

The Smithfield Planning Commission held its regular meeting on Tuesday, October 10<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 six (6) citizens present. The media was represented by Diana McFarland of The Smithfield Times.

Chairman Pack – Good evening ladies and gentlemen. Welcome to the Smithfield Planning Commission meeting of October 10<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.

Planning and Zoning Administrator – Thank you, Mr. Chairman. As anybody has seen while driving by, we are starting to see some grass growing out at the Joseph W. Luter Jr. Sports Complex. There are some final amenities going in. They are starting to finalize work on the interior of the concession stand. We had comments back from VDOT and Isle of Wight County stormwater on the last iteration of plans that went to VDOT for review on the turn lane for the sports complex. We are working on answering those comments for this submittal. Hopefully, we will be wrapping that phase of the turn lane up soon. Thank you.

Chairman Pack – Next, we have Upcoming Meetings and Activities. On October 16<sup>th</sup> at 6:30 p.m., we will have the Board of Historic and Architectural Review. The Board of Zoning Appeals meeting for this month has been cancelled. The Town Council Committee meetings will be October 23<sup>rd</sup> and 24<sup>th</sup> at 4:00 p.m. at the Smithfield Center. It is a great place to come for discussion before the actual vote at our Town Council meeting on November 7<sup>th</sup> at 7:30 p.m. On November 10<sup>th</sup>, town offices are closed in observance of Veteran's Day. The next Planning Commission meeting is November 14<sup>th</sup> at 6:30 p.m. We will now move to Public Comments. The public is invited to speak on any subject except for scheduled public hearings. We do not have one tonight. At this time, we have a signup sheet for anyone who wishes to speak. Comments are limited to

five minutes per person. Any required response from the town will be provided in writing following the meeting. Mr. Saunders, do we have any signups?

Planning and Zoning Administrator – We do, Mr. Chairman. The first is Mr. Jim Parks.

Chairman Pack – When you come to the podium, please state your name and address for the record please.

Mr. Parks – I live at 101 St. Andrews. I have lived there for nine years. I am President of the Cypress Creek Board of Directors. I have also served on the developer's ARB for six years. I just wanted to make two points about Phase VI. First of all, I would like to thank Tim Culpepper for his open transparency throughout this whole process. We have met many times and sent out many emails and it is on our website. He has asked for input on both the design and the plans and design documents which you received from our residents. I think the last cut on the design document is really an outstanding product. Secondly, I support the plan that Tim Culpepper is putting forth. Thank you.

Planning and Zoning Administrator – The next signup is Mr. Al Corvigno.

Mr. Corvigno – Good evening. I live at 105 Locherbie. I have been there about twelve years. I am also on the Board. This is the third meeting I have been to. I really appreciate the time of the Commission. You have had a lot of good ideas. I listened to everything you brought forward. I think Mr. Culpepper has, basically, tried to resolve these issues one way or another which I think is good. I am in favor of Phase VI because I would rather see some homes there rather than nothing. Other than that, I think it is good for the community, Smithfield, the surrounding communities, and the homeowners who live in Cypress Creek. Basically, I am in favor of it and that is about it. Thank you.

Planning and Zoning Administrator – The next signup is Mr. Dan Litton.

Mr. Litton – Good evening. I live at 127 St. Andrews which is on the gateway to Phase VI. I have lived in Cypress Creek for eight years. I am the Vice President of the Homeowner's Association Board of Directors but these are my own comments. These comments will be brief. I want to begin by recognizing the developer's efforts and complete transparency and cooperation with the Board of Directors and with the

homeowners that have shown an interest in this process. Discussion on this proposal has been going on since April of this year. There have been three town hall meetings in Cypress Creek. In addition, every single Board of Directors meeting has included this subject. We have, for quite a while now, been discussing this. Several issues have come forward. Each time that one of these issues came forward, the developer very promptly and graciously addressed them and made the necessary changes. For me to go through all these comments that have been made would, by now, be both redundant and a waste of time. I think everybody here knows the issues and everybody here knows what the developer and others of us think about those issues. I will only say this, the improvements made as a result of the negative and positive comments that came forth during our meetings have only gone to improve what was already a very good plan for Cypress Creek. In my opinion, this proposal is the best move for Cypress Creek. While it is somewhat a different concept than some people recognize as the original goal and vision for Cypress Creek, it is still within what we need. It still represents what home buyers are now interested in. The large brick homes that adorn our neighborhood are no longer going to be what people seek when they come in. I think Mr. Culpepper has done a very good job with Phase VI of providing an alternative to what we already have. I also think that, if this plan is approved, it is going to result in promoting it being built out; which in turn will increase property values. One of the big concerns has always been that our property values would decrease because of the plan for Phase VI. Personally, I disagree. I would rather see what is going on than the townhouses that are currently approved. This is the third meeting of the Planning Commission on this issue. Each time we have been here, you folks came up with additional comments and suggestions and the developer met with those comments and provided input. I think he has, from what I can tell, satisfied your concerns thus far. Hopefully, this will be the last meeting on this topic. Hopefully, you guys will recommend approval to the Town Council for Phase VI modifications. Thank you for the opportunity to speak.

Chairman Pack – Those were all the signups. Is there anybody else who would like to speak that did not get an opportunity to sign up? Seeing none, I will add that I received a letter today via email from our Planning and Zoning Administrator. I will share it with all of you. It is from Steve Adams who is the former developer at Cypress Creek

offering his support of the application before us tonight. Next, we will move to Planning Commission Comments. Does anyone have any comments?

Dr. Pope – The only comment I have is do we have an update on the Tastee Freeze building and the Goodwill store? Where are they in their process?

Planning and Zoning Administrator – I can tell you what I know. The Tastee Freeze project has been a comedy of errors. Unfortunately, the restaurateur has had issues with owner and issues with their builder. They chose another builder and had to regroup on the construction. Apparently, now, she is waiting for custom made trusses for the roof. As far as we understand, having just spoken to her last week, she is still interested in the project. She is still moving forward; but there has been one challenge after another. On Goodwill, I have not heard a peep out of them since they got their rezoning approved. I have not had any engineered plans or anything for review submitted as of yet.

Chairman Pack – Are there any other comments? Hearing none, we will move to two items. We have Conditional Zoning Amendment – Cypress Creek Subdivision – Fairway Drive – Timothy S. Culpepper, Cypress Investment Holdings, LLC, applicants as well as 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. As we have done in the past, we are going to discuss these as one tonight. However, if we decide to take action on them there will be two separate motions on these items. Could we have a staff report please?

Planning and Zoning Administrator – The staff report on the conditional zoning amendment is that it is not a rezoning. However, you have to go through the entire rezoning process to amend the conditions that relate to the previous rezoning. As we have discussed in previous meetings, there is a new owner for the subdivision who has a different vision for the subdivision. They have proposed a number of proffers. Some of these were cleaning up things that had already been out of the vision of Cypress Creek. Some of these are technical changes and some pave the way for the cluster type development and the redesign of Phase VI. The highpoints on the proffer changes include the removal of the twenty-four townhomes, the increase of the maximum number of units in the entire subdivision from four hundred fifty to five hundred and

eighteen, the inclusion of ninety-one age restricted units, replacement of references to environmental with the Architectural Review Board, the removal of forty to fifty boat slips, the removal of the buildout time frame, inclusion of design guidelines for the proposed Phase VI, setback requirements in Phase VI that exceed minimums in the town ordinance, assurances as to the time frame of the provision of plan amenities, and the addition of sixty-eight housing units and the inclusion of ninety-one age restricted units creates a net reduction of six traditional single family housing units from the original master plan from the changes that are envisioned with Phase VI. I would note that in order to develop the revised Phase VI plan as proposed, the cluster provision of S-R zoning ordinance will be required. A cluster provision requires the granting of a special use permit. The Town of Smithfield Planning Commission, at their September 12<sup>th</sup> meeting, tabled this item until tonight. Isle of Wight Emergency Services stated that they do not envision the proposed changes to negatively impact fire or EMS service capability in the area. Isle of Wight Schools provided comments in regard to potential impacts related to this application. Their memo is enclosed in your packet. Isle of Wight Planning and Zoning provided no comments. There are revisions/additions to the enclosures since the last meeting. Revised proffers dated September 28<sup>th</sup>, 2017 have three revisions to their voluntary proffers. Proffer #10 was amended and proffer #11 and #12 were added. The revised Phase VI Design Guidelines dated September 29<sup>th</sup>, 2017 had numerous revisions since the September 12<sup>th</sup> meeting. You will find a red-line version enclosed to illustrate those revisions. The Isle of Wight Schools fiscal impact memo is also enclosed. Town staff has deemed the application to be complete and that all problems with the original proffers identified by the applicant seem to have been satisfied. The planning and development of this subdivision have been spread over approximately three decades; during which time, the housing market and the vision for the subdivision have changed. The proposed conditional zoning amendment will primarily pave the way for the additional housing units that are proposed for the redesign of Phase VI; as well as clean up a number of elements lingering in the original proffers that are no longer envisioned. Thank you.

Chairman Pack – Would the applicant like to come up and speak?

Mr. Tim Culpepper – Good evening, Chairman Pack, Vice Chairman Bryan and members of the Planning Commission, Mr. Riddick, and Mr. Saunders. I am here representing Cypress Investment Holdings who is the applicant. Our address is 150 W. Main Street, Suite 1100, Norfolk, Virginia. I just wanted to share with you a little bit of the work we have done since our last hearing in September. There were a number of items that were brought up during our hearing including some clarifications on proffers; all of which we have made. Specifically, we added two new proffers. One is dealing with the setbacks that we are anticipating in Phase VI since those setbacks are a little more intense than what is in the town's ordinance. We have proffered those setbacks and added that proffer voluntarily. We also have proffered the timing of our amenities in Phase VI. To do that, we developed an amenity expense budget. We have met with the HOA Board. Our goal in establishing the time frames that we have proffered was so that the amenities, when they are brought on, would not create any undue burden on the existing fiscal status of the HOA. We have structured our proffers so that the amenities come on no sooner than a date certain but not later than a date certain. You will see in the proffer that those Certificates of Occupancy have a very narrow band there. I think it is fifty-two and fifty-five. It gives us the ability, as a developer; if we wanted to bring the amenities on sooner, we could do that. We could bring the amenities on sooner; but we cannot convey them over to the HOA for HOA maintenance until that point in time. It gives us the flexibility as developer to go ahead and construct those amenities from a marketing perspective. Having bricks and mortar sitting there is a lot more attractive than selling a rendering. We have the flexibility to bring those amenities online; but we do not want to create any undue burden, financially, for the HOA. As I mentioned, we met with the HOA Board on that. The HOA Board has expressed their support for that timing and that methodology. In addition, we made some other clarifications to our proffers to specifically state that our design guidelines are attributable to every housing unit that is constructed in Phase VI. We have also made some additional revisions to our design guidelines to address some Commissioner concerns. Specifically, we added an exhibit that clearly references the manor lots and the cottage lots so there is no confusion there. A picture is worth a thousand words as they say. We have added an exhibit to reference those. We have also made some changes to address some

concerns regarding the proximity of the homes. If you recall, at our last meeting, we had revised our design guidelines so that our setbacks were eighteen feet on one side to accommodate a driveway and six feet on the other. There were some concerns that we could still have a situation, with the way that design guidelines were worded, where a home may be as close as twelve feet with six feet on each side. We added a provision for the cottage homes where we stated that in no event can the cottages be closer than eighteen feet which is a fifty percent increase from that minimum if that condition were to apply. We added a similar requirement in the design guidelines for the manor homes. We also clarified a few of the points regarding the points for the two separate Architectural Review Boards that are currently existing in Cypress Creek and the scope and timing of when each individual Board makes recommendations and approves plans. In all, I think Mr. Litton mentioned it earlier; we have made a number of changes. I agree wholeheartedly with what he has said and that is the continued feedback from both the HOA, our Board, staff, and the Planning Commission has made this application a better application. I am appreciative of everybody's time and feedback to develop what, we think, is a very sound application for the Town of Smithfield and for Cypress Creek. In closing, I just wanted to bring up a couple of other points. There was some discussion at last month's hearing about residents wanting to know what was going to happen in their back yard and this was fashioned as a change. I just wanted to point out, if you look at the screen, the big expanse of property at the northern most section of the property is the Phase VI property. This section of the community does not border any existing lots in Cypress Creek today. This part of the community is bordered by the golf course. I would like to point out that Mr. Adams is here this evening. He arrived a little late. He represents the former developer; but, also, represents the current owner of the golf course. They have expressed their support for this application. The golf course borders these seventy-five acres. There is an existing lake that borders it and the interstate and the creek. We do feel like this is an appropriate place to move forward with this plan; because, in fact, it does not border any of the existing residents. It does have some natural buffers within the community. Lastly, I just wanted to point out that the 2009 Comprehensive Plan for the Town of Smithfield, Chapter 6, is for the Cypress Creek planning area. This is, again, going back eight years. Eight years ago, this plan

contemplated there being some townhouse development within Cypress Creek depending on market conditions. It talks about the diversification of product within Cypress Creek. I have been very consistent with the thought that I did not feel like townhouses and attached housing was appropriate in Cypress Creek. It is why we have opted to move forward with the age restricted product, albeit, on some smaller lots with some smaller footprints. They are detached. That, in and of itself, is more in keeping with the community of Cypress Creek versus what is spelled out in the Comprehensive Plan. My thought has been confirmed by many. I have heard many in the various town hall meetings echo that sentiment. They did not feel that attached housing was appropriate and were very appreciative that we were not moving in that direction. The last thing with the Comprehensive Plan and the Cypress Creek planning area; it contemplates densities that are three to five units per acre. It is the range that the Comprehensive Plan provides for. Our plan for Phase VII is a little over two units per acre. It is much more conservative in terms of density than what is contemplated in the Comprehensive Plan. I think it goes a long way in terms of diversifying product within Cypress Creek. This 2009 report contemplated that Cypress Creek would be completely built out in five to eight years. We have one hundred and sixty or so lots left to go; actually, more like a couple of hundred lots left to go. It is evident, in my professional opinion, that the product diversification within Cypress Creek has not responded and is not positioned to meet current market demands. We think that this application goes a long way in terms of addressing that deficiency. Again, I will remain available for questions. I would appreciate your support this evening in referring this for approval to the Town Council. Again, I appreciate everyone's time and everyone's feedback including the HOA, the Commissioners, and our Board. Thank you very much.

Chairman Pack – Thank you, Mr. Culpepper. Does anyone have any questions for Mr. Culpepper?

Town Attorney – He stole my thunder. I was trying to figure out what he did with respect to the improvements and the narrow time frame as to when they would be conveyed. I understand what he is doing now. I read it but could not understand without his explanation why he would create such a narrow window for conveyance to the HOA

but it makes sense to me. For the record, I raised a bunch of concerns and issues with respect to the proffers. It appears to me that he addressed all of those.

Vice Chairman Bryan – I have a couple of questions for Mr. Culpepper. You said you had increased the setbacks with the new proffers that you offered. Is that correct? Or did you just rearrange them?

Mr. Culpepper – We specifically proffered our setbacks. The way the town ordinance reads, for cluster development, it has minimum side yard setbacks of six feet. What we had specified in our design guidelines were that the side yard setbacks would be six feet on one side and eighteen on the opposite side. Since our design guidelines called for a side yard setback that was in excess of the town ordinance, Mr. Riddick recommended that we make it clearer. We agreed; so we voluntarily proffered these side yard setbacks that are consistent with our design guidelines. We have gone one step beyond that and included, in our design guidelines, a specific statement that there will not be any cottage homes closer than eighteen feet which would be nine feet on each lot or some combination thereof.

Vice Chairman Bryan – So, is there an increase in the setbacks?

Mr. Culpepper – Yes, sir, there was an increase in the setbacks.

Vice Chairman Bryan – Is there a reduction in the number of homes that you originally proposed?

Mr. Culpepper – There has not been a reduction in the number of homes that we proposed. However, the way our design guidelines are worded, we have some flexibility to widen lots to make things a little bigger depending on what the final builder product would be. From what I understand from the town ordinance and conversations with staff is that as long as we do not exceed the minimum number that we have contemplated in our application then we can still come in with a number that is fewer and be in substantial conformance of the plan. Certainly, I do not want to speak for staff; but that is what I understood. So long as the balance of the plan, the road alignments, the configuration of the plan remain consistent then we have some flexibility if we have fewer units just not any more.

Vice Chairman Bryan – My second question is about the entrance to the Cypress Creek development. It is still the same road; one road in and out. Yes?

Mr. Culpepper – Yes, sir. There is one access point off of Fairway Drive. There is also a secondary access point that is off of Great Springs Road. It is an emergency access point that is located where the Homeowners Association RV and boat storage lot would be. I think that the provision for one entrance and exit was something that was an original Isle of Wight standard; but that standard, as I understand it, would be the same would it move forward today and be developed today.

Vice Chairman Bryan – I have one more question. You brought up something about ‘Phase VII.’

Mr. Culpepper – If I said Phase VII, I misspoke. I apologize for the confusion. In the town’s Comprehensive Plan for the Cypress Creek planning area, the town recommends densities that are between three and five units per acre. In our plan, for Phase VI, it is a little over two units per acre. It is less dense than what is contemplated in the town’s Comprehensive Plan.

Vice Chairman Bryan – With this proposal, are you saying there are only two units per acre? Is that what you are saying on eight thousand square foot lots?

Mr. Culpepper – The Phase VI land is right about seventy-five acres. We are contemplating one hundred and fifty-two lots on seventy-five acres which equates to just over two units per acre. Now, the lot sizes are smaller but what should also be taken into account is the open space that we are providing. We are required by the cluster ordinance for the town to have 15% of our acreage dedicated for open space which is about fifteen acres. Our current plan contemplates nineteen acres. The open space is really the genesis of the cluster ordinance in most municipalities to create more open space. That open space is within that density calculation.

Vice Chairman Bryan – I understand that but, in actuality, when you string these homes up side by side it is more than two units per acre.

Mr. Culpepper – The total density for the site is one hundred and fifty-two units.

Vice Chairman Bryan – I am not asking about the total density. I am saying that when you put two, three, or four of these homes together on one square acre; how many units are we talking about?

Mr. Culpepper – The average square footage for the lots in Phase VI is around fifteen thousand square feet for the manor lots; actually it is more than that for the

manor lots. It is about ten thousand square feet for the cottage homes. Those numbers would equate to, not counting for the open space, somewhere in the four units per acre range which is completely consistent with the town's Comprehensive Plan. It does not take into account the open space we are providing.

Vice Chairman Bryan – The Comprehensive Plan provides that the special use permit is granted.

Mr. Culpepper – The Comprehensive Plan, that I referenced, is where the three to five units per acre guideline is established. That is where I was referencing that from.

Planning and Zoning Administrator – If I could, that relates to the Suburban Residential zoning district. Whether it be conventional or cluster, three to five is the range for that zoning district depending upon what type of subdivision that it is.

Vice Chairman Bryan – But it requires a special use permit.

Planning and Zoning Administrator – For cluster, yes.

Vice Chairman Bryan – Okay, thank you.

Mr. Culpepper – Thank you, sir.

Chairman Pack – Are there any other questions or comments?

Dr. Pope – I have no questions but I have a comment. I met with Mr. Culpepper over this. As far as the cluster development is concerned, I think I am for all of that. My biggest concern through this whole process is how close these homes are together. Meeting the minimum requirements of eighteen feet between the homes, unless there is a special exception that goes to the ARB, he has met that. So, as far as I am concerned, a lot of this stuff that we have been working on over the last several months seems to be in line with what we have kind of asked for and what we think. At this point, I think it is pretty reasonable to proceed on; in my opinion, and offer the recommendation to proceed on to Town Council. I think he has met a lot of the concerns that have been there with all the proffers and all of the amenities he is doing in trying to move forward with this and trying to meet that. I think this is something that is reasonable given the cluster development guidelines that we can kind of live with. At least, I can live with.

Chairman Pack – Are there any additional comments? Hearing none, I would be happy to entertain a motion on the conditional zoning amendment for the Cypress Creek subdivision.

Mr. Torrey – I would like to make a motion to recommend to Town Council approval of the conditional zoning amendment.

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 nay, 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 was one vote against the motion. The motion passed.

Chairman Pack – We have conditional zoning amendment approval. Next up, we have the special use permit for the cluster provision in Suburban Residential zoning district for Phase VI of Cypress Creek. We have worked on these together. Are there any questions or concerns with regards to the special use permit?

Ms. Hillegass – I move to approve as presented.

Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded. Is there any further discussion? Hearing none, roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted nay, 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 was one vote against the motion. The motion passed.

Chairman Pack – Mr. Culpepper, you have passed. We appreciate you working with us. You have worked very hard with us and we appreciate that.

Ms. Hillegass – Yes, thank you so much.

Town Attorney – It has passed; but he still has to go to Town Council. This was just a recommendation. I want to make sure you understand that. This is just round one.

Mr. Culpepper – Yes. Thank you for your time.

Chairman Pack – The last item on our agenda this evening is the Approval of the September 12<sup>th</sup>, 2017 Meeting Minutes.

Town Attorney – Mr. Chairman, I recommend approval of the minutes.

Ms. Hillegass – I move to approve as presented.

Mr. Davidson – 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? We are adjourned.

The meeting adjourned at 7:10 p.m.



Mr. Randy Pack  
Chairman



William G. Saunders, IV  
Planning and Zoning Administrator