

The Smithfield Planning Commission held its regular meeting on Tuesday, May 10th, 2022, at 6:30 p.m. at the Smithfield Center.

Members present:

Charles Bryan – Chairman

Julia Hillegass – Vice Chair

Michael Swecker

Randy Pack

Dr. Thomas Pope

Raynard Gibbs

Members absent:

Michael Torrey

Staff present:

Tammie Clary - Community Development & Planning Director

William H. Riddick, III – Town Attorney

Jack Reed – Director of Public Works and Utilities

Nadya Jaudzimas – Administrative Assistant

Press: Stephen Faleski - The Smithfield Times

Citizens: 20

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

Community Development & Planning Director’s Report:

Tammie Clary, Community Development and Planning Director, reported that there were no new updates or reports.

Upcoming Meetings and Activities:

Tuesday, May 17th, 6:30 PM – Board of Historic & Architectural Review Meeting

Tuesday, May 17th, 7:30 PM – Board of Zoning Appeals Meeting

Monday, May 23rd, 3:00 PM – Town Council Committee Meetings

Tuesday, June 7th, 6:30 PM – Town Council Meeting

Tuesday, June 14th, 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.

Mary Harris of 329 Grace Street in Smithfield stated that she believed there was a misunderstanding by members of the Commission, some members of the public, and Joe Luter that downtown residents were against downtown development. She added that this was made evident by what was written in an online Smithfield Times news piece titled “Developer: 90 days to formal ‘Grange’ plan.” She continued that the residents are concerned about the effects of the development on

their homes and roads, not that the development will occur, and the citizens are asking for these to be considered before anything is approved. Mrs. Harris invited Joe Luter to meet with small groups of residents to discuss ways to address the issues before he moves forward with his development. She reported that she is a long-time resident of Grace Street, and a witness to the changes that have occurred there. She stated that traffic had increased hundreds-fold and speeding continues to be out of control. She reported that she had been outside Cure Coffeehouse with another resident that morning and had seen multiple cars and trucks speeding down Church Street in excess of acceptable levels. She added that they slowed as they approached the red stoplight, as they had to. She speculated that the drivers were going well over 45, possibly 50 mph. Mrs. Harris reported that many days she sees speeding down Grace Street from James or Cary Street, acknowledging that she witnesses so much as she is retired and home most days. She stated that she did not want to see a tragedy occur because of something that everyone knows to be an issue. She stated that she and others feel that is important to pay attention to density, how access is allowed, and how volume is allowed in the Downtown area. She added that she would love to be able to walk to more restaurants and facilities, reporting that the idea of more walkability is key in the Comprehensive Plan. Mrs. Harris stated that members of the community needed to be vigilant by beginning now to make sure that developments downtown use appropriate entrances from major roads. She gave the example of the Cypress Creek residential development having access to a main road without being encouraged or limited to use only Great Springs Road or other residential streets. She encouraged the Commission to imagine the effect of the residents of this area and possible gridlock traffic that could have occurred. Mrs. Harris stated that mitigation efforts must start today by the Town Council and with the Commission's recommendation to them. She stated that Downtown residents are already concerned about traffic, volume, and speeding without any new development. She added that the citizens had present their research that recommended 400-1000 vehicles per day and that the Town was well over that number. She reported that she had spoken at last week's Town Council meeting about being viewed as members of the "opposition" and reviewed that she felt that everyone should be on "Team Smithfield." She reported that she appreciates everything that the Luter's have done in Smithfield, but added that they have not built a residential development that will impact the community the way that this one might. She stated that she would like to see the trend of positive additions continue, and encourage the Commission to ensure that positive impacts occur. She finished with informing the Commission that the citizens were relying on them to help and that all present were "Team Smithfield."

Chairman Bryan reported that he had attended the last Town Council meeting, and the Chief of the Smithfield Police Department was aware of the traffic concerns and issues, namely with speeding, and hopefully something would be done about it.

Elizabeth Hopkins of 320 Grace Street in Smithfield stated that for a number of months citizens had been speaking at Town Council and Planning Commission meetings, which is what they felt citizens were supposed to do by taking an active role in political operation of their town. She added that for democracy to work well, citizen participation was necessary. She continued that the Town's Comprehensive Plan and many members of the local government encouraged citizen participation. She stated that forums were held, surveys were taken, and the many times that she had called to speak with members she had received calls back. Ms. Hopkins stated that until recently the citizens had felt that their concerns were being well received, and even appreciated. She added that over the last few weeks

some incidences had occurred which seemed to contradict this feeling. She speculated that everyone was aware of Joe Luter's letter published in the Smithfield Times, and she added that she felt that was a good letter that did a good job of laying out his rationale for what will soon be an officially proposed project. She continued that she did not know why Mr. Luter chose to speak about opponents and naysayers in his letter and hoped that he was not referring to the concerned citizens that had come before the Town Council and Planning Commission. She stated that the citizens had been clear from the beginning that they were not opposed to development and that they felt that what Joe Luter proposes could be good for the Town as well. She encouraged members to check the minutes to see that no citizens had come forward and demanded no development. She added that the Commission had heard Mr. Bill Harris and other citizens consistently preach against an adversarial relationship. She stated that it was apparent that there were some members of the Commission that felt that the citizens role was not adversarial and did not believe that citizens should be welcomed to come forward to express their concerns. She reported that at last month's Planning Commission meeting a member had chided the citizens for drawing attention to a number of concerns that may be aggravated by uncontrolled development at 10 Grange and the citizens, who she reported had in many cases done more research and were more familiar with the specifics of a Planned Mixed Use Development (PMUD), and had then been condescended by the Chairman and told that they bring nothing but "sour grapes" and misunderstandings, which is disrespectful. Ms. Hopkins reported that such negative interactions between Commission members and citizens had happened outside of the Commission meetings as well, giving the example of citizens being referred to as "opponents" at the Citizen of the Year Event honoring the Town's Mayor. She acknowledged that not all members of the Planning Commission held the citizens in such a negative light, but the public slights in the last few weeks had brought confusion and disappoint to citizens offering observations and concerns as encouraged by the Comprehensive Plan. Ms. Hopkins stated that moving forward she hoped that all citizens and Planning Commission members would work harder to approach issues in a non-adversarial spirit, and embrace the concept that everyone is part of "Team Smithfield" and that all wanted the best outcome for the Town.

Chairman Bryan stated that there were no other members of the public signed up to speak and asked if there were any additional comments anyone would like to make.

Bob Hines of 216 Washington Street in Smithfield stated that he thought citizens might not have had much to comment on about the development if there hadn't been inclusion of some by-right items like the 60 ft building possibility and density. He repeated what was said at the beginning of the public comment section that "any required responses would be in writing" and added that he would like to know where the 60 foot possible by-right was initiated, whether it was suggested by an individual in the Town, the consultants, or by Luter. Mr. Hines referenced the issues that Natasha Huff at the Smithfield Winery and vineyard at the Park had run into, and acknowledged that he did not know all the information why she was welcomed and now was gone. He stated that in the letter published, Joe Luter IV reported that Joe Luter III plans to donate his profits to future development and help of Smithfield. He stated that he felt this is how it started with the Smithfield Winery where things start out well and then go the other way. He stated that he hoped that the Town Council would require a contract with Mr. Luter to that effect. He added that this project will take a while to build and he knows how things get said in the beginning of a project and are then forgotten. Mr. Hines additionally reported that the Police had come through the Town via Main Street for their cycling event and expressed disappointment at the poor

turnout of people coming to show their appreciation adding that he would not blame the Police if they bypassed Smithfield next time.

Chairman Bryan asked if there were any additional comments anyone from the public would like to make. Seeing and hearing none, he closed the public comments section.

Planning Commission Comments:

There were no Planning Commission Comments.

***Public Hearing* Town of Smithfield Comprehensive Plan – Town of Smithfield, applicant.**

Mrs. Clary reported that the draft of the Comprehensive Plan provided included updates to the acknowledgements section with the addition of Vice Mayor Smith and the addition of a clarification paragraph on page 98.

Chairman Bryan opened up the public hearing.

Bill Harris of 329 Grace Street in Smithfield started by echoing the sentiment given by other speakers that the perception of opposition to the Comprehensive Plan by the group of citizens that attend meeting to be part of the discussion about the proposed downtown development was untrue. He stated that there was some suggestions that could be made to improve the plan, but for the most part the citizen group believed it a well-thought out plan with a lot to offer Smithfield. He added that it is clear, easy to read, and informative on a range of issues. He pointed out the Comprehensive Plan states in its opening paragraph that it is intended to be a guideline for decision-making on the part of the Town Council and the Planning Commission. He continued that the Comprehensive Plan is in no way an inflexible document that has predetermined what decisions on future development will be made. Mr. Harris stated that this decision process must include elected officials, appointed officials, and input from the citizens as the Plan points out on a number of occasions. He continued that some of the best parts of the Plan stated that future decisions should be made to “promote the health, safety, morals, order, convenience, prosperity, and general welfare of the inhabitants, including the elderly and persons with disabilities.” He stated that the Comprehensive Plan also includes the feedback from stakeholders that illuminate the desires of the citizenry that includes the indication that people are glad for the residential development, but lament the increased traffic and the further development of open spaces. He added that the public comment section might the most important of the Plan and read the most important things listed by the public: 1. Protecting natural resources. 2. Preserving historic resources. 3. Improving public infrastructure, which in section 3.6 listed these as being better schools, better broadband internet service, additional traffic signals, more bike/walking trails and better/repared sidewalks. 4. Additional outdoor recreation spaces/public parks. 5. Working together to achieve common goals. He continued that the Plan outlines four “Big Ideas” that the citizen group believes are great ideas and easy to support. He listed them as 1. Walkable South Church Street, which Mr. Harris suggested should be extended to a walkable downtown in its entirety. 2. Enhance Mobility. 3. Increase Opportunities. 4. Stay Engaged. He continued reading from the proposed Comprehensive Plan in the Goals and Objectives section 6.2 Managed Growth and Beauty, “Under this plan, Smithfield would look at the existing network, promote alternative transportation, and assure that development continues to contribute to a high quality of life.” Then reading from section 6.4 Historic Preservation, which he noted that he does not agree with some of the recommendations included here in particular the encouragement of creative uses of residences

downtown such as turning the homes into apartments. He related his experience when moving to Grace Street 30 years ago. Mr. Harris stated he had wanted to go over some of the positives but due to time would go over one last point regarding the Future Land Use Map. He stated that the proposed Future Land Use Map has considerable changes to the one that is currently in place. He added that the new map had things included that were inconsistent with the whole of the Comprehensive Plan, including almost all green tree-space eliminated in favor of residential development in all of the areas west of Route 10. He continued that there is also a change in direction on the historic residential streets showing that all downtown streets west of Route 10 are moving to a Multi-use category. Mr. Harris stated that this changes the nature of each of the neighborhoods.

Theresa Mulherin stated that she would like to thank Dr. Pope for the changes and updates that he made to the Comprehensive Plan. She echoed Mr. Hines regarding Police week, and reported that it was nurse's week as well as Police, Fire, and EMS (Emergency Medical Services) week. She also wanted to address Historic District and the Mixed-Use Development area, stating that the group was not opposed to development and that citizens had been trying to give feedback on what to put in, but now she felt defeated. She reported that she does not feel that she is being listened to and is being told to "pick your battles." She stated that every time she has spoken she has stated that she is against the use of Mixed-Use Development in the Historic District. She reviewed for the public that the redline version had a 12 dwelling units per developable acre for Mixed-Use structures, 8 per developable acre for single family attached, and 5 unit per acre for single family detached. She reported that she, like Mr. Harris, wanted to make sure that protecting natural resources was a priority in the Plan. She stated that if there was going to be Mixed-Use then she recommended the inclusion of green building technology, rainwater harvesting technology, etc. She stated that it was too late when it came to historic preservation mentioned in the Plan as they had already torn down Pierceville. She stated that the Plan mentioned improving public infrastructure but the roads needed to be fixed on Washington Street. Mrs. Mulherin stated that if there were going to be new areas built in the existing areas need to be taken care of. She related that the discussed new roads, power lines, and gas lines while Riverview is without access to natural gas. She reported that there is no such thing as a "free ride." She continued that when a person comes in and says "I'll give you \$1 million" it is never free for the taxpayers. She stated that she feels another thing that is not being done is planning for the future cost of such a project, for example cost of equipment. Mrs. Mulherin reported that the top priorities that the resident's want solved are recycling/trash, broadband, high water prices, code enforcement, and local employment opportunities. She reiterated the need to include a movement toward green-building in the Plan.

Chairman Bryan stated that there were no other members of the public signed up to speak and asked if there were any additional comments anyone would like to make in regard to the Comprehensive Plan.

Jeff Brooks of 320 Grace Street stated that he is not the opposition and was not there to speak in an adversarial manner. He reported that he wanted to review the proposed Comprehensive Plan section 6.4 Historic Preservation and read the fourth paragraph "However, as costs mount for maintaining historic properties particularly in the residential areas, it can be difficult to upkeep these properties unless they are subdivided into apartments or commercial uses. This Plan calls for opening up the possibility that historic properties can be used in multiple ways in the blocks off of Main Street to provide new ways to maintain them while still remaining under the purview of governing bodies to ensure that quality

does not decrease.” Mr. Brooks reported that he has lived in Virginia, but was new to the Town and the stories that he had been told about the houses on Grace Street were that they had been chopped up into apartments and left in disrepair. He gave the example of Mr. and Mrs. Harris doing a wonderful job renovating two houses on Grace Street, and imparted that he would really not like to go back to how it was previously. He referred to the Town as a gem, and stated that he would like to see it maintained. He gave his appreciation to Dr. Pope for the work he did in revisions. He reported that somehow what the citizens were saying got misconstrued as they were not saying that they were against development, but they were saying that they wanted it done correctly.

Chairman Bryan asked if there were any additional comments anyone from the public would like to make regarding the Comprehensive Plan. Seeing and hearing none, he closed the public hearing.

The Town Attorney reminded the Chairman that action needed to be taken by the Commission on the agenda item.

Mr. Pack stated that he had a number of comments that he would like to make in regard to the Comprehensive Plan. He added that there were just minor changes, as he felt that the Commission had done a good job with it. He reported that he wanted to start with the Future Land Use Map on page 118 changed the Historic District from the 2009 Future Land Use Map to “Historic District/Downtown Mixed-Use.” He continued that he did not feel that the Mixed-Use Category was appropriate for those neighborhoods. Mr. Pack stated that the 2009 map was much more detailed, keeping most of the commercial along Main Street and the residential areas are adjoining, with the exception of the Smithfield Center and Smithfield Foods Corporate campus. He felt that this was a much better Future Land Use Map for this section of the Town.

Mr. Pack stated that aligning with what Mr. Books had said about paragraph four on page 60 of the Plan, he would recommend its removal. He agreed with the speakers at the meeting that stated that the homes downtown did not need to be subdivided.

Mr. Pack pointed out the two Parks and Recreation areas had been mistakenly categorized on the Future Land Use map: Clontz Park and the baseball fields at the YMCA were categorized as Heavy Industrial. He pointed out the category of “New Downtown Commercial” that had been included and reported that he felt the name should be changed, but stated that this was were the PMUD was to be used and felt it should be identified as such.

Chairman Bryan pointed out on page 17 that there was a statement that characterizes Main Street downtown as mixed-use.

Mr. Pack reported that in the 2009 Future Land Use Map Main Street was burgundy color and labeled as Downtown Commercial. He clarified that he felt the verbiage use in this area in the 2022 map was not appropriate in all of downtown, but was appropriate for Main Street and that he was suggesting that they change it to protect the downtown neighborhoods from becoming mixed-use neighborhoods.

Chairman Bryan stated that he concurred with this idea.

The Town Attorney addressed Mr. Pack and suggested that the Commission would not want to call the red shaded area a “Planned Mixed Use Development.” He explained that as it was also potentially going to be the name of a zoning district which would assign the ability to do things in that area that he did not think the Commission would want to allow. He stated that it is definitely mixed-use, but it should not be called “Planned Mixed-Use.”

Mr. Pack agreed, and added that he does not think it should be called “New Downtown

Commercial.”

The Town Attorney pointed out that it was categorized as “New Downtown Mixed-Use” in the newer version of the Future Land Use Map.

Mrs. Clary clarified that the consultants had updated the name.

Chairman Bryan reiterated his agreement that the newer purple coloring of the historic residential district denoting it as mixed-use should not be used as the historic character needed to be preserved.

Mr. Pack stated that was correct. He added that in the burgundy areas, he was only concerned about the name assigned. He explained that he does not like calling it “New Downtown” and that he felt that they already had a downtown and did not need to plan for another one.

Vice Chair Hillegass stated that the Commission may extend Downtown Smithfield but there wouldn’t be a “new” Downtown.

Mr. Pack pointed out the areas of Route 10 towards the Luter Sports Complex and Cypress Creek Bridge up to the McDonald’s are classified as “New Downtown” and he felt they should not be classified as such.

The Town Attorney asked if it should be called “Extended Downtown Mixed-Use.”

Dr. Pope suggested possibly calling it “Church Street Mixed-Use.”

The Town Attorney stated that it could not be called Church Street, because some of the categorized areas were along West Main Street too.

Chairman Bryan asked if they could just take out the word “new.”

Mr. Pack stated that it could be called “Commercial Mixed-Use” and reiterated that it was the words “new downtown” that he was against.

The Town Attorney stated that the consultants may be able to come up with something new before the next Town Council meeting, and added that Mr. Pack’s point was well taken.

Chairman Bryan also agreed.

The Town Attorney asked Mr. Pack to clarify if he wanted to take the overlay for Main Street/Old Downtown and re-establishing it over the purple shaded areas.

Mr. Pack passed around a copy of the 2009 Future Land Use Map for the other Commission members to review while reporting that the map had a burgundy area called simply “Downtown Commercial.” He continued that behind that area was “Low-Density Residential” from Grace Street through Riverview and also along the Cedar Street side of Main Street, then the Smithfield Foods campus as “Mixed-Use,” and the area down by Smithfield Station as Downtown Commercial with “Attached Residential” by Main Street Baptist Church. He reported that the 2009 map was more detailed, and he did not see these areas changing in the future.

The Town Attorney suggested possibly calling this area “Downtown Mixed-Use” as Main Street was both residential and commercial.

Mr. Pack stated that this was fine, as long as it does not go into the neighborhoods.

The Town Attorney suggested again calling the Main Street area “Downtown Mixed-Use” and then categorizing the neighborhoods that needed to be preserved as “Downtown Residential.”

Mr. Pack stated that this made sense and accomplishes the goal that they are trying to achieve. He reiterated the need to classify the baseball fields by the YMCA and Clontz Park as “Parks and Recreation.”

The Town Attorney pointed out that the “Downtown Mixed-Use” classification would need to

extend all the way to Smithfield Station.

Mr. Pack reported that in 2009 the Planners had split the commercial areas downtown into two separate areas. One from Route 10, down to where the Cure Coffeehouse is.

The Town Attorney stated that it should also include commercial areas down the hill near Commerce Street and possibly Smithfield Foods.

Mr. Pack reported that it should include the commercial down the hill, and added that the Smithfield Foods campus was classified as just Mixed-use.

The Town Attorney stated that all of this area should be included in “Downtown Mixed-Use.”

Mr. Pack showed the Town Attorney where the gap in the classification was on South Church Street where there was a strip of only residences. He stated that this whole area could be included in “Downtown Mixed-Use.”

Mrs. Clary reviewed the suggestions made for clarification. She stated that the “Downtown Mixed-Use” would run along Main Street, down the hill to the old Commerce Street, and on the outskirts of that area would be the “Downtown Residential” district.

Vice Chair Hillegass asked if the classification of “Historic” should be added to those designation so that people are aware that they should be complying with the Historic District guidelines.

Mr. Pack agreed with this, adding that he thought this started due to the Commission wanting to define the Historic District.

Vice Chair Hillegass reviewed that they would be called “Historic Downtown Residential” and “Historic Downtown Mixed-Use.”

Mr. Pack verified with the Commission members that everyone was aware of the locations he was referencing and that it made sense to them. He additionally verified that the other members were in agreement to delete the paragraph on page 60 that recommended subdividing historic properties or making them into apartments.

Mr. Pack referenced notes he reviewed from the Town Attorney that mentioned the Pinewood area showing on the map as “Heavy Industrial” that should be classified as “Flex-Use Industrial.”

The Town Attorney clarified that this should include the whole Pinewood section, but not the trucking section which should stay as Heavy Industrial.

Mrs. Clary stated that the map would have the area along Berryhill Road down Pinewood Drive all the way through Pagan Avenue as the Flex Industrial Area.

Chairman Bryan asked if all the Commission members were clear on these discussed changes. There was a collective answering of yes.

Vice Chair Hillegass pointed out that there were a few typos that still need to be corrected that included mis-identified and repetitive photographs.

Mr. Pack inquired if the Commission would like to send the Comprehensive Plan to Town Council with the recommendation of making the changes discussed, or if they would like to see the changes in the document before sending it on.

Vice Chair Hillegass stated that she would like to see the changes before recommendation.

Dr. Pope requested to see the changes in print form for review.

Mrs. Clary asked to verify the changes recommended: misidentified/duplicate photos, change of classification of Main Street down the hill to “Historic Downtown Mixed-Use,” change of classification of the outskirts of that area to “Historic Downtown Residential,” change of classification down

Pinewood Drive to Pagan Avenue to “Flex Industrial,” and removing the third paragraph on page 60.

Chairman Bryan inquired if the Commission really wanted to wait for the changes to get the Plan to Town Council.

Mr. Pack stated that it was ok to wait to ensure they were comfortable with the changes.

Mr. Gibbs stated that he wanted to wait and see it writing first.

Mr. Swecker stated that there was no time frame given that they had to stick to and it should be done right the first time.

Mr. Pack added that there was a page number that was out of order in the Plan with the mislabeling of page 115. The Town Attorney confirmed that it had already been fixed in the latest update.

Mr. Pack reiterated that Clontz Park and the fields outside the YMCA need to be classified differently. He asked if there were any other parks that needed to be reclassified. He reported to Chairman Bryan that there would be one more review of the Comprehensive Plan before it would be sent to the Town Council.

The Town Attorney verified that a motion was not needed as the document was not ready for an action and would be carried over to the next meeting.

Planning Commission Waiver - 825 Jericho Road – Justin Emmanuel, applicant.

Mrs. Clary reported that the applicant is seeking approval for a portable shipping container, approximately forty-foot (40') by eight-foot (8') by eight-foot six-inch tall (8'6") tall on the property located at 825 Jericho Road permanently. Pursuant to Smithfield Zoning Ordinance (SZO) Section 2.P.15, Town staff have already issued a zoning permit waiver (March 22nd, 2022) and a zoning permit (#7681 on April 1st, 2022) for the keeping of a portable storage unit until August 22nd, 2022. She reported that the shipping container is currently a rusty orange color and not shielded from view from Jericho Road, Cedar Street, or the Route 10 Bypass. She added that the applicant has proposed to paint the shipping container white and plant four (4) additional Green Giant Trees to the right of the property to help shield the shipping container from the view of the Route 10 Bypass, along with provide the Town with a landscaping bond at 120% of the landscaping cost estimate. Mrs. Clary continued that the applicant would also like to erect a pergola style pressure-treated wooden material lean-to structure that would be attached to the left side of the shipping container, painted either white or black (to match the single-family dwelling).

Mrs. Clary stated that the positives of the application was that this provided additional storage accommodations on the property. She continued that the negative aspects were the shipping container is considered a temporary permitted accessory structure and does require an appeal to the Planning Commission for an extension exceeding the permitted ninety (90) days pursuant to SZO Article 2.P.15.

Chairman Bryan inquired if the applicant was present, and they were not.

Vice Chair Hillegass applauded the applicant's desire to recycle the container, however stated she felt that this was not a way she would like to see the Commission go.

There were multiple agreements to this sentiment by the Commissioners.

Chairman Bryan stated that a similar storage container had been approved for the Smithfield Volunteer Fire Department, and he was curious as to what lead the applicant to the decision to use this similar structure. He questioned what approval would mean to the appearance of such containers around

the Town.

Mr. Swecker recommended tabling the application until the applicant came to the Commission to speak about it.

Dr. Pope stated that he was unsure that this type of container was in keeping the spirit of Smithfield.

Vice Chair Hillegass made the motion to deny the request. Dr. Pope seconded the motion.

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

Entrance Corridor Overlay (Color Change) Application – 1909 S Church Street – Hardee’s C/O J. Finker, applicant.

Mrs. Clary reported that the applicant is seeking approval to update the outside of the building with new paint, installing new lighting, and installing an electronic menu board. She stated that all windows for the north and east sides of the building will remain in place, and a new all electronic menu board is being proposed to replace the existing backlight menu board at the northeast corner of the building.

She continued that the mansard roof will be painted in a medium gray color known as ‘Gray Shingle’ (SW 7670), the middle section of the walls will be painted in light gray color known as ‘Grayish’ (SW 6001), the base of the walls will be painted in a dark gray color known as ‘Peppercorn’ (SW 7674). The southern corner of the building and both projecting signs will be painted with a deep red color known as ‘Heartthrob’ (SW 6866). All paint will be bought from Sherwin Williams and the applicant is proposing to install a new black metal band between the mansard roof and the middle section of the wall. Town staff recommends approval as presented.

Chairman Bryan asked if the applicant was present and Mrs. Clary reported that the applicant had given her notice that they would not be able to attend, but that they were available via telephone should there be any questions.

Mr. Pack asked if the side of the building that currently has a large star painted on it shows three large pictures in the plans and he questioned whether they were part of the electronic menu board.

Dr. Pope speculated that they were exterior façade picture panels.

The Town Attorney stated that he thought they were just pictures of food.

Mr. Pack questioned if they would be considered advertisements that would need sign approval.

Mrs. Clary stated that if they were proposing the panels as signs they had not included this in the application and were not seeking this type of approval.

Mr. Pack stated that the proposed plans stated that there would be new lighting to accent wall panels, but there was no other mention of the wall panels.

Mrs. Clary clarified that the application provided was specifically for the color change and the Town Staff had not received any additional information.

The Town Attorney stated that these would be considered signs and they would need to come with another application for them.

Mr. Pack reported that he did not have any problems with the changes, but the signs on the side of the building need to be under a separate permit.

Dr. Pope inquired if the applicant would need to come back the Planning Commission with a lighting plan as well.

Mrs. Clary stated that it was the Town Staff's understanding that it would just be a replacement of the lights and menu board, with those items having been issued a Zoning Permit Waiver. She continued that if the sign meets the 150 square foot threshold then it is excluded from the Entrance Corridor Overlay (ECO) review.

Chairman Bryan inquired if the Commission wanted to table the application until the applicant could appear.

Mr. Pack made the motion to approve the color change application with replaced lighting and electronic menu board as presented, but specified that the Commission was not approving the wall panels shown. Mr. Gibbs seconded the motion.

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

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

Mrs. Clary reviewed that at the guidance of the Planning Commission at its Thursday, April 14th, 2022 meeting, Town staff have provided a red-lined version of Article 3.J2 PMUD, Planned Mixed-Use Development District, which was originally the "Planned Corporate Office and Research District" (PCOR). She reported that this zoning designation is not assigned to any parcel located within Town limits and is not actively being pursued as a potential zoning designation. In conjunction with the Comprehensive Plan Update, the proposed red-lined SZO Article is a new zoning district which would incorporate residential, commercial, and light industrial uses, as one planned development. This new district would incorporate a variety of by-right uses, while still maintaining certain proposed uses as Special Use Permits (SUP) only. She continued that this zoning designation also provides for Planning Commission waivers, giving the Planning Commission 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. Town staff recommend a favorable recommendation that the application returns as a public hearing for Town Council.

Chairman Bryan asked for clarification why there was an opening statement that was in the original that had been omitted in the most recent version in Section A. Purpose and Intent. He read "the district is established to encourage innovative design of office and supporting development activities." He asked if there was any reason that this could not be added back into the ordinance.

The Town Attorney stated that the sentence must have been included in the original PCOR as it was intended to zone for large corporate campuses and office buildings. He added that a statement about innovation was certainly appropriate but including office design should not be considered. He recommended "innovative design as to compatible commercial and residential development."

Mrs. Clary asked Chairman Bryan if he would like to add it into the first sentence of the proposed PMUD so that it reads "to create vibrant and innovative communities and neighborhoods."

Chairman Bryan stated that he accepted that change. He stated that the key factor was innovative design as they were looking into the future.

Vice Chair Hillegass stated that she approved of Mrs. Clary's suggestion or even including it in the sentence that followed to read "flexibility and innovative design is encouraged."

The Town Attorney concurred with Vice Chair Hillegass's suggestion. He pointed out that that it goes on to say, "such developments are encouraged to proffer a maximum degree of detail as to the location, type, size and compatibility of the various activities and uses" and this was critical to this type of development district. He explained that if an application were presented to the Commission they would need to explain in great detail why it should be approved and the Commission can hold the applicant to what was approved.

Dr. Pope reported that he still had issues with the minimum yard setbacks. He stated that he did not understand how front and side yard setbacks would be utilized by multiple types of structures and require the same measurements. He explained that he felt that it was not appropriate for businesses and homes to have the same setbacks which is why he had recommended the use of the guidelines already in place. He questioned how a developer could take a 25 foot front yard setback and 10 foot side yard setback and create a development with multiple types of structures.

The Town Attorney stated that a developer probably would not create a development within those guidelines. He explained that the developer would ask for a waiver of yard requirements.

Dr. Pope reported that even in the Town's Single Family Residential ordinance there was a 15 foot yard setback that converts to 30 feet between homes. He questioned the Commission's ability to disapprove of the proposed setbacks once the developer presented them.

The Town Attorney stated that the minimum yard requirement numbers could be increased.

Dr. Pope stated that in his revisions he had done just that by using the existing ordinances. He warned that as it written the Commission's use will be different than what will be proposed in a certain section.

The Town Attorney stated that in that case, the Commission wouldn't approve it.

Dr. Pope acknowledged that they wouldn't but added that there was nothing in the ordinance to suggest what the Commission wanted.

Chairman Bryan reminded the members that there would be three types of buildings possible within a PMUD: business, commercial, and residential.

Dr. Pope acknowledged this, but added that there are subcategories within those types: for example, attached residential. He added the issue is all of these different types of structures will have the same guidelines.

The Town Attorney gave the example of a multi-family dwelling not having a front or side yard setback as they were not that type of facility.

Dr. Pope stated that in front of Carrollton Elementary there was an example of two detached multi-family buildings that were going to need guidelines for how far apart they were spaced. He continued that according to the latest update, they would allow such buildings to be 20 feet apart. He added the hypothetical situation that a developer comes to them with such a case and the Commission states that it is not acceptable, then the developer may counter with the fact that it is written that way in the PMUD. Dr. Pope reiterated that he found the setbacks unacceptable and he then questioned the need to include them in the document at all, raising the question could they just put it as "To Be Determined (TBD)."

Chairman Bryan stated that he thought they only applied to detached residential and duplexes,

and made the point that multifamily dwellings are not permitted unless a special use permit is obtained.

The Town Attorney stated that this was correct but added that duplexes were permitted.

Dr. Pope stated that anything was allowed in the ordinance, but acknowledged it was not by-right.

Mr. Pack gave the hypothetical situation of a developer coming to the Commission meeting the requirements as laid out with no waivers asked for or required, and asked would the Commission have the ability to deny the permit. He continued that he did not think that the Commission would have the ability to say no. He stated that he felt Dr. Pope made a good point: either they greatly increase the minimum yard requirements and if they want smaller then request a waiver application to see why, or they can say TBD. Mr. Pack added to this that he felt TBD could be difficult.

Vice Chair Hillegass stated that the Commission did not want to set themselves up with something so difficult. She continued that the way that she is reading it is that they are minimum yard requirements and that the Commission can actually ask for more.

Mr. Gibbs stated that he felt that the Commission should make it more stringent from the beginning as it was easier to relax the minimum with a waiver versus trying to go back.

Mr. Pack gave the example of making the setback 100 ft, which would cause every applicant would ask for an exception. He stated that the Commission was better off making the requirements higher because he felt 20 feet between buildings is tight.

Dr. Pope gave an explanation as to why he rewrote the PMUD with those yard requirements stating that he wanted residential buildings to match the existing residential buildings in Town and for commercial buildings to do the same. He continued that he thought the only logical and fair way was for a developer to look at the Town's ordinances and match them to his plans. He reiterated that he did not feel that there should be one standard for every type of use.

The Town Attorney stated that the example should not be based off of the Historic Downtown that currently exists. He explained that the Downtown District has almost no yard requirements, and that there was a modern zoning ordinance that was placed over a 1700's town which makes hardly anything apply. He suggested making a minimum residential yard component and a minimum business/commercial yard component.

Dr. Pope stated that this idea was better. He reported that all that would need to be done is go back to the suburban residential guidelines, or the suburban family guidelines, go to commercial guidelines when there is a standalone business, etc. when applying.

Chairman Bryan stated that one of the items that needed to be considered was walkability, tying this theme back to the Comprehensive Plan.

The Town Attorney readdressed Dr. Pope's mention of using the suburban residential guidelines, reporting that it had a 35 ft front yard setback, a 15 ft side yard setback and 35 ft rear yard setback. He reported it also included "cluster lots" and questioned if those would be appropriate for use in this case.

Mr. Pack stated that the Commission could make the setbacks the same measure as they are in the highest zoning ordinance, then the applicant could apply for something of lesser size and it could be considered on an individual basis. He reported the point of the PMUD was to see the whole plan and all its details.

Dr. Pope stated that this would be fine for residential structures, but questioned what would be done for commercial.

Mr. Pack stated that the applicant would have to meet the guidelines that the Commission set or apply for an exception of minimum yard requirements.

The Town Attorney reported that for highway retail commercial (HRC) the requirements are 40 ft front setback, 20 ft side setback, and 20 ft rear setback.

Mr. Pack recommended that they set the guidelines in the PMUD as 40 ft front setback, 20 ft side setback, and 35 ft rear setback.

The Town Attorney stated that this could be done and reiterated that the applicant could then apply for waivers if needed. He added that with the multifamily dwellings, there was such a large parking component that setbacks would not be an issue. He continued that many commercial structures have a residential component above the commercial components, which would illustrate the mixed-use aspect. He agreed with Mr. Pack's recommendation of utilizing the more stringent guidelines for commercial outlined in the HRC.

Dr. Pope stated that he agreed, adding that what was in the PMUD in its latest form was not sufficient.

The Town Attorney stated that the Commission could include two sets of yard requirements, one residential and one business/commercial.

Dr. Pope stated that this would be an appropriate starting point, and reiterated that he felt that the minimum yard requirements needed to be wider.

The Town Attorney recommended using the HRC and suburban residential guidelines as the downtown guidelines are too close. He added that front yards are not regulated and side yards are 5 ft in the downtown area as they are historic properties.

Mr. Pack inquired if the Commission would like to have two separate guidelines or go with one set that is set at the highest level. He stated that he felt the way to keep it simple was to enact the highest restrictions.

The Town Attorney used the proposed idea for development at 10 Grange as an example to illustrate the proximity of commercial areas next to single family detached areas, and inquired if the applicant should be held to the minimums outlined in suburban residential.

Mr. Pack stated he was fine with having two separate components each kept with the most stringent guidelines, adding that he had suggested one set of higher setbacks to keep it as simple as possible.

Dr. Pope and Vice Chair Hillegass reported that they would like to see commercial and residential separated. Dr. Pope added that he felt the 35 ft height limit was reasonable.

The Town Attorney added that they would change the minimum district size from 5 to 10 acres based on previous discussion, and change the last sentence in the introductory paragraph to include that a commercial component is required.

Chairman Bryan asked how the walkability component would be addressed.

The Town Attorney stated that this would be covered in the design proposed by the applicant.

Chairman Bryan stated that in the Comprehensive Plan it specifically addresses walkability and gave the example of the projected changes to South Church Street making it more similar to Main Street.

Mr. Pack suggested that this could be addressed in section G. Open Space by adding the statement that "walkability and connectivity is highly encouraged."

The Town Attorney reminded the Commission members that the minimum district size had

changed to 10 acres, so the applicability for the PMUD to be used on South Church Street was very limited.

Mr. Pack acknowledged this but countered that this could be changed by the application for a Special Use Permit.

The Town Attorney stated that the land near Tractor Supply on Route 10 would all still be eligible for use of PMUD zoning.

Chairman Bryan stated that one of the intents of the Comprehensive Plan was to reduce traffic and by making the area more walkable or accessible by bike there would be less vehicles on the road.

Mr. Pack stated he was in favor of including language to promote walkability. He added that adding his suggested statement would also give them the ability to ensure connectivity if there was an application for a Special Use Permit.

Chairman Bryan reported that he would like to address the question of one of the speakers earlier in the evening regarding where the 60 foot height limit came from in the originally proposed PMUD. He referred back to the Planned Corporate Office and Research (PCOR) district ordinance which was used as a model for the PMUD. He reported that in the PCOR the height limit 50 feet was included and the minimum district size was 10 acres.

The Town Attorney reported that 20 years ago the PCOR was drafted with the hope that there would be an office park development in the area, but unfortunately it was never used.

Chairman Bryan stated that the figures were arbitrary with no intent.

Mr. Pack stated that he felt the 35 foot height limit was appropriate because it did not have intent. He pointed out that residential and commercial were separated in the maximum density section, which only bolstered the recommendation to make them separate in minimum yard requirement section.

Chairman Bryan reiterated that the PCOR was used as a starting point for the writing of the PMUD.

Vice Chair Hillegass posed the question of moving the PMUD with the recommended changes to Town Council consideration or would the Commission like to see the changes first.

Dr. Pope asked to review information on density before they make that decision. He asked for confirmation of what density is currently allowed for multifamily and attached dwellings.

Mrs. Clary reported that the maximum density for residential was 12 dwelling units per net developable acre for multifamily dwellings, 8 dwelling units per net developable acre for single family attached dwellings, and 5 dwelling units per net developable acre for single family detached dwellings.

The Town Attorney confirmed that these figures were consistent with current ordinances.

Mr. Pack read that the commercial maximum density was “regulated by floor area ratio” which in turn is addressed in section F. Bulk Regulations item 3. Maximum floor area ratio: 2.0. He recommended moving the information in item 3 back up to section D. Maximum Density and read “Commercial: Regulated by floor area ratio, not to exceed 2.0.”

Dr. Pope reported that his only other concern was the open space requirement of 10%, adding he felt that was a low number. He acknowledged that he did not have the actual numbers in front of him but recalled that suburban residential open space requirements were around 10% but cluster is up to 20-25%. He added he didn’t know what commercial’s requirements were and reiterated that 10% seemed very light within a development.

Vice Chair Hillegass gave the example of a mixed-use development being only 10 acres which

at 10% would be an acre of open space. She added that the flood plain, wetlands, etc. must be subtracted.

The Town Attorney echoed this stating that it was 10% of net developable land.

Mr. Pack asked what the ordinances read currently.

Mrs. Clary reported that for suburban residential, under the cluster heading 20% of the gross site is common area/open space with 25% of that open space being recreational and active use open space. She continued that conventional subdivisions with 75 or more lots 10% of the gross site is common area/open space with 50% of that open space being recreational and active use open space.

Mr. Pack pointed out that the PMUD would use net developable area and those ordinances utilized gross site area.

Dr. Pope inquired if there was any open space requirement for commercial.

Mrs. Clary reported that in the HRC the open space requirement is listed as 15% of the land area as landscaped open space.

Dr. Pope suggested that the PMUD would need to require around 15-20% open space.

Mrs. Clary gave the reminder that this would be a Special Use Permit waiver item and if they wanted to increase the open space requirement threshold which would allow the application for a Special Use Permit then this would be an option.

Dr. Pope stated that would be an option, but recalled that even Mallory Point's developer went up to 27% open space. He stated that development was controversial and that they should hold this to an even higher standard.

Mr. Pack asked Dr. Pope what his suggestion would be. Dr. Pope stated that since residential was currently 20% and commercial was 15%, then he was okay with 15%.

The Town Attorney read from the proposed PMUD from section G. Open Spaces "not more than fifty (50) percent of the dedicated open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, slopes greater than thirty (30) percent." He continued that an applicant could not count all of the areas they couldn't use as open space.

Vice Chair Hillegass stated that she was good with 15%.

Mr. Pack agreed, and added that he would be open to 20% if it made the other Commissioners more comfortable as then an applicant would have to show them a site plan if they wanted to deviate from that number and if Commission approved they could grant a waiver.

Mrs. Clary verified that there was the option of an open space waiver under item 21.

Dr. Pope reported that he felt more comfortable with the ordinance given the changes that they had agreed on. He stated that 15% open space was okay with him given the updates to setbacks, height requirements, etc. He added that he was fine with the additional language to encourage walkability.

The Town Attorney asked to summarize the changes requested: changing the yard requirements to on residential section maximum set in the suburban residential ordinance and one section commercial with the maximum set in the highway retail commercial ordinance, move the 2.0 maximum floor area ratio up to the commercial maximum density section, and a 15% open space requirement.

Chairman Bryan reported that he had a problem with the 40 ft setback for commercial minimum yard requirements, adding that this would not make it walkable.

There were multiple answer that it would be walkable.

Mr. Pack added that there was maybe a 12 foot setback currently on Main Street, and 40 feet was definitely walkable.

The Town Attorney reminded Chairman Bryan that 40 feet was the maximum and that the applicants may ask for a waiver for less.

Chairman Bryan repeated what Mr. Pack had stated that downtown had a 12 foot setback.

The Town Attorney pointed out that Downtown was not regulated and there were no setbacks on Main Street in the commercial section.

Dr. Pope made the point that walkable does not always mean distance, but does include having a path, sidewalk, or bike lane outside of a roadway. He surmised that the thought was that the PMUD had to look like downtown Main Street, where he was picturing an area similar to Emporia with more randomly placed separate buildings.

Chairman Bryan reiterated his feeling that a 40 foot setback was too much, adding that he was looking at Downtown as the model.

The Town Attorney stated that this was not what the PMUD was meant to do, however there was nothing in what they were proposing that would keep it from being like downtown Main Street. He added that with what is being proposed the applicant would have to show a plan that would work and apply for waivers.

Chairman Bryan stated that a 40 foot buffer would be discouraging.

The Town Attorney reminded him that it was not a buffer, but a setback. He gave the example of an applicant having a commercial building and having to start with the setback of 40 feet with the current ordinance. He added that very often applicants will push back further than 40 feet. The Town Attorney stated that the PMUD was applicable to areas other than near the downtown area, but also in the eastern side of Town.

Chairman Bryan reported that he felt it was a hurdle.

The Town Attorney stated that the suggestion was for a minimum, and then the applicant could apply for less. He made the point that if the setback was made too low, the Commission could not ask for higher.

Dr. Pope illustrated the scale of the measurement by comparing the setback to a single car parking space. He stated that when he used the requirements for parking lots, two cars parked end to end is 50 feet. He added that he did not feel this was very much.

The Town Attorney stated that if an applicant wanted to put the parking in the back and move a building closer to the street as the Chairman suggested, then that would be an option.

Dr. Pope stated that development needs to be limited before it comes. He reported that he was not ready to send the PMUD to the Town Council and wanted to see the changes written out.

Vice Chair Hillegass agreed.

Mr. Pack asked to review a few more items that would be updated, including the addition of innovation in design in the introduction, and the addition of a new statement in section G regarding walkability and connectivity.

Mrs. Clary wanted to clarify the information that Dr. Pope had asked about regarding our current ordinances. She reported that in the current suburban residential ordinance, under cluster residential, the maximum density was 4.5 dwelling units per net developable acre. She added that currently there was not a waiver for maximum density, but it could be added as a Special Use Permit if the Commission wanted it included.

Mr. Pack stated that he thought the addition of a Special Use Permit for maximum density made

sense.

The Town Attorney stated that the changes would be made before next month's meeting, and encouraged the Commission members to contact him or Mrs. Clary if they had any additional changes to include.

Dr. Pope questioned if there was anything included in the PMUD limiting the use of vinyl siding.

The Town Attorney stated that this would depend on where the PMUD was being used. He added that in the Historic District there were guidelines against it, and in the highway entrance corridor overlay, then those standards applied. He continued that the overlay districts do not go away with the addition of this type of zoning.

Dr. Pope made the motion to table the PMUD so that changes may be made and reviewed at the next meeting. Vice Chair Hillegass seconded the motion.

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

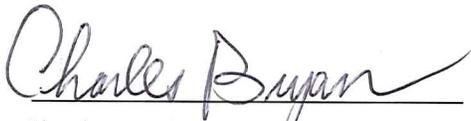
Approval of Thursday, April 14th, 2022 Meeting Minutes:

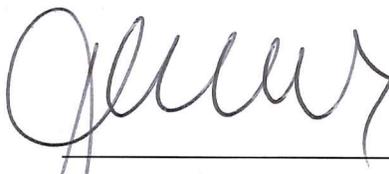
The Town Attorney recommended the minutes be approved as presented.

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

Chairman Bryan called for a collective vote. All members present voted aye, with none opposed. The motion to passed.

The meeting adjourned at 8:38 p.m.


Charles Bryan - Chairman


Tammie Clary – Community Development &
Planning Director