

The Smithfield Planning Commission held its regular meeting on Tuesday, June 9th, 2020 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
Lilton Marks

Staff members present:

John Settle – Community Development & Planning Director
William H. Riddick, III – Town Attorney

There were two (2) citizens present. Chairman Pack welcomed everyone to the meeting. All in attendance stood for the Pledge of Allegiance.

Community Development & Planning Director's Report:

Mr. Settled stated that the Town Manager is encouraging all members of the Planning Commission to attend one of this year's several remaining Certified Planning Commissioner programs offered by Virginia Commonwealth University. For more information, please contact Mr. Settle.

Upcoming Meetings and Activities:

Tuesday, June 16th, 6:30 PM – Board of Historic & Architectural Review Meeting
Monday, June 22nd, 3:00 PM – Town Council Committee Meetings
Monday, June 22nd, 6:00 PM – Continued Town Council Meeting
Tuesday, June 23rd, 3:00 PM – Town Council Committee Meetings
Tuesday, July 7th, 6:30 PM – Town Council Meeting
Tuesday, July 14th, 4:00 PM – Pinewood Heights Management Team Meeting
Tuesday, July 14th, 6:30 PM – Planning Commission Meeting

Public Comments:

The public is 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. Any required response from the town will be provided in writing following the meeting.

There were no public comments.

Planning Commission Comments:

Vice Chairman Bryan explained that, over the weekend, there was free fishing in Virginia without a license. He was out and passed the boat ramp at Clontz Park. He was amazed at the number of people using the ramp. The Town is doing a fine job providing services and amenities to the citizens of Smithfield.

Mrs. Hillegass mentioned that if the Town ever needs to get a handle on short term rentals to not mimic Virginia Beach. Mr. Settle stated that the Town is looking into it now. Staff has endeavored on a text amendment for short term rentals. Mrs. Hillegass stated that what is going on in Virginia Beach is cumbersome for owners, staff, the Planning Commission, and the City Council. Her recommendation is for them to be administratively approved. Mr. Settle stated that certain aspects of the Virginia Beach program were looked at favorably. Staff is looking into calling most short-term rentals “home stays.” Those are instances in which an individual owns a house, lives there, and wants to rent a room or series of rooms to someone coming from out of town. Inversely, other instances in which owners do not live in the home and operate a perpetual weekend rental home would have to acquire an SUP under the proposed text amendment.

There were no other Planning Commission comments.

Public Hearing – Special Use Permit, Site Plan Amendment & Entrance Corridor Overlay Design Review Applications (After-the-Fact) – 1409 S. Church Street, Robert & Anne Little, applicant:

Mr. Settle explained that the applicants have been using the western portion of Lot 512A, S. Church Street for the display of plant materials during the warmer months for a number of years. They now wish to permanently improve this area for this purpose. Prior to these improvements, the applicants noted that there was an ongoing problem with standing water in this area of their property. With the exception of item five (5) below, the applicants have already constructed the following improvements on the premises:

- (1) An approximately forty-six foot by sixty-five foot (46’x65’, or approximately 2,990 square foot) paved outdoor display area for plant materials on the premises.
- (2) A subterranean irrigation system to service item one (1) above.
- (3) An approximately eighteen foot by thirty-foot (18’x30’, or approximately 540 square foot) greenhouse.
- (4) Approximately 128 square feet of walkways to connect the plant display area to the existing parking lot.
- (5) Two (2) forty-two inch (42”) tall white-colored vinyl accent fences that will border either corner of the paved outdoor display area closest to S. Church St.

Because the applicants’ project is located within the Entrance Corridor Overlay (ECO), and entails a number of permanent exterior improvements to a property with a preexisting major site plan approval given by the Planning Commission on Tuesday, December 8th, 2009, the applicants must apply for ECO design review, as well as a site plan amendment. In order for Town staff to permit certain components of the proposed improvements, the applicants must also

apply for a Special Use Permit, specifically for a “waiver of yard requirements . . .” pursuant to Smithfield Zoning Ordinance (SZO) Section 3.I.C.28. The applicants are requesting relief from the following standards of the SZO:

- (a) The retention of the greenhouse’s position in a front yard area, which conflicts with SZO Sections 2.P.5 & 13.B. Specifically, the applicants propose a 16.8’ encroachment into the front yard.
- (b) The retention of the greenhouse’s position in a side yard area, which conflicts with SZO Sections 2.P.12 & 3.I.E.2.b. Specifically, the applicants propose a 13.8’ encroachment into the side yard.
- (c) The allowance of the paved walkway from the parking lot to the greenhouse and outdoor display area to cross over an existing lot line in a zoning district in which zero lot line development is not permissible.

The language of SZO Section 3.I.C.28 reads (in full): *Waiver of yard requirements, subject to the prohibition of parking in front yards.* A strict application of this language would imply that, as a consequence of receiving an approval for this SUP, the applicant would no longer be able to utilize the near entirety of their parking lot. To avoid an unintended consequence, the applicant is applying for an additional SUP item as a part of this application- specifically for a “waiver of parking and loading requirements” pursuant to SZO Section 3.I.C.30. This waiver is intended to eliminate the prohibition of front yard parking provision of SZO Section 3.I.C.28. Town staff recommends approval of the applicants’ ECO design review and site plan amendment applications contingent on the Town Council’s approval of the SUP applications. Additionally, Town staff recommends that the Planning Commission report favorably to the Town Council on the SUP applications. Both recommendations are made with the condition that the applicants resolve any comments generated on the site plan by the Isle of Wight County Stormwater Division prior to Town staff’s issuance of a zoning permit.

Chairman Pack asked Mr. Settle about the property line and property owners. Mr. Settle explained that the hardware store property and the vacant lot are both owned by Mr. Little.

Mrs. Hillegass asked about the surface the applicant used. Mr. Settle explained the applicants used moon dust. It was the applicants’ understanding that moon dust would not be classified by the state as impervious cover. However, it is classified as impervious cover.

Mr. Swecker asked if the greenhouse was just a frame. Mr. Settle stated that it was just the frame the last time he saw it. Mr. Swecker stated that it had been there for years and asked why it had to be included in the application. Mr. Settle explained that imagery of the property that is publicly available indicated that the greenhouse was not in its current location until relatively recently, and that even the frames of buildings and structures designed to be interchangeably covered with different materials are classified as impervious cover with the state, owing largely to their versatility.

Dr. Marks asked about the after-the-fact portion of the application. Mr. Settle explained that when staff becomes aware of an after-the-fact scenario they issue a stop work order immediately. In any jurisdiction, there are after-the-fact scenarios. Staff is catching them and asking for compliance with the ordinance. Staff is doing everything in their power to handle these with respect and understanding. They are very sensitive cases.

Mr. Little, the applicant, manages and operates Smithfield True Value. He explained that he has been using the property for the last two years to put plants on. The property was muddy and did not drain well. He filled it in and put the moon dust down. He believed the water would drain through it. He did not realize the grass would grow through it as much as it has. He received a stop work order. The sprinkler system is not an inground system. It is pipe laying under the edge of the ground and supplied with a garden hose. In the Fall, they disconnect the hoses so they will not freeze. They were improving the site for their customers. It was a very successful season. The greenhouse has been on his property since 1995. It is a portable greenhouse.

Mr. Swecker stated that the greenhouse is temporary not permanent. The Town Attorney explained that the ordinance requires compliance even for temporary structures.

Dr. Pope stated that the greenhouse would likely remain in that location year after year.

Mr. Swecker stated that the grass is coming up between the moon dust. It will likely need cutting and most would not know that the moon dust was even there.

The Town Attorney stated that moon dust is classified as impervious by the state. The applicant chose to use it and now needs permission from the Isle of Wight Stormwater staff and the Town. Moon dust packs very well. It is the same product that is on the Windsor Castle Trails.

Mr. Little explained that the water goes through it even though it is classified as impervious. He has not had any standing water issues since he put it down. The grass is coming through it now, but he did not want to do anything else with it while he had a stop work order posted.

Chairman Pack declared the public hearing open and asked if anyone would like to speak for or against the application. There were no speakers. Chairman Pack closed the public hearing and asked for consideration by the Planning Commission.

Chairman Pack stated that staff recommends approval of the applicants' ECO design review and site plan amendment applications contingent on the Town Council's approval of the SUP applications. Additionally, Town staff recommends that the Planning Commission report favorably to the Town Council on the SUP applications. Also, any concerns by Isle of Wight County Stormwater Management must be resolved by the applicant prior to the Town issuing a Zoning Permit. He asked Mr. Settle if the application has been sent to IOW Stormwater. Mr. Settle stated that it was sent to them and comments were received. They were forwarded to the applicant on Friday. There was nothing out of the ordinary for a typical application where it just

exceeds the 2,500 square foot threshold as this application does. Isle of Wight County Stormwater asked for runoff calculations.

Chairman Pack asked the applicant, Mr. Robert Little, if he had received the comments from Isle of Wight Stormwater. Mr. Little stated that he had not received it by mail. Judson Little stated they had been received on Friday. He did not feel there was anything significant that they could not comply with.

Mr. Settle stated that the comment from Isle of Wight Stormwater stated that “more than 2500 square feet is being disturbed in the Chesapeake Bay watershed. Please provide runoff reduction method calculations to show compliance with the new stormwater part 2.B technical criteria. For a copy of the compliance spreadsheet, directions, and BMP design specifications, please visit the Virginia BMP Clearinghouse website.” The link was provided. Mr. Settle stated that this request is run of the mill for what they normally receive from Isle of Wight Stormwater.

Mrs. Hillegass asked if their BMP can handle it. Mr. Settle stated that he does not know if they have a BMP installed at the location. His guess is that the large size of the property may be accommodating to it. He acknowledged that he had limited knowledge of the stormwater review process.

Dr. Pope asked if the land disturbance was less than 2500 square feet would the applicant have to comply. Mr. Settle stated that impervious cover falls under stormwater. If it was under the 2500 square foot threshold, it is his understanding that the applicant would not have to deal with stormwater management. The applicant is over the threshold due to the greenhouse and the walkways along with the moon dust area.

Dr. Pope made a motion to favorably recommend the SUP application to the Town Council and to approve the site plan amendment and ECO Design Review applications contingent on the Town Council’s approval of the SUP. Both actions were made under the condition that the applicants resolve any comments generated on the site plan by the Isle of Wight County Stormwater Division prior to Town staff’s issuance of a zoning permit. Mr. Swecker 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, Dr. Marks voted aye, Vice Chairman Bryan voted aye, and Chairman Pack voted aye. There were no votes against the motion. The motion passed.

Discussion Item – Smithfield Zoning Ordinance (SZO) Article 2, Section U Text Amendment- Town of Smithfield, applicant:

Mr. John Settle, Community Development & Planning Director, stated that this amendment has been needed for a while. Under the current ordinance, in certain zoning districts, to have something as simple as a home office home occupation, you must get a special use permit. This requires applying to the Planning Commission and the Town Council. It is a tremendous burden for something so simple. Staff recommends removing home

offices/professional offices from the list of home occupations requiring a home occupation permit and making them permissible “by right” anywhere in Town as long as they meet the home occupation standards in Article 2, Section U. The applicant would also have to acquire a business license from the Town. Vice Chairman Bryan expressed a concern about client visits in a home. Article 2, Section U expressly prohibits, that especially when it is unbecoming of the sort of traffic you would expect for a single-family dwelling. He was concerned of the risk of someone opening a home office with crowds of people coming to their home every day. Mr. Settle explained that this item is for discussion only. It is an opportunity for the Planning Commission to express any concerns they may have or changes they may want to see. It could potentially return next month for a public hearing.

Mrs. Hillegass asked if it would prevent all client activity in the home. Mr. Settle explained that the ordinance states “any use which generates traffic to and from the home in excess of what is normally associated with a single-family dwelling shall not be permitted as a home occupation.” Someone would be allowed to have occasional clients in their home.

Chairman Pack stated that the whole point of zoning ordinances is to protect your property and the surrounding property. If you have a professional office in your home and do not have a lot of traffic then that is fine.

Dr. Pope asked if the professional office would be for the owners’ use only. Mr. Settle explained that home occupations can be for owner occupied property and also for tenant occupied property. The language could read “nothing in this ordinance shall preclude an owner/occupant from having a home office in their home.” Mr. Settle asked if that would be better than “professional” office. Dr. Pope stated that it does not apply to people working from home; only people opening a business in their home.

Mrs. Hillegass stated that she is fine with someone having a professional office in their home if they have a business license.

The Planning Commission’s concerns were mainly about traffic, parking, and neighbor complaints. The Town Attorney explained that the ordinance is designed to give people flexibility without burdening the neighbors.

Chairman Pack stated that if someone has a business with customers then they should have a brick and mortar building so that there is not a commercial setting inside a residential dwelling. A business from home that does not require customers in the home would be okay.

Mr. Settle suggested that he change professional office to home office in the ordinance and define each of them.

Chairman Pack stated that a professional office is designed for someone that needs a business license from the Town, does not want to rent a storefront, and will be the only person working in the home.

Dr. Pope suggested that if someone wants a professional office and wants to see customers then it could come to the Planning Commission as a special use permit.

Mr. Settle stated that the Planning Commissioners seem to be interested in a special use permit provision for client visits.

The Town Attorney suggested that there is nothing to preclude someone from having a home office. A professional office that does not have traffic would be acceptable. The Planning Commission could choose to recommend that a professional office with customers in the home obtain a special use permit.

Chairman Pack asked about a home occupation permit. Mr. Settle explained that it is a letter from the Planning Department explaining that the applicants' proposed operations are permissible and that a business license is required. Chairman Pack asked if the traffic issue needs to be addressed in the ordinance. Mr. Settle stated that if traffic becomes an issue for a home occupation, their business license can be revoked. Chairman Pack stated that he would like no customers in excess of what you would expect for a single-family dwelling unless there was a special use permit issued. A special use permit allows for conditions. Each situation would be addressed individually. Town staff could administratively approve home occupations that have no client visits to the home.

Mr. Torrey agreed that a special use permit would solve most of the issues for professional offices.

The Planning Commission reached a favorable consensus on the application's return for a public hearing at the next regularly-scheduled Planning Commission meeting, so long as language was included in the text amendment allowing for professional office home occupations to enjoy client visits to the home in excess of what is normally associated with a single-family dwelling following the applicants' successful acquisition of an SUP.

Discussion Item – SZO Articles 3.L, 3.R, & 10 Text Amendment – Town of Smithfield, applicant:

Mr. Settle explained that over the course of the past year, Town staff have been tasked with rigidly interpreting, administering, and enforcing the Town's sign ordinance. In particular, temporary signage has emerged as a high priority concern for Town staff, the Town Council, as well as the general public. Through this task, Town staff have had the opportunity to work with countless business owners, event organizers, political candidates, and an assortment of community figures- all of these interactions have assisted tremendously in forming Town staff's understanding of the strengths and weaknesses of the existing sign ordinance. Through the input of these groups and individuals, Town staff became convinced that the existing sign ordinance was not only in need of revisions; it was in need of replacement altogether. To better serve, enable, and protect the property owners, businesses, and residents of the Town, Town staff propose the complete repeal and replacement of the sign ordinance- Article 10 of the Smithfield Zoning Ordinance (SZO). In summary, the proposed text amendment seeks to migrate all

signage regulations into Article 10, while also eliminating duplicate language. Additionally, the text amendment would bring Article 10 into compliance with the *Reed, et al. v. Town of Gilbert, Arizona, et al. (2015)* decision, while also relaxing the Town's standards for temporary signage. *See the staff report and attachments for this particular agenda item for more details.*

Chairman Pack asked Mr. Settle about the removal of signs. Mr. Settled stated that the new ordinance states "temporary signs on private property may be removed by the Administrator if the violation is not corrected within seven days of the date of written notice sent to the violator." Most violations are with businesses. Staff goes into the business and speaks to them about the sign. The owner is given a letter, a copy of the permit application, and ordinance language. The owners are advised to get a permit or take the sign down. It is hand-delivered and seven days from that date, if the sign is still there, then it would be removed by Town staff. With the new language, the only time someone would get a letter is if their sign conflicted with the proposed temporary sign standards which should be a rare instance moving forward.

Dr. Pope asked about the A-frame sign boards that businesses put out on a daily basis. Mr. Settle explained that the current ordinance allows A-frame signs in the historic district. It was a text amendment that was made a few years ago to allow A-frame signs on sidewalks. A-frame signs are addressed in the amended ordinance. It states that they cannot exceed twelve square feet in area and are limited to 6 months. However, if a business wanted to keep their A-frame sign out every day, they could if they acquired a temporary sign permit from the Town. The temporary sign permit certifies that the sign complies with the ordinance. It would be administratively approved by Town staff unless the Planning Commission wants to approve every sign. The Town could allow for permanent temporary signs especially for A-frame signs for the historic district as well as other areas of Town. The placement of temporary signs is usually the concern for Town staff since they are easily moved. There is a standard in the ordinance which states "signs cannot obstruct pedestrian travel on a sidewalk to such an extent that the Town Engineer shall find the signs' placement unsafe."

Chairman Pack asked if the temporary sign permit paperwork would actually be needed. Mr. Settle explained that if the owner is following the guidelines it is not needed. The ordinance states "with the exception of recurring signage, temporary sign permits are only required for signage that conflicts with the standards." If the business owner is complying with all of the items, they do not need a temporary sign permit.

Inflatable signs and their ambiguities were discussed. Business owners and other applicants would have to apply for a temporary sign permit for these signs if they conflicted with the proposed temporary signage standards.

Mr. Settle stated that he will change recurring signs to not exceed six feet in area and add a reference to the fee structure as directed by the Planning Commission.

The Planning Commission reached a favorable consensus on the application's return for a public hearing at the next regularly-scheduled Planning Commission meeting, so long as the

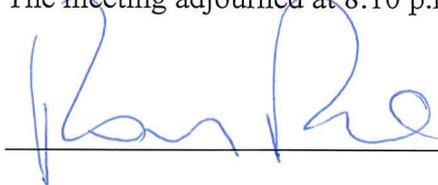
maximum allowable area for “recurring signs” is increased to six square feet, and the proposed replacement Article 10 includes a reference to a fee schedule.

Approval of the Tuesday, May 12th, 2020 Meeting Minutes.

The Town Attorney recommended the minutes be approved as presented. Mrs. Hillegass made a motion to approve the minutes. Vice Chairman Bryan 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, Dr. Marks voted aye, Mr. Swecker voted aye, Vice Chairman Bryan voted aye, and Chairman Pack voted aye. There were no votes against the motion. The motion passed.

The meeting adjourned at 8:10 p.m.



Mr. Randy Pack - Chairman



Mr. John Settle – Community Development
& Planning Director