

The Smithfield Planning Commission held its regular meeting on Tuesday, June 14<sup>th</sup>, 2016. The meeting was called to order at 6:30 p.m. Members present were Mr. Bill Davidson, Chairman; Mr. Charles Bryan, Vice Chairman; Ms. Julia Hillegass, Mr. Randy Pack, Mr. Mike Swecker, Dr. Thomas Pope, and Mr. Michael Torrey. The staff members present were Mr. William H. Riddick III, Town Attorney and Mr. William G. Saunders IV, Planning and Zoning Administrator. There were four (4) citizens present. The media was not represented.

Chairman Davidson – I would like to welcome everyone to the Town of Smithfield's Planning Commission meeting of June 14<sup>th</sup>, 2016. If everyone will please stand, we will say the Pledge of Allegiance.

*Everyone present stood and recited the Pledge of Allegiance.*

Chairman Davidson – This is appropriate for Flag Day. Before we begin, I would like to thank Vice Chairman Bryan for stepping up and filling in for me at the last meeting while I got my new knee which is coming right along. Thank you.

Vice Chairman Bryan – Good for you. You are most welcome.

Chairman Davidson – The first item on the agenda tonight is the Planning and Zoning Administrator's Activity Report.

Planning and Zoning Administrator – Thank you, Mr. Chairman. I just want to let you know about two projects that are out there under way. The Clontz Park Public Boat Ramp facility has had one plan submittal and one round of review. We sent comments back to the engineer. We are awaiting a second submittal on that. The Joseph W. Luter Sports Complex is still in the conceptual planning phase. I believe thirty-five (35%) percent plans will be coming shortly. We have not actually done a bona fide plan review on that. It is still conceptual. You will be seeing it before too long.

Chairman Davidson – Our next item is Upcoming Meetings and Activities. We will have a Board of Historic and Architectural Review meeting at 6:30 p.m. on June 21<sup>st</sup>. The Board of Zoning Appeals meeting for June 21<sup>st</sup> has been cancelled. On June 25<sup>th</sup>, we will have Olden Days. The Town Council Committee meetings will be held on June 27<sup>th</sup> and 28<sup>th</sup> at 4:00 p.m. The town offices will be closed on July 4<sup>th</sup> in observance of Independence Day. On July 5<sup>th</sup> at 7:30 p.m., we will have our Town Council meeting. The next Planning Commission meeting will be on July 12<sup>th</sup> at 6:30 p.m. We now have

Public Comments. The public is invited to speak to the Planning Commission on any matters except scheduled public hearings. We do not have any tonight. Is there anyone who would like to speak? Hearing none, we will move to Planning Commission Comments. Are there any members who have any comments? Hearing none, we will move to Preliminary and Final Site Plan Review – Smithfield Foods Southern Parking Lot Expansion – Jarrod Katzer, WPL Site Design, applicants. Could we have a staff report please?

Planning and Zoning Administrator – Thank you, Mr. Chairman. As you have said, this is a parking lot expansion. It is a preliminary and final site plan review. This expansion of the parking lot is on the parking lot just on the other side of the Smithfield Little Theatre. It was expanded once before, I believe in 2008, toward Luter Drive. This time it is going to expand more toward Church Street. It will be on town property. However, Smithfield Foods is doing the construction. Also, the Smithfield Little Theatre's site will be used as a staging area during construction. They are okay with that use. This expansion will add thirty-four (34) parking spaces to the parking lot. It will add a tall retaining wall. It has a pretty large grade as you get further up the hill. It will relocate some wiring that is currently there. They will add to the landscaping and the lighting in the parking lot. The applicants have satisfied all of the town's review comments. However, there are some outstanding Isle of Wight County stormwater division comments as it relates to stormwater management systems. The recommendation from town staff is that we recommend preliminary and final approval contingent upon the stormwater management comments being satisfied administratively.

Chairman Davidson – Is there anyone with the applicants that would like to speak to this matter? Hearing none, does anyone on the Planning Commission have any questions?

Vice Chairman Bryan – Could we expand on the stormwater comments?

Planning and Zoning Administrator – If it is alright, could you gentlemen answer to the outstanding stormwater comments?

Chairman Davidson – Please go to the podium and give your name and address please.

Mr. Walter Weeks – I live at 804 Samantha Lane in Chesapeake, Virginia. I am the Senior Engineer for WPL. As far as the outstanding stormwater comments, there is a minor design item that we are modifying based on existing soil conditions for the site. The actual layout of the system will not change. Anything that is seen to the public will not be changed. It is strictly underground with minor modifications as requested by the county.

Vice Chairman Bryan – Thank you.

Chairman Davidson – Does anybody else have any questions?

Mr. Pack – Mr. Chairman, I recommend that the preliminary and final site plan approval of this expansion be given contingent upon the applicants resolving the stormwater comments from the county adequately.

Ms. Hillegass – Second.

Chairman Davidson – A motion has been made and properly seconded. All in favor say aye, opposed say nay.

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

Chairman Davidson – Our next item is Zoning Ordinance Amendment Review – Chesapeake Bay Preservation Area Overlay District Ordinance – Town of Smithfield, applicant. Could we have a staff report please?

Planning and Zoning Administrator – Thank you, Mr. Chairman. This is an update to Article 3P of our Zoning Ordinance which is the Chesapeake Bay Preservation Area Overlay District Ordinance. There are several things that have changed; partly due to state legislation and partly due to program changes here locally. Several changes have accumulated so we need to amend the ordinance. Some of these changes relate to the stormwater law changing a lot of what was in the Department of Conservation and Recreation being moved over to the Department of Environmental of Quality. Partly it has to do with stormwater law in the town relinquishing its stormwater program and allowing Isle of Wight County to take that role for the town. Also, the septic tank pump out program portion of the ordinance has changed. The county, some time ago, allowed

septic tanks to be inspected rather than pumped out by certified individuals. We wanted to add that to our ordinance so that is in there as well. There are other minor issues in revisions such as adding the ability to remove plants or nuisance species from the RPA. I am going to go through these page by page. I will just make a slight note about each change. I will not go into too much depth. If anybody wants to stop me for questions, feel free. I do recommend, if you all are comfortable with this, to take it to a public hearing next month. We will go through it in more detail at that time. On page 2, you can see where the section changed from 10.1 to 62.1 which was the change from Department of Conservation and Recreation (DCR) to the Department of Environmental Quality (DEQ) as it relates to the section in the state regulations. On top of page 4, these changes had to do with stormwater law change. Page 8 was just a shift in the state code. On page 9, we added nuisance species to what could be removed from the Resource Protection Area (RPA). On page 10, we had some changes that have to do with the stormwater law and language related to the county's program. On page 13, again, this relates to nuisance species in the RPA. On page 15, these are strictly changes in location of the state guidelines. On page 25, there is a reference of the county's stormwater ordinance. I missed page 24 which was just a technical date that had to do with the Federal Manual. On page 26, most of these changes had to do with the shift from DCR to DEQ. There were some updates to the silvicultural handbook. On page 30, there were some technical changes. This is a section where we added the ability for inspections to septic systems rather than having to pump them out every five years. Page 32 has state code changes. We also took out the requirement for pump outs every five years. The same is on page 33. It refers to the five year inspection. On page 34, there are state regulation definition changes. The effluent filter previously had to be a plastic device. There are different types of these so we struck 'plastic' for that. Page 35 has to do with the inspections of septic systems. On page 36, filters are referred to again. On page 37, there is information about the septic tank pump out program. On page 38, once again, we added the ability for inspection. They are all pretty straight forward. If you have any questions, I will be glad to answer them. If you all are comfortable with it, we will advertise for a public hearing next month.

Chairman Davidson – Are there any questions for Mr. Saunders?

Vice Chairman Bryan – You said that the town is not continuing its stormwater program which is why the county is making improvements. Is that correct?

Planning and Zoning Administrator – Yes. The last stormwater law changed a lot of the things we were doing. We had our own stormwater program. When we had site plan reviews, they had stormwater management systems. We would send them out to third party independent consultants for their review. We also did some things with erosion and sediment control on the commercial side. When the stormwater laws changed, it seemed logical; because we were a town that was so small that we did not have to have our own program. The county was going to start collecting a fee to cover the cost of their program. We were already doing commercial erosion and sediment control and they were doing residential sediment control. It seemed logical for us to kind of switch that. Now we do the residential erosion and sediment control and they do the commercial erosion and sediment control in the stormwater reviews and inspections. That way they are collecting fees to cover the cost of their stormwater program. We relieve them of the burden of individual residences for erosion and sediment control reviews and inspections. It is kind of a swap. Once we hit ten thousand in population, in the town, we may be taking that program back. Until that point, we send our plan reviews to the county for their review under their stormwater management program.

Vice Chairman Bryan – Thank you.

Dr. Pope – I have a question but not specifically about this draft. Who manages the Chesapeake Bay Act? Is that local, county, state, or federal? Is Maryland doing the same thing that Virginia is doing?

Chairman Davidson – Yes.

Dr. Pope - What I wonder when you look at this ordinance and you check out that Smithfield is doing what the county says; is Suffolk doing the same thing? Is Surry doing the same thing? Do Richmond and the other counties on Chesapeake Bay do the same things that we do? Is it all regulated exactly the same? Are the RPA's the same? Are the stormwater management policies the same? Maybe the engineers can speak to it; I do not know. I am just asking how consistent it is and where it is regulated.

Planning and Zoning Administrator – The Environment Protection Agency (EPA) passed regulations that made states react. There are also things like the Chesapeake

Bay Preservation program or groups of states, in concert with one another, working on regulations and methods to clean the bay. Then the state supports the localities which are part and parcel of the state and are created by the state. The state mandates that each locality create an ordinance that meets the specific minimums and then enforce them. Basically, all localities are not the same; but they would at least still need the same minimum standards. They do allow localities to be more restrictive than the state law; but not less. Everybody has a one hundred (100) foot RPA. Everybody is doing certain things; but some localities are more strict in how they do it partly because they just want to. They want to exceed the standards set by federal and state partly because they are concerned about getting in trouble with the state and federal government or at the local level so they try to exceed the minimum. A lot of them pretty much bounce off of the minimums and they are pretty similar. Does that answer the question?

Dr. Pope – It does. How does Isle of Wight County and Smithfield rate as far as the state minimum? Are we less or more restrictive about the minimum?

Planning and Zoning Administrator – Smithfield is pretty close to the minimum. The county is a little bit more strict. A lot of the ways they are more strict is just procedural; maybe more than actual technical differences. Like I said, I sent this draft up to them and the DEQ. The DEQ had no comments. They said it looks great. We have definitely exceeded the minimum. We use the minimum as a guide to make sure we are where we need to be and to be in good stead with the state and, by extension, the federal government. We are not plowing new ground as far as making it more restrictive than the requirements.

Dr. Pope – But there is no wiggle room here to make this ordinance, and our recommendation to the Town Council, less restrictive. Suppose we do not want a one hundred (100) foot RPA? Is that a federal issue or a local issue? That is what I am trying to figure out.

Town Attorney – It is federal government mandated to the state and they mandate it to us. Back when they sold this bill of goods, back in 1978, they told everybody that it was not going to affect individual property owners who had vested rights; and they lied. They just did not tell the truth at all. They far exceeded what they were supposed to have done. Over the years, the town has tried to be as reasonable

and flexible as we can with respect to properties that existed prior to the adoption of the act. They are trying to impose new standards on properties that never anticipated having to comply with those standards. It is not easy to do. We have butted heads with the Chesapeake Bay Local Assistance Department (CBLAD) and others. We have tried to recognize the fact that they are proposing regulations and standards on properties that have never contemplated having to comply with something like that; but there is no excuse for new development. If you have a new site, and nothing has ever been there, and you want to do something with it then you have to comply completely. There is no wiggle room at all. There is not much in the way of relief that you can get.

Planning and Zoning Administrator – I will add that there is one exception. Any lot that was recorded at the time the Chesapeake Bay Act was approved it says that the Chesapeake Bay Act ‘shall not make it unbuildable.’ There is flexibility in that if it was a lot of record before the Chesapeake Bay Act was passed. If you do not have room to do something somewhere else on the lot then you can minimally encroach if you need to; to make use of the lot.

Town Attorney – The town, the Planning Commission, and the Town Council was very forward looking. There is a thing called Intensely Developed Area (IDA). As part of your plan, you can identify certain areas as an IDA. We are sitting in one right now. All this area down here at the wharf is identified as an IDA. We have been allowed to do a lot of development down here that we probably could not have done had we not been forward thinking.

Planning and Zoning Administrator – Because it was already developed at the time.

Town Attorney – There were warehouses down here. I am sure you remember all of that.

Dr. Pope – Thank you.

Vice Chairman Bryan – If we are giving the authority to the county, do we have any safeguards if we approve a commercial development in the town so that the county will not deny it?

Planning and Zoning Administrator – The stormwater standards are technical standards. If they meet the standards in the book, the county has to approve them.

They may have to change their methods. They may have to change their whole plan; but if they can meet the standards they are required to meet somehow with their design then the county should not be able to arbitrarily deny their approval. They will need to meet the standards in the book.

Chairman Davidson – So where do we go as far as scheduling this for a public hearing?

Town Attorney – If it is your consensus, we will schedule it for a public hearing at the July Planning Commission meeting.

Chairman Davidson – We do not need a motion for it. Does anyone disagree that we will just go ahead and schedule the public hearing? Hearing no objections, we will move to Approval of the April 12<sup>th</sup>, 2016 Meeting Minutes.

Town Attorney – Mr. Chairman and members of the Planning Commission, I have reviewed the minutes and recommend they be approved as presented.

Ms. Hillegass – So moved.

Mr. Pack – Second.

Chairman Davidson – A motion has been made and properly seconded. All in favor say aye, opposed say nay.

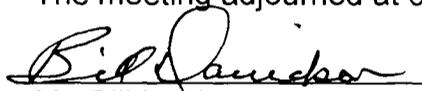
On call for the vote, seven members were present. Ms. Hillegass voted aye, Mr. Pack voted aye, Mr. Swecker voted aye, Dr. Pope voted aye, Mr. Torrey voted aye, Vice Chairman Bryan voted aye, and Chairman Davidson voted aye. There were no votes against the motion. The motion passed.

Chairman Davidson – Is there any further business?

Vice Chairman Bryan – I just have one last thing. I would just like to acknowledge the professionalism of town staff and Mr. Saunders in particular. I was out of town this weekend. He took some actions that really helped me prepare for tonight's meeting and I wanted to thank him.

Chairman Davidson – Hear, hear. I will go along with that. If there is no further business, this meeting is adjourned.

The meeting adjourned at 6:54 p.m.

  
Mr. Bill Davidson  
Chairman

  
William G. Saunders, IV  
Planning and Zoning Administrator