

The Smithfield Planning Commission held its regular meeting on Tuesday, June 14<sup>th</sup>, 2022, at 6:30 p.m. at the Smithfield Center.

**Members present:**

Charles Bryan – Chairman

Julia Hillegass – Vice Chair

Michael Swecker

Randy Pack

Dr. Thomas Pope

Raynard Gibbs

Michael Torrey

**Members absent:** None

**Staff present:**

Tammie Clary - Community Development & Planning Director

William H. Riddick, III – Town Attorney

Nadya Jaudzimas – Administrative Assistant

T. Carter Williams – Mayor

Valerie Butler – Town Councilwoman

Jeff Brooks – Board of Zoning Appeals Member (awaiting confirmation)

**Press:** Stephen Faleski - The Smithfield Times

**Citizens:** 7

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

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

Tammie Clary, Community Development and Planning Director, reported that the agenda for the meeting had one update since the packet had been distributed electronically. She explained that the update included the removal of the final plat application for Cypress Creek Phase VI Section 2, and added that the application would be added to the July Planning Commission Meeting Agenda.

**Upcoming Meetings and Activities:**

Tuesday, June 21<sup>st</sup>, 6:30 PM – Board of Historic & Architectural Review Meeting

Tuesday, June 21<sup>st</sup>, 7:30 PM – Board of Zoning Appeals Meeting

Monday, June 27<sup>th</sup>, 3:00 PM – Town Council Committee Meetings

Tuesday, July 5<sup>th</sup>, 6:30 PM – Town Council Meeting

Tuesday, July 12<sup>th</sup>, 6:30 PM – Planning Commission Meeting

**Public Comments:**

Chairman Bryan explained that the public was invited to speak to the Planning Commission on any matters, except scheduled public hearings and to please use the sign-up sheet. Comments are limited to five (5) minutes per person. Any required response from the town will be provided in writing. He reported that there had been no one formally signed up to speak, and inquired if there was anyone present

who wished to speak.

Mark Gay of 110 Goose Hill Way in Smithfield reported that it had been 7 years since the citizens had come to the Commission to discuss issues of zoning and the Pierceville property. He requested that as the Commission Members were considering the Comprehensive Plan and the proposed mixed-use zoning that they think about two things. He reported that in August of 2015 the citizens had spoken in a public hearing at a Planning Commission meeting about how the Pierceville property was historic for reasons outside of the building and the outlying farm structures. He explained that it dates back to 1635 when it was deeded to Joseph Cobb as a planner for the King of England. He continued that the 38 acres are the last non-developed acreage of that land grant. Mr. Gay recalled that Dr. Pope had inquired a few meetings back about what the citizens would like to see done with the property and added that the citizens had been stating since 2015 that they would like to see the property remain as it is currently zoned in Community Conservation/Agriculture purpose. He reported that several residents had come forward with suggestions as to how it could be developed and that he had written a letter to the editor of the newspaper with what he would like to see on the property. He stated that what he would like to see done was the same as what he reported 7 years ago: a landscaped tennis park, outdoor pool, recreational trails, and other things that compliment the quality of life in the Town. He added that he did not want to see a “concrete jungle.” Mr. Gay stated that the citizens had been told that there had been no proposal to review. He suggested that there are members of Town Council who have the proposals, and had them for several months. He challenged the members of the Commission to be inquisitive as to what is really happening at the property and question why they have been considering a rezoning of the area. He additionally asked the Commission to consider where the Town was headed. He reported that he had heard from citizens who had attended every session with the consultants from Richmond for the Comprehensive Plan update and that no one ever stated they were comfortable with the demolishing of the Pierceville property and declaring Downtown Commercial rezoning for all of it. He questioned where the idea came from. He gave the example for comparison of the historic area of Edenton, North Carolina reporting he had spent a recent anniversary there and they had blocks of well-preserved and maintained historic structures. He stated that Edenton had focus on community conservation, and asked the Commission to consider this in their deliberations. He expressed appreciation to each of the Commission members for what they had done in the past few months.

Bob Hines of 216 Washington Street in Smithfield reported that he had brought information given to him that were the “Conceptual Master Plans” for 10 Grange dated December 2021. He reviewed that the original proposed building height of 60 feet had been a sticking point for him. He reported that he had heard from “someone who knows,” adding he must have missed it when it was discussed in the meetings, that the original building height was a “clerical error.” He displayed a photo of the proposed development and reported that the picture dated December 2021 shows a 4-story building that would likely be higher than 35 feet. He stated that the citizens had been chastised because nothing had been proposed, added that there has been a proposal, and it’s been there since December. He speculated that the conceptual plans were made with the thinking that they would ask for a variance or Special Use Permit (SUP), and acknowledged that he did not know. Mr. Hines stated that he had hoped that the Commission and the Town Council would have questioned the proposed plans. He recalled a previous statement made by Dr. Pope that the Commission should not allow perimeters to be set too big from the start. He added that this could lead to the possibility that the developer would be told that Commission

didn't like the proposed plan, but then the developer could rightly say that it was in the zoning allowances and question why they could not proceed. He continued that the citizens had hoped the Commission and the Town Council would tell the developer that there would be no variances for really tall buildings, so that their time would not be wasted asking for an SUP or variance. He added that he did not know if that could be done or not. He made the comparison between elected officials in DC and the Town Council that they seemed to think they knew better than their constituents once in office. He continued that there were many people saying that they love Smithfield and want what it best for the town, but related that what one person felt was good for the Town was not necessarily what another person felt. Mr. Hines stated that everyone needed to figure it out together, not just a small group of people.

Chairman Bryan asked if there was anyone else who wished to speak. Seeing and hearing none the public comment section was closed.

**Planning Commission Comments:**

There were no Planning Commission Comments.

**\*Action Item\* Town of Smithfield Comprehensive Plan – Town of Smithfield, applicant.**

Mrs. Clary reported that at the guidance of the Planning Commission at its Tuesday, May 10th, 2022 meeting, Town staff have provided a final draft version of the Comprehensive Plan, updated by the consultants (Summit Design and Engineering). She added also included were comments received from the Virginia Department of Transportation (VDOT, received on May 12th, 2022), and Staff proposed comments/edits, all of which have been incorporated into the final draft version.

Chairman Bryan inquired if there was any discussion from the Planning Commission members.

Dr. Pope confirmed with Mrs. Clary that the VDOT information was just clerical information that needed to be updated, adding that it had been confusing to read through their comments.

Mrs. Clary directed the Commission members to review the end of the email attachment in the staff report, there were 4 suggestions that the consultants recommended in response to VDOT's comments: 1. Adding clarification on the year for the maps included 2. Update the imagery for the Berry Hill area 3. Simplifying maps using a color-coding schema 4. Include the VDOT terms of VTrans (Virginia's multimodal surface transportation plan) and their SMART SCALE Projects, which is defined by VDOT as System Management and Allocation of Resources for Transportation: Safety, Congestion, Accessibility, Land Use, Economic Development, and Environment.

Chairman Bryan asked for confirmation that all of the recommended revisions had been made.

Mrs. Clary stated this was correct and that all the staff edits had been included for the Commission's reference. She reported that this information had included updates to fix grammatical errors and suggestions given by staff members at the previous Planning Commission meeting.

Chairman Bryan reported that he wanted to comment on the figure on page 83 that referenced VTrans which was dark blue and did not have enough contrast for the information included.

Mr. Pack inquired if he meant the figure on page 86, and Chairman Bryan confirmed this was the page he meant. Mr. Pack additionally pointed out that this was on page 51 of the PDF.

Dr. Pope reported that he was happy with the document that had been proposed and that the Commission had worked on for the past several months. He made the motion to recommend the

Comprehensive Plan as presented to the Town Council.

Vice Chair Hillegass seconded the motion.

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

**\*Public Hearing\* Special Use Permit Application (Retail Sales Establishment with No Exterior or Store Front-Displays) – 1100 South Church Street – Danny Hughes C/O CD Hughes Properties I LLC, applicant**

Mrs. Clary reported that the applicant is seeking approval for Special Use Permit (SUP) for a retail sales establishment with no exterior or store-front displays pursuant to Smithfield Zoning Ordinance (SZO) Article 3.G.C.1. The proposed use would be for the retail sales of bagels, (arriving daily from NC), eliminating the need for an industrial-style kitchen. She reported that there will be no structural or exterior changes to the structure, as the building is already being used by the applicant as an office, and added that the applicant expects to hire one (1) full-time manager and two (2) part-time employees and expects twenty-five (25) to thirty-five (35) patrons per day for days of operation (Wednesday through Sunday). The proposed use will be take-out only with no dine-in option. She added that the applicant also proposed to increase the amount of parking from six (6) spaces to eleven (11) spaces, with a dedicated as a handicapped parking space. Mrs. Clary reported the applicant was aware additional requirements from the Department of Health may also be required for operation.

Mrs. Clary stated that positive aspects of the application were it provides additional retail sales options in the South Church Street corridor. She added that a negative aspect was that it was not a by-right use in the Residential Office District and does require a SUP.

Danny Hughes of 1100 South Church Street in Smithfield was present to speak regarding the application. He reiterated what Mrs. Clary had reported stating that his goal was to repurpose existing office space once the current tenant had moved and try something new to him. He stated that he felt that the proposed business was good for the Town of Smithfield and would offer something currently not available at other establishments. He added that it would enhance the uniqueness and charm of small-town living. He continued that there would be no improvements to the building and no exterior changes or displays.

Chairman Bryan inquired about how Mr. Hughes intended to handle marketing, more specifically if any signs would be added.

Mr. Hughes stated that there was a marquee sign up currently for the main business of the Hughes Agency that they could add the bagel business on to, social media would be utilized, and word of mouth as it was a small-town operation. He reported that he was unsure if he would put a flag out that said “bagels” on it, and added that the Commission would be updated if they did. Mr. Hughes stated that the business would be taken on by one of his children, and would be very small.

Chairman Bryan asked Mr. Hughes if he was aware that if he changed the sign that he would need to return to the Planning Commission for approval.

Mr. Hughes asked for clarification of what changes would constitute this.

Mrs. Clary stated that there could be administrative approval within the Entrance Corridor Overlay (ECO) if it met a certain square footage.

Mr. Hughes clarified that the sign itself was a marquee sign, and only the lettering would be changed out. He added that the sign had already been approved for use on the property, and there would be no changes to the structure of the sign.

Mr. Torrey inquired if there would need to be any site plan review for the proposed parking changes.

Mrs. Clary reported that the Town Staff had reviewed the submitted expansion of the parking lot to ensure that there was enough parking spaces planned for both uses at the site before bringing it to the Planning Commission for review. She added that Town Staff would be issuing a zoning permit waiver for the expansion.

Mr. Torrey inquired if there would be no additional oversight after tonight if the application was approved.

Mrs. Clary explained that approval would mean a favorable recommendation to Town Council for the SUP for retail sales.

Vice Chair Hillegass inquired if there would be any additional landscaping required.

Mrs. Clary stated that there were currently no exterior changes submitted.

Dr. Pope asked if there were any special considerations needed to ensure that it met Americans with Disabilities Act (ADA) regulations as there would be an additional handicapped spot added.

Mrs. Clary stated that staff would check with Isle of Wight County regarding any additional ADA requirements. She explained that when the zoning permit waiver is issued the County would receive the information as well.

Dr. Pope asked if the tenant that is vacating, CBX Modular Homes, had a sign in front of the building as well.

Mr. Hughes explained that the front sign had panels that could be removed without changing the actual structure.

Mr. Pack observed that the proposed parking expansion is gravel. He inquired if allowing gravel was by-right or was it also a special exception. Mr. Gibbs stated this was his question as well.

Mrs. Clary reported that it was an expansion of the current gravel parking lot that exists on the property.

Mr. Hughes explained that there is a concrete pad on one side of the existing parking area and then the other parking spots are essentially old asphalt that has crumbled into rock.

Mr. Pack reconfirmed that there is paved, existing parking and the proposed parking expansion is gravel. He stated that his question to Mrs. Clary was if gravel was acceptable in that area.

Mr. Hughes asked to address the point made by Dr. Pope regarding ADA compliance, adding that he would use the paved area as the handicapped parking area and there was an existing handicap accessible ramp next this area as well.

Mrs. Clary clarified that if there were any issues with the expansion of gravel parking in the Entrance Corridor Overlay (ECO), the applicant would be required to come before the Planning Commission for ECO approval. She reminded the Commission that the application for review was solely for the permitted use of retail sales.

Chairman Bryan asked if there was a motion from the Commission members, and was prompted that a public hearing was to be held.

Chairman Bryan opened the public hearing, asking if there was anyone present who would like

to speak for or against the application. Seeing and hearing none the public hearing was closed.

Mr. Pack stated that he felt it was a great use of the property, and had no problem as long as the gravel area is allowed in the ECO. He acknowledged that this was not the purpose of the SUP applied for at this time.

Mr. Gibbs stated that he was looking forward to bagels in Town as well, and related his personal experience with starting a business with his children.

There was general discussion about working with family members.

Vice Chair Hillegass made the motion to send the application to Town Council with a favorable recommendation. Mr. Gibbs seconded the motion.

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

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

Mrs. Clary reported that the applicant appeared on the May 10th, 2022 Planning Commission agenda for approval for a permanent portable shipping container, approximately forty-foot (40') long by eight-foot (8') wide by eight-foot six-inches tall (8'6") tall on the property located at 825 Jericho Road, painted white. She reported that the applicant is now seeking approval for the shipping container, with the proposal to install horizontal white vinyl siding, while also erecting a pergola style pressure-treated wooden material lean-to structure that would be attached to the left side of the shipping container, painted either white or black (to match the single-family dwelling). Pursuant to Smithfield Zoning Ordinance (SZO) Article 2 Section P.15, Town staff have already issued a zoning permit waiver (March 22nd, 2022) and a zoning permit (#7681 on April 1st, 2022) for the keeping of a portable storage unit until August 22nd, 2022. She reported that the shipping container is currently a rusty orange color and not shielded from view from Jericho Road, Cedar Street, or the Route 10 Bypass.

Mrs. Clary reported that the positives of the application were that it provides additional storage accommodations on the property. She added that the negatives included that the shipping container is considered a temporary permitted accessory structure and does require an appeal to the Planning Commission for an extension exceeding the permitted ninety (90) days pursuant to SZO Article 2.P.15. She gave the update that the applicant had communicated that they were unable to attend the meeting as they had a prior commitment.

Mr. Pack reported that the applicant and his wife had reached out to him regarding the storage container. He asked to share with the Commission what he had received from Mrs. Emmanuel that afternoon. He read from correspondence received that Mr. and Mrs. Emmanuel were attending their daughter's kindergarten graduation, explained that the exterior siding on the garage being constructed would begin soon and the primary theme of the buildings on the property would be modern farmhouse with gables. He continued that the applicants would like to keep the storage container and cover it with the same lap vinyl siding as the house will have with complimentary colors used.

Mr. Gibbs asked for confirmation that this was a temporary storage unit.

Mrs. Clary confirmed, but added that the applicant was seeking to convert it to a permanent structure.

Dr. Pope commented that the type of container they were referring to, Conex boxes, had doors

that swung open at the front and inquired how the applicant proposed to cover those doors in siding while hiding the hardware that allows them to function. He related that he had seen an example in Williamsburg of a Conex box transformed into a shed with siding, but in this example a traditional door was cut in the side while the front swing doors were covered. He acknowledged that it looked good, but that the top had been left flat. He inquired if the Commission were going to consider this as a structure and not just a Conex box, would they allow a structure with a flat roof. He recommended requiring a gabled roof on the structure to match any other permitted storage shed. He added that he had no problem with the applicant covering all four sides in vinyl siding, but he felt that the roof should be appropriate to the Town. He continued that the flat roof gave the structure a modern feel which was not in keeping with the character of the Town.

Mr. Pack related that he had spoken with the applicant that afternoon on the phone and he had suggested to them that it would be questionable for the application to be passed by the Commission, especially with the applicants not attending. He reported that he had told the applicant that if during the presentation he saw that the application was heading toward an unfavorable end that he would recommend tabling it until the July Planning Commission meeting. He reiterated that the temporary storage container was approved through August, and suggested that the application be tabled until the applicants were able to attend and address some of the questions of the Commission. He acknowledged that the Commission did not want Conex boxes in Town, but questioned what compromises could be made if it didn't look like a Conex box. Mr. Pack added that this was an official motion.

The motion was seconded by Vice Chair Hillegass.

Chairman Bryan questioned the effort needed to make the structure permanent, such as adding a foundation and gabled roof. He recalled that the applicant had approached the Commission before about the Conex box and they had been denied.

The Town Attorney explained that this was a new application.

Chairman Bryan stated that if this motion passes, it will set precedence for future applications. He continued that this would then require the Commission to set perimeters for foundation, type of roofing, siding etc.

Dr. Pope stated that this led him to think that the Commission needed to review the zoning ordinances on accessory structures. He added that some of these structures will be governed by Homeowner's Association (HOA) requirements, but he felt that the Commission needed to set a minimum standard for the Town. He gave the example of the Pump Station at Hardy Elementary School to illustrate his point. He stated that there needed to be a certain minimum standard that is expected for accessory structures in Town and then the HOA has something to go by. He added that the HOA's are not governed by an ordinance, and this is why the Town needs a minimum standard. Dr. Pope agreed that if this application was approved, it was going to set a standard.

The Town Attorney stated that this would be an in-depth discussion, as there was the chance that once the minimum standard was set the Commission still would not like it. He reminded the Commission that there was a motion to table the application until the next meeting, and this would enable the members to have a conversation with the applicant regarding some of the intricate details. He echoed that this was a big deal as there had never been Conex boxes allowed in Town.

Mr. Pack explained that that his thought on the Conex box use was if this was a wooden structure with the same dimensions, would it be approved. He expanded that he did not care that it was a freight

box if it didn't look like a freight box. He reminded the Commission that they had told the Smithfield Volunteer Fire Department that they could only extend usage of their Conex box for equipment storage but it could not be permanent and had to be removed. He added that the Commission could not tell the Fire Department no, but tell a homeowner it was ok. Mr. Pack stated that he felt that it was a different situation for the fact that the applicant was willing to alter its appearance. He acknowledged that this was a complicated decision in that the Commission would be setting precedence.

The Town Attorney stated that part of the issue was that this was being used as a structural component with concern lying in what it will look like. He added that if this type of accessory structure is approved, the Commission can expect to see a number of them. He suggested that the Commission think about the issue carefully, as it might be the first but it would not be the last.

Vice Chair Hillegass stated that in some parts of the country there were people building homes out of shipping containers.

Mr. Pack gave an example of a brewery in Charlottesville constructed with several shipping containers. He brought up Dr. Pope's earlier point about the door at the end of the box and questioned how that could be hidden. He added that if a door was then cut in the side it made more sense. He stated that there had been a movement to reuse shipping containers in these ways. He added that his point was that there were other uses for the containers and at some point the Commission would need to address their use.

Dr. Pope stated that if the Conex box is hidden from view he did not have a problem with it. He added that it did not need to be visible from any view.

Chairman Bryan echoed concern for the ability to conceal the doors of the container.

Mr. Torrey inquired what the regulations were if someone were constructing a shed and if the shed was 144 square feet or above did it need to be on a foundation.

Mrs. Clary stated that she believed it was 256 square feet that would require a building permit through Isle of Wight County. She reported that she did not know exactly what the County's foundation requirements were.

The Town Attorney stated that there was not a zoning requirement for that.

Mrs. Clary stated that Town Staff had send the application to Isle of Wight County to see if any additional permits or requirements would be required on their end, and they communicated that there were not.

The Town Attorney reminded the Commission members that there was a motion to table on the floor.

Chairman Bryan stated that there was a motion to table and a second. Hearing no further discussion, he called for the vote.

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

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

Mrs. Clary reported that at the guidance of the Planning Commission at its Tuesday, May 10th, 2022 meeting, Town staff have provided a blue-lined and red-lined version of Article 3.J2 PMUD, Planned Mixed-Use Development District, which was originally the "Planned Corporate Office and

Research District” (PCOR). She gave the reminder that this zoning designation is not assigned to any parcel located within Town limits and is not actively being pursued as a potential zoning designation. She explained that the amendment was in conjunction with the Comprehensive Plan Update, and the proposed red-lined SZO Article is a new zoning district which would incorporate residential, commercial, and light industrial uses, as one planned development. Mrs. Clary continued that this new district would incorporate a variety of by-right uses, while still maintaining certain proposed uses as Special Use Permits (SUP) only and this zoning designation also provides for Planning Commission waivers, giving the Planning Commission flexibility in the development process. The new Article 3.J2 will feature the similar Net Developable Acre calculations and Open Space requirements that are in other zoning districts. Additionally, because of the nature of a PMUD, Pre-application conferences will be required. Town staff recommend a favorable recommendation that the application returns as a public hearing for Town Council.

Dr. Pope stated that he did not have any further comments and felt that the Commission had discussed the document at length.

Vice Chair Hillegass stated that she felt the Commission had covered everything. She made a motion to approve the ordinance in its current form and forward to the Town Council for public hearing. Mr. Gibbs seconded the motion.

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

**Approval of Thursday, May 10<sup>th</sup>, 2022 Meeting Minutes:**

The Town Attorney recommended the minutes be approved as presented.

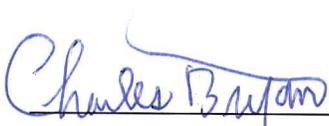
Chairman Bryan addressed a comment that was made by a speaker at a previous meeting regarding his behavior as “condescending” and calling citizens’ concerns out as “sour grapes.” He wanted to let the citizens know that he respected all of the citizen’s involvement, engagement, and input. He added that he would never use that term and expressed concern of how it would reflect in the records.

The Town Attorney addressed the Chairman’s concern and stated that the citizens did have a right to say what they wanted regardless of whether it was true, false, or otherwise. He advised the Chairman to not worry about the comments made by others about him, but concentrate on what he could control himself.

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

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

The meeting adjourned at 7:25 p.m.

  
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Charles Bryan - Chairman

  
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Tammie Clary – Community Development &  
Planning Director