

The Smithfield Planning Commission held its regular meeting on Tuesday, September 12<sup>th</sup>, 2017. The meeting was called to order at 6:30 p.m. Members present were Mr. Randy Pack, Chairman; Mr. Charles Bryan, Vice Chairman; Mr. Bill Davidson, Ms. Julia Hillegass, Mr. Mike Swecker, Dr. Thomas Pope, and Mr. Michael Torrey. The staff members present were Mr. William G. Saunders IV, Planning and Zoning Administrator and Mr. William H. Riddick, III, Town Attorney. There were eighteen (18) citizens present. The media was not represented.

Chairman Pack – Good evening ladies and gentlemen. Welcome to the Smithfield Planning Commission meeting of September 12<sup>th</sup>, 2017. We will start our meeting with the Pledge. Please stand.

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

Chairman Pack – The first item on the agenda is the Planning and Zoning Administrator's Activity Report but there is no report this evening. Our next item is Upcoming Meetings and Activities. On September 19<sup>th</sup> at 6:30 p.m., we will have the Board of Historic and Architectural Review meeting. The Board of Zoning Appeals meeting has been cancelled for this month. On September 25<sup>th</sup> and 26<sup>th</sup> at 4:00 p.m., we will have our Town Council Committee meetings here at the Smithfield Center. The next Town Council meeting will be held on October 3<sup>rd</sup>, 2017 at 7:30 p.m. Please note, that on October 9<sup>th</sup>, town offices will be closed in observance of Columbus Day. The Planning Commission will meet again on October 10<sup>th</sup> at 6:30 p.m. The next item on the agenda is Public Comments. The public is invited to speak to the Planning Commission on any matter except scheduled public hearings. We do not have any public hearings this evening. We had a public hearing last month on Cypress Creek. If you wish to comment, there is a signup sheet. If you have not signed up, we will still allow you to speak. We ask that comments are limited to five (5) minutes or less per person. Any required response from the town will be provided in writing following the meeting. The first signup is Mr. Al Corvigno. Please state your name and address for the record.

Mr. Corvigno – I live at 105 Locherbie. I have been there about thirteen (13) years. I am also on the Homeowner's Association Board. I appreciate the opportunity to make these comments. I was here last month and this place was packed. Where are all the people tonight? In any event, I guess if everybody had a custom made brick home

on an acre lot we would not be having this meeting on Cypress Creek. Unfortunately, that is not the way it is. I live on about an acre lot and have a brick home that is custom made. I am kind of talking in favor of Phase VI. We had a meeting on August 30<sup>th</sup>. There were about eighty people there. We communicated on our website. I personally stuffed the mailboxes of all the residents of Cypress Creek. I think that is why we had about eighty people. Everybody has the right to ask questions. There were a lot of good questions. I was here at the last meeting you had. I have been to all the meetings that Tim Culpepper has had. I have heard the litany of what the issues are time and time again. I just want to respond to a couple of those. I think you have an obligation to not make a decision based on the loudest person here; but make a decision about what is best for Cypress Creek, what is best for Smithfield, and what is best for the surrounding communities. I think that is what your mission is. They talked about increasing the lots and house sizes. Tim may speak to that; but I know he has made a number of changes. You brought up things in the last meeting that we had here. He has listened to what you had to say. He has listened at all of the meetings he has had. He has had several meetings with Cypress Creek. He has had several meetings with the Cypress Creek Board of Directors. He has listened to every complaint, every issue, and every concern. Has he done everything people wanted? No, he has not; but he has made some immense changes in my opinion. I am not speaking for the other homeowners of Cypress Creek. I am not speaking for the Board. I am just speaking for me personally. I think he has made some tremendous improvements. When Robinson Development first got involved with us, he was a member of the Board. He talked about working together, communicating, and working things out. Everything has not been perfect; but he has kept his commitment to meet with us, talk with us, and listen to what we had to say. Before he got involved with Phase VI, he came to the Board and asked what they wanted to put in there. He said he would listen to our ideas. We talked about a workout facility, exercise room, pool, bocce courts, walking trails, and green areas. He has implemented all of that in Phase VI which I think is good for Cypress Creek. Phase VI will be in an area where most of the people in Cypress Creek, once he builds the buffer wall, will not even be able to see Phase VI unless you drive in there. It was not in the original development. Robinson Development got involved when houses were built.

They did not get in, initially, to develop the phase; but I think what they are doing in Phase VI with one hundred and fifty homes will be good for it. As they walk around the neighborhood, most of the people say they are a single person with a large house and if they wanted to sell their house they could move to Phase VI. So, a lot of people are not opposed to it. This is the information I get from some of the folks when I walk through the area. Another thing I have heard about is the traffic flow. I think Mr. Saunders said that Culpepper or Robinson Development does not have to have a traffic study; but they had one done. I have looked at it. It talked about a small amount of increased traffic; but, again, I am not a traffic expert. It is one of the complaints. They talked about the size of the driveways and the size of the lots. They talked about driveways facing one another. They talked about the garages facing each other. These are some of the things that came up at the meeting last week. Depreciation of property values....listen....I have moved six or more times. You have probably all moved. It is based on the economy. Nobody can say whether the houses are going to depreciate or not. It is something that is open for discussion. They talked about the HHHunt houses because they have three garages. One of the garages faces Cypress Creek. They talk about that as something that is not in the declarations. Mr. Culpepper has addressed that issue based on the design of the houses and based on how they are put on the lot. One of the garages has to face Cypress Creek. He does have the right to make a deviation. He talked about the Administrative Review Board. Three people are on the Board; two from Robinson Development and one is from the Cypress Creek Board which started twenty-five years ago with the original developer. Other people wanted to see a view of the houses that they are going to build. The response was that it has not been approved by the Commission. It has not hired contractors so there is not anyway he can give a design to the house other than specifications that he has talked about and what is in the declarations. They talked about access to Route 10 which is not going to happen because VDOT will not allow it. Thank you.

Chairman Pack – Our next signup is Mr. Danny Walls.

Mr. Walls – This will probably be one of the shortest messages you all have had. I live at 901 Cypress Creek Parkway. I have been a resident of Smithfield forty-three years. I have lived in Cypress Creek for thirteen of those years. The only concern I have

about the change in the zoning is the size of the lots that they will be putting the houses on. It would be nice to see what the houses might look like; but I understand that they are going to keep that a secret. Anyway, the size of the lots is my major concern.

Chairman Pack – The next signup is Mr. Jimmy Waters.

Mr. Waters – I live at 407 Royal Dornoch. I have been here for nineteen years. Thank you, Commissioners, for your service, for your ability to make good decisions, and for your passion. I have seen your passion displayed as you worked hard as a community to preserve the historic district of Smithfield. I would ask that you use that same passion, the same energy, and vote no on this proposal. You say why? My first reason is the traffic study that Mr. Culpepper presented to us is flawed in many different areas. If you do any searching on the internet, you will find that this particular model that he used is no longer in use in a number of communities because of the lifestyle of the fifty-five year olds and for other numerous activities. I think that Mr. Culpepper and those presenting show a traffic circle. Traffic circles are used to move traffic. We must be going to have traffic or we would not have a traffic circle in the plan. Who is going to police a fifty-five age limit once the properties are sold? Would the Homeowner's Association be responsible for policing those? I do not think so. At several town hall meetings, we have heard Mr. Culpepper reference Culpepper Landing. At the last meeting, he said that Culpepper Landing was not a good fit or good match for our architectural guidelines and do not consider Culpepper Landing. He has also talked about Culpepper Landing being a price point for the homes in Smithfield. The homes in Smithfield are much different, much larger, and the lots are larger than those at Culpepper Landing. Hundreds of homeowners at Cypress Creek, just like me, purchased our lots and built a custom home as designed for our existing guidelines. It would be very unfair to now add the age specific homes and dramatically change the existing landscape at Cypress Creek forever. With the existing age specific design with a twelve foot setback and detached garages, you are creating a concrete jungle. My youngest daughter lives in Jacksonville, North Carolina. She teaches at Camp Lejeune. She lives in a neighborhood with these same setbacks. If you drive into her neighborhood, you actually think you are in a concrete jungle because the driveways are so close. There will be an additional load on the Smithfield water as the process

moves forward on the one hundred eighty-four acre at Nike Park and Battery Park Road. We cannot afford to buy water from the county. DEQ is currently testing water levels in Smithfield as we speak. Our water bills will go up with these added homes. With Gatling Pointe and Founders Pointe, maybe we should be Smithfield Pointe because these two communities are developing and have been developed without any age specific housing. Just as you were taught from birth to use the right eating utensil, eat the right food, do the right thing, keep your elbows off the table, treat people right, do the right thing tonight and vote no for this proposal. Thank you.

Chairman Pack – That is the end of our public comments signup. Is there anybody that would like to speak that has not signed up? Please come to the podium and state your name and address for the record.

Mr. Todd Syzdlík – I live at 102 Prestwick in Cypress Creek. We had a town hall meeting. Tim Culpepper was very good and spoke with us. One of the biggest things that we said was the setbacks at six feet for cluster housing does not fit in this development. He made a lot of other concessions and we appreciate that. It worked out well; but there is no concession on this. The original plan was for townhomes and piers and all those things. I think that would fit for a waterfront and golf community. Well, you are leaving us with no waterfront. I ask you to vote no also. I do not think it is correct. You will put homes that are too close together. He moved the setbacks for the manor homes but we have none of these. You are talking three to five per acre. It does not fit in with what Cypress Creek was meant to be and what all the other homeowners bought into when they bought a home there. We could have bought a home somewhere else but there were certain covenants there and now they want to change them because we have a new developer. We understand that things change over time; but it was something he was not willing to work on. As homeowners and I speak for a lot of us, we are not willing to accept this. Please think seriously about it. Thank you.

Chairman Pack - Does anyone else wish to speak for public comments? Hearing none, we will move to Planning Commission Comments. Are there any comments? Hearing none, we will get into the meat of our agenda this evening. We have two items that we combined last time. If it pleases the Planning Commission, I would like to combine them this time as well. If we do get to a vote on these tonight, we will make

separate motions; but I would like to discuss them together because they are so interrelated. The first is a Conditional Zoning Amendment – Cypress Creek Subdivision – Fairway Drive – Timothy S. Culpepper, Cypress Investment Holdings, LLC, applicants. The other is a Special Use Permit – Cluster Provision in Suburban Residential (S-R) Zoning District – Phase VI, Cypress Creek Subdivision – Timothy S. Culpepper, Cypress Investment Holdings, LLC, applicants. Could we have a staff report on the conditional zoning amendment?

Planning and Zoning Administrator – Yes, sir, Mr. Chairman. This is a conditional zoning amendment application. It is not actually changing the zoning designation of the property; however, it is the same process as a rezoning because it is to change the original proffers that were proffered some decades ago. Currently, the proffers are in the packet. The main changes to the proffers that are in your packet is to change the total number of housing units from four hundred and fifty to five hundred and eighteen with changes that relate to redesigned Phase VI. The new owner of the development has a different vision for the subdivision. Phase VI is undeveloped and this is proposed to change. While the proffer changes here relate to the entire subdivision, the largest changes relate to paving the way for the cluster development of Phase VI. There will be, as proposed, sixty-eight additional lots within the subdivision. Ninety-one of those would be for sale as single family age restricted homes. There would be a total of one hundred and fifty-two lots would be in Phase VI rather than the original eighty-five. Also, in proffer #4, there were changes in the name of 'Environmental Review Board' that is actually an 'Architectural Review Board.' It was just a housekeeping change. Proffer #5 was struck. It was for the forty-two boat slips that were envisioned originally. They are not envisioned for the subdivision today. The ten year build-out in proffer #9 was struck. Obviously, it has extended beyond that. Proffer #10 was an addition for different design guidelines for Phase VI that would be submitted with this application to show the governing Boards what they would expect to see with the redesigned Phase VI. The additional ninety-one age restricted units would be a garden type home. The balance of the phase would be manor homes that would be waterfront similar to what was in the original neighborhood. I would make a note that, obviously, at your last Planning Commission meeting you tabled this item until tonight. I would also note that Isle of

Wight Emergency Services stated that they do not envision the proposed changes negatively impacting fire and EMS service capability in the area. Isle of Wight Planning and Zoning and Isle of Wight Schools provided no comments on this application. I already discussed some of the changes to the proffers; but there are some differences in the enclosures. In this packet, compared to last month's packet on the revised proffers, there is one revision to the voluntarily proffers which was executed since the August 8<sup>th</sup>, 2017 meeting. The second sentence of proffer #10 which references enforcement of the design guidelines was deleted in an effort to make the proffer statement more accurate. The enforcement elements are already spelled out in detail in the design guidelines themselves. The traffic impact memo was revised to correct a typographical error that was noted at the August 8<sup>th</sup>, 2017 meeting. The revised Phase VI design guidelines have numerous revisions that were made since the August 8<sup>th</sup> meeting resulting from collaboration between the applicant and the lot owners in the Cypress Creek subdivision. The version that you have in your packet is a redlined version that illustrates where the changes were made since the last meeting. Town staff has deemed the application to be complete. All problems with the original proffers identified by the applicant seem to have been satisfied. Thank you.

Chairman Pack – We will go ahead and get the staff report for the Special Use Permit – Cluster Provision in Suburban Residential (S-R) Zoning District – Phase VI, Cypress Creek Subdivision – Timothy S. Culpepper, Cypress Investment Holdings, LLC, applicants.

Planning and Zoning Administrator – Yes, sir. As previously mentioned, this application is for the cluster provision for Phase VI redevelopment. They propose one hundred and fifty-two single family, detached housing units. Ninety-one of which will be age restricted. There will also be an additional fitness center and pool. They will also have a greater Homeowner's Association level maintenance for those units. This is a special use permit application. The specific item for the special use permit is the cluster provision. In the cluster provision, as opposed to the standard subdivision, it allows for greater density and smaller setbacks; however, it comes at the cost of a twenty percent green space allotment rather than the ten percent green space allotment that is required for a standard subdivision. The revisions and additions to the enclosures for this

application include a revised Phase VI conceptual plan which includes lot dimensions. It revises the phasing scheme. It adds a thirty-five foot landscape buffer adjacent to the golf course. It identifies the age restricted lots. There is also a lot diagram exhibit. This exhibit illustrates a conceptual manor of home and driveway placement of the age restricted cottage lots. Town staff deems this application to be complete. The proposal seems to be within the parameters required by the articles of the town ordinance for such an activity. As this is a special use permit application, reasonable conditions may be recommended by the Planning Commission as deemed necessary to protect the public interest and welfare. Thank you.

Chairman Pack – Thank you. Mr. Culpepper, we will get you up here in just a moment; but can our Town Attorney help us to understand exactly where we are going tonight? We have two items in front of us. We cannot pass one without the other. We have a conditional zoning amendment that if we were to pass we could then go and look at the special use permit. If the conditional zoning amendment was to fail, the special use permit does not even come into play; although, we would need a motion for it.

Town Attorney – Yes, you would still need to act on it because one leads to the other. You would not support one and vote against the other. That would not make sense.

Chairman Pack – Just so we are clear, are we under a legal obligation to make any changes at this point?

Town Attorney – You do not have a right to make any changes. They can offer changes; but you do not get to. You can express your preference and perhaps the applicant will agree to changes. You have to accept it or deny it as he presents it.

Chairman Pack – That was not really my question. Does he have a legal right to make these changes or is it at the Planning Commission's discretion?

Town Attorney – No, he has no legal right to change anything without the recommendation of the Planning Commission and the approval of Town Council. It is why he is here. He is asking to make changes because the proffers were adopted so long ago and he has a different vision for the property. There is no obligation by the town to change anything.

Chairman Pack – We will now have a presentation by the applicant, Mr. Culpepper.

Mr. Culpepper – Thank you, Chairman Pack and Commissioners. I am the principal representative of Cypress Investment Holdings. Our address is 150 W. Main Street, Suite 1100, in Norfolk, Virginia. Thank you for the opportunity to be before you this evening. I also want to specifically thank the Cypress Creek Homeowner's Association. When we were here a month ago, we had a thirty day deferral to re-engage with the Cypress Creek Homeowner's Association. We solicited additional feedback from them in an effort to enhance our application. What you have received in your package is a September 6<sup>th</sup> draft of the Cypress Creek Phase VI design guidelines. It is red-lined and shows, specifically, all of the changes that we have incorporated. I would like to go back to the meeting that we had a couple of weeks ago with the HOA. At that meeting, I specifically took the existing Cypress Creek architectural guidelines and I did a summary comparison of the existing guidelines with Cypress Creek versus these design guidelines. I think the effort clearly showed that in every material instance of the existing architectural guidelines within Cypress Creek what we have offered and what we have proffered for Phase VI is either the exact same standard or it is a material enhancement to what exists as the minimum design guidelines that exist today. The only material change is the change in square footage of the homes. The existing guidelines call for the minimum square footage to be twenty-four hundred square feet for a single story home and twenty-eight hundred square feet for a two-story home. For our cottage homes, we have asked for a minimum guideline of seventeen hundred square feet; but I want to point out that we have made material changes in an effort to address the homeowner's comments and concerns. The primary concerns that we heard at the meeting were related to the size of the lots and, more specifically, how close the homes were proposed to be to one another which is the side yard setback specifically. What we had originally proposed was the minimum set forth in the town ordinance for cluster development which is a six foot side yard setback which one of the homeowners mentioned this earlier this evening. We heard, loud and clear, from several homeowners that they felt like this was too close. We took that under advisement. We made some material changes and we took that six foot side yard setback which is a

twelve foot (six feet on each side) cumulative side yard setback and we doubled it. We increased it by one hundred percent. We absolutely made a change to that. We changed it so that it is at least six feet on one side and at least eighteen feet on the other. We went one step further with our changes. We put a prohibition in against driveways that abut one another so you could not have two driveways that were together and you still have twelve feet on the other side as a minimum. We have made changes to address that concern. In fact, we doubled the minimum from where we were. On the manor houses, we took that from a twelve foot minimum cumulative side yard setback and made it twenty-eight feet. We increased it even more. At the point of comparison, the existing side yard setbacks at Cypress Creek are a cumulative thirty feet. We are talking about one pace on each side. It is the difference between twenty-four and thirty feet which is six feet or three feet on each side. That is one pace which is the distance we are talking about versus the minimum today. We have made very material changes to our design guidelines. I want to point out a couple of other specific changes that we made that are material. We heard some conversation about the repetition of elevations. We had made a prohibition in our design guidelines that was specific to color schemes which is the way we worded it. We went back and specifically called out elevations and color schemes to address that point. We put some mechanisms of control so it is not a community that looks from the streetscape that every single elevation is the same. Again, we heard those comments and implemented those comments. You have the redlined version. I am sure you have had a chance to go through and see some of the very material changes that we have made; but what is possibly the most significant change that we made in our design guidelines is on page 3 in section C. I will point your attention to the next to the last sentence there. It says 'any exceptions from these design standards shall be approved by both the Architectural Review Board controlled by the developer and the lot owners Architectural Review Board. It is the Homeowner's Association ARB. What we have done there is given the HOA and HOA's architectural representatives a seat at the table whenever there are any exceptions contemplated to these design guidelines which is a very, very significant move. It is not the way the existing declaration is set up. It is not something that is readily done to be quite candid with you; but we feel strongly enough about our ongoing

collaboration with the HOA that we know that any exceptions, if we were to ask, are going to be reasonable ones that we hope they would support. To be quite candid with you, we do not see the need for any exceptions. We have gone through the exercise and the diligence of developing what we feel are very reasonable design standards based on the markets that we are working in today. We feel like these design guidelines are representative of current market conditions. So, it is not an instance where we have design guidelines that were developed decades ago. Things have evolved and we are trying to fit the current market conditions in with design guidelines that were created long ago. We are developing guidelines based on today's market and implementing them in today's market. Again, there is a mechanism to have the HOA at the table if there are any exceptions to be made. In closing, I just want to mention a couple of things. There was a reference made earlier that I have used Culpepper Landing as an example. I have on many occasions. We are very proud of that community. I feel like the comment was taken a little out of context. Somebody made a comment at our meeting that they could ride through Culpepper Landing to understand how close the houses were to one another. I simply made the comment that Culpepper Landing was not a good representation of that because at Cypress Creek we had at least sixty-four foot lots and in some cases seventy-five foot lots. The lots at Culpepper are thirty-eight feet to fifty feet. So, it is not representative from the density standpoint. I have used it as a very good indicator of some of the architectural standards that we are looking to implement. I think it is very representative in certain areas with certain products. Culpepper Landing has a lot of different product within one community. I just wanted to clear that up. It is important to me. I certainly do not like the concept that I have walked away from a comment or I am not standing by my word because that is important to us. The other comment that I would just like to close with is that there was some discussion that people do not like change. We feel like we have the opportunity to chart the course for the future of Cypress Creek. We feel like we are doing that in a very forthright way. We have engaged with the HOA early and often. We have had three very well publicized public hearings where we have had hundreds in the community in attendance at any one time. I understand that we have a couple of people here tonight that have spoken in opposition; but I also think it is very representative that we have had such

very well attended meetings. There are a couple of people here that are asking you to vote no; but I would offer that there are also many here that would probably get up here and say that they are in full support of what we are doing. I think this is a well thought out plan. I think it meets all of the planning principles. The infrastructure, in terms of traffic, is designed to accommodate it. The infrastructure, in terms of water and sewer, is designed to accommodate it. I think it sets the right course in future directions for Cypress Creek. I would, very respectfully, ask for your support and approval for both of our applications this evening. I will stand by for questions. Thank you.

Chairman Pack – Thank you, Mr. Culpepper. Please do not go far. I am going to start off with some questions for you. If you could please, go back to your side yard setbacks. It has been the biggest gripe I have heard about. You said that you have doubled them; but I do not quite follow how that map works.

Mr. Culpepper – Our previous submittal had a minimum side yard setback of six feet on each side. Six plus six is twelve which was the minimum cumulative setback. We have changed that to be six feet on one side and eighteen feet on the other. Why eighteen feet; because that is how we propose our driveways and parking to go in. It would be a cumulative of twenty-four feet.

Chairman Pack – So, the two six foot side yards could not be next to each other.

Mr. Culpepper – Yes. It was a comment that came up at our meeting as well. You could still have a six foot side yard next to another six foot side yard. What we did to address that is we made sure that we put a prohibition in here against what we call abutting driveways. You would do eighteen feet to accommodate a driveway. So, you could not do eighteen feet next to each other leaving six feet next to each other on the opposite side. You would have to have a minimum of twenty-four feet of separation there which is doubling the previous submittal. On the manor homes, we increase the side yard setback from six feet on both sides to ten feet on one side and eighteen feet on the other. We have made it twenty-eight foot cumulative.

Chairman Pack – Thank you. That explains it. I was not following that before. Are there comments from any other Commissioners?

Dr. Pope - So, a question to that then. If you have abutting driveways, you obviously do not want concrete to concrete on a property line. What is to say that you

do not have a separation between the driveways of six or seven feet? You can put a concrete pad all the way up to the property line. I think that is correct for the zoning for the town. But you are going to say that you do not want concrete to concrete; but we do not want a shared driveway. Well, if you allow the homeowner to pull their driveway up to the front yard a little bit you can snake them in or curve them in and still get your eighteen foot but they are not going to be concrete to concrete so that would allow you to abut driveways. The problem with doing what you are proposing with the side yard setback of six feet on one side and the driveway on the other is that every lot on the street is going to look exactly the same; because every house is always going to have a driveway on the right or the left all the way through. That will look more like a tract home development which has been a concern that they have. Some of the randomness allows you to put driveways side to side and gives you a bit of randomness. Suppose you are going to reverse a floor plan. What happens when you look at the Cypress Creek lot diagrams that he submits to the committee is that everything shows a driveway on the right hand side. Suppose someone wants to reverse their floor. It will mean the driveways will abut; but if they separate them and pull them two feet off of the thing and let them curve back in they can still make the curve. Those houses, when you have a driveway on the right and a driveway on the left, come together and are twelve feet apart. It is six foot for each house based on the side yard setback. That is my concern that I have personally with it. It is also a concern for other residents. If you are going to say that every driveway has to be on the right side of the house when you ride down this loop around here that is as tract home as you can get. Every driveway and every lot will look the same. The house may be different but every driveway is going to be on the right or wherever it is going to be positioned. Based on your diagram, it is on the right. Yes, I understand that if you do that you will have some separation of the homes which would be ideal; but then you are going to get into the pattern of every home having a driveway on the right. If that is what you are proposing, then yes, you do have the separation and there is not a whole lot you can say about that but that is a tough concept with every home being on a smaller lot that will have a driveway on the right hand side every time you walk down the street.

Mr. Culpepper – Right. Again, I would say, we are trying to establish minimums in terms of lot widths and setbacks. We have sixty-four foot minimum lots which we also increased. I think they were sixty feet before. We also have seventy-five foot lots. Also, in the ordinance, it provides for corner lots to have ninety foot wide lots. That gives you the ability, right as you enter any street, to have a driveway on either side to break up some of the repetition that concerns Dr. Pope. The other thing that I would say is, on these lot diagrams, these are set up as an example not as a standard that we see every driveway being on the right. The other concept is courtyard loaded driveways where the driveway would actually be more in the middle of the lot versus on either side of the lot as you see on these other examples. This type of product addresses some of the repetition, Dr. Pope, which you are speaking of. In this example, you have a driveway on the right and here you have a driveway almost in the center of the lot. We would be, during design review, looking at repetition. We do look at streetscape. We do look at a lot of variables. We also look at the landscaping plans and we have made a number of enhancements on the landscaping specifications we have offered as well. I think there are any number of very reasonable, very realistic ways to enhance the streetscape and to address some of that repetition. What we were trying to address is the concern of the cumulative setback. The cumulative setback today in Cypress Creek is about thirty feet and what we have offered is twenty-four feet and twenty-eight feet. In our opinion, with the product type that we are looking for, it is reasonably consistent with what is happening. One last point, someone brought up the traffic circle controlling the traffic. The traffic circle is intended to provide separation. Our goal is for the age restricted piece; the cottage homes at Cypress Creek to be an individual entity within Cypress Creek. I believe the way we have it set up with the traffic circle behind the twelfth hole there is a little bit of a change in topography there. It is even hard to see that at all from Cypress Creek Parkway. We have intended this area to be separate and apart from Cypress Creek as an age restricted community. There are some intended differences with the design of the product.

Chairman Pack – How many of the lots are the minimum lot width versus greater than minimum?

Mr. Culpepper – There are ninety-one age restricted lots that are the minimum lot width of sixty-four feet. Some of those lots are well in excess of sixty-four feet. In addition, there is an ordinance that the corners lots have to be ninety feet. There are eight or so corner lots and maybe a few more than that.

Chairman Pack – Are most of the lots the minimum lot width of sixty-four feet?

Dr. Pope – Eighty-seven percent of them are sixty-four feet.

Chairman Pack – Thank you.

Mr. Culpepper – One of the comments that I had was that making these lots too large puts them out of the concept of age restricted or age-specific housing. We are specifically trying to design smaller lots. I think you heard someone at our last meeting that he woke up every morning and his one acre lot got bigger every day. People are looking for smaller homes on smaller lots as they age. I will acknowledge that everyone is not; but there is a very targeted market that is looking for this specific type of product.

Chairman Pack – Are there any other questions for Mr. Culpepper?

Town Attorney – I have some if I may. Mr. Culpepper, you are making changes to your architectural guidelines which go directly to amendment of the requirements of our zoning ordinance. You are trying to impose greater limits than what the zoning ordinance requires with respect to setbacks. Is that correct?

Mr. Culpepper – Yes, sir.

Town Attorney – I have a problem with doing that in your architectural guidelines. Those conditions are part of the zoning ordinance. So, what you are proposing to do is to proffer more restrictive provisions than what our zoning ordinance requires. Is that correct?

Mr. Culpepper – In the case of lot widths and side yard setbacks, yes sir; but it would be the same as building materials.

Town Attorney – No, that is different. The zoning ordinance does not speak to building materials. The zoning ordinance speaks to lot widths, depths, sizes, and basic things pertaining to the development and constructions of lots. You are trying to do that in your architectural design guidelines. I have a problem with that; but there is a way to fix it. I think that provision has to be added as a separate item. It needs to come out of the guidelines and become a separate proffer if that is what you are going to do.

Mr. Culpepper – Okay.

Town Attorney – I understand that in dealing with your homeowners in the meeting that they expressed concern about the setbacks but that is what is permitted under our zoning ordinance. In an attempt to address their concerns, you are effectively proposing proffering a more restrictive condition than what is permitted under our zoning ordinance. I would have to recommend to the Planning Commission and the Town Council that it needs to be a separate proffer not included in the architectural guidelines. This deals with exterior elements and things like that; but that is not what is addressed in our zoning ordinance. We do not address what colors you are going to have and how many elevations you will have. It is a different animal. I am not saying that it is wrong. I am just saying it is done in a manner that I really am not comfortable with. The way to fix that is to offer a new proffer because you are attempting to proffer an amendment to the town's zoning ordinance of the Suburban Residential district.

Mr. Culpepper – I apologize. We simply misunderstood. We understood that if it was less restrictive that it had to be like that. It was our mistake. We are certainly willing to offer a new proffer that addresses your concern, Mr. Riddick.

Town Attorney – While we are adding to the proffers, item #10 is where you offer design guidelines for Cypress Creek Phase VI and says 'shall be submitted with this application.' Submitted is one thing; but being applicable and binding is another. I want to include an addition to that sentence that says 'and shall be applicable to the construction of all dwellings constructed within Phase VI.' I know these sound like lawyerly things because they are.

Mr. Culpepper – I understand.

Town Attorney – It is one thing to submit things and it is one thing to be bound by them. We want it made very clear that you are bound by them.

Mr. Culpepper – Understood. I would like to ask Mr. Saunders a question if I could. I believe we have a period of time to offer new proffers between Planning Commission and the Town Council. Is it ten days?

Planning and Zoning Administrator – I am looking it up right now. If you would just give me one second, I will read some of it into the record.

Chairman Pack – With that intent in mind, is it your intention to address the Town Attorney's concerns with new proffers before Town Council were it to be recommended to them.

Mr. Culpepper – Yes, sir; absolutely. We can extract the setback language that is outlined on pages #4 and #5. We can extract those metrics and put them into a new proffer dealing with the setbacks and also to enhance proffer #10 to include 'and shall be applicable to the construction of all dwelling units in Phase VI of Cypress Creek.'

Planning and Zoning Administrator – So, there is really not going to be the addition of any proffers. It is just going to be reorganized. It is effectively going to say the same thing.

Town Attorney – It is restructuring them in a way that I am comfortable recommending to Planning Commission and Town Council that they are binding and effective.

Planning and Zoning Administrator – But as far as the addition of proffers requiring a new public hearing at the Planning Commission that is not necessary.

Town Attorney – It is not.

Planning and Zoning Administrator – It says that 'after a public hearing is held on the conditional zoning application, the Planning Commission, in taking its action on the application may recommend from the following options: recommend to the Town Council approval of the zoning application as submitted, recommend to Town Council denial of the application as submitted, or recommend approval of the application with the deletion of one or more of the proffers in the application. If the Planning Commission takes final action on a conditional rezoning application, it shall require the applicant to reduce all proffers made to the Planning Commission to a final written proffer statement in the proper legal form required by the town and return the final proffer statement to the Planning and Zoning Administrator not more than ten calendar days after the Planning Commission hearing for subsequent transmittal to the Town Council. ' The way I read that, being that there is not a significant change that requires another public hearing in front of the Planning Commission, you have ten days after this meeting to get a final version so that it is available to the public during the time that we advertise for a public hearing at the Town Council meeting.

Town Attorney – Fortunately, you are being more restrictive rather than less restrictive. If it were the other way, if you were trying to do something less restrictive than what you started out with, it would require another public hearing. If he was just coming in here and saying that he said he was going to do this but now he has changed his mind to something not quite as restrictive as I originally offered then that would be a less restrictive proffer and it would be something that would have to be subject to a public hearing again; but what he is offering is to be more restrictive rather than less restrictive.

Planning and Zoning Administrator – So, it does not need another public hearing for the Planning Commission; but you need to get the finalized version to me within ten days of this meeting. It needs to be available to the public for review while we are advertising for the public hearing for Town Council. Do I read that correctly?

Town Attorney – I think you are correct. One other thing, Mr. Culpepper, and maybe I am missing it. You are talking about cottage homes versus manor homes; but you do not define what they are.

Mr. Culpepper – One of the changes that we made to our conceptual land plan, which we are obviously required to develop within substantial accordance with that plan; but we have in our revised conceptual land plan the delineated which lots are the cottage lots which by default defines the manor lots. We have identified these ninety-one lots here as the cottage lots or age restricted lots. The other lots are the manor homes.

Town Attorney – But I think if you are going to offer restrictive conditions in the guidelines and you are going to talk about cottage homes versus manor homes then I think you have to define what one is versus the other. Without a definition, they could be anything.

Mr. Culpepper – Again, the intent there was because the lot sizes were different for each of those and the house size is different for each of those.

Town Attorney – For example, and I am not suggesting that I try to tell you what a cottage home is; but it should probably have a statement to the effect that a cottage home shall be defined as a residential structure containing not more than or not less than a certain amount of square footage to be constructed on which lots. If you expect

us to try to enforce this with property owners who also have a right to insist on enforcement of design guidelines, you have to tell them what a cottage home is and what a manor home is.

Ms. Hillegass – Mr. Riddick, look on page #4.

Town Attorney – I am looking on page #4 and it just says how much square footage that it is.

Dr. Pope – It does not define where they will be built.

Town Attorney – Maybe I am wrong; but it says that cottage homes shall have the primary living function including but not limited to the master bedroom located on the first floor. So, what is a manor home? It says it shall be one or two stories. Maybe it is fine; but I just want to make sure that we have adequately defined what these structures are.

Mr. Culpepper – We are happy to provide any clarification that is required. Again, I apologize.

Town Attorney – I do not know what a cottage home is and what a manor home is because I am not in that industry. So, you have to define it for me in a way that I can understand and everybody else can understand. If this is what an acceptable definition is in the industry, then we are probably okay with it; but if it requires further clarification then I think we need to add it.

Mr. Culpepper – We can provide further clarification if required; but that is why we identified on the conceptual plan the specific location of the cottage homes.

Town Attorney – But you are not proffering any specific elevations.

Mr. Culpepper – We have not proffered any elevations.

Town Attorney – So, we cannot point to a proffered elevation and say that is a cottage home and that is a manor home.

Mr. Culpepper – There are no proffered elevations.

Town Attorney – If you are not going to do that then you have to kind of define what a cottage home is and what a manor home is by what criteria they meet. Maybe page #4 covers it, I do not know. I am just not that familiar with what a cottage home is versus a manor home. I am assuming what you are driving at is that a bigger house like

what is already there is a manor home and this new product for the age restricted area is a cottage home.

Mr. Culpepper – Yes, sir.

Town Attorney – So, maybe you can identify where they are going to go and tweak it a little bit in that regard.

Dr. Pope – Like cottage homes will be built on lots 62-152 and manor homes will be built on lots 1-61.

Town Attorney – And that they shall have the following characteristics. Maybe we all have an understanding of what you intend today; but we have to do this so that somebody ten years from now can carry on when none of us are here to make sure they understand what is going on.

Mr. Culpepper – Yes, sir. I understand completely. To Dr. Pope's point, we could include an exhibit or refer to an exhibit to these design guidelines that mirrors the conceptual plan and clearly identifies the cottage homes as being on these ninety-one lots complete with lot enumeration on those. We can identify the manor lots complete with lot enumerations as points of clarity. I think those are good comments.

Town Attorney – Last, but not least and I guess I just do not like this but, proffer #9 says that 'proffered conditions will be completed as quickly as possible.' Thirty years ago when they accepted it like that for a ten year build out, it was pretty poorly worded. These proffers, as proposed now, do not contemplate the construction of any required additional improvements; do they?

Mr. Culpepper – Such as?

Town Attorney – Other than streets and sewers.

Mr. Culpepper – I would argue that because we have to develop the plan in substantial accordance with this conceptual plan dated August 17<sup>th</sup>, 2017 which clearly identifies a pool, a fitness facility, a park, and these trail networks that having those amenities as part of the development is certainly what we would consider to be in substantial accordance. In other words, if we did not have those....

Town Attorney – So, you are proposing the pool, fitness center, and all that sort of thing.

Mr. Culpepper – Yes, sir.

Town Attorney – Alright. The proffered conditions shall be completed ‘as quickly as possible.’

Mr. Culpepper – That wording is left over from a few decades ago.

Town Attorney – I know and I do not like it.

Mr. Culpepper – We had a lot of dialogue in our office. We tried to eliminate only the things we absolutely needed to eliminate and add only the things we absolutely needed to add. I am happy to revise those proffers, Mr. Riddick, to address any of your concerns.

Town Attorney – In your meetings with the residents, have you contemplated or discussed a timeline for getting this done? I do not think anybody is asking you to say it will be done on December 31<sup>st</sup> of next year; but have you contemplated, in general terms, how long it will take you if this gets approved and you start. It could be within a certain number of years from the final approval of the plan. Have you talked about that?

Mr. Culpepper – We have had some general discussions about timeline. We have not proffered any specific timeline for the ultimate buildout. What we have done, with this last revision, is included some phasing lines. We have talked about phasing of the project. One of the specific concerns that we have heard before is when are the amenities coming. When will it all be done? The way our phasing lines are drawn we have tried to include the amenities with the pool and clubhouse within Phase 2. Phase 1, just as a quick guide, is the center core area right here on the map. Phase 2 is this area here which includes the clubhouse and pool. Phase 3 is the last phase.

Town Attorney – I am not suggesting that we should impose a deadline as to when everything in Cypress Creek has to be done. With respect to the amenities, that is a different story if you are telling everyone that you will do them as quickly as possible.

Mr. Culpepper – That was not a proffer that we drafted again. It was one that was left over from a decade ago. I would be happy to proffer that those improvements will be constructed as part of the second section in Phase VI in keeping with the conceptual plan.

Town Attorney – That might be the solution. ‘As quickly as possible’ is completely subjective. If that had been included in this right here, we would be sitting here thirty years later and completely failed. I think we can all recognize that there are economic

cycles and things come and go. It is just a natural part of the business cycle. I just do not like 'as quickly as possible' in there.

Mr. Culpepper – If I may, Mr. Riddick, I just want to summarize these four points just to make sure that I have them? We will be modifying our proffer statement to include the following: a proffer specific to the setbacks and lot widths, amending proffer #10 to include the language 'and shall be applicable to the construction of all dwelling units within Phase VI of Cypress Creek', attaching an exhibit to our design guidelines to clearly enumerate the location of the cottage homes and the manor homes and which side of Phase VI they will be constructed on, and we will be offering a proffer to complete the amenities outlined in the conceptual plan as part of the completion of Phase 2 dated August 2017. What may be cleaner, and I will ask for your guidance on this, sometimes we offer timing proffers prior to our obtaining a certain number of building permits. Sometimes that is easier for municipalities to track because phasing lines can change and shift. I do not have it off the top of my head; but it seems like there were thirty-seven units in Phase 1. Yes, there are thirty-seven lots contemplated in Phase 1.

Town Attorney – That is probably a good idea to tie it into building permits instead of phases since phase lines might change.

Mr. Culpepper – Yes, phasing lines are subject to change. I am certainly not negotiating against myself. It is just that we have a number of these. I know that building permits are more easily tracked than phasing lines are. We could tie that proffer to a certain number of building permits or certificates of occupancy if you will.

Planning and Zoning Administrator – I would ask a question in response to that. If the phasing lines on this conceptual plan changed, would that not be in substantial conformity? Is that a minor enough change that the plan would still be in substantial conformity if the phasing lines changed? If that is the case, it probably should go by the number of lots. I would potentially argue, that changing the phasing lines and if everything else was still built the same, it would still be in substantial conformity.

Town Attorney – Yes, I would too. I am thinking it should go by the number of zoning permits.

Mr. Culpepper – Would you prefer building permits or certificate of occupancy?

Planning and Zoning Administrator – Certificates of occupancy.

Town Attorney – I would agree with your assessment that the phasing lines may come into sub-phases. That is just a function of the economy. Hopefully, that does not happen. Hopefully, everything will go very well because that is in the best interest of everyone. I agree with Mr. Saunders on this.

Mr. Culpepper – So, we will offer that additional proffer to complete the amenities outlined on the conceptual plan dated August 2017 prior to the issuance of the thirty-eight certificate of occupancy which would be the first unit in Phase 2. There are thirty-seven lots in Phase 1. Before we occupy the first unit in Phase 2, we should have brought on all of our amenities to fulfill that obligation.

Town Attorney – Mr. Chairman, those were my concerns. I am sorry to dominate comments.

Dr. Pope – I have a comment. When you go back to paragraph 4-C where he is talking about if there is a deviance in the developer's architectural review committee and it goes to the homeowner's Board it says in the last sentence 'approval and acceptance of these design standards shall not be reasonably withheld, conditioned, or delayed.' If we are talking about timing, how much time does the homeowner's architectural review committee have to review the developer? If I am buying a house and I want an answer in forty-eight hours, are we expecting the homeowner's Board to comment in forty-eight hours or are we going to set a time limit for them to respond reasonably? He may say that the homeowner's Board cannot review it until next week and that is unreasonable. They can sell the lot and move forward and void the whole purpose of getting the homeowner's Board to review it to begin with. There is no time frame in there that at least allows the homeowner's Board to meet in order to process that if you are talking about timing issues. What is unreasonable may be different for me versus him.

Town Attorney – Again, the town does not enforce architectural standards. It is really not between us and them. It is not what we do. That is a function between the HOA and the developer's ARB. I would argue that it would be unreasonable, if you are asking for an exception, to submit that the homeowner's architectural review Board has not acted reasonably if they have not had an opportunity to have a meeting. I do not know what their schedule is but, certainly, they should have a month to meet; but that is

not for me to say. I do not mean that we do not care; it is just not what we do. The Town of Smithfield does not enforce architectural standards.

Mr. Culpepper – I think it would be unreasonable of us to try to say that the HOA Board acted unreasonably or unreasonably delayed a hearing if we did not give them at least thirty days to meet and come up with a decision. I would never want to try to stand in front of a court and say that the HOA, after a week, did not give us an answer so we moved on. It is certainly not in the realm of reasonableness in the world that we operate in.

Town Attorney – Dr. Pope makes a really good point; but then I go back to the position that it is not something we enforce. If you are offering this tonight, in an attempt to address concerns by homeowners, you probably need to talk to them a little bit more and see what they think about this.

Mr. Culpepper – On page 11, paragraph E, it says that within sixty days after its establishment the ARB shall meet and promulgate the procedures and standards for the submission, review, and application including but not limited to time constraints, fees for plan submittal, format, timing of reviews, information on how to communicate etc. I hope that our efforts in meeting with the HOA for the last six months and our communication served as a good measure of good will and that we will be establishing reasonable guidelines. We will certainly be working with the ARB to make sure these procedures and the timing are in keeping. To be honest with you, I am not sure how frequently the lot owner's ARB meets now. This is the first I have heard of that concern, Dr. Pope; but I understand. We are willing to work in good faith, within reason, to establish that.

Dr. Pope – Everybody here knows that my concern is how close the six foot sideline setbacks are. If he is proffering that we have a twenty-four foot setback, there are several lots, if the measurements are correct and if I am reading them correctly because I have been known to misread these things, which make it very unreasonable to think that it is going to happen. For example, Lot 100 is forty-six feet wide. If you take a twenty-four foot setback, it leaves you a twenty-two foot home. Lot 64 is fifty-two feet wide and Lot 66 is fifty-four feet. There are a couple of lots in there that just do not add up on width if this measurement is correct off the computer. I know what you are going to say; that they are pie shaped lots and when they fan out you are going to have a

bigger building area. Those three lots are rectangular on this plan and if those measurements are correct, you are going to have a twenty-two foot wide home and probably a twenty-six foot wide home.

Mr. Culpepper – Not having that in front of me, I cannot read what is on the screen. Some of these lots are on what would be a slight radius. With the way the CAD file works, it is a measurement on the radius. Some of them, on the pie shaped lots, I would tell you are all measured at the front building setback line. So, if it is a pie shaped lot, if we only have fifty-six feet on the frontage then after the twenty-five foot front yard setback; we achieve where you can physically build the house. We achieve the minimum lot width. We achieve the sixty-four feet on all ninety-one lots that are within the cottage section. These lots are measuring some type of radius. I would tell you that if you look at the back lot lines on those they are much more in keeping with the lot width minimums. There is a sixty-four foot lot width minimum that is on those lots. I do not have the benefit of having our engineer here to specifically address those couple of metrics; but the lot width is a minimum of sixty-four feet.

Dr. Pope – So, what happens if this is recommended to Town Council and they approve it and these building lots, even with the building setbacks, seem very unreasonable when they go to construct a home and it is twenty-two feet to twenty-eight feet wide and the homeowner says ‘Wait a second, what are we doing here.’ There is no recourse. They can still put a twenty-two foot wide home or whatever it is. Is that correct? Once this lot and conceptual plan is approved, we are stuck with it no matter what size house goes on it. Is that correct?

Town Attorney – Correct. If the building envelope permits a twenty-two foot house, they cannot build a house any wider than twenty-two feet.

Dr. Pope – So, I am asking. Is everybody in our community aware of this?

Mr. Culpepper – There are several other checkpoints between this hopefully being passed this evening and the Town Council approving this and our actually building a house. One of those checkpoints is the actual civil design plans where we hire a civil design firm. They come in and do all the engineering. It is submitted to the Town of Smithfield and to Isle of Wight County. I am certain Mr. Saunders would confirm that they will be reviewing our engineered plans for conformity with our proffers

and with our design guidelines. We are absolutely required to have a minimum lot width of sixty-four feet on all cottage lots based on these design guidelines and based on what will become a legal proffered condition. The other checkpoint is going to be during the subdivision plat development and review stage. After we have gone through the civil design phase and gone through all the engineering and constructed some of the physical improvements, we will then submit a subdivision plat to the town for review. The subdivision plat will also be reviewed for conformity with both the civil engineering plans but also with these design guidelines and the proffers. I think it is highly unlikely, outside of human error in several rounds of review that we could develop and plat a lot that did not meet the proffered lot conditions that we are offering.

Planning and Zoning Administrator – At least as a minimum. If they get into the process of plan review and determine that they cannot fit as many lots as they show here, they can make some of the lots bigger or combine some lots and still be in substantial conformity. The proffers have a maximum number of lots. So, basically, if they design this to fit the maximum number of lots that are in their revised proffers, assuming Town Council approves them, if they have to reduce some of the lot numbers to make them fit later then it would still be in substantial conformity. There would be fewer homes. There would end up being a net increase in the lot size; but they would not be able to decrease the lot size or have a higher number of lots and still be in substantial conformity.

Town Attorney – I was going to say the same thing. This is a concept plan. It is not an engineered plan. He has basic dimensions on these lots; but it is not a surveyed engineered plat. Like Mr. Saunders said, if it gets approved and he comes in with a subdivision plat, they may discover that what they have proposed is just not feasible. They cannot have any more lots. They cannot have smaller lots; that is not going to happen. This, in its concept, is the smallest the lots can be and the most they can have. They cannot go the other direction.

Dr. Pope – Okay.

Mr. Culpepper – Mr. Saunders, you have my commitment that you will have these revisions that I have discussed with the Town Attorney before the close of business on Friday of this week. I will follow up with those.

Chairman Pack – Are there any other questions for Mr. Culpepper? Hearing none, thank you Mr. Culpepper. We appreciate you working with the residents and us and our attorney. We will move to Planning Commission comments on this application.

Vice Chairman Bryan – You were asking for my perspective on this. A lot of this discussion tonight I find in the weeds. I am looking at this from an overview. One of the biggest problems I have with it is that it is a substantial variation from the original proffers for what Cypress Creek was being built for. I see that it was originally approved as Suburban Residential Conditional. I am thinking that, and please correct me if I am wrong; the ordinance itself for Suburban Residential had a minimum of twelve thousand square feet with a density of three homes per acre. But when I look at the original plan for Cypress Creek, the conditional, I am thinking, asked for a minimum of .6 acres which I think is well over thirty thousand square feet. Mr. Culpepper's plan is going in the opposite direction and I see no intent to maintain the character of Cypress Creek asking for a minimum of eight thousand square foot lots. I have bought several homes over my lifetime in many different places around the country. As a homebuyer, one of the first things I look at is what is in front of me, what will be on the side of me, and what would be behind me. I do not currently live in an area as affluent as Cypress Creek; but it is respectable and I am happy with it. I also know what is in front of me, behind me, and beside me. If there was something vacant, I think I would be rather disappointed as one of the original homeowners or property owners and found something like a mobile home next to me the next day. In that way, I have a problem with what is being proposed here in this conceptual plan for Cypress Creek. I think they have to respect the original homeowners who bought in this area. I think we still have to show some respect and consideration for that. I see none of that with what this conceptual plan is offering. That is what I have to say.

Mr. Davidson – I am very confused. I guess I would like to see it all in black and white with all the changes we have talked about tonight. I am not exactly sure where we go. If we were going to vote on something, do we add those conditions that were discussed if we recommend it to Town Council or do we table this and come back again with everything written down so that we understand what is going on? I guess that is where I am right now.

Town Attorney – It is up to you, Mr. Davidson. There is a one hundred day deadline for action since the public hearing. We are at thirty days. It is up to you.

Vice Chairman Bryan – To be clear, if we vote on this in favor, the special use permit is permitting these smaller lot sizes. That is the #1 consideration; yes?

Chairman Pack – Yes, sir. Mr. Riddick, if we were to vote in favor, with the proffer discussions we had earlier and with Mr. Culpepper's agreement to that, how would we even do that. We cannot require proffers with our special use permit. We are making a recommendation to Town Council based on our discussion this evening.

Town Attorney – It is difficult for you to do because you do not see it all in front of you. I am not trying to suggest that you have to.

Mr. Davidson – That is my point. How do we make this decision if everything is just kind of in this cloud? I really do not understand this cloud.

Town Attorney – There is a lot of red ink there. It is the changes; a lot of them since the last meeting. In particular, the thing that got me worked up was the lot issues. Well, that is more restrictive and I guess you could argue that it is good; but there are ways to do it and ways not to do it. I do not think the way they suggested it should be done is the right way to do it and I raised that issue.

Chairman Pack – And Mr. Culpepper said he was willing to do it; but we do not have that in front of us tonight. He has also offered to do it within ten days and our code allows that. Mr. Culpepper wants the project to move forward and I understand that.

Planning and Zoning Administrator – I could read the choices again if you would like?

Chairman Pack – Yes, please.

Planning and Zoning Administrator – The Planning Commission can take action with the following options: recommend to Town Council approval of the zoning application as submitted, recommend to the Town Council denial of the application as submitted, or recommend approval of the application with the deletion of one or more proffers or arguably proffers that are changed in the application. The way I read that if you are comfortable with the changes that the applicant has said he is making then you could put that in a motion. You could recommend approval of it with those changes. It

would give him ten days to supply those to me before it went to Town Council. If you want to see them yourself, that is certainly your option as well.

Town Attorney – There is a one hundred day clock. It starts to run from the time of the public hearing. I am sure he wants to go forward but it is the level of comfort that the Planning Commission has with what you are voting on.

Ms. Hillegass – I understand Mr. Davidson's concern about wanting to see things in black and white. I would be willing to make a motion to table this for another thirty days.

Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded to table this for an additional thirty days until we can see these proffers back in front of us before any decisions are made. Roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass voted aye, Chairman Pack voted nay, Dr. Pope voted aye, Mr. Swecker voted nay, and Mr. Torrey voted nay. There were three votes against the motion. The motion passed.

Chairman Pack – We will see you next month, Mr. Culpepper. Our next item is Final Site Plan Review and Waiver Request – 201 Battery Park Road – Trey Gwaltney, Smithfield Self Storage, applicants. Could we have a staff report please?

Planning and Zoning Administrator – Yes, sir, Mr. Chairman. Smithfield Self Storage and Trey Gwaltney is the applicant. They propose to demolish an existing structure that has housed several restaurant businesses in recent years and replace it with a three story climate controlled self-storage facility. At the April 11<sup>th</sup> Planning Commission meeting, the Planning Commission granted Entrance Corridor Overlay District design approval to the project as submitted to include the use of Kingspan exterior panels in lieu of the prohibited corrugated metal. Further, the requested waiver of the forty foot landscape buffer requirements as proposed in the site plan dated March 10<sup>th</sup>, 2017 was granted. At the May 9<sup>th</sup> meeting, the Planning Commission granted preliminary site plan approval for the plan dated March 10<sup>th</sup>, 2017 as well as the requested waiver for the floor area ratio requirements. The applicants have provided a final site plan dated August 18<sup>th</sup>, 2017 for review before you tonight. Staff comments

reflecting the strengths of the application is that the proposed changes will replace a structure in need of repair that has not housed a business for months with a new structure that will expand the other existing commercial use on the site. The proposed plan will also increase the amount of green space and landscaping on site from what currently exists. There were no weaknesses identified at this time. Town staff recommends final site plan approval contingent upon minor comments from Isle of Wight County stormwater division being addressed adequately. Thank you.

Chairman Pack – Are there any comments from the Commissioners? Mr. Gwaltney is here if you have questions. We have been pretty well versed on this project.

Dr. Pope – I would like to make a motion to recommend approval for the site plan as presented with Isle of Wight County stormwater comments being adequately addressed.

Ms. Hillegass – Second.

Chairman Pack – A motion has been made and properly seconded. Roll call vote.

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

Mr. Davidson – I have one question for Mr. Gwaltney. When can we expect the bulldozer?

Mr. Gwaltney – As soon as possible.

Chairman Pack – The motion carried. Finally, we have Approval of the August 8<sup>th</sup>, 2017 Meeting Minutes.

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

Mr. Davidson – So moved.

Ms. Hillegass – Second.

Chairman Pack – A motion has been made and properly seconded. All in favor signify by saying aye, opposed say nay.

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

Chairman Pack – Is there any further business for the Planning Commission?

Ladies and gentlemen, we are adjourned.

The meeting adjourned at 8:10 p.m.



Mr. Randy Pack  
Chairman



William G. Saunders, IV  
Planning and Zoning Administrator