarifications in the Heavy Industrial (I-2) zoning district. Town staff shared specific sections of state code provided to Dr. Pope. Drug Paraphernalia is defined in Virginia state code § 18.2-265.1 and the definition for massage parlors can be found in the Town Code, Section 26-46. She added for clarification that vape shops in Town are classified as retail sales.

A group photo of the Planning Commission members will be taken at the conclusion of the meeting.

Councilman Pack asked Mrs. Clary to review what statute the vape shops were in violation of and what the Commission's recourse was if they chose not to comply.

Mrs. Clary reported that the vape shop next to Farmer's Table specifically was sent a failure to apply for a window sign permit for their white light signage. She continued that the second vape shop located in the Kroger plaza was issued a violation of being distracting to motorists due to

their use of white and green flashing lights. Mrs. Clary stated that they had 30 days to comply by filling out a zoning permit for the window sign and removing any non-conforming signs. She stated that she had not heard any feedback from the other shop owner regarding the distracting lights violation.

Vice Chair Hillegass inquired what would happen if they did not comply.

Mrs. Clary stated that the information would then be sent to Bill Riddick, the Town Attorney.

The Town Attorney expanded on this stating that they would file the action in the General District Court to enforce the ordinance.

Vice Chair Hillegass asked if the leasing agents of both shopping centers had any culpability in this situation.

Chairman Bryan asked for clarification by Mrs. Clary on if the lights remained on or if they had been removed as they had asked.

Dr. Pope stated that they did not ask them to be removed, just their brightness to be tempered.

Mrs. Clary reported that the owners remain in the 30-day window of their notice of violation in order to remove or correct the lighting.

Upcoming Meetings and Activities:

Tuesday, February 15th, 6:30 PM – Board of Historic & Architectural Review Meeting

Tuesday, February 15th, 7:30 PM – Board of Zoning Appeals Meeting

Tuesday, February 22nd, 3:00 PM – Town Council Committee Meetings

Tuesday, March 1st, 6:30 PM – Town Council Meeting

Tuesday, March 8th, 6:30 PM – Planning Commission Meeting

Public Comments:

Chairman Bryan explained that the public was invited to speak to the Planning Commission on any matters, except scheduled public hearings and to please use the sign-up sheet. Comments are limited to five (5) minutes per person. Any required response from the town will be provided in writing following the meeting.

Bill Harris of 329 Grace Street in Smithfield stated that he had been a resident of Smithfield for 30 years and this was the second home that he has done historical reclamation and refurbishing of. He stated that he and his wife had been very active in historic preservation and the education of people in the area. He added that he had served years on the Board of Directors for Historic Smithfield for many years, as well as in Preservation Virginia, and between the two has participated in nearly every aspect of historic preservation in the area. Mr. Harris stated that his job was to share concerns that a large group of citizens of the Town have regarding the proposed project at the corner of 10 and Main Street referred to as “10 Grange.” He stated that at the suggestion of one of the Commission’s members that they are coming today not as adversaries but bringing to the members a list of hopeful concerns and constructive criticisms. He added that they hope the Commission will consider in advance of making any formal deliberations about the proposals regarding this development. Mr. Harris stated that most of the concerns that he has are regarding the procedural approaches. He stated that as he had told the Town Council last week, that the public would like to see all phases of the Council’s and Commission’s deliberations be

characterized by the highest level of transparency, honesty, and integrity. He specifically requested that the transcripts from all meetings made public for all citizens to have access to, in a quicker time-frame. He stated that currently the Council and Commission present their minutes from meetings one month after the previous meeting. He stated that for members of the public that is a long gap between speaking to the members, waiting for response, then hearing proposed, revised, and approved. He stated that this was likely a bylaws activity that citizens could not affect but they wanted the Commission to address getting the information to the public more quickly and clearly. Mr. Harris continued that the group would like to see the recusal of all members of the Council and the Planning Commission who are involved in the project called "10 Grange" in any manner. He continued that in accordance with federal law, that the group would like those who recuse themselves to do so in the most complete manner possible. He added that recusal from voting on matters in relation to the development project is only the first step a complete and formal recusal. Mr. Harris added that recused members must not participate in any discussions related to the ongoing consideration of the developer's proposals or the citizens' concerns. He stated that so far only Mr. Pack has made a public statement about his intent to recuse. He added that the group is hopeful that anyone else that has any chance of economic benefit from the proposal the same quickly. He continued that all steps should be taken to avoid the appearance and the reality of conflicts of interest. He stated that most everyone in the room was aware that there was a Smithfield Times article already written about conflicts of interest. Mr. Harris informed the Commission that a couple of members of their group had been contacted by outside news organizations asking for comments about their perception of the conflicts of interest. Mr. Harris stated that the group thinks it is the time for the Planning Commission and the Town Council to consider a better way to communicate and share information with the public. He stated that public comment is a good thing, but it is nothing more than that. He expanded on this by stating the public stands, they talk, the members listen, but there is no sharing of information. He gave the example that it would be helpful for someone tonight to explain the difference between the current zoning ordinance, its differences with the proposed PMUD, and the members opinions of the proposed ordinance. He reiterated that the group did not take an adversarial stance and most understood something would need to be done with the property on the corner of 10 and Main Street.

CJ Spady of 114 Goosehill Way in Smithfield started by reporting that her family has been in this area for over a century. She continued that the thoughtful development of the property formerly known as Pierceville was important to the city. She continued that it was her understanding that the committee serves as an advisory body, made up of its citizens, to City Council on policies related to planning, land use, regulation, and community development. She continued that the Code of Virginia, Article 2 stated every locality shall apply resolution create a local Planning Commission in order to promote the orderly development of the locality and its environs. She continued that with this in mind it would better serve Smithfield's 8,000 residents, with many present, that during this development deliberation the citizens insist on no conflict of interest and that includes no conflict of loyalty. Mrs. Spady stated that members of the Committee, City Council, and the City Attorney should be independent of the transaction and the development in both fact and appearance at all times. She continued that no person can successfully put the interest of 8,000 residents in the best light if they are choosing to risk a current or future reward

from interested developers or otherwise they are more loyal to the developers than the citizenry. She added that recusal is the honorable act to do in light of conflict of interest or loyalty, and this is what the citizens request. She stated that this was a legacy-type project that will live with us all and Smithfield should avoid a negative legacy, which has been done. She stated that group insists on transparency and asked for no clandestine meetings with 100% clear and proper notice of meetings to be held. Mrs. Spady asked to not rush into anything as this property had not been developed since it was created by God. She continued that the group insists on the Commission putting the interests of the citizenry first, though they understand that someone has purchased the property. Mrs. Spady asked that the Commission not let oversight be taken from them by a “free-for-all” developer ordinance, which would happen if they rezoned Pierceville. She reported that they recognize that the Commission served at the pleasure of City Council but recapped that Virginia Law commissioned them to maintain the orderly development of the locality and its environs. She concluded that this development, to some extent, would be an abdication of what their charter is. She thanked the Commission and added that she does not personally oppose development but wants to see thoughtful and sensible communication with the developer to ensure the best interest of the citizens involved who have invested in this community are served.

Nick Blevins of 220 Grace Street in Smithfield stated that he would like to speak about the PMUD zoning change. He reported that he contacted the members of the Commission today via email so that they would have a copy of the points he would be speaking about tonight. He stated that the zoning change should not be approved or forwarded to the Town Council because as it is written it is a direct threat to the integrity of the Historic District. He added that he understood that the PMUD zoning would still have to go through an approval process, but that was not enough protection for the Historic District in particular. Mr. Blevins gave the hypothetical example of the PMUD’s use by a developer by their buying low value downtown properties, tear them down, combine the parcels, and then have the ability to build whatever they want: apartments, multistory shopping centers, etc. He stated that he agreed that this was an extreme scenario but added that this is happening all over the country in areas that have adapted mixed-use zoning. He continued that developers are able to watch the areas with this zoning and buy these parcels over time in the hopes they can be combined into a bigger development. He stated that these are the changes that must be added to the PMUD ordinance before it is sent to the Council for consideration: 1. No property currently zoned in the Historic District preservation area will be eligible for zoning to PMUD. 2. No parcel adjoining a landmark or Contributing property will be eligible for PMUD zoning. 3. Any PMUD adjoining to or visible from a Historic Preservation zone property shall be subject to the same height restrictions, regulations, and ordinances as the Historic District properties. Mr. Blevins encouraged the Commission not to send the amendment to the Council as it is written tonight. He stated that he had faith that the members had the best interest of the Town at heart and asked for their consideration of his points.

Lanny Hinson of 345 Main Street in Smithfield thanked the Commission for the opportunity to address them with concerns about the latest project of 10 Grange. He stated that the project will have direct impact on people who own property and live in the Historic District of Smithfield. He continued that what makes Smithfield unique is its rich history. He gave the information that the County was established in 1634, just 28 years after Jamestown, the first

permanent English settlement in America in 1607. Mr. Hinson stated that they are aware that the development of 10 Grange will occur in some form, they are hopeful that the visual impact will enhance the Historic District and not detract from it. He stated that early proposals indicated that the residential and commercial buildings in the development would have a style that reflects the architecture of the Historic District, and the group would like the Town Council and the Planning Commission to compel the developer to work within the existing perimeters and restrictions that are in place. He continued that they are particularly hoping the height of buildings be limited to three-stories, so they are in keeping with even the largest houses throughout the Historic District. He stated that the group is worried that any building higher than three-stories will produce a look consistent with recent developments on Route 17 rather than the look of properties in downtown historic Smithfield. He added that they are pleased that they have allowed for greenspace in the area, and they would like to see that greenspace use at least a 100-foot buffer between Cary Street and the development. He stated that he knew that the Planning Commission members were all committed to their duties and thanked them for it. He stated that they are hopeful that they will give the project much consideration so that it does not change the uniqueness and desirability of the Town.

Sandy Cleary of 115 Institute Street in Smithfield stated that at the last meeting she attended it was suggested that instead of talking about what they don't want, that they should talk about what they do want. She continued that she had a proposal for a Historic Smithfield Garden site which would be managed mostly by volunteers taking up 6-10 acres in the proposed area. She stated that what she would like to see is a formal Victorian-style garden which would be behind the brick building, surrounded by brick walls. She added that the garden would include perennials, annuals, trees, shrubs, benches, and surrounding pathways. It would be managed by volunteers who would plant, weed, mulch, and propagate other plants on the site. She continued that outside of her proposed formal garden would be a meadow of approximately $\frac{1}{2}$ - 1 acre which would promote pollinators, insects, and birds. She stated that this could be managed by volunteers due to the ease of maintaining the land. Mrs. Cleary stated that additional lawn, trees, and shrubs maintained as a screen would need upkeep through a landscaping company. She proposed the inclusion of a potting shed with an attached small glass greenhouse, a water source, an area for composting, and house for a bathroom. She also proposed an allotment for gardening through rental or a lottery process if there was interest. She continued that the area would be surrounded by a 6-foot iron fence with a gate. She reported that allotments were wonderful and promoted a sense of community and allow people without gardens space to grow whatever they want. She stated that it should be noted that if there was an allotment, there should be bylaws to maintain the spaces in an attractive and tidy way. Mrs. Cleary stated that each allotment could be sized 28x20 feet, with 4 raised beds and 4-foot walkways around each of the beds. She stated that she was also thinking about a beekeeping area where beekeepers could come and keep bees. She added that the Town would benefit from this as it would be beautiful, get people involved in the neighborhood, and give a sense of community. She added that it would be great for seniors and a learning tool for children in school. Mrs. Cleary stated that in the proposed brick building that was currently called the Farmer's Market there could be classrooms where people could learn about beekeeping, growing plants, and master gardener classes.

Elizabeth Hopkins of 320 Grace Street in Smithfield started by saying she wanted to speak about human behavior and the Farmer's Market. She stated that she used to own a toy store close to a beach area outside of a well-off neighborhood. She stated that neighborhood was in the hills, you went under a highway, and down her street to get to the beach. She added it was perfect visibility and the right demographics. She continued relating that the road was a mess with no dedicated parking. She stated that it was decided to fix the street, and it looked great on paper with a median and parallel parking all the way down. Mrs. Hopkins stated that when you added human behavior, people came off the highway and didn't come to her store. She continued that what looks good on paper is not always true. She said taking the Farmer's Market out of downtown and placing it in a massive building that was similar to Waterside is a bad idea without further studies. Mrs. Hopkins proposed a study of foot traffic in the area. She added that one of the reasons why Smithfield was so attractive on market days was because you have to park throughout the town and meander through the streets. She gave the example of someone coming for the first time, having a great visit, and then returning with family for the day. She continued that taking the Farmer's Market outside of the area of walkability would to her end all of downtown. Mrs. Hopkins related that when Laura and Lucy's Antiques closed there was worry having an empty building, but then it was bought and will be used as a mercantile. She conveyed that building the Farmer's Market, adding it was really a Vendor Market as there was more Arts and Crafts stands than produce, for a 7 day a week market will not work as we do not have the population to support it. She stated that there is a Farmer's Market in Virginia Beach with pony rides and other attractions that people do not go to. She added Newport News had a dedicated Farmer's Market and people did not go. She gave the example that City Center had many more apartments than is planned for 10 Grange with water features, restaurants, and shops, adding that it was dying long before the pandemic hit. She stated that with the cost to build this it appeared that it was benefitting one development and one developer, even though there would be a donation to help. She questioned the cost to maintain a market for 7 days a week and how many people would go on Saturday and then also during the week. Mrs. Hopkins stated that in the age of internet shopping that we were lucky that the shops downtown did as well as they do. She referenced the suggestion to give ideas what people would like to see and gave the idea of having the building proposed for the Farmer's Market but make it an event space for specific vendor shows. She added that this space could be used for plant sales, Victorian gardens, allow rental space for cocktail parties or graduation parties, or classic car shows. She continued that these ideas would be different than what is already offered downtown. She stated that she would like to see a greenspace for buffer are essential to assist with the flooding that occurs downtown. She made the statement that before changes in zoning occur that there needed to be a continuation of the traffic studies Cary and Church Streets and access from Mill Swamp Road to Route 10 so that traffic does not need to route through town down Cary Street. She asked to see a business plan for the proposed Farmer's Market and suggested that the Commission review a business plan from another Farmer's Market to see what originally looked good and then what the actual outcome was.

Susan Patchell of 233 Cary Street in Smithfield thanked the Commission for listening. She said that while the group was aware that there would be a development of some form on 10 Grange, they are hopeful that the visual impact will enhance the Historic District. She added that early

proposals indicated that the residential and commercial buildings done there would have a style that reflects the architectural style of the Historic District, and the group would like the Town Council and the Planning Commission to compel the developer to work within the existing perimeters and restrictions that are in place throughout the Historic District. She continued that they are particularly hoping the height of buildings be limited to three-stories, so they are in keeping with even the largest houses throughout the Historic District. She also stated that the group is worried that any building higher than three-stories will produce a look consistent with recent developments on Route 17 rather than the look of properties in downtown historic Smithfield. She reported that she moved here from Virginia Beach as she and her children had grown up in a small town. She added that she wanted to leave Virginia Beach because it is very developed. She stated she looked at Harborview and Carrollton and they look all the same. She said like where her kids grew up, Smithfield is a place where you could walk on the streets. She stated that one issue with Cary Street is that it is very narrow. She stated that she cannot walk to the YMCA from her house and if she did she either has to walk on the side of the road or on the grass. She reported that the corner of Grace Street where people turn from Main Street to head up to Mill Swamp Road is dangerous and questioned if they wanted more traffic. She stated as was said before she thinks that a traffic study should be done for Cary and Church Streets and added that there should not be an entrances from Grace and Cary Streets to the development. She reiterated that Cary Street is narrow and stated that they need sidewalks. She reported that children ride their bikes down Cary Street in the road to get to the YMCA. She added that she is able to understand how to cross a street but is worried when she sees children playing on their bikes in the street. Mrs. Patchell stated that as the process moves forward, their group is hoping that the Town Council and the Planning Commission remain open to hearing, and whenever possible acting on, the concerns brought by the concerned citizenry of Smithfield. She stated that a development the size and at the site of 10 Grange will have a tremendous impact on the economics and atmosphere that makes the Town special. She continued that the group believed that the greatest care should be given in making sure all aspects of the development are considered in advance and that all involved should work to create a development that is good for the Town and not just a benefit for those invested in it.

Theresa Mulherin of 206 Washington Street in Smithfield stated that she had a comment about the presentation given by Ann Darby at the last Planning Commission. She felt that Mrs. Darby had given an insult to citizens of the Town when she asked why they aren't always present and wanted to make her aware of that feedback. She added that what then resulted was that everyone who came up to speak gave reasons why they are not able to come every day. She continued that Mrs. Darby looked for reinforcement from the Town with the comment and that was hurtful. Mrs. Mulherin wanted to remind the citizens to go to the Comprehensive Plan online at www.smithfieldva.comprehensiveplan.com and put their comments in. She reported that what she does not like about the Comprehensive Plan is that the area formerly known as Pierceville has already been colored in as PMUD district, which to her means that it will be taken out of the Historic District. She added that she finds this concerning as it is the oldest piece of property that is left undeveloped. Mrs. Mulherin stated that regarding the PMUD she agreed that building height should be restricted to no higher than the current height restriction which she thought was 35 feet and the floor area regulations should remain the same. She stated what makes our town cute and

quaint, which is what the Comprehensive Plan seeks to answer, is set-backs, yards, porches, walkable streets, and needs to be reflected. She stated wanted to see incorporation of environmentally friendly aspects if there will be new zoning proposed. She gave the examples of harvesting of rainwater, green roofs, use of solar energy, etc. She also stated they should be planning for water runoff, not letting properties flood as one house on Cary Street does weekly. She agreed with the idea of buffer zones and stated that she thought Mrs. Cleary's idea of a Victorian Garden was wonderful, adding it would be great to have a walkable garden in the district. She stated that Mr. Luter had done a great job with some of his developments, so she is excited to hear what the plan is. She stated that her concern is that there are being deals made in the background and people are not being forthcoming with information. She added that an example of this was the inclusion of the PMUD on the future land use map. She stated that she had attended all the meetings for input on the Comprehensive Plan and there was no one there that took a crayon and colored in the section to make it PMUD. She added that most people there wanted to leave it as farmland or greenspace, and that she thought the YMCA was supposed to build a swimming pool on that site at some point. She stated that the Town had to opportunity to build a parking lot and it was sold to the same company so they could build duplexes. She stated that she thought we were squandering resources that we had our hands on. She added that she did not see the sale of that property in any of the financial statements from last year. She stated that she does not personally see where the PMUD belongs near the Historic District and reiterated that she thought that it was the Town's plan to take the property out of the Historic District. She stated that what makes our Historic District cute is that there are guidelines that maintain it. She asked that those guidelines stay within the designated area that is already there at the state level. She stated that she was excited to see what will happens on South Church Street as it seems like a great opportunity to build in that area. She stated that she understood that the plan for the PMUD stated that an environmental impact statement "may" be needed, but she does not want it to say that as an environmental impact statement is absolutely needed as it is a big development. She added that she wanted to see an architectural impact study done for the existing structures in the adjacent properties. She gave the example that when they put the structures in to hold the building up it is like an earthquake. She questioned what would happen to the historic houses when they try to put those in. She welcomed back those members who were not present for the last meeting.

Mary Harris of 329 Grace Street in Smithfield stated that she had lived in Smithfield for almost 30 years and inquired if the Commission knew how many residences there were on Grace Street, Thomas Street, Cary Steet, Church Street, and the surrounding neighborhoods that will be impacted by the proposed entrances to the Luter development. She stated that she thought some of them did not. She repeated that while most believe that 10 Grange will happen in some form, the group remains hopeful that the size and design will be modified to best serve the Town's ambiance and character. She added that the entrance points to the development in particular needed to be reconsidered. She stated that no entrance points from the old neighborhoods to the new neighborhood at 10 Grange should be allowed. She stated that the group had traffic data from last year and acknowledged that another traffic study would be conducted, thanking Mr. Pack for bringing it up at the Town Council meeting. She added that she would be using the older traffic data and some assumptions that she had made if those access points were to be allowed. She

reported that Grace Street has 23 homes on it, and if one added the homes on the connected Thomas Street the number of homes was 29. She stated that she went out and counted and now had a spreadsheet of all the homes in the area, adding that it may be off a by little, but she felt it was accurate. Mrs. Harris continued that the number of homes proposed in Phase I of the Pierceville development is around 270. She broke down the number to 225 apartments and 45 other homes. She asked the Commission to consider the impact to just Grace Street alone. She continued that if they assumed 2 cars per home making one round trip per day then current residents of Grace Street make around 60 round trips which is the equivalent of 120 drive-bys per day. She continued that this does not sound like a lot, but when you add in 270 homes that number balloons to 600 round trips or 1200 drive-bys a day. Mrs. Harris clarified that this was just for the residents only, not including business traffic or other traffic occurring. She gave the information about a police study completed in January 2021 showed that 11,569 vehicles traveled down Grace Street in a 6-day period, adding to adjust it to 7 days would add 1928 more vehicles making the weekly total traveling down Grace Street a year ago 13,497. She asked them to add in the number of new residents and to keep in mind that this was not adding in business traffic. She stated that the number becomes approximately 20,000 cars on this one street each week. Mrs. Harris expressed concern about adding even more homes to the north end of town. She continued that there are 189 homes, not counting businesses, on Main Street and back north to the Riverview area. She added that 10 Grange will be part of this area, and the addition of the 270 homes equates to a 145% increase just on the north side of Town. She stated that it was imperative that the Planning Commission and Town Council do their due diligence in evaluating the potential negative impact on the public services and the quality of life in this area. Mr. Harris offered to share her spreadsheet showing both north and south homes that she counted as she was unsure if they had an official count.

Chairman Bryan stated there were no more sign ups to speak but opened the floor to any citizen who wished to speak further.

Diana Martin of 325 Grace Street came forward and asked for a complete environmental impact survey and traffic survey. She stated that living in a historic home had its own issues and gave example of vehicle traffic on her street shaking the windows, which are original to the home. She asked the Commission to imagine what the shaking is doing to the structure if it was shaking windows enough to wake someone up. She inquired what building in this area would do to the homes, some of which are older than hers. She reported that there were issues with speeding, and that she has to watch her two young children at all times when they are playing in the yard. Mrs. Martin stated that a study looking at the traffic, possible flooding, etc. and possibly moving the planned entrance maybe the proper way to handle this.

David Matuzak of 120 Cockes Lane in Smithfield stated that his family had just moved to Smithfield in September, so they did not have the same vested interest as some other speakers. He reported that they moved here from an area where the public services were lacking. He listed out the public services of police, fire department, internet, water, emergency services, and electricity and question whether or not the city has the ability to increase funding to these departments if the population increases. He added that he did not know if these impact studies had been done and offered his apologies if they had. He related that he came from an area with a population of 40,000 people and only 5 police officers were on duty at any given time. He added that due to this people

who want to break into a house know that no one will show up as there are no facilities or infrastructure in place to prevent it. He concluded with restating that if you add more people more services needed to be added.

Jeff Brooks of 320 Grace Street in Smithfield apologized to his neighbors but stated that he lived in the coolest house on Grace Street. He stated that his home was on the walking tour and that he often sees tourists taking pictures outside of his house and it is awesome. He reported that he grew up in Richmond, then moved to Virginia Beach for 31 years, and still had a business there. He continued that he moved here from Virginia Beach due to exactly what he is seeing happening here. He stated that he considered moving to Savannah and Charleston, but he still had family in Richmond, and he chose Smithfield. He related that he loves his home but what he sees is exactly what happened to Virginia Beach or Richmond. Mr. Brooks stated that he is aware that this area will be developed. He added that he does not know the families or developers, but he came to this area to retire. He stated that what he is seeing is a disruption to a community that he loves. He stated that people know him through his dog, and that he was taking a welding class at the high school where someone recognized him as his dog's owner. He added to this story that this is what he was trying to preserve. He stated that he wanted to caution the Commission to preserve what we have in the community. He asked the Commission to look at the various streets, please be careful, and do the right thing.

Bob Hines of 216 Washington Street in Smithfield reported he felt there was a vendetta against some of the members of Preserve Smithfield by some of the members of the Town Council and possibly one or two of the members of the Planning Commission. He stated that some said that the house on Pierceville was beyond repair, where historians reported otherwise and that it was a historical piece of property. He stated that the group had tried to save the property only to get nothing from the Town Council at all and added that they possibly could have gotten funding but had gotten no interest. He continued that the selling price of the property was \$2 million. Mr. Hines continued that it was his opinion that now to satisfy some friends the Town is offering more money for the Farmer's Market than what it was paid for the property. He stated that he would say what he said at the Town Council meeting, that people should be embarrassed to even think about having a five-story building on that property. He imparted that we are all neighbors in some sense, and we should not want to see a monstrosity that looks like Oyster Point, Virginia Beach, or Route 17 be built. He stated that he agreed that something should be done with the property. He reported that years ago the downtown used to look rough, but people had a vision and worked to make the Historic District better and did the right thing. He added that a something of this magnitude was not the right thing. He stated that the Commission would be allowing a comfortable Historic District to become a very uncomfortable Historic District.

Chairman Bryan saw no other speakers come forward and closed the Public Comment section of the meeting.

Planning Commission Comments:

Mr. Pack reported that the old Tastee-Freeze property had been scheduled to be demolished on Monday of this week but was delayed. He added that it was still slated to be demolished this week. He reminded the Commission that this was the first use of the Blighted Property Ordinance, and the Town Manager had sent an email out regarding the delay.

Chairman Bryan stated that the Planning Commission appreciated all the comments that the citizens provide, and they do listen. He stated that he wanted to remind the citizens and encouraged the Town Attorney or other members of the Commission to correct him if he was wrong, that the PMUD is in a conceptual stage. He stated that it is only a proposal, and nothing is final. He continued that there was still work to be done on it, and that there would likely be adjustments to it. Chairman Bryan added that the proposed development was also in a conceptual stage, and there was still work to be done it. He continued that the Comprehensive Plan had been colored in, but that this also was just a proposal and conceptual. He addressed the citizens stating that at the point with discussions taking place between the Commission, Town Staff, and citizens, that they should expect changes to be made and their comments to be taken into consideration.

Hearing no other comments from the Commission members Chairman Bryan closed the Commission member comments portion of the meeting.

***Public Hearing* Special Sign Exception – Cypress Creek Phase 6 “The Parke” – TPIN: 21E-01-000H, IDF PENSIGN/ Robinson Development C/O Matt Leverett, applicant.**

Mrs. Clary reported that the applicant is seeking a Special Sign Exception (SSE), pursuant to Smithfield Zoning Ordinance (SZO) Section 10.M, as the sign conflicts with the following SZO Section(s):

- 10.K.1.b(2): The sign would be the third subdivision entrance sign for the Cypress Creek subdivision- all subdivisions are limited to no more than two subdivision entrance signs, depending on the signs’ configurations.
- 10.K.1.b(5): The applicants are proposing approximately fifty-seven (57) square feet of additional architectural elements, which exceed the twenty-four (24) square feet that may be devoted to architectural elements which serve as supports or bases and are not a part of the message portion of the sign.

She reported that the proposed sign will be a monument style sign with block, stone, and tile construction featuring “The Parke at Cypress Creek.” The visible dimensions of the sign would be 161 inches wide by seventy-one (71”) inches tall, which will include a seventeen (17) square foot lettering area. This sign will not be internally or externally illuminated, and the signs placement is proposed to be fifteen feet (15’) from St. Andrews.

Mrs. Clary continued that in accordance with SZO Article 10.E.6 the applicant has submitted a landscaping plan prepared by a qualified Virginia Certified Landscape Architect. The landscaping plan includes various trees and shrubs, creating a 270 square foot landscaped area.

Town staff recommend approval under the following conditions:

- (a) Applicant must submit a landscaping bond for \$2,028.00 (which is 120% of the landscaping cost).
- (b) This approval applies solely to the sign shown in the submitted plans, and that any replacement sign, if larger or substantially different from this one, must be reviewed and decided by the Planning Commission (and the Town Council, if applicable) through a new SSE application.

Wade Crane came forward to speak on behalf of the applicant. He reported that he is from the sign company and stated he was present to answer any particular questions regarding the

proposed sign. He reported that he had been before the Commission before a few years back when the larger entrance sign had been proposed. He added that he felt it was appropriate that the entrance have its own sign as there was a different style of home in this area of the development.

Vice Chair Hillegass inquired if Mr. Crane had any problems with the Town staff's conditions outlined by Mrs. Clary. He stated that he did not.

Mr. Pack reminded the Commission that this was an item for Public Hearing.

Joseph Mattingly had signed up on the Public Hearing sheet but clarified that he had thought it was an attendance sheet and did not wish to speak.

Chairman Bryan asked if there was anyone present who would like to speak for or against the Special Sign Exception application. Seeing none, he closed the Public Hearing.

Vice Chair Hillegass stated that if there were no further Commission comments then she would move to approve the application with the recommended staff conditions outlined. Mr. Pack seconded the motion.

Chairman Bryan called for the vote. On call for the vote, seven members were present. Mr. Gibbs voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Mr. Pack voted aye, Vice Chair Hillegass voted aye, and Chairman Bryan voted aye. The motion passed.

Planning Commission Waiver Application – 124 The Firth – Eagle Construction of Virginia, LLC. C/O Jamie Spence, applicant.

Mrs. Clary reported that the applicant is seeking a Planning Commission Waiver pursuant to Smithfield Zoning Ordinance (SZO) Article 11.L for relief from Article 11.A.4 for a non-conforming site. The applicant has stated that due to site constraints they are requesting the waiver to encroach into the additional required twenty-five-foot (25') resource protection area (RPA) buffer that is designated by SZO Article 2.V.14. Approximately 1,007 square feet of the structure will be located in the additional RPA buffer area.

She reported that a strength of this application is that this proposal would allow for the construction of the proposed single-family dwelling on this parcel. She continued that weakness would be that the proposal will be located in the Town of Smithfield's designated twenty-five foot (25') additional RPA buffer for rear yard setback requirements. Mrs. Clary wanted to clarify that the additional 25-foot setback was in addition to the 100-foot RPA line, and it was the Town staff's understanding that the additional space would allow for the residents to construct a shed or other items that would otherwise be prohibited due to the 100-foot RPA.

Jamie Spence of 3127 Summerhouse Drive in Suffolk was present to speak about the application as he was the Division Manager of Eagle Construction.

Mr. Pack stated that according to the plat provided it appeared the home was placed close to the front of the site, and it shows building within the asked for 25-foot buffer. He added that it appeared as though the rear corner of the property was within the 100-foot RPA buffer.

Mr. Spence stated that it shouldn't be, to which Vice Chair Hillegass pointed out that it was barely inside of it and sat on the line. He continued that the site is very tight, and the buildable area is almost unbuildable. He addressed the RPA, stating that the elevation was 20 feet above and there was a golf course and cart path between the site and the wetlands. He clarified that they are pushing up against the 100 foot buffer, but they are not inside it.

Dr. Pope inquired if the people who ultimately ended up buying the home would be made aware that they could not make any further renovations to the back of the property.

Mr. Spence stated that it would be disclosed to the buyer in the contract.

Chairman Bryan repeated that they would not be allowed to develop in the back of the property.

Mr. Spence stated that they would not be able to expand further beyond where the construction company would build the house as they would be into the 100 foot RPA at that point.

Mr. Torrey inquired if this was a wooded area or if it was open to which Mr. Spence confirmed it was wooded. Mr. Torrey confirmed that they would not be able to touch any of the trees, and Mr. Spence confirmed this as well.

Dr. Pope stated that if you play golf it was at the tee box at hole #17 and it was densely treed-in with mature oaks and had quite an elevation change.

Chairman Bryan stated that he had also walked the area as he was concerned when he initially saw the application. He stated that when he actually observed the site it wasn't really marsh or wetlands, but mostly trees and leaves. He added that the golf cart trails were closer to the preserve than the building would be.

Mr. Pack stated that it made sense to him that there would be an extra 25 foot RPA, he added that he is not suggesting to allowing going into the 100 foot RPA. He continued that if they enforce the 25 foot RPA it makes the lot almost unbuildable. He stated it seemed like a reasonable exception and that this is why they have special exceptions.

Mr. Pack made a motion to approve as presented. Mr. Gibbs seconded the motion.

Chairman Bryan called for the vote. On call for the vote, seven members were present. Mr. Gibbs voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Mr. Pack voted aye, Vice Chair Hillegass voted aye, and Chairman Bryan voted aye. The motion passed.

Planning Commission Waiver Application – 621 St Andrews – Eagle Construction of Virginia, LLC. C/O Jamie Spence, applicant.

Chairman Bryan confirmed that this application was very similar to the previous application discussed. He stated that when looking at both, where the rear of the houses would be they are in line with the houses that are existing next to them.

The Town Attorney explained to the Commission that the Town adopted a buffer that was greater than what is required by the Chesapeake Bay Act. He continued that all the lots were designed with the 100 foot RPA in mind. He continued that over the years owners were put in situations where they did not realize that they were up against the line and did not have the opportunity to have a grass lawn and this is why they have an enhanced set back. He stated that they try very hard to make people comply with 125 feet whenever possible. The Town Attorney stated that it was unfortunate, but this was applied to lots that weren't designed to meet that standard as was being seen tonight with the two lots presented. He clarified that they were seeing two lots that have had greater restrictions with respect to the setback than was anticipated when they were designed. He added that was why there was a waiver process for this, and that Mr. Pack had made a good analysis. He stated that the idea was to have people bring their houses as far forward as possible so that they may have patios, etc., but in some instances it is just not possible.

He reported that it meets State Law, but it does not meet the Town's ordinances, and that they have granted waivers in several of these cases.

Chairman Bryan stated that when he observed the area, he was surprised to see that the cart path was within the 100 foot buffer.

The Town Attorney stated that it was built before the Chesapeake Bay Act had been enacted.

Vice Chair Hillegass moved to approve the application as presented. Mr. Torrey seconded the motion.

Chairman Bryan called for the vote. On call for the vote, seven members were present. Mr. Gibbs voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Mr. Pack voted aye, Vice Chair Hillegass voted aye, and Chairman Bryan voted aye. The motion passed.

***Discussion Item* SZO Article 3.J2 Text Amendment – Town of Smithfield, applicant.**

Mrs. Clary explained that Article 3.J2 was originally the "Planned Corporate Office and Research District" (PCOR). This zoning designation was not assigned to any parcel located within Town limits and is not actively being pursued as a potential zoning designation. While in the process of updating the Comprehensive Plan, Town staff believe this would be a perfect opportunity to provide a new zoning district which would incorporate residential, commercial, and light industrial uses, as one planned development.

She reviewed that the item originally appeared on the Planning Commission's agenda as a Public Hearing item, on January 11th, 2022, and was tabled. Town staff proposed a completely updated Article 3.J2 as a Planned Mixed-Use Development (PMUD) District. This new district would incorporate a variety of by-right uses, while still maintaining certain proposed uses as Special Use Permits (SUP) only. She reported that the zoning designation provided for Planning Commission waivers, giving the Planning Commission ultimate flexibility in the development process.

Mrs. Clary stated that the new Article 3.J2 will feature the similar Net Developable Acre calculations and Open Space requirements that are in other zoning districts. Additionally, because of the nature of a PMUD, Pre-application conferences will be required. Because this is complete overhaul of Article 3.J2, a draft is provided instead of a redlined version and is included in the pages immediately following this staff report. Also, for convenience and clarification on B.18., the by-right uses permitted in HRC and I1 Districts are included for reference.

She reported that Town Staff recommended a favorable endorsement and the application return as a public hearing for Town Council.

Chairman Bryan asked if there were any comments from the Commission members.

Mr. Pack stated that he had quite a few and that they included an explanation for the public that had attended the meeting and voiced their concern. He stated that when the PMUD came up for discussion last month, he had stated that it was intended for South Church Street towards Smithfield High School. He clarified that he did not make the statement to try to fool anyone, that it was honestly his belief at the time, and stated that there were quite a few pictures in the Comprehensive Plan of use of this type of zoning in that district. He stated that he was wrong in that. Mr. Pack added that he wanted the Planning Commission to understand that as the PMUD is

considered that this would likely be the tool that the Luter's would use to ask for rezoning. He clarified that this would be a request for rezoning, not an approval. He stated that he did not initially understand why the Commission needed to give them a tool to do that as they already had all the items they were asking for in downtown already, for example: hotels, apartments, restaurants. Mr. Pack reported that it was explained to him that the reason it was needed is while there were all of these items separately in downtown, the PMUD would allow all of them to be in the same place.

Mr. Pack asked the other members of the Commission if they needed to create a new zoning district for a developer. He added no matter how they try to portray it, this is a tool the developer will use. He continued that if the Commission is in favor of this development, then they understand how important it is to protect the downtown Historic District for all the reasons presented tonight. He added that if they were in favor that the Commission should design the zoning district so that it works for the Town and not just the developer. He continued that there were certainly some items in the PMUD that should be amended. He gave the example of 60-foot-tall buildings would not work in the Historic District, but down near Hampton Inn it could. He stated that they could then keep the ordinance at a 35-foot limit but allow for a Special Use Permit (SUP) so that high buildings could be applied for in appropriate areas. He stated it was his opinion that they needed to limit the by-rights in the ordinance.

Mr. Pack stated that he also wanted to discuss that the downtown Historic District is guarded by the Board of Historic and Architectural Review (BHAR). He stated that some of BHAR's regulations could be applied to the PMUD so that they must adhere to their guidelines as well. He asked if rather than creating a new district, would it make more sense to change the zoning they have downtown to allow for the components of the PMUD.

Mr. Pack acknowledged that there was much to go through, and a lot to talk about. He stated that he had received notes from Mr. Nick Blevins, and that he had been taking notes as the speakers have come up tonight. He added that it was a lengthy discussion and he wanted to take the time to do it right, especially considering that this 30-40 acres is the last area of the downtown district. He wanted to restate that when the zoning comes up for vote on the property, he will not be voting on it as he intends to build some restaurants within the development if it is approved. He stated that the only reason he was able to talk about it tonight was because it a zoning question.

Chairman Bryan asked Mr. Pack if he was suggesting that they update the existing PCOR.

The Town Attorney stated that the PCOR already existed but had never been used. He reported that about 20 years ago during the Comprehensive Plan rewrite there was a vision that there might be an opportunity for an office development near the area of where Tractor Supply currently is. He continued that to expand on this they came up with the PCOR district, which was similar to the PMUD but needed flexibility to plan around various landscape obstacles. He reported that there had not been any interest from local or outside sources to develop any office development. He continued that this is the only planned zoning in our ordinances and that any other zoning was static zoning. He explained that there were separate districts that are suited for certain things, but do not work for applications that are trying to do more than one thing in the district. The Town Attorney stated that the plan consultant, Mrs. Darby, had explained it as the older way as opposed to newer planning ordinances including more flexibility. He clarified that flexibility in this case does not mean that it has to be granted but permits different types of uses to

be integrated. He stated that this relates to what had been discussed regarding the addition of public uses such as a Farmer's Market. He stated it is designed to permit the use of an overall planned development and does not guarantee anything. He continued that it would give the Planning Commission the flexibility and places the burden on the applicant to present to the Commission their plan for approval or denial. The Town Attorney clarified that this would allow a property owner, not just for the Pierceville property but can be used for a minimum district size of 5 acres, to use it for a proposal. He related that Mrs. Darby suggest this update during the work sessions last year for the Comprehensive Plan, which was long before they were told about the development of Pierceville.

Chairman Bryan inquired as to whether there was time left to deliberate before giving a recommendation to Town Council.

The Town Attorney and Vice Chair Hillegass stated that there was no time limit and that it did not have to be recommended tonight.

Mr. Pack stated it did not have to be recommended at all.

Chairman Bryan stated that he had reviewed the ordinance and he had quite a few concerns about it himself. He continued that most of his concerns were with the Permitted Uses of the PMUD. He stated that he was concerned with the large number of waivers in number 19-24 that are permitted by right.

The Town Attorney stated that one way to address it was to move the waivers to different section. This way there could be more influence placed on how the waivers were applied. He added that moving it to the Special Use Permit section added conditions to its use which was a good idea. He continued that if there was no allowance for waivers, it would be very difficult to allow any developer to design a piece of property. He stated that the whole idea was to allow people creativity to design something that is unique and appropriate for the site.

Mr. Pack asked for clarification of "Waiver of Parking and Loading Requirements." and "Waiver of district size." He agreed with Chairman Bryan's concern regarding the waivers included.

The Town Attorney stated that someone may come with a design that may not be able to meet certain criteria in one place and allow the developer to move pieces around to fit. He continued that the Commission should not surrender their minimum standards, but there should be flexibility to meet those standards.

Mr. Pack stated that it made sense to move the waivers into a conditional use section. He added that flexibility in maximum building height was probably not a waiver that they wanted to use.

The Town Attorney stated that the only time that he had seen it utilized was when it was granted for a steeple on a church.

Mr. Pack agreed that a steeple on a church makes sense, but a skyscraper does not.

The Town Attorney added that they had also allowed the Smithfield Foods Building to add a turret to exceed maximum building height. He outlined that the developer had shown a plan of the building and requested a waiver to which the Commission stated that it was a good design and granted the waiver.

Mrs. Clary stated that the Hampton Inn had also received the building height waiver.

Mr. Pack stated that he understood what was being said and the need for flexibility, but he did not understand making it a by-right. He added that he thought the needed to change at least how it reads.

Vice Chair Hillegass stated that they could put more conditions on buildings in the Historic District versus out in other areas such as near Hampton Inn. She stated that they have more power in the Historic District, and that they need to use it.

Mr. Pack asked Vice Chair Hillegass to clarify if she meant that the PMUD would not be appropriate for the Historic District.

Vice Chair Hillegass stated that she was on the fence. She stated that she liked the PMUD as tool, that it may have applications in certain areas, and that the way to control it was through the power that they had in the Historic District.

The Town Attorney recapped that Mr. Pack had asked if they could take existing districts and modify them to make it work. He added that he did not think this was a great idea to add waivers into the downtown district.

Vice Chair Hillegass also said no.

Mr. Pack stated that if they wanted the development to happen, then they would have to meet the zoning district requirements that are existing. He added that what he is hearing though is that there is not currently the correct zoning districting to allow the development as it is currently conceptually presented.

The Town Attorney agreed that they do not. He continued that they would end up with multiple types of zoning districts next to each other creating boundary lines and a zoning patchwork that does not work.

Vice Chair Hillegass pointed out that if you think about it that is what is has happened downtown over time.

The Town Attorney stated that they took a 1700's town and applied a modern zoning ordinance over top of it. He pointed out that they have had to grant special yard exceptions to houses in town so that they may add a room, a porch, or a garage. He stated that with the PMUD it would be starting with a blank canvas. He added that nothing in the PMUD was a guarantee that anything happens. He stated that it was like any other application and reminded the Commission that there was not currently an application.

Vice Chair Hillegass confirmed that she had not seen any application for approval.

The Town Attorney stated that there is nothing except an idea that has been publicly discussed. He continued that none of the ideas or concepts will happen if there is not a way for them to make an application.

Vice Chair Hillegass agreed and stated that it is far from final. She asked for clarification on procedure for the PMUD, that if they had an application within the Historic District would the application also have to go through BHAR.

The Town Attorney stated that the design does not, but the architectural elements do. He clarified that design approval is not what the Historic Board is able to do.

Vice Chair Hillegass stated that she was unsure if the Board was aware of that and asked the Town Attorney to please remind them.

The Town Attorney reiterated that if there is not a tool, there cannot be an application. He added that if that is what the Commission wants, then that is fine.

Vice Chair Hillegass stated that she sensed that there were people present who would like for there to not be that tool available. She pointed out that if they do have that tool in the Town, then they would be able to utilize that tool in other places.

The Town Attorney reminded the Commission that this was not something that came up recently, and Vice Chair Hillegass agreed and stated that it was brought up in the updating of the Comprehensive Plan.

The Town Attorney encouraged them to look at the material given to them from Ann Darby, the consultant assisting with updating the Comprehensive Plan, and they would see that she had been talking about this for over a year.

Mr. Pack stated that though there is not currently an application on the table that if they approved something like the PMUD then there would be an application. He added that they did not want to downplay that, especially to the public.

Vice Chair Hillegass stated that they could not base their broader decision on the potential for that application.

Mr. Pack wanted to add to that if they approved this type of tool, then the developer would have to apply for it, and they would have to fully vet the project.

Vice Chair Hillegass stated that it would not mean that it would be granted.

The Town Attorney stated that once an application is filed, it would then go through an extensive review process and then public hearings.

Mr. Pack stated that he wanted to address a comment made by one of the speakers previously that whenever they received an application that some of the elements required in a development would be a traffic impact analysis, environmental impact studies, and water/stormwater management runoff review. He reiterated that those studies are required to happen with every application.

Chairman Bryan wanted to remind all listening that each of these things are being updated individually. He added that they are updating the Comprehensive Plan on its own merit, and they are updating the Future Land Use map on its own merit.

The Town Attorney agreed and stated that the Comprehensive Plan is on-going.

Vice Chair Hillegass also agreed and added that it was a living document.

Dr. Pope stated that he would take any piece of property in the Town and be willing to listen to the proposal for that piece of property. He stated that he looks at the ordinance as “wagon wheel” and not a PMUD. He explained that the development is the hub with many different elements attached. He gave the example that you couldn’t talk about height restriction without considering all the different spokes of the wheel. Dr. Pope stated to come up with a plan that limits the height or setbacks, it would not matter how many waivers were put in because you would still have to pull from all of the other zoning ordinances. He stated that having a PMUD may help with creativity, but he would take creativity on anything. He gave the example of being open someone wanting to utilize the land behind Royal Farms for commercial or residential, etc. if it makes sense. He added that he did not see the need to have a PMUD if the current ordinances could be utilized. Dr. Pope stated that to him, the PMUD made no sense.

The Town Attorney addressed this and stated that what he had said made sense. He recapped that Dr. Pope had stated that you would need to pull from the other zoning districts. He added that PMUD allows the different zoning ordinances to mesh with one another. He stated that if you try to take every potential use and try to zone it with static zoning it cannot be done. He added that if that is what the Commission wants than that is fine. He explained that this would then not allow for unique developments as our zoning ordinances are very old and static. He added that the zoning ordinances have had minor updates, but no big changes in 25 years.

Dr. Pope stated that the applicant then needed to come back and give information as to why they want something and show where they have gotten their data. He specifically stated that they would need to present where in the ordinances they were pulling information from to back up why they felt they could request certain types of development. He added that he did not agree with giving building allowances based on their meeting certain criteria up front, and maybe he needed to think about it more.

The Town Attorney addressed Dr. Pope stating that the developer was supposed to come in with a proposed design and information as to why they want to do it. He reiterated that if there is no mechanism to allow for flexible design then it is nearly impossible to make a development with static zoning.

Dr. Pope stated that he did not think it needed to be static, but he felt it does need to be blended.

The Town Attorney stated that is what the PMUD does.

He stated that the PMUD is very specific. He apologized for not having his notes on the matter with him as he thought that the ordinance was tabled until after the project.

The Town Attorney stated that there was a misunderstanding last month. He apologized for not being present last month, and the whole point was that if you postpone this until the application is received, then they will never make the application. He added that this is why it was up for consideration again.

Chairman Bryan reminded the attendees in the audience that this was not on the Public Comment agenda due to the number of people speaking out.

Dr. Pope gave the example of the PMUD giving 5-acre minimums, 60 feet height, 25 feet setbacks, etc. and added that he felt that none of that needed to be included in the ordinance. He reiterated that applicants need to come to the Commission with what they want, and the Commission will then pull from their current ordinances to say what is applicable.

Chairman Bryan stated that he felt that they were looking at the issue backward. He explained that it is not a matter of what they want as they are just updating the Comprehensive Plan.

Dr. Pope stated that was a separate issue than the PMUD.

Chairman Bryan asked for confirmation that that the this was incorrect as the PMUD was part of the zoning ordinance in the Comprehensive Plan and was an update to those ordinances.

The Town Attorney defined the PMUD as the proposed amendment to the zoning ordinance. He continued that updating the Comprehensive Plan made recommendations that a mixed-use development component should be in our zoning ordinance. He stated that coincidentally if the development of the Pierceville property moved forward they would need a

mixed-use development ordinance to complete this as they were proposing a mixed-use development. He stated that they just went through the long process for the property in Battery Park, but it was not considered mixed-use as they did not have any commercial components.

Mr. Pack told Dr. Pope that if he reviewed page 8 of the ordinance, section 16 b and c, that it would summarize his comments and he read:

- B. All uses within the PMUD District shall require a General Development Plan for zoning and/or special permit approval. The General Development Plan shall serve as the master land use plan for the specific development proposal. The General Development Plan shall include standards and criteria for streetscape infrastructure, landscaping, signage, private facilities and site elements, and other urban design features to ensure compatibility of lot development activities.
- C. The development of any and all sections or phases within the PMUD District shall require site plan approval in conformance with the General Development Plan.

Mr. Pack summarized that if the developer brings a plan before the Commission then they better follow through with that plan that was originally proposed.

Chairman Bryan inquired if the PMUD was an update to the zoning ordinances.

The Town Attorney stated that it is.

Chairman Bryan replied that they stop there. He clarified that the discussion was making it sound like they have to do one in order to facilitate the other.

The Town Attorney stated that he did not feel that was correct.

Chairman Bryan stated that he thought that they were doing the PMUD because the ordinance needed to be updated.

The Town Attorney stated that this is what the consultant has said that they needed to do. He stated that this comes at a time when everyone knows there is a piece of property that would benefit from this zoning. He continued that this process started a long time ago, but now there is a property owner that wants and needs this type of zoning, making the question now does that make updating the ordinance the wrong thing to do. He reiterated that the consultant told them a year ago that this was the right thing to do, and they collectively stated that it made sense. He stated that a developer wanted to now avail themselves of the updated ordinance and the members were basing their decision about the ordinance on whether or not they liked the application. He stated that the application had not even been made, and this was about an ordinance change that would give any applicant the ability to have a mixed-use development.

Chairman Bryan stated that when he looked at the Future Land Use map in the Comprehensive Plan there were 21 different color keys for different zones. He continued that on the new one proposed there are only 11, making it seem simplified. He stated that he felt that the PMUD was also simplifying the zoning ordinance. He stated that he is not considering the application, which he continued that he understands that the applicant could use the PMUD, and he sees them as separate. He inquired if any of the Commission members disagreed or had comments.

Mr. Torrey stated that he remembered discussing this a long time ago, and that he had thought this would be a good tool to have for parts of the Town. He continued that his initial

reaction to the aspects it contains was that it should not apply to the Historic District, but he felt that they needed to work on it. Mr. Torrey stated that looking at it without considering the possible application, he thinks it would be a good ordinance for parts of Town. He reiterated not for the Historic District.

The Town Attorney stated that if it were to include the Historic District, it would not waive any of the guidelines that apply to the Historic District.

Mr. Pack asked for clarification on this stating that if the Pierceville property was rezoned to a PMUD would it still have Historic district guidelines on top of it which the Town Attorney confirmed that it would.

Mr. Pack asked for confirmation that the Historic District isn't moved and is not a zoning area.

The Town Attorney stated that the Historic District was an Overlay District that applies to property.

Mr. Pack asked if BHAR would have to comment on every piece of the project.

Vice Chair Hillegass asked the Town Attorney if it was legal to exempt the Historic District from any zoning designation and didn't it have to apply to the entire Town. She made a comparison to agricultural ordinance issues that had been run into in Virginia Beach.

The Town Attorney stated that he did not think that the PMUD ordinance could be exempted from the Historic District.

Vice Chair Hillegass confirmed that the zoning would have to be available throughout the entire Town.

The Town Attorney reiterated that having the PMUD does not guarantee rezoning.

Vice Chair Hillegass stated that she had just wanted to be clear about that as some people had suggested not allowing PMUD in the Historic District and she did not think that could be legally done.

Mr. Torrey stated that this is not what he had been saying in his earlier comments.

Vice Chair Hillegass stated that she was speaking to some of the comments made by citizens in the earlier public hearing.

The Town Attorney stated that the BHAR had award-winning guidelines in place and had a very firm position on materials in particular.

Chairman Bryan asked if it was fair to say that the consultants helping to update the Comprehensive Plan had suggested the addition of the PMUD prior to any application.

Vice Chair Hillegass stated yes as there was no application.

Mr. Gibbs stated that he thought that the point the Chairman was trying to make was to separate the two categories, and that the Comprehensive Plan was already in progress before they received any application.

Chairman Bryan added that it was in progress before the submission of an idea.

Mr. Gibbs continued that they had heard what the citizens said when looking at the PMUD. He stated that Smithfield is a very unique place, and he stated with this type of decision they needed to listen to the voice of the people. He added that they needed to tailor the PMUD to what meet the voice of the citizens.

Chairman Bryan restated that the idea of the idea of the PMUD did not come about because of the possible development of Pierceville but came about because the Comprehensive Plan needed to be updated.

The Commission members agreed with him.

Mr. Pack stated that the Chairman was correct, but what they do know now was that there was a potential applicant that wanted to use this zoning. He continued that they know where it would be potentially used and the concept of what they are going to do. He stated that as they look into the future, they needed to consider how this would affect the PMUD too.

The Town Attorney stated that clearly there was a lot of concern about the zoning ordinance. He asked that they look at the Permitted Uses and if there are uses that they do not want out right permitted, then move them to the Special Permitted Uses section. He added that after they had talked about it, it would make sense to move all of the waivers to this section as well. He reported that this would give the Council and the Commission more leverage in ensuring they can make the restrictions apply in a way that they deem appropriate.

Mr. Pack stated that when they are working on it, he would like to define their maximum building height as it meant different things to different people.

Mr. Torrey raised the question if the Commission wanted to table the discussion and come back with the things they would like to see changed.

Chairman Bryan stated that he had some additional questions regarding Permitted Uses that they had not even spoken about yet.

Vice Chair Hillegass inquired if they should workshop the ordinance.

Chairman Bryan stated that he even had some issues with some of the Special Uses including light vehicle dealerships, stating that they take too much space.

The Town Attorney explained that was why they were in the Special Use Permit section, so the burden would be on the applicant to show the Commission how they would make it possible in the most appropriate way possible.

Chairman Bryan continued to list things included in the Special Use Permit section, including Recreational Vehicle storage.

The Town Attorney stated that used to be mandatory in new developments to keep them out of the driveways in residential developments.

Mr. Pack addressed the Chairman and stated that he felt it would be appropriate to further discuss the ordinance and agreed with Vice Chair Hillegass that a work session was needed. He stated that he felt that the Town Council would be pleased that the Planning Commission had worked so hard to vet the ordinance before it possibly went to them with a recommendation.

Vice Chair Hillegass stated that she felt the tool was useful and that they should devote the time to it that it deserves. She requested that Mrs. Clary poll the members for a date that would work to hold a work session on the matter. She made the motion to table the discussion. Dr. Pope seconded the motion.

Chairman Bryan called for the vote. On call for the vote, seven members were present. Mr. Gibbs voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Mr. Pack voted aye, Vice Chair Hillegass voted aye, and Chairman Bryan voted aye. The motion passed.

Dr. Pope wanted to report that he had looked through his email and did not see the email from Mr. Blevins that had been referenced earlier in the evening. He asked to please have it forwarded to him.

Approval of the Tuesday, December 14th, 2021, Summary Meeting Minutes.

The Town Attorney recommended the minutes be approved as presented.

Vice Chair Hillegass made the motion to approve the minutes. Mr. Pack seconded the motion.

Chairman Bryan called for the vote. On call for the vote, seven members were present. Mr. Gibbs voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Mr. Pack voted aye, Vice Chair Hillegass voted aye, and Chairman Bryan voted aye. The motion passed.

Approval of the Tuesday, January 11th, 2022, Summary Meeting Minutes.

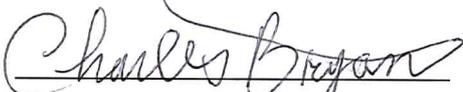
The Town Attorney stated that he had not been present at the last meeting due to having Covid. He added that they made sense to him, and he had corrected minor grammatical errors. He inquired if any of the members had any concerns.

Vice Chair Hillegass stated that they seemed accurate.

Vice Chair Hillegass made the motion to approve the minutes with minor grammatical revisions. Mr. Pack seconded the motion.

Chairman Bryan called for the vote. On call for the vote, seven members were present. Mr. Gibbs voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Mr. Pack voted aye, Vice Chair Hillegass voted aye, and Chairman Bryan voted aye. The motion passed.

The meeting adjourned at 8:47 p.m.


Charles Bryan - Chairman


Tammie Clary – Community
Development & Planning Director