

The Smithfield Planning Commission held its regular meeting on Tuesday, June 8<sup>th</sup>, 2021 at 6:30 p.m. at the Smithfield Center.

**Members present:**

Randy Pack – Chairman

Charles Bryan – Vice Chairman

Mike Swecker

Julia Hillegass

Thomas Pope

Michael Torrey

Raynard Gibbs

**Staff present:**

Tammie Clary - Community Development & Planning Director

William H. Riddick, III – Town Attorney

Valerie Butler – Town Council

William Wooley – Smithfield Police Department

Donna Nolan – Smithfield Police Department

Christopher Meier – Deputy Chief for the Smithfield Police Department

Jack Reed – Director of Public Works and Utilities

**Press:** Stephen Faleski of the Smithfield Times

**Citizens:** 68

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

**Community Development & Planning Director's Report:**

Tammie Clary reported that Summit Design & Engineering Services, PLLC, the Town consultants for the 2020/2021 Comprehensive Plan update, has developed a website to assist in providing transparency in the comprehensive planning process. The website is accessible via this link: <https://smithfieldvacomprehensiveplan.com/>. A draft existing condition report and a summary report of the recent citizen survey are accessible via the aforementioned link. In the interests of reaching a citizen participation threshold of ten percent (10%) of the Town's population, our consultants have created a vision feedback form for continued public input and engagement throughout this process. Additionally, since the authoring of this Staff report, Town staff were able to send Smithfield High School students a link to a Google Document where they could share their visions for the Town. Town staff have received just under 130 responses. Also, she explained that each Planning Commissioner received a letter from a citizen which she placed at the Commissioner's seats. This is substantially similar to the letter received on Thursday, June 3<sup>rd</sup>, 2021 and place on the Google Drive for citizen comments.

**Upcoming Meetings and Activities:**

Tuesday, June 15<sup>th</sup>, 6:30 PM – Board of Historic & Architectural Review Meeting

Monday, June 28<sup>th</sup>, 3:00 PM – Town Council Committee Meetings

Tuesday, June 28<sup>th</sup>, 3:00 PM – Town Council Committee Meetings

Tuesday, July 6<sup>th</sup>, 6:30 PM – Town Council Meeting

Tuesday, July 13<sup>th</sup>, 4:00 PM- Pinewood Heights Management Team Meeting

Tuesday, July 13<sup>th</sup>, 6:30 PM – Planning Commission Meeting

**Public Comments:**

Chairman Paek explained that the public was invited to speak to the Planning Commission on any matters, except scheduled public hearings. Please use the sign-up sheet. Comments are limited to five (5) minutes per person. The Town Attorney will let each speaker know when they have one minute left. Any required response from the town will be provided in writing following the meeting.

Sherri and Bill Gill of 24694 Sugar Hill Road in Carrollton submitted a letter to each Planning Commissioner and Tammie Clary for the record. They expressed opposition to the Mallory Scott Farm development. A copy of the letter is attached to the permanent file of supporting documents for the June 8<sup>th</sup>, 2021 meeting.

Renee Bevan resides at 101 Beale Avenue. She thanked the Planning Commissioners for their service to the Town and stated that their devotion and interest in the Town's future are to be commended. She stated that the current land use and designation allows for 377 homes to be built on the Mallory Scott property. She alleged that when the developer purchased Mallory Pointe, he knew that 250 homes could be built and that when he purchased the Scott Farm, Dan Smith of the Planning Commission at the time, told the developer that the property was targeted for development. She claimed that Mr. Smith implied that the Future Land Use Map would change the designation to Neighborhood Residential and that if the Comprehensive Plan had been updated and the property rezoned to Neighborhood Residential, then 523 homes would be allowed. She explained that the developer has a reasonable expectation that he should be able to build 523 homes. She stated that she has met with some of the Planning Commission members who she believes have a misguided notion that the developer has magnanimously reduced his density from 1,106 to 812 homes. 1,106 homes are not the starting point. She asked why citizens should allow 812 homes when the allowable number is currently 377 homes. She felt that a reasonable compromise would be 523 homes. She said that two Planning Commission members have commented to her that Mr. Napolitano has the right to make money. She supports a capitalist economy but believes that Mr. Napolitano does not have the right to make his fortune at the expense of the Town of Smithfield and that the Planning Commission members have a duty to protect the future of Smithfield; not help outside developers expand their fortunes. She explained that the Planning Commissioners should approach this application with what she believes the current zoning allows no more than 523 units. She asked if the Planning Commission is not going to apply the current Land Use Map and the current zoning density and let the developers dictate density, then why does the Town have a Planning Commission. She asked the Planning Commissioners to consider that any zoning passes with the property just as when Mr. Napolitano purchased it. She said that any subsequent purchaser would be able to design a different plan and apply the updated proposed current zoning. She stated that if the Planning Commission approves the rezoning application and Mr. Napolitano decides to sell instead of developing the property then 1,356 would be allowed by right. She urged the Planning Commissioners to look at the current zoning and the current land use. She stated that in addition to a Land Use Map amendment, the proposal will require four zoning waivers. She asked why the Town would try to shoehorn this unfit development into the space. She stated that there is no obligation to Mr. Napolitano but there is an obligation to citizens of the Town of Smithfield.

John Porter resides at 103 Wariner Lane in Smithfield. He explained that Smithfield is a place where the community is close and tight and that it is small and people move here for those reasons. He stated that traffic to and from work is not good. He believes that approval of this development would turn a thirty (30) minutes commute into a forty-five (45) minute commute. He said that Nike Park Road has seen numerous accidents and that for the proposed capacity of units, the road will need to be expanded. He was concerned about school capacities also. He said that Smithfield is small, but strong, and people help each other, that there are many great events for the community and that he is not a big fan of the proposed project.

John Springfield lives at 22491 Sundown Drive in Carrollton, Virginia. He stated that he and his wife are against the rezoning request as submitted because it is wrong on so many levels. He understands there will be development; but he believes the proposal is not smart development. He said that the package indicates 812 units but just under 200 of those are duplexes. He considers a duplex two family units. He said that the developer does not indicate how many townhomes are in the townhome proposal. He felt that the 812 number of units could quickly turn into over 1,000 units. He said that the amenities and proffered conditions should be detailed and committed to without using language such as “maybe, planned, could, or at a minimum.” He believes that the language gives the developer options as to whether he will do something or not and that under the proffered conditions, the buffered areas can include BMP ponds. He explained that the site plan does not indicate that. He wondered why it is a proffered condition. He stated that the developer contributed twelve percent (12%) to the construction of a water tower and that doesn’t seem like very much. He asked why some of the analysis studies are not done now to determine the needs for the proposed community, like the signal light in front of Wellington Estates. He explained that the Town’s Comprehensive Plan recommends developments with a mixed-use of residential and commercial. He stated that the proposal indicates that the number of units would support economic development which is much different than being a part of economic development. He foresees Smithfield and the county becoming a bedroom community and that economic development is needed. He stated that the proposal also states that “wetlands, creeks and RPA shall remain undisturbed to the maximum extent possible.” He felt that was vague. He stated that the proposal also says that all roads in the development would be maintained by the Homeowners Association. But believes that would be a big burden for the HOA. He said that the school system indicates 278 students would be added. He felt those numbers should be looked at again. He said that there were no proffers offered with the current application and there was \$9,000.00 per lot offered with the original application. He acknowledged that he was not up to date on the legalities of proffers. He stated that he does not believe the proposed development is smart.

Antonio Viudez wanted to try to address some of the comments that the developer made after citizen comments at the last meeting. He stated that the developer stated that the goal from the start was to create a community that would blend harmoniously. Mr. Viudez explained that the planned development is not controlled growth with 2,400 more people in 7 years. He said that Mr. Napolitano also stated that the Traffic Engineer would review the traffic improvements and what would trigger each improvement. Mr. Viudez explained that the Traffic Impact Analysis states that at the intersection of Battery Park Road and Nike Park Road that there will be between 500-650 cars per hour. He said that the developer said that the new community would add 16.8 million dollars to the Town and the county over 15 years. Mr. Viudez asked what happens after those 15 years. He said that

the developer said that change is necessary in order to grow but Mr. Viudez did not feel that growth means to build more. He believes that growth is preservation and conservation. He said that Mr. Napolitano stated that the RPA would remain in its natural state. Mr. Viudez explained that the Chesapeake Bay Act and the DEQ require the developer to not touch the RPA and that it is illegal to touch the RPA. Mr. Viudez is also concerned about the shrink/swell soils. He said that the soil analysis will dictate how the footings and foundations will need to be engineered. He said the developer also stated that the townhomes and the duplexes were relocated to the rear of the communities so they would not be seen from the main road. Mr. Viudez explained that the larger townhomes near the creek would have to deal with soft soil. He recommended that the Planning Commission read the article from the Virginian Pilot on August 12<sup>th</sup>, 2007 as it will explain the shrink/soil issues for homeowners, where the concrete cracked. Mr. Viudez stated that Isle of Wight, for 2019, has 37,000 people over 363 square miles which is 102 people per square mile. He said that in Smithfield, there are 8,367 people over 10 square miles which is 785 people per square mile. He stated that if there are 812 homes, there will be more than 2,400 people and that density of the population would be 3,164 people per square mile which is not low density. Mr. Viudez stated that however the Planning Commissioners voted, it would be their legacy.

Rick Gillerlain stated that he moved to Carrollton for a quiet community where he could live and be involved. He said he served on the Isle of Wight County Planning Commission. He said he did not come here and buy property with the hope of making millions of dollars. He alleged that Mr. Napolitano came here and asked for changes to accommodate him because he thinks he knows better than the citizens and that he wants to change the law for himself and those after him. He said that Mr. Napolitano stated that the taxpayers would not have to pay for the roundabout, but they will. He claimed that the developer received government grants. He stated that everyone is saying that the area is for future expansion. He asked about the existing soil conditions. Mr. Gillerlain explained that he has seen developers come back and change their proffers during construction or before construction. He claimed that the developer will ask for new things as buyers want new things. He said that the developer stated that if he sells the property then more units would be built than his proposal. Mr. Gillerlain explained that the Planning Commission has the right to say no to any project and the infrastructure requirements. He asked for a nature conservancy for the property not another housing project which does not fit the community.

Ramona Douthit lives at 104 Harrison Drive in Smithfield. She said that she decided to speak because her concern for the proposal is much greater than her fear of public speaking. She said she moved to Smithfield from Great Bridge in Chesapeake because there was a lot of development in that area and all of the houses look the same and that there is no space between the homes. She said that she was told by City of Chesapeake officials that in order for the city to grow economic revenue was needed and the developments would deliver. She claimed that Twenty years later, the developments did not deliver, and that Great Bridge turned from a loving, caring community where everyone knew each other, and felt safe and secure, to a bedroom community. She stated that at the time that she moved, she did not know any of her neighbors; that there was no sense of security from small town living; that roads were overcrowded with many, many more accidents. She stated that the schools turned from beautiful schools to fields full of portable classrooms which no one likes. She claims that the environmental impacts have been huge. She claims that the response time to her home went from

being pretty quick to you better not be dying' that nothing improved; that everything the developers said would be benefits was a lie. She alleges that twenty years later, the city has regrets. She said Smithfield is ideal with a beautiful small town where people care for each other. She said that she is terrified to see what is happening with the proposed project, because she has seen it before in Great Bridge. She said the Town's way of life is unique and special and that the proposed development will take what makes it special and turn it into another bedroom community. She is concerned about the damage to the environment, schools, traffic, response times for fire and EMS. Volunteers cannot cover the amount of people and there will need to be a professional rescue squad. She encouraged the Planning Commissioners to look at what makes Smithfield special. She said that huge developments are not what makes Smithfield special.

Mike Jahncke resides at 48 Faye Drive in Smithfield. He lives directly across from the marsh at Mallory Pointe. He said he has been to 3 or 4 meetings about the proposed project. He said the developer adjusts the plan to try to make it sound better and better but that the reality is that it is not better, just a different version of the same concept. If the project is approved, he imagines that the residents of Mallory Pointe will petition for the changes that they want and it will be a constant battle to prevent additional harm to the area. He claims the current development proposal for Mallory Pointe will have a negative, destructive effect of the tidal marsh environment because the boats and human interference will irreparably damage the fragile tidal marsh. He said the creek does not have substantial water and that it is a viewing marsh, not a play marsh. He claims the new buildings, the people, the cement, and asphalt will cause excessive pollution from fertilizers and pesticides resulting in damage to the wildlife habitat. He said there are bald eagles living at Mallory Pointe and that there will be a negative impact on the blue herons, wild geese, wild bird populations, fish, and crab populations. He stated that the proposed 812 homes would produce 1,600 cars a day according to the developer. Mr. Jahncke said he has a colleague who is a developer in Richmond and according to him, it will be two and a half times that amount because Mom and Dad will go to and from work, to the store, and take the children to activities. He said that there will be a tremendous amount of traffic on the roads. He said that adding a traffic circle impacts the bike trail and the surrounding homes. He stated that the environment and homeowners would be harmed, and that is not right, no one should be harmed. He claims that overdevelopment will adversely affect the concept of historic Smithfield. He said that Smithfield is marketed as a quaint, little town and that the proposed development will destroy that. He claims the residents of Smithfield will be subjected to hours of additional travel delays on a daily basis which will adversely affect tourism for Smithfield. He said that not many people will want to come to Smithfield when they have to wait in traffic. He claims that schools, health facilities, police department, and fire departments will be stressed. He asked to keep Mallory Pointe undeveloped as a wildlife preserve as it would be a boon to the residents of Smithfield and would encourage people to come to Smithfield and it will keep Smithfield rural and unique. He stated that tourists come from busy, overdeveloped cities to visit Smithfield. He suggested that the bike path be extended to Mallory Pointe to watch the birds and environment and that there could be educational opportunities for students, citizens, and tourists. He said it would be something that the citizens of the Town could be proud of, not overdevelopment.

Rob Slomienski lives at 15271 Mt. Holly Creek Lane in Smithfield. He said he left New Jersey primarily for two reasons. One reason was gun rights and the other was country living and that both

are slowly being eroded right now. He wanted a country lifestyle. Mr. Slomienski stated that Smithfield is on the very edge of urban expansion and urban sprawl and that if not stopped here and now, it will roll right over everyone. He claims that if there are more people producing more taxes, then more infrastructure and businesses will be needed. He asked when it would end. He asked if Route 10 would look like Mercury Blvd. eventually. He said that it starts with houses and then more and more until it is not Smithfield anymore and that it will become Newport News. He asked how soon will it be before “Ham, History, and Hospitality” becomes used tire places, traffic, more crime, or more congestion? He said it is not what the citizens want. He said that the developer lives in Virginia Beach in a mansion and that, he does not have to worry about because it does not affect him; that he has his own slice of the pie already. He claims the developer is taking from the Smithfield citizen’s slice of the pie and taking away country living and turning it into a city. He said there are many people attending the meeting that do not want it. He asked the Planning Commissioners to please look at who is being affected by development. He said he is not completely for stopping development. He asked for them to consider a nature preserve; anything other than throwing up cookie cutter houses. Smithfield will turn into another Mercury Blvd.

Kelly Hengler said she was happy to see all of the people in attendance at the meeting. She said she grew up in the area and that she is veteran and a healthcare provider. She said there is no hospital in Isle of Wight County. She said she eats in Smithfield, goes to church, and has family in Smithfield and that she spends her money here. She said she was happy to be back in Smithfield after working away during the pandemic. She claims that the state had not prepared this part of the region for vaccinations, in all areas of the Western Tidewater Health District, and it is still not prepared. She claims that in 2006, the Comprehensive Plan needed updating and there was not much public participation. She said that the applicant is asking the Planning Commission to change zoning to accommodate a project without a hospital in the area. Ms. Hengler explained that her father died at the age of 65 trying to get to Obici Hospital and that she does not want to see that for any person living in Smithfield or Isle of Wight County. She explained that Smithfield has to be able to answer the medical needs of the community. She asked how will get people out to Route 10, Route 17, or over the James River Bridge? She urged the Planning Commission to make notes and recommendations to the Town Council. She stated that new Chesapeake Bay Preservation Act changes just came in today. She said there is a problem with storm surge and coastal resiliency and there are a number of issues that no one faced in 2006.

Sherri Gill resides at 24694 Sugar Hill Road in Carrollton, Virginia. She and her husband moved here over thirty years ago to escape the city life and they have enjoyed the slower paced, quality of life that Isle of Wight County affords them each day. She understands that all of the Planning Commissioners live in Smithfield as well and appreciates the unique qualities of the area. She asked them to not destroy what everyone enjoys here by continuing to allow the massive, mixed-use developments. She said that they are unsightly, bring more traffic congestion, people, and crime than anyone wants and that the development does not meet the objectives of the established Smithfield Comprehensive Plan which states “to protect and enhance the unique qualities of Smithfield’s small town charm” or “promote development opportunities which respect, preserve, and protect the Town and county’s ambiance.” Mrs. Gill explained that smart growth is inevitable and important but not by underserving ourselves by becoming an extension of the neighboring cities such as Hampton, Newport

News, and Suffolk. She said that tourists come to Smithfield for the scenic drives and because it is a unique and quaint place to live. She asked that everyone work together to keep the quality of life that is currently enjoyed and thoughtfully continue to build a community to be proud of that we all want to live in. She asked the Planning Commissioners to not rezone Mallory Scott Farm.

Parker Scott stated that he agreed with the previous speakers.

Megan Allen lives at 204 Sunrise Bluff Lane in Gatling Pointe. She agreed with Renee Bevan's statement as the first public speaker. She said that there has been a tremendous show of opposition to the Mallory Scott Farm proposed development at the May Planning Commission meeting as well as tonight. She asked that the Planning Commissioner's really listen to the people and all of the reasons for opposing the proposed development. She liked the idea of a nature preserve but felt it would be unrealistic to expect it. She stated that 812 homes are simply too many for the acreage, which is already facing so many challenges. She said that there will be car accidents, increased traffic, and flooding during storms which are facts not feelings. She asked everyone to read Chapter 6A – Land Use Battery Park North Planning information which calls for single family detached homes with low density, and poor soil conditions. She said that the study states that there can be 126-378 homes; but should probably stay at the low end due to the poor soil conditions and sensitive environmental areas. She asked about the update to the Bradley property. She has not heard anything about it. She felt that just because the developer said that he would "land swap or take care of the Bradley's" does not mean that Mr. Bradley is going to agree to it. She said it would be reprehensible to strong arm the Bradley family to agree to something that we know they oppose. She said that Bradley's had signs in their front yard and that they do not want the proposed development. She respectfully asked that the Planning Commission not recommend the proposed development as it stands today to the Town Council. The only acceptable plan, in her opinion, includes all single family homes on larger estate size lots with numbers more in line with the surrounding communities as it says in the Comprehensive Plan. She said that once the development is done, it cannot be undone. She asked for the Commissioners to make sure that the plan is right for the land and right for the community.

Steve Erikson resides at 20404 Gatling Pointe Parkway South in Smithfield, Virginia. He stated that he has listened to both sides speak at the May meeting as well as tonight. He said that Mr. Napolitano talked about what he wants but then asked, "what do the people want?" He asked the planning commission to look at the amount of people here tonight as well as past meetings. He said that these people are customers, patients, and parents of kids you coached. He said that the citizens are talking to you now and asked, "Do you hear them?" He said that the citizens do not want this proposed development, that it is not a passing thing and that they know how the development will impact their lives. He said he spent 45 minutes on the James River Bridge just today trying to get home. He asked if 900 additional cars going to make that better? He said there are hundreds and hundreds of communities all over the country that have come to this decision point and most failed because they were motivated by something that was incorrect. He said that perhaps they did not understand the ramifications of the decision they were about to make. The people in this room have made their point. He asked if the Planning Commissioners were listening to them. He urged the Planning Commissioners to not recommend the proposed development to Town Council.

Chairman Pack explained to Mr. Napolitano that he would be allowed time to speak as the applicant at the beginning of the application item on the agenda. He thanked the citizens for their courtesy and politeness during public comments.

**Planning Commission Comments:**

Dr. Pope stated that he had sent an email to Tammie Clary concerning an issue about having license plate readers in the Cypress Creek neighborhood in order to track vehicles. It is his understanding that the Homeowners Association and the Board of Directors have contacted Mrs. Clary and resolved those issues. They have met with the Town Manager, Chief of Police, the Town Engineer, and the Planning Department. He asked if there was a process moving forward for other developments who wish to do something similar. The Homeowners Association interpreted that the letter from John Settle to mean that it would not be allowable but were confused by some issues in the response letter. He asked if it had been resolved so that it will be clearer for other developments who might wish to do it.

The Community Development & Planning Director, Tammie Clary, explained that license plate readers would be allowed as long as they are located outside of the Town right-of-way and only on HOA property. Staff went out and walked the line with Brian Scopa. He identified the exact location on where the license plate readers would be placed. Staff identified that they were located outside of the Town right-of-way on HOA property. A zoning permit waiver was issued authorizing the installation of the license plate readers on HOA property.

There were no other comments from the Planning Commissioners.

**Site Plan Amendment Application (After-the-Fact) – Wellington Estates Picnic Shelter (TPIN:22-01-012), c/o Arthur Luce, applicant:**

The Community Development & Planning Director reported that the applicant is seeking after-the-fact approval for a sixteen (16) by thirty-four (34) foot (544 square feet) picnic shelter in the common area next to the softball field in Wellington Estates (TPIN:22-01-012). The picnic shelter is approximately seventy (70) feet from the edge of the road (Wellington Circle) and complements a new playground equipment area. The wooden gazebo, previously located in the common area has been removed. The picnic shelter is approximately ten feet (10'), six and a half inches (6 ½") in height. It features a blue painted steel multi-rib roof with six (6) supporting steel columns. There are currently eight (8) picnic tables located under the shelter. The HOA (United Property Associates) hired the company to install the picnic shelter. Town staff recommended approval as submitted.

The applicant was available via phone if needed for questions.

Dr. Pope stated that he assumed that the community wanted the structure, and the color, and the metal building. He was agreeable with the picnic shelter.

Vice Chairman Bryan stated that he was concerned about after-the-fact approval. He cannot understand how a Homeowners Association and a professional builder would not get the proper permits beforehand.

Chairman Pack asked if there was any recourse for a monetary penalty for after-the-fact approval.

The Town Attorney stated they also did not get a building permit. They could not have since they have to have a zoning permit from the Town in order to get a building permit from the county. There are penalties through the building official for not getting a building permit.

The Community Development & Planning Director stated that they did get a building permit.

The Town Attorney stated that they should not have been issued a building permit without a zoning permit. The Isle of Wight County building official's office is accountable for that, not the Town. The Town grants waivers often for things that do not require action by the Planning Commission. Mr. Riddick suggested having a conversation with the Central Permitting office. The Town does not issue building permits although that may happen in the future.

Chairman Pack stated that it would appear that the applicant had tried to do the right thing by getting a building permit even if they did not get a zoning permit.

With no further discussion, Vice Chairman Bryan made a motion to approve the after-the-fact application as presented. Dr. Pope seconded the motion. Chairman Pack called for the vote.

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

**Official Zoning Map Amendment, Comprehensive Plan Amendment, Zoning Ordinance – Text Amendment, SUPs & Planning Commission Waiver Applications – 19474 & 19502 Battery Park Road, c/o Vincent Napolitano, applicant:**

The Community Development & Planning Director, Tammie Clary, identified the waiver that she gave to each Planning Commissioner. She had received it today. It is a waiver holding the Town harmless for any claims for damages caused by a Planning Commission action before the expiration of the sixty days from the submittal of the revised and amended application.

The Town Attorney explained that at the conclusion of the public hearing and initial consideration that the applicant asked for time to amend his project. He submitted an agreement that said he waived the requirement that the Planning Commission take action in 100 days. There was a written agreement saying that the time could be deferred until the applicant restructured the application amendments. There was a provision in the agreement that said that the applicant could not require the Planning Commission to act within 60 days. The Planning Commission could not be forced to act sooner than they wanted to. In Mr. Riddick's opinion, he explained that it does not mean that the Planning Commission cannot take action when deemed necessary. Mr. John Settle, the former Community Development & Planning Director, had a different opinion of that. In an abundance of caution, the Town asked the developer to issue a written statement saying that they did not object and waived any requirement that the Planning Commission wait for a period of 60 days before the Planning Commission could act. The Planning Commission can wait 60 days or take action tonight. The written statement takes the issue off the table and the Planning Commission can act when deemed appropriate.

Mrs. Clary reported that at its Tuesday, August 1<sup>st</sup>, 2006 meeting, the applicant received an approval from the Town Council for a conditional official zoning map amendment (this is often referred to as a "rezoning") to alter the zoning classification of six properties (TPINs 22-01-017,

22-01-026, 22-01-028, 22-01-029, 22-03-001 & 22-03-002) from Community Conservation (CC) to Neighborhood Residential (NR). This approval was intended to facilitate the construction of 265 single-family dwellings, but the permitting process was never initiated beyond the conditional rezoning approval (see Enclosure 1). The applicant now proposes to construct 507 single-family dwellings, 198 two-family (“duplex”) units, and 107 attached residential (“townhome”) dwellings. All 812 proposed dwelling units are to be for sale. The proposed development will not be age-restricted and will be privately regulated and maintained by an owners’ association. Amenities include onsite parking, pedestrian and bicycle paths, sidewalks, private streets, public streets, private travel ways, two clubhouses, two swimming pools, pump stations, stormwater retention, landscaping, public water and sewer, existing roadway infrastructure improvements, and approximately 134.6 acres of open space in the form of parks, pet stations, playgrounds, preserved environmentally-sensitive areas, and a community pier on Moone Creek, complete with a kayak and canoe storage facility and launch. The proposed development is to be accessed via five entrances on Battery Park Rd (three of which currently exist), and one entrance on Nike Park Rd. A reservation is made for a sixth entrance on Battery Park Rd via a future connection of South Ave to Greenbrier Ln. Much of the property fronts on Moone Creek and Town Farm Creek. In order to permit the development in the configuration proposed by the applicants, a total of eight development applications are necessary. They are listed and described below:

Conditional Official Zoning Map Amendment (Rezoning):

The desired uses for the property would be classified as “cluster residential subdivisions,” “community buildings, limited to use by residents of the subdivision,” “single-family attached (townhouse) dwellings,” “duplex residential dwellings (one dwelling per subdivided lot),” and “private community facilities, recreation areas, and other common area improvements normally associated with attached residential developments (other than those requiring special use permits) . . . subject to general development plan and final site plan approval.” The only zoning districts in which all of these uses are permissible are the Attached Residential (AR) and Suburban Residential (SR) districts, pursuant to Smithfield Zoning Ordinance (SZO) Sections 3.C.C.3, 3.C.C.4, 3.E.B.1, 3.E.B.2, & 3.E.B.3. Because the property is currently zoned Environmental Conservation (EC), CC, and NR, and because the proposed development involves new property and conditions that far exceed those that were approved in 2006, it became apparent that a new rezoning application would be necessary. The applicant proposes no change in zoning classification to the portions of the property currently zoned EC.

Comprehensive Plan Amendment (Future Land Use Map Amendment):

The most essential Town publication to consult during the rezoning process is the Town’s comprehensive plan, specifically the Future Land Use Map (FLUM). The near entirety of the property in question is designated on the FLUM as remaining future Low-Density Residential (LDR) in the future, which accommodates a portion of the property’s (TPINs 22-01-017, 22-01-026, 22-01-028, 22-01-029, 22-03-001 & 22-03-002) current zoning classification as NR. The remaining portions of the property (TPINs 22-01-033, 23-01-008 & 23-01-008A) which are currently zoned CC, if rezoned in accordance with the FLUM, would have to be rezoned NR. Consequently, the proposed rezoning conflicts with the FLUM, and a comprehensive plan amendment is necessary so that it is consistent with the applicant’s proposed rezoning. In

summary, the proposed amendment to the FLUM would alter the existing designations of the properties in question from future EC and LDR to future AR, EC, and SR. The applicant proposes no change in the FLUM's current classification of the portions of the property designated as future EC.

SZO Text Amendment:

The applicant has proposed a diverse array of active recreational areas for the proposed development, which would be enjoyed by owners and occupants in both the AR and SR portions of the same. Because many of these areas fall within the AR portion of the proposed development, they become subject to the provisions of SZO Section 3.E.G.3, which states that only owners and occupants within the AR portion of the proposed development may enjoy the active recreational areas located therein. In order to allow owners and occupants in the SR portion of the proposed development to enjoy the active recreational areas in the AR portion of the proposed development, the applicant has submitted a text amendment application which proposes to amend SZO Section 3.E.G.3 in the following manner: *Active recreational areas may include playgrounds with recreational structures, tot lots, tennis courts, swimming pools, wading pools, spas and saunas, clubhouse facilities, community meeting rooms and other similar facilities intended for the exclusive use and participation of residents within the AR development . . .*

1<sup>st</sup> Special Use Permit (Parking & Loading Waiver):

The general development plan submitted for the rezoning of the property features no recreational vehicle (RV) parking pursuant to SZO Section 3.E.I.2.B, which states: *Separate parking spaces shall be allocated and reserved within an AR development for RV parking on the basis of one RV parking space per four dwelling units . . .*

The applicant has chosen not to accommodate this standard in order to achieve the appropriate net developable acreage to necessitate 305 dwelling units in the proposed AR-zoned portions of the development. It is the applicant's opinion that an RV parking lot would detract from the proposed community's character. This has necessitated an application for a Special Use Permit (SUP) for a waiver of parking and loading requirements, pursuant to SZO Section 3.E.C.20.

2<sup>nd</sup> Special Use Permit (Suburban Residential Cluster Subdivision):

The applicant is seeking an additional SUP for the aforementioned "cluster residential subdivisions" use, pursuant to SZO Section 3.C.C.3. This would apply solely to the proposed SR-zoned portions of the property, and allows for reduced yard areas, greater density, etc.

3<sup>rd</sup> Special Use Permit (Suburban Residential Community Buildings):

The applicant is seeking a third SUP for "community buildings, limited to use by residents of the subdivision," pursuant to SZO Section 3.C.C.4 to accommodate the proposed clubhouse and swimming pool in the SR-zoned portion of the development.

1<sup>st</sup> Planning Commission Waiver (Open Space):

Because the applicant has chosen to accommodate the SZO's open space standards in both proposed zoning districts through the use of a collection of areas located throughout the proposed development instead of a single, contiguous piece of property pursuant to SZO Sections 3.C.G.4 & 3.E.G.5, an open space waiver is sought by the applicant pursuant to the same SZO Sections. This component of the applicant's applications is subject to the review and decision of the Planning

Commission, which should be contingent on the approval of the applicant's other applications by the Town Council.

2<sup>nd</sup> Planning Commission Waiver (Residential Building Height):

Finally, because the applicant's proposed residential buildings within the AR-zoned portion of the development are anticipated to be taller than thirty-five feet, but not to exceed three stories, whichever is shorter, a residential building height waiver is sought by the applicant pursuant to SZO Section 3.E.F.1.A. This component of the applicant's applications is subject to the review and decision of the Planning Commission, which should be contingent on the approval of the applicant's other applications by the Town Council.

These applications were first seen by the Planning Commission at its Tuesday, September 8<sup>th</sup>, 2020 meeting as a discussion item. It advanced to a public hearing at the Planning Commission's Tuesday, October 13<sup>th</sup>, 2020 meeting, where it was tabled and scheduled to reappear as a discussion item at a special meeting held by the Planning Commission on Wednesday, November 4<sup>th</sup>, 2020. At this meeting, the Planning Commission reached a consensus on the applications' reappearance at a future meeting- in preparation for this meeting, the following items would need to be addressed:

- (a) The applicants must continue to endeavor to resolve the matter of the secondary access road that will impact 18489 & 18501 Battery Park Rd (TPINs 22-01-033A, 22-01-033C & 22-01-033D) in a manner that is satisfactory to both the current property owners and the Town.
- (b) The applicant must consider reducing the total number of dwelling units that they intend to complete per year.
- (c) The applicant must consider reducing the total number of dwelling units proposed through his applications, with the understanding that the Planning Commission has the least interest in the proposed multifamily dwelling units in the form of multistory "tenplexes"- this reduction in proposed dwelling units cannot impact the applicant's promise of affordable or workforce housing.
- (d) The applicant must consider substituting the proposed attached residential "townhome" dwelling units at the southern end of Lot 33, Battery Park Rd (TPIN 22-01-033) with single-family dwellings to ensure cohesion between the proposed development and the existing residential subdivision located on the opposite side of Battery Park Rd and known as "Wellington Estates".
- (e) The applicant must consider (in their anticipated widening of Nike Park Rd) the dedication of sufficient right-of-way (ROW) on the side of the road under his ownership to avoid additional ROW acquisition on the opposite side of the road. This is suggested so that the applicant can, to the best extent possible, avoid encroaching on the front yards of the existing homes located on the opposite side of this road.
- (f) The applicant must provide a written explanation to the Planning Commission detailing which traffic count and dwelling unit volumes

trigger the assortment of intersection improvements noted in the applicants' presentation to the Planning Commission at its Wednesday, November 4<sup>th</sup>, 2020 meeting.

In the weeks following this meeting, the applicant signed and submitted a Planning Commission action waiver (see Enclosure 2) to the Town, waiving his right to a decision on his applications by the Planning Commission within one-hundred days of its first appearance on a Planning Commission agenda, prescribed in SZO Section 4.E.4. This was done to afford him and his agents sufficient time to respond to the concerns raised by the Planning Commission at its Tuesday, November 4<sup>th</sup>, 2020 special meeting. On Monday, March 22<sup>nd</sup>, 2021, Town staff received a revised submittal of the applicant's applications, which included a new SUP application, a new Planning Commission waiver application, and substantial alterations to all but one of his earlier applications. As such, a new thirty-day review period ensued, pursuant to SZO Section 4.D.2, and the application was scheduled for the next available Planning Commission meeting as a public hearing item. The Monday, March 22<sup>nd</sup>, 2021 submittal resulted in requests for comments from several agencies and entities inside and outside of the Town of Smithfield:

Isle of Wight County Schools (IWCS) - Enclosure 3

Isle of Wight County Stormwater Division (IOW SWM) - Enclosure 4

In response to these comments, the applicants submitted a revised submittal on Monday, May 3<sup>rd</sup>, 2021, which was recirculated to the reviewing agencies on the same day. With the exception of the Virginia Department of Transportation, these agencies have until Wednesday, June 2<sup>nd</sup>, 2021 to return their comments (if they have any) to the Town. Currently, the Town has received updated comments from the following agencies:

Smithfield Community Development & Planning Department - Enclosure 5

Isle of Wight County Utility Services - Enclosure 6

Virginia Department of Transportation (VDOT) - Enclosure 7

Draper Aden Associates, Inc. (DAA) - Enclosure 8

Smithfield Public Works & Utilities Department (SPWUD) - Enclosure 9

At the Planning Commission's Tuesday, May 11<sup>th</sup>, 2021 Public Hearing meeting, the application was tabled and scheduled to reappear as an action item held by the Planning Commission on Tuesday, June 8<sup>th</sup>, 2021- in preparation for this meeting, the following items would need to be addressed:

- (a) The applicant must update his proposed proffers statement to include the public improvements noted in his public utilities and traffic impact analyses.
- (b) The applicant must demonstrate to the Planning Commission that a definitive resolution has been reached on the matter of the portion of Lot 33, Battery Park Rd (TPIN 22-01-033) located in between 18489 & 18501 Battery Park Rd (TPINs 22-01-033A, 22-01-033C & 22-01-033D). This resolution must be satisfactory to the current property owners and the Town. Town staff has not received any updates on either item.

Numerous components of this application can be viewed in the pages immediately succeeding the staff report.

Mr. Napolitano addressed the proffer update. He explained that it was his understanding that the proffer statement needed to be updated but not for tonight's meeting. He understood that the updates were needed for the Town Council meeting and that they have been updated and the Town Attorney has a copy for his review so he can comment back. After the May meeting, the proffers were updated. As far as the Bradley property, Mr. Napolitano explained that he committed at the last meeting to speak with Isle of Wight County and that he met with them and they approved the proposed entrance. Isle of Wight County told him that the Town of Smithfield owns Battery Park Road and that the Town makes the decision on the entrance; not Isle of Wight. Mr. Napolitano said that he met with the Bradley's at their home, that he saw the yard signs in opposition to his proposed development and that he explained to them that he knew they were not in favor of his project which was okay. He explained to them that he would like to try to figure out a resolution about the driveway issue. He has said from the beginning that it was his goal to resolve the issue with the Bradley's. Mr. Napolitano stated that he came to a resolution with the Bradley's that both parties are comfortable with. He said he received the contract from his attorney today and signed it. It has been sent to the Bradley's and Mr. Napolitano had a hard copy with him tonight. They decided on a swap for ten feet of right-of-way that will be dedicated to the Town of Smithfield in exchange for their driveway. He explained that the ten foot right-of-way might be needed to widen the road if the rezoning is approved. Their son explained to them that eventually the Town may want to take twenty-five feet of their property to widen the road. He said that they gave up ten feet in exchange for a driveway for their property. He said that Mr. Bradley asked if he could put a fence up once everything was finalized and Mr. Napolitano stated that he could. He said that other people drive through the Bradley property to go to the back of the property. Mr. Napolitano explained that he could put a chain up to keep people out. In the end, he thinks the Bradley's were very happy with the outcome and that the Bradley's are reviewing the contract and will end up owning the driveway.

Dr. Pope stated that he received verbal confirmation from the Bradley family that they are in agreement. They stated that they would like to see it in writing and have it reviewed by their lawyer before proceeding. They gave a verbal confirmation that what Mr. Napolitano said is correct.

Mr. Napolitano addressed a few things that were said by the public speakers. Someone said that if the property is rezoned and the property sold then a new developer could increase the number of units. He stated that was inaccurate. One of the proffers is for 812 units at a maximum. If the property were sold, the most units that could be built would be 812; unless, the new developer were to go through the entire zoning process again. Another speaker asked how the duplexes were counted. Mr. Napolitano explained that it is counted as one unit per side and the same goes for the townhouses. At the end of the day, there will only be 812 livable units regardless of the form they are in. Another person talked about proffers. The proffers now are much different than they were years ago. The laws and rules have changed dramatically. Someone else asked why the study for the light at Wellington Estates was not done in advance. He explained that if it were done today then it would be decided that a light is not needed. You cannot put a stoplight in an area that does

not warrant it because VDOT would not maintain it. He said that when Phase 1 is finished, a traffic light study will be done. Mr. Napolitano explained that they try to do the study at the appropriate time to give it a better chance of being approved. The RPA is for 100 feet and 25 feet were added for a total of 125 foot RPA. Mr. Napolitano explained that he did not have to do that and that it was not in the original plan. At the public hearing, someone asked for 200 feet, but he could not do all of that but added an additional 25 feet. Mr. Napolitano stated that there were no government grants for the roundabout, but he wished there was grant funding available. He said the roundabout will be an independent job. Mr. Napolitano stated that he did not think the Mayor of Chesapeake would agree with the comments about Great Bridge as it is a very vibrant area and there has been economic growth because housing was built. Mr. Napolitano stated that the original proposed plan had 1,106 units but he listened to what everyone said and he adjusted the plan and accommodated every request except the number of units. He said he cannot go any lower than 812 for the project to be viable. He said townhouses and duplexes have been included in the proposed plan to accommodate schoolteachers, firemen, and police officers as it affords the opportunity for new housing because the prices can be kept down and affordable. He acknowledged that citizens did not want to see the townhomes along the roadway, so they were moved to the back. He said that every request, so far, has been accommodated in some way. Mr. Napolitano explained that most of the property is currently being farmed and that the farmer is putting down fertilizer and phosphorus because he is allowed to do that. He said that phosphorus was eliminated for all existing homes approximately five or six years ago while allowing, on a limited basis, for new lawns and is prohibited for use by lawn service companies, golf courses, etc. He said phosphorus is the major killer to the Chesapeake Bay and that the homebuilders of Virginia put that law into place to protect the natural environment. Mr. Napolitano thanked the audience for their courtesy. He explained that he realizes it is not easy being on opposite sides of a situation. He thanked the Planning Commission for vetting the application requests thoroughly. Whatever decision is made tonight will be made based on what the Planning Commission believes is the right decision. He asked Ms. Venable to come forward and address the other issues.

Melissa Venable, with Land Planning Solutions, stated that most people moved to Smithfield from somewhere else and she would hate to close the door and not allow anyone else to move here. She said that a few more houses and one more development which is slowly phased might not be a terrible idea. She stated that the proposed development is between 1-3 dwelling units per acre. One public comment said that the developer was coming to the Planning Commission to change the Comprehensive Plan. She explained that approximately six years ago, the Planning Commission decided not to make modifications to the Comprehensive Plan so that every project which wanted to change the zoning map or increase density would have to go through the application process to be reviewed. She said that the Planning Commission wanted to go project by project or application by application to decide if it was right to modify the zoning map and that the Planning Commission, very purposefully, if she remembers correctly, wanted to keep everything under conservation and be able to review one piece at a time. She said that this process has to be done for the Scott Farm because it was not included in the Comprehensive Plan which is one of the reasons the applicant asked for several different waivers or conditional use permits. She said the text amendment was written a long time ago and excludes a multitude of different housing

types to use the same facilities. She suggested that it was probably not anticipated to have a mix of uses in one community. She said that the text amendment they are asking for will permit the clubhouse and open space to be used by the townhome dwellers, duplex units, and the single-family units. Ms. Venable stated she and Mr. Napolitano met with the Bradley's and that it was an excellent meeting and they are lovely people. She is looking forward to being able to provide them with what they need. She addressed the comments about Nike Park Road and Battery Park Road by explaining that there are already plans to expand and lengthen that road, but monies are not designated for them yet.

Chairman Pack explained that this application process started six months ago. The Planning Commission has listened and talked to the citizens. He felt it was appropriate to make a recommendation to the Town Council in one form or another this evening. He felt it was fair to the public and fair to the developer. He encouraged discussion from the Planning Commission.

Dr. Pope clarified that he has spent approximately 40 hours reviewing the information in the packet. He wanted to go back and confirm some numbers such as Mrs. Bevan's remarks that the developer could build 377 units by right. He explained that he disagreed with that number. Dr. Pope shared a spreadsheet with the Planning Commissioners showing the numbers. *See supporting documents.* He said the current zoning is Neighborhood Residential in the two areas and everything else is Community Conservation. He said there is also Environmental Conservation which allows no development. He stated that if Mr. Napolitano takes his developable acreage of 261.5 acres then he is allowed, by right, 594 homes on that piece of property as it sits currently. He said that they would lose some of the homes due to building roads etc. He believed Ms. Bevan had made an assumption that the developer would develop it at 63% which would be roughly 377 homes. Dr. Pope explained that if he has done his numbers correctly and if nothing changes at all, Mr. Napolitano can build 594 homes. He explained that on the spreadsheet, the second table is for attached residential and suburban residential with cluster development. The total number of units that Mr. Napolitano could build if the zoning ordinance is changed would be 1,451 units. His first proposal was for 1,106 and he revised the number to 812 for the current application. He stated that by right, he can build 594 units, but Mr. Napolitano has asked for 812 units. The second page of the spreadsheet speculates on the 'what ifs.' What if the Planning Commission asked him to change it all to Neighborhood Residential? He stated that in that case, Mr. Napolitano can build 523 homes which would be two units per acre. What if the zoning changed to Suburban Residential Conventional? He said this scenario would allow for 785 homes. What if it was Suburban Residential Cluster only which has different densities per acre? He stated that Mr. Napolitano could build 4.5 units per acre which would be 1,177 for cluster only. Dr. Pope stated that if Mr. Napolitano sold the property then he believed other developers would develop with more density than the current proposal. Dr. Pope stated that Mr. Napolitano is in line with what is going on at Wellington Estates and at Battery Park. He said the applicant owns 8% of the Town, based on acreage, whether we like it or not and that if approved he would increase the population of the Town by 20%. Dr. Pope stated that he believes Mr. Napolitano's environmental plan is strong. He said most developers would create waterfront lots because they get more money for waterfront than water view lots. He said the developer has increased the RPA and that it has been designed so that no one can touch the RPA. He said the people that live across the creek may see the homes

but there will be 125 dense acres that no one can touch. He believes that Mr. Napolitano could develop the property much more densely than he has proposed. He stated that the Town ordinance states that there must be 20% open space and the proposed development has 27% open space. He said it is not congruent as one large piece, but the total is 27% open land. The open land cannot be touched once it is proffered and approved and he believes that is favorable with regard to the application. Dr. Pope assumes that water and sewer upgrades will all be worked out with the engineers. He stated that Mr. Napolitano has agreed to make all necessary changes if the application moves forward and the engineering begins. He said that the developer also has a VDOT plan and that the Town cannot control what VDOT does, but he assumes that they will do what they have to do. He said that the school system has indicated that they can accommodate the new students. He stated that the police department adapts as necessary and that the fire department has also commented on the application. Dr. Pope stated that, if the application does not move forward and is rejected, he fears that the proposals would be worse in the future. He understands the citizens' comments that the Planning Commission can always say no but he feels it is an incredibly strong proposed plan. He said that in looking at the Future Land Use Map and the Comprehensive Plan for Battery Park North, many citizens commented on items but they also left many out. It allows for 1-3 houses per acre and Mr. Napolitano is at 3 houses per acre. He said the applicant is also taking a huge risk with the shrink/swell soil because when he gets all of the environmental studies done then the number of units may be reduced. He said that is the developer's risk and not the Planning Commission's problem. He believes the community will rally and is made up of individuals and not subdivisions. He offers that how we respond, how we treat people, how we treat our neighborhoods and who lives where should not make any difference and that we are all in this together. Dr. Pope stated that he is in favor of the developer who has rights. Dr. Pope stated that the developer has rights, and he is going to support the development since it is a much stronger plan than anything he has reviewed so far.

Vice Chairman Bryan stated that he has wrestled with the proposed plan and that it has been one of the most difficult applications presented to the Planning Commission since he has been involved. He read a prepared statement which reads as follows: "As Planning Commission members, we are tasked with making recommendations to the Town Council to avoid political influence in the decision-making process with any applications put before us. We, the Commission, must objectively consider all applications and the concerns of the Town citizens without the hampering necessity to be elected. The Comprehensive Plan is a primary tool in this Commission's guidance. The Comprehensive Plan is an evolving document. There are changes being considered now as we speak. And yes, it can be one aspect in the decision to deny an application. Also, the CP is meant to manage growth in a manner to extract the best values of future land use in regard to the well-being of the municipality, its communities, and its citizens. I understand the overwhelming opposition to the applicant's development plan. I recognized that many citizens have studied the CP and have drawn their own conclusions; but I have not seen any valid alternative solutions for the use of the land under consideration. Not to be unsympathetic to the citizens but as Commission planners, we must be cognizant of the 'Nimby' phenomenon (not in my back yard) of citizens who will not be receptive to any change near their homes and community. Another aspect of the decision is that the Planning Commission may be unreasonably

harmful to the landowner. Fundamentally, I do not think many of us would appreciate the well-intended use of our properties to be unreasonably restricted by governmental appointees. Mallory Pointe has been in the making since 2005. The developer has made some shrewd moves to get his application before the Commissioners as it is now to extract the best values of the Mallory Pointe parcels. Truth be told, infrastructure is lacking. Infrastructure, as it is now, is lacking for the current daily usage. The Mallory Pointe proposal provides relief in several of those areas. As the application has come before the Planning Commission several times, the citizens and the Commissioners have expressed their objections to it. Mr. Napolitano and his team have made concessions to satisfy many of those objections. The applicant substantially dropped the number of homes and types of homes that were initially requested. He interprets that as a sincere effort on his part to work with us. He accepts the proffers and triggers included in the application. Of course, the applicant must address corrections requested by the various agencies noted in their latest analysis. In addition, in the interest of fairness, I recall the events surrounding the Pierceville property and the hardship of the owner to dispose it. A vocal few made it quite difficult for the landowner and the buyer/developer eventually backed out. Now with new ownership, the property may be up for development again. I find it hard to believe that a vocal few will be able to stop it again. With that said, it is my position that all landowners and developers should be given a fair and equal chance to use their land that meet the requirements of managed growth as recommended by this Commission.”

Mrs. Hillegass asked if the application requests should be voted on separately or as a package.

The Town Attorney stated that either way would be fine. He explained that the application is integral because all aspects of the application all depend on each other and makes the proposal feasible.

Vice Chairman Bryan stated that some of the enclosures have had updates since the last meeting.

Chairman Pack stated that Mrs. Clary mentioned it in her report.

Mrs. Clary explained that there were updates submitted since the last meeting. Enclosure 5 was the Smithfield Community Development & Planning Department. Enclosure 6 is for Isle of Wight County Utility Services and enclosure 7 is from VDOT. The letter from VDOT is the same letter placed on the table that you saw at the May 11<sup>th</sup>, 2021 Planning Commission meeting. The Smithfield Utility Department enclosure and the Draper Aden and Associates enclosures were also included in the packet.

The Town Attorney explained that, at the last meeting, a letter from VDOT was discussed. VDOT recommended that all traffic improvements shown in the proposal be itemized and enumerated in the proffered conditions. Mr. Riddick met with the developer’s legal counsel and explained that it would be required. The developer has the opportunity to do that before the Town Council’s public hearing. He had read through the items briefly and assumes it’s what has been done; but if it has not then it will be a problem. It was discussed at the last meeting. The developer did not object even though it is an unusual recommendation by VDOT.

Vice Chairman Bryan explained that he had concerns about the water and sewer. It would be helpful to have someone from public works to attend the meeting and answer questions.

The Town Attorney explained that any new development has to pay for the necessary infrastructure no matter what it is. The Town has adopted zoning requirements, utility standards, and road standards. All of the standards are part of an adopted plan and requirements for development within the Town of Smithfield. If the project moves forward, all infrastructure plans will have to meet the standards and the developer has to pay for them. If the general concept is approved, the developer will have to have plans engineered and designed. Those plans will be submitted to the Town for review in a very lengthy process. Everything will be vetted and approved to meet the Town's standards.

Vice Chairman Bryan explained that he had questions about the proposed grinder station. He understands that further engineering will be done, and the Town will work the details out. He asked how Mr. Napolitano ranked as far as homebuilders in the area.

Mr. Napolitano stated that he is in the top three. He has surveys from his homeowners to back that up.

Vice Chairman Bryan asked about phosphorous and the earlier statements about it being eliminated.

Mr. Napolitano stated that phosphorous has been eliminated from residential fertilizers in the state of Virginia. As far as commercial use for farming, he was not sure. Maryland did it originally and they eliminated a great percentage of pollution from algae blooms that were happening. Virginia decided to take the same course.

Dr. Pope made the motion to approve the development for recommendation to Town Council as presented with all necessary waivers to include confirmation of the Bradley contract acceptance and the proffer statements are cleared up by Mr. Settle's enclosure requiring specific wording for clarity. He made a motion to recommend the proposal to Town Council with those conditions. Vice Chairman Bryan seconded the motion. With no further discussion, Chairman Pack called for the vote.

On call for the vote, seven members were present. Mrs. Hillegass voted aye, Mr. Swecker voted aye, Mr. Torrey voted nay, Dr. Pope voted aye, Mr. Raynard Gibbs voted aye, Vice Chairman Bryan voted aye, and Chairman Pack voted aye. There was one vote against the motion. The motion passed 6 – 1.

Mr. Swecker explained during the vote that he concurred with Dr. Pope. He was initially against the proposal but explained that the developer has listened to the citizen concerns and adjusted the proposal and resolved issues over the last few months.

Mr. Gibbs stated that it was one of the hardest decisions he has ever had to make. He moved to Smithfield 13 years ago and he was glad the doors were not closed to him.

#### **Approval of the Tuesday, May 11<sup>th</sup>, 2021 Summary Meeting Minutes.**

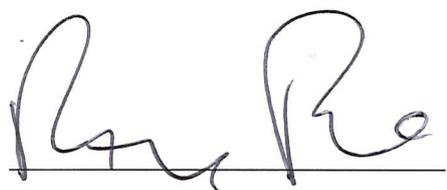
The Town Attorney recommended the minutes be approved as presented.

Mrs. Hillegass made a motion to approve the minutes. Dr. Pope seconded the motion. Chairman Pack called for the vote.

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

Smithfield Planning Commission  
June 8<sup>th</sup>, 2021

The meeting adjourned at 8:25 p.m.



Randy Pack - Chairman



Tammie Clary – Community  
Development & Planning Director