

The Smithfield Planning Commission held its regular meeting on Monday, November 7th, 2022, at 6:30 p.m. at the Smithfield Center.

Members present:

Charles Bryan – Chairman
Julia Hillegass – Vice Chair
Dr. Thomas Pope
Raynard Gibbs
Randy Pack
Michael Swecker

Members absent:

Michael Torrey

Staff present:

Tammie Clary - Community Development & Planning Director
William H. Riddick, III – Town Attorney
Mark Kluck – Planner
Valerie Butler – Councilwoman, Town Council
Nadya Jaudzimas – Administrative Assistant

Press:

Stephen Faleski – The Smithfield Times

Citizens: 4

Chairman Bryan welcomed everyone to the meeting and asked that all in attendance stand for the Pledge of Allegiance.

Community Development & Planning Director’s Report:

Tammie Clary, Community Development and Planning Director, reported that included on the agenda was a discussion item for public building design review, as requested by Planning Commission. She added that there was also a discussion item on a proposed text amendment to address the Shipping Containers currently located within Town included on the agenda.

Upcoming Meetings and Activities:

Tuesday, November 15th, 6:30 PM – Board of Historic & Architectural Review Meeting
Tuesday, November 15th, 7:30 PM – Board of Zoning Appeals Meeting
Monday, November 28th, 3:00 PM – Town Council Committee Meetings
Tuesday, December 6th, 6:30 PM – Town Council Meeting
Tuesday, December 13th, 6:30 PM – Planning Commission Meeting

Public Comments:

Chairman Bryan explained that the public was invited to speak to the Planning Commission on any matter, except scheduled public hearings, and to please use the sign-up sheet. Comments are limited

to five (5) minutes per person. Any required response from the Town will be provided in writing. He reported that there were no members of the public signed up to speak, and asked if there was anyone present who wished to speak but had not signed up. Seeing and hearing none, he closed the public comments section.

Planning Commission Comments:

Dr. Pope reported that he had spoken with Mr. Layden, executor of the estate for the Yeoman property, and he had given him permission to speak about a discussion they had regarding the building of the new Wawa service station and associated traffic concerns. Dr. Pope stated that Mr. Layden indicated it would be nice to have an additional exit from Smithfield High School to come out between The Oaks Veterinary Hospital and the existing white farm building, enabling circular traffic patterns to exit. He added that Mr. Layden would be very interested in speaking with someone at the County about the use of a road in this area as a solution to possible traffic concerns.

Chairman Bryan asked for confirmation of the area in question and that it was on the County side of Turner Drive.

Dr. Pope stated that this was correct and referenced the advantage of the use of the land before it is sold completely. He added that he was unsure how to pass the information on to the County if they were interested.

Mr. Gibbs told Dr. Pope that they could speak about it after the meeting as he was also a member of the Isle of Wight Planning Commission.

Chairman Bryan thanked Vice Chair Hillegass for stepping in to run last month's Planning Commission meeting that he was unable to attend.

***Public Hearing* Special Use Permit Application (Automobile and Light Vehicle Repair Establishment within a completely enclosed structure with screened outdoor storage) and Entrance Corridor Overlay Review– 928 South Church Street – Caliber Bodyworks of Virginia LLC C/O Joe Dell, applicant.**

Mrs. Clary reported that the applicant was seeking approval for a Special Use Permit (SUP) pursuant to the Smithfield Zoning Ordinance (SZO) Article 3.I. Section C.13, in order to allow “automobile and light vehicle repair establishments (within completely enclosed structures with screened outdoor storage) as a permitted use at 928 S Church Street. She continued that the current primary use of the property is an automobile and light vehicle dealership and retail sales establishment (with service and repair facilities as an ancillary use, with completely enclosed service facilities and screened outdoor storage of repair vehicles) (SZO Article 3.I Section B.14). She reported that the applicant had stated they plan on employing approximately 15-20 people and will operate between the hours of 7:30am and 5:30pm, Monday through Friday. As part of the same application, the applicants were proposing to erect a six foot (6') tall white vinyl fence, which would match the existing fence on the property, in order to provide screening for the outdoor storage of repair vehicles. She added that the applicants are also proposing to paint the existing tan trim black, along with the signpost (for the detached sign).

Mrs. Clary reported that the positives of the application were that the applicant is not proposing any exterior structural changes to the property and is seeking approval for the specific use of “automobile

and light vehicle repair establishment.” She continued that a negative aspect would be that the requested use is not a by-right use and does require a SUP. Mrs. Clary stated that Town staff supported a favorable recommendation to Town Council for this application, provided any proposed signage/exterior changes must be properly permitted and reviewed by the Planning Commission if applicable. She added that the sign application package, as submitted, is administratively approvable, provided the existing detached sign for “Smithfield Auto” is removed, contingent on the submission of a landscaping plan, cost estimate, landscaping bond, sign permit application, and sign permit application fee.

Joe Dell, representative for Caliber Bodyworks Virginia of 4336 Marsh Ridge Road in Carrollton, Texas, was present to speak about the application and answer any questions.

Chairman Bryan reported that there were no sign-ups for the Public Hearing to speak for or against the application. He asked if there was anyone present who would like to speak.

Christine, of 9369 Autumn Branches in San Antonio Texas, reported that she was also a part of Caliber Collision. She reported that the business was here to work with the Community and to continue the previous owner’s legacy. She added that the previous owners were present and had spoken to her about the Toys for Tots drive during the holidays and that Caliber Collision would continue that program. She continued that they also planned on having a Recycled Rides program, where used cars would be repaired and donated to families in need – namely military families. She stated that the business gives to the American Heart Association and also hosts a yearly food drive for the local community.

Chairman Bryan asked if there was anyone else present who wanted to speak for or against the application. Hearing and seeing none the Public Hearing was closed.

Dr. Pope stated that he was basically in favor of the application with his only concern lying with painting the building trim black. He added that in the Entrance Corridor Overlay (ECO) the Commission preferred earth tones, and he felt that black trim would give a more modern look to the building which already had a Colonial touch to it. He outlined that the other aspects of the application – the sign, the fence continuation, and the black door – looked appropriate and consistent with the other businesses in the area.

Chairman Bryan stated that he was in agreement with Dr. Pope, reviewing that the fence addition was just a continuation of what was already present on the property. He added that he thought the sign was also appropriate.

Mr. Dell reported that the business’s traditional color was Tricorn Black, but if the ordinance required an earth-tone color, he was certain that they could use a Saddle Tan or desert color used in their buildings before.

Dr. Pope reviewed that they were only referencing the trim and not the sign.

Mr. Dell explained that traditionally the signs of the business utilized Tricorn Black on the sign, so they tried to have that same color on the trim for continuity. He reiterated that he did not think it would be a big issue to keep it in earth tones.

Mr. Pack made the motion to support a favorable recommendation to Town Council for the application provided that any proposed signage and exterior changes must be properly permitted and reviewed by the Planning Commission if applicable. Mr. Gibbs seconded the motion.

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

Mrs. Clary asked for clarification if there would be a second motion regarding the ECO approval of the earth tones on the building's trim and the proposed white vinyl fence addition. She added that this approval would be separate from the favorable recommendation of the Special Use Permit (SUP) to Town Council.

Mr. Pack asked for confirmation that what was up for consideration was the SUP.

Mrs. Clary confirmed that the SUP and also the ECO Review for the proposed extension of the white vinyl fence with the condition of the earth-tone color for the trim work of the building both needed a motion.

Mr. Pack made the motion to approve the ECO Review extension of the white vinyl fence with the condition of the trim being kept in earth-tones rather than black. Mr. Gibbs seconded the motion.

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

Entrance Corridor Overlay Review and Site Plan Amendment - 293 & 295 Cary Street —Town of Smithfield, applicant.

Mrs. Clary reported that the applicant is seeking a Site Plan Amendment and Entrance Corridor Overlay (ECO) review and decision to erect a thirty-foot (30') by fifty-foot (50') by sixteen-foot (16') tall, insulated metal building on a concrete slab foundation finished in a Solar White colored steel panels with Hawaiian blue accents/trim. The metal building will feature a one-to-twelve (1:12) gable style metal roof, a twelve-foot (12') wide by fourteen-foot (14') tall automatic roll-up garage door (white), an eight-foot (8') tall entry door (white), six (6) skylights, gutters, and downspouts. She added that the proposed building will complement the existing buildings located on-site at the Public Works and Utilities Facility. The proposed 1,500 square foot metal building will be erected at the southwestern edge of the property and will be utilized as a storage space for the Town-owned VAC truck.

Town staff recommend approval with the condition that the proposed lot consolidation is continued, along with the vacation of the Virginia Department of Transportation (VDOT) right-of-way, bringing the site into conformance with the Smithfield Zoning Ordinance.

Jack Reed, Director of Public Works and Utilities at 310 Institute Street in Smithfield, was present to speak about the application.

Vice Chair Hillegass made a motion to approve the application as presented, with staff recommendations. Mr. Pack seconded the motion.

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

Preliminary/ Final Plat Application & PC Waiver– Washington & James Street – Jamie Weist, applicant.

Mrs. Clary reported that at the Tuesday, November 1st, 2021 Town Council meeting the applicant had successfully acquired a Special Use Permit (SUP) to facilitate the construction of four duplex residential dwellings, in accordance with Smithfield Zoning Ordinance (SZO) Article 3.D. Section C.3. At its Tuesday, August 2nd, 2022 meeting, Town Council conditionally approved an

additional SUP granting zero lot residential units, in accordance with SZO Article 3.D Section C.24., to accommodate the proposed dwellings on Lot 1, Lot 2, Lot 3, Lot 4, and Lot 8. This approval was conditioned on the site plan approved by Town Staff on June 3rd, 2022, provided Sheet CU201 is updated to include “Clay Street.”

Mrs. Clary continued that the applicant is now seeking preliminary and final plat review and decision by Planning Commission, allowing for the formal subdivision of the 1.51 acres of land at the corner of Washington Street and James Street to create eight (8) residential lots consisting of four (4) single-family detached dwellings and four (4) single-family attached residential dwellings. As part of the same project, the applicant plans on constructing thirteen (13) parking spaces for the Veteran of Foreign Wars building located at 233 Washington Street (by right through SZO Article 3.D Section B.2.). This parking lot will connect Washington Street to Clay Street. She added that the proposed project also contains the extension of Clay Street, connecting to it James Street. Along Clay Street, the applicants will connect an eight-inch (8”) water main to the existing four-inch (4”) water main. And connect an eight-inch (8”) sanitary sewer main to the existing eight-inch (8”) sanitary sewer main. A new fire hydrant will also be added to the site on Clay Street. Mrs. Clary reported that in order to accomplish this proposed project, the applicant is also seeking a Planning Commission Waiver to accommodate the proposed lot widths for Lot 7 and Lot 8. Because of the creation of the parking spaces for the VFW building, the extension of Clay Street, and the configuration of the site plan, the applicant is seeking a Planning Commission waiver under SZO Article 11 Section A.4 to allow for a reduction in the lot width of Lot 7 at 59.71’ and Lot 8 at 31.75’ from the required 60’ corner lot duplex width (Lot 7) and 40’ interior duplex lot width (Lot 8), enabling the extension of Clay Street, connecting it to James Street.

Mrs. Clary stated that Town Staff recommended that the preliminary and final subdivision plat application be approved under the following conditions: (1) Town staff must be furnished with copies of the homeowner’s association documents, including but not limited to, restrictive covenants and deeds of easements. (2) The Town must be furnished with no less than five (5) signed copies of the subdivision agreement (once presented and approved by Town Council), along with the requisite recordation fee for Isle of Wight County Courthouse. (3) The Town must be furnished with no less than five (5) signed and executed copies of the final plat, along with the requisite recordation fee for Isle of Wight County Courthouse. (4) The deed of drainage and utility easement that is to accompany this final plat at recordation, must be submitted to the Town Attorney for review, and must be revised (if necessary). The Town must be furnished with no less than five (5) signed copies of this deed. (5) Once confirmed with Isle of Wight County Courthouse, the amounts of the additional recordation fees will be provided to the applicant, along with recordation receipts once recorded.

Chairman Bryan asked if the applicant was present to speak about the application and received the report that they were not at the meeting. He questioned the connection of the 8” water main to the 4” water main and its effect on the water pressure in that area.

Mr. Reed reported that the 4” water main was existing in that neighborhood, and it had been sufficient for many years, however newer standards dictated use of 8” water mains. He acknowledged that the flow on one end of the pipe would not be ideal but added that the other end would also be fit with an 8” main. He reported that there would not be any water pressure issues with this connection as it would be fitted from both sides.

Dr. Pope made a motion to approve the application with the conditions set by Town Staff. Mr. Swecker seconded the motion.

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

***Discussion Item* SZO Article 2.AA Text Amendment – Town of Smithfield, applicant.**

Mr. Clary reported that at its Tuesday, August 9th, 2022 Planning Commission meeting, the Planning Commissioners inquired if there was an ordinance or design guideline adopted by the Town of Smithfield that sets a standard for the design of public buildings located outside of the Entrance Corridor Overlay's (ECO) 500-foot buffer. Town staff explained that at the time of the inquiry, there was no adopted design guidelines or ordinance that would prompt a review of any newly constructed public building, or its accessory structures, if it was located outside of the ECO buffer. She continued that since this inquiry was made, Town staff have researched other Virginia localities' ordinances and design guidelines pertaining to public building designs. Town staffs' research indicated that many Virginia localities do not have a mechanism that would cause a design review by any Board, Commission, or Council for any newly constructed public buildings located outside of a locality's overlay equivalent to the Town of Smithfield's Entrance Corridor Overlay. However, one northern Virginia locality had some verbiage in its unified development code that would give its Planning Commission the ability to review newly constructed public buildings. Town staff used the language that was found to draft detailed provisions that would be used in the design of any newly constructed municipal public building, including the construction of additional square footage of an existing building and its accessory structures, even if these newly built structures are located outside of the Town of Smithfield's ECO. She added that these provisions would exempt both state and federal public buildings on state- or federally owned parcels located within the Town of Smithfield, where their regulations preempt the Town of Smithfield Zoning Ordinance and any other Town-adopted design guidelines. Town staff included a statement in Section AA.1.b. excluding pump stations and other public utility structures, which are to be dedicated to the Town. Town staff are currently researching potential prefabricated buildings with gable roofs, that we can incorporate into our Design Standards.

Town staff recommended a robust discussion and a favorable consensus on the return of the application as a draft review for Planning Commission.

Chairman Bryan stated that he had reviewed the draft and thought it was a job well done by the Town Staff.

Mr. Pack questioned why the existing pump stations and public utility buildings dedicated to the Town were excluded from the proposed amendment. He gave the example of the pump station behind the 7-11 on Main Street adding that it was outside of a neighborhood, and it looked nice. He questioned why would the Commission want to have anything of a lesser standard.

Mrs. Clary reported that when Town Staff was drafting the amendment, they crafted it with the idea of coming before the Planning Commission with potential plans of pump stations that had already been approved to provide to applicants. She directed the Commission members to review the last few pages of the PDF provided which compiled ideas that Staff had collected along with the recommendations outlined by Dr. Pope. She gave the example of including a gable-style roof versus

what was currently outside of Hardy Elementary pump station. She reported that the only reason why it had been excluded was so that staff could have approved specification already in place within the design standards.

Dr. Pope asked Mrs. Clary if when she referenced already approved buildings, did she mean engineered buildings.

Mrs. Clary stated that at this time Town Staff did not have a specification sheet to provide to applicants without having to point toward other pump stations to use as examples. She continued that Town Staff was hoping to incorporate the specifications into the Town's design standards to be able to provide to applicants that the Planning Commission would be in favor of.

Mr. Pack stated that he thought the specification sheet was a good idea; however, he still felt that there should not be exemptions from the standards. He added that if a specification sheet was provided to an applicant, and they decided not to follow the guidelines then there was no mechanism in place to hold them accountable. Mr. Pack stated that the Hardy Elementary pump station was a good example of this.

The Town Attorney recommended that if the Commission wanted to enact standards, then they should require that all pump stations should be comprised of masonry, preferably brick, and have a metal roof. He asked Mr. Reed if that was the preferred roofing material of Public Works due to ease of maintenance.

Mr. Reed stated that it would just be much easier to assist applicants if specifications could be provided to them that stated what was pre-approved and what was needed. He added that Public Works did not have any issue with the aesthetics of the building. He continued that if the Planning Commission would like to review what they come up with then there would be no issue with that.

The Town Attorney questioned how a pre-approved design could be gauged, specifically if they knew what the footprint would be for every pump station.

Mr. Reed stated that it would depend on the size but yes they generally did.

The Town Attorney reiterated his recommendation that they make the requirement for all pump stations to be of brick construction with a standing-seam, aluminum roof.

Mr. Reed reported that they would be even more specific than that with the inclusion of brand names of products.

The Town Attorney pointed out that there could be standards, and the developer may not like them, but it was the cost of doing business. He stated that what is built ends up being given to the Town, so the Town might as well get what they want. He asked for confirmation of a brick building with an aluminum roof requiring the least amount of maintenance for the Town.

Mr. Reed stated that was correct.

The Town Attorney stated then that was what the standard should be.

Mr. Pack suggested giving all applicants design standards and with no exclusions from the amendment.

The Town Attorney added that giving the developer standards would be very simple, explaining that what was driving the exclusions was the design standards versus the technical standards. He pointed out that the Town has to take ownership of the buildings and maintain them forever, so why wouldn't standards be put in place.

Dr. Pope stated that he thought there should be an appropriately pitched gable roof. He added

that Colonial architecture was a 9/12th pitch or greater, estimating that what was at Hardy Elementary's pump station was likely a 3/12th pitch roof. He stated that the pump stations were going to be different giving the example that the pump station at Cypress Creek was different from the station behind the 7-11 on West Main Street. He added that design standard did not need to be overly extravagant but should match the community that it is being placed in.

The Town Attorney pointed out that the developer could always apply for a waiver if they wanted to.

Chairman Bryan stated that he agreed. He questioned if the ordinance was updated to include design standards would it apply to developments that had already been approved.

The Town Attorney stated that it would not as they were already owned by the Town. He asked for confirmation from Mrs. Clary that State and Federal buildings had been exempted as they may have standards that superseded the Town's, to which she indicated was correct. He recommended inclusion of those entities, and they should still seek the Town's approval unless State or Federal law supersedes.

Dr. Pope stated that he thought it was the Town's aesthetic requirement, and they could build to whatever State and Federal specifications were necessary.

The Town Attorney acknowledged that he did not know all of the State and Federal laws for building construction. He gave the example of specific design standards required at the federal level of a new Post Office being built in Town to illustrate his point.

Mr. Pack stated that if a hypothetical new Post Office were to be built downtown then the Historic District's guidelines would apply to the building design.

The Town Attorney stated that this was exactly his point. He added that there may be a Federal law that exempts that, but if there was no challenge to the exemption then they would not get the standard that they are seeking.

Mr. Pack stated that the argument of having the text amendment was for the Town to hold themselves to the same standards that they hold the public to. He reiterated that he was not in favor of giving exemptions to the Town by-right.

Dr. Pope stated that he felt that this goes to the County as well, adding he knew they did not have control over the point.

Mr. Pack stated that they were setting standards for what was happening within their district. He pointed out that before a building permit is approved a zoning permit must be obtained.

Dr. Pope stated he understood, reiterating he felt the County should have similar language within their Zoning Ordinances as well to avoid another building similar to the Hardy Elementary pump station.

Chairman Bryan stated he thought that Town's Zoning requirements would supersede the County's.

The Town Attorney stated that was correct for anything that was built in the Town. He clarified that Dr. Pope had referenced the Hardy Elementary pump station which was located in Isle of Wight County, and there was no ordinance in the County that required scrutiny at this level. He added that even though the Town was within the County, there was really nothing that could be said about it.

Dr. Pope stated that as a taxpayer he was paying for it and he would like to make sure the County had some wording to address the issue.

Chairman Bryan stated that this was another issue for Mr. Gibbs to discuss with the Isle of Wight County Planning Commission.

Mr. Gibbs stated that he was in agreement that there should be a standard across the board.

Chairman Bryan suggested a Town Planning Commission member attend the County Planning Commission meeting to make a statement.

Mr. Gibbs stated he would present the issue at the County Planning Commission's next meeting.

Chairman Bryan stated that he felt that they had a good discussion. He asked Mrs. Clary and Mr. Kluck if the Planning Department could make the additional changes to the proposed ordinance.

Mrs. Clary reported that there would be changes made to the last sentence in b. Public Buildings, section i. to include that all pump stations to be constructed of masonry brick with a standing-seam, metal or aluminum roof.

The Town Attorney stated that information did not have to go in that section but should be placed within the standards provided to applicants. He added that pump stations would be subject to review under this provision. He asked the Commission members if they felt that the baseline standard for a pump station, or any similar building, should be of brick construction with a no less than 9/12th pitch aluminum roof.

Mr. Pack added that they discussed a standing-seam, metal roof, and by including aluminum it was a little too specific.

Mr. Reed stated that part of the issue dealt with cost. He discussed the cost involved with putting brick around the pump station buildings.

The Town Attorney hypothesized that if a design was brought to the Commission that was not brick with a nice roof, then they would not approve it.

Mr. Reed stated that he understood that the idea was to improve the look of the buildings.

The Town Attorney stated that the whole point was to hold the Town to the same standard as private developers.

Mr. Pack gave the reminder that there was a waiver section in the ordinance if the applicant felt that something needed to be different. He stated that the Cypress Creek pump station was a good example of building something different to fit the neighborhood it is in, which actually made it look better than what the design standard would be. He added that when they update the Zoning Ordinance it is important to design it as well as they can, but include a waiver section to address the items that they haven't thought of. He read the last sentence "No such waiver variation or substitution should be detrimental to public health, safety, or welfare." He stated that this inclusion is what helped make it a good ordinance.

Dr. Pope recommended that if something is going to be built for the Town at their own expense, giving the example of a pump station, then it should be a standard stamp, as in having a certain color brick and a certain color roof, unless it doesn't fit in the community it is being built in. He added that this would fit a wide variety of building types from outbuildings at schools, pump stations, etc. He agreed that there should be a standard that the Town follows.

The Town Attorney gave the reminder that these standards would be under the ECO.

Dr. Pope gave the example that he did not want to approve black roofs this month, and then 5 years down the line green roofs. He stated that they should look at what they see the pattern for the Town to be.

Mr. Pack pointed out that they were talking about two different points.

Dr. Pope stated the Town standard is one side and private developer's plans would be the other.

Mr. Pack stated that he thought the text amendment was good and the Commission should have further discussion for design standards. He told Dr. Pope that his points were well taken and that he did not disagree with any of them, but he felt that there should be a separate document that states those points. He asked Mrs. Clary if the Planning Department covers design standards.

Mrs. Clary stated that this was correct.

Mr. Pack asked who would be writing the design standards.

Mrs. Clary reported that they would be written by Mr. Reed and they are written in conjunction with input from Town Staff.

The Town Attorney stated that there would be no point in Mr. Reed writing his own standards and they not be lined up with what the Commission recommended.

Mr. Pack asked if the Commission should review the design standards written and comment on them as part of the procedure.

Dr. Pope stated that if the Town had decided a standard color pattern in mind he recommended they present it as he did not have a preconceived standard in mind. He stated that his feeling was that this is a Colonial community, and it should go back to the Colonial roots.

Mr. Reed discussed the different styles of roofs on the pump stations.

The Town Attorney surmised that there had been different iterations of engineers over the years as there were several that had hipped roofs and several that had a mansard style roof. He estimated that the least expensive example would be the pump station on Lane Crescent.

Dr. Pope stated that he was not opposed to the look of that particular station, but he felt the roof needed to be steeper.

Chairman Bryan asked Mr. Reed how often the design standards would be revised.

Mr. Reed reported that they would be reviewed annually, with the next review in March. He stated that the push for the pump stations was due to the Mallory Farm development construction and the Town trying to ensure standards that the Planning Commission and Town Council wanted were in place to give to the developer.

Chairman Bryan asked if the design standards would be enforceable.

Mr. Pack stated that they would have to be approved.

Mr. Reed stated that if they were not built to the Town's design standards then they would not be accepted.

Chairman Bryan asked Mrs. Clary to again review the statement she had mentioned removing.

Mrs. Clary reviewed that the last sentence in b. Public Buildings, section i. would be re-written to include that all pump stations would also be subject to review.

The Town Attorney recommended that it also include State and Federal buildings.

Mr. Pack recommended the removal of item b.ii.

The Town Attorney recommended that it read "all Federal, State, Town, and County buildings, except those that are specifically excluded from review by State or Federal law."

Mr. Pack questioned if it needed to be included at all.

Chairman Bryan asked Mrs. Clary to summarize the discussion.

Mrs. Clary reported the inclusion of pump stations and utility structures the would be subject to review and the application of the ordinance to State and Federal properties.

***Discussion Item* SZO Article 2.P.17 Text Amendment – Town of Smithfield, applicant.**

Mrs. Clary reported that Town Staff had been asked to provide an update to the Smithfield Zoning Ordinance in regard to shipping containers/Conex boxes. She reviewed that at the Monday, October 24th, 2022 Town Council Committee meeting, staff prepared a presentation on the shipping containers that staff were able to identify, on various zoned parcels within Town. Staff were able to identify approximately sixteen (16) locations throughout Town where a shipping container(s) were present or recently had been present. She reported that Section P.15 and 16 of Article 2 currently stated: 15. Portable storage units are considered temporary accessory structures. Portable storage units are permitted for use for a maximum of sixty (60) days with a zoning waiver after which time a zoning permit must be obtained for up to an additional ninety (90) days of use, based upon a legitimate need for further use having been determined by the Zoning Administrator. If additional time is needed beyond what is permitted above, an appeal to the Planning Commission must be made in order to obtain the approval for further use. 16. Construction debris containers, including but not limited to dumpsters, are considered temporary accessory structures.

Mrs. Clary reported that Town Staff, under guidance from Town Council, was proposing the following Section 17, to be included in Article 2: 17. Shipping containers are considered accessory structures for setback placement purposes and shall not be utilized as a primary building or dwelling. Shipping containers shall be permitted by right in the Heavy Industrial Zoning District (I-2), and if screened or shielded from view, by right in the Light Industrial (I-1) Zoning District and Community Conservation (C-C) Zoning District. Shipping containers are permissible in the Highway Retail Commercial (HR-C) Zoning District, only after the successful acquisition of a Special Use Permit. Shipping containers are not permissible in any other zoning district. At no time shall shipping containers be stacked or used for habitation. A shipping container shall not be located on any environmentally sensitive lands (RPAs) or wetlands. Appeals of a decision of the Planning and Zoning Administrator in the administration of this section shall be to the Planning Commission as provided in Section 15.2-2311 (1997) of the Code of Virginia. Appeals of a decision of the Planning Commission by the applicant or a party in interest regarding a site plan, waiver, variation, or substitution shall be to the Town Council, provided that such appeal is filed with the Town Manager within ten (10) calendar days of the decision being appealed.

Mrs. Clary stated that Town Staff recommended a robust discussion and guidance on how the Planning Commission would like to see a draft finalized. For convenience, staff have provided the attached Shipping Container presentation, including an ariel view of the approximate locations of shipping containers in Town as well as information from surrounding localities regarding their guidelines. She reported that Staff would add shipping containers as a by-right use in I-2, adding shipping containers, screened or shielded from view, as a by right use in the I-1 and C-C, and adding shipping containers as use permitted by special use permit in HR-C. She reported the inclusion of the definition of shipping container to the ordinance.

Mr. Pack reported that there had been lengthy discussion regarding shipping containers in Town at Town Council's Committee meeting. He added that Mrs. Clary's recommendations specifically came out of that meeting and Town Council had stated that they wanted the Planning Commission to work on the ordinance. He reported that the goal had been to get the 16 containers identified to be located in the

allowable areas outlined. Mr. Pack reported that the Town Council members had been assigned to contact the different owners of the containers based on who they had relationships with to discuss the issue preemptively. He reported that the Town Council unanimously agreed that storage containers do not belong in residential areas whatsoever, and there be no provision in the ordinance to allow that to happen.

Mr. Pack continued that the containers would be allowed by-right in I-2 (heavy industrial zoning) which was located in two specific areas: Smithfield Foods packing plant areas, and at Farmer's Services. He added that Smithfield Foods was clearly an industrial area and it made sense to see a shipping container in that area. He continued that Farmer's Services is a different type of area, but as they are also zoned as I-2 they could not be treated differently than Smithfield Foods.

Mr. Pack reviewed that I-1 and Community Conservation zoning were considered "light industrial." He gave examples of properties zoned as light industrial that had visible shipping containers. He reported that the consensus from the Council had been that there is an appropriate place and usage for shipping containers in this type of zoning but that they should be shielded from view. He continued that the discussion of shipping containers in HR-C zoning, with their thinking of the area near Tractor Supply, that there could be a possible use for the containers, but they did not want to give any by-right allowances in this area. He added that this would make them allowable only by SUP, meaning the applicant would need to explain to the Planning Commission why their use was necessary. Mr. Pack related that the Smithfield Fire Department's use of shipping containers was a good example of this as they had come before the Planning Commission to explain their use of the container and their location in the HR-C. He gave the hypothetical example of a resident wanting to have a storage container as a garage in Moonefield and discussed how this issue had come about due to a container having been utilized in Jericho Estates, adding that the Council did not feel it was proper for residential neighborhood.

Mr. Pack reported that the Town Council had asked Mrs. Clary to bring the issue back to the Planning Commission with the recommendations for discussion and then prepare some text amendments prepared to send to Town Council for adoption.

Mr. Swecker inquired if there was a storage container at the True Value.

Mr. Pack stated that there were, adding that they were on trailers and up on wheels.

Mr. Swecker pointed out that they stay on the property.

Mr. Pack explained that Councilman Hall had reached out to the owner to assist with getting him in compliance. He reported that the SUP application fee would be waived for the 16 container owners outlined in the report in order to get the process moving without causing too many issues. He continued getting all the current owners in compliance would allow them to keep future applicants on the same page moving forward. He gave the example of the Smithfield Recreational Associations (SRA) two storage containers already having roofs placed on them and having been painted making them not necessarily look like shipping containers.

Dr. Pope stated that it goes back to what they are defining as storage containers. He went back to the issue of the trailers at True Value not technically being Conex boxes since they have wheels underneath. He questioned if the definition needed to be changed. He stated that in I-2 he did not have issue with heavy industrial settings having by-right, but Farmer's Services zoned the same way has 2 trailers already on the left side of the building he was not in favor of them adding more. He added that

he did not think they needed to make Smithfield Foods come with a Special Use Permit application as it would unnecessarily tie them up. He continued that there needed to be some degree of definition where the containers would be placed on the property, adding that he doesn't know how the Commission could get True Value to the point that they have to ask for permission to place more trailers on their property when Smithfield Foods would not need to, and they are within the same zoning. Dr. Pope stated that he felt that an SUP should be required for the placement of shipping containers on farms.

Mr. Pack reviewed that on Community Conservation zoning having a shipping container was included as a by-right, but it must be shielded from view.

Dr. Pope stated that he felt that shipping containers in Community Conservation zones needed to be approved by the Planning Commission.

The Town Attorney gave the example of the land at the end of Cedar Road near Jericho Estates. He related that all the land in that area is zoned Community Conservation and with the ordinance written as it was the owner could place as many Conex boxes as they wanted on that land, which he stated may not be a great result.

Chairman Bryan inquired that if an applicant in Community Conservation proposed placing a shipping container on their property, wouldn't they need to come before the Commission.

The Town Attorney repeated that as it was written in the proposed draft it was by-right and shielded from view. Mr. Pack reiterated the same point.

The Town Attorney recommended putting Community Conservation back under the SUP requirement as it was primarily agricultural and not an industrial environment.

Mr. Pack stated that the reason the recommendation had come was due to several of the shipping containers identified were on farms within Community Conservation zoning.

Chairman Bryan stated that he was in favor of moving Community Conservation zoning under the SUP requirement for shipping container placement.

Vice Chair Hillegass reported that she would also like to see Community Conservation require an SUP.

Mr. Pack suggested that if they move Community Conservation to requiring an SUP he would still like to include that shipping containers must be shielded from view.

Dr. Pope stated that he felt that Light Industrial zoning should require an SUP for shipping container use as well. He reiterated that he felt that the number of Conex boxes should also be disclosed within an application. He added that he was not saying that the businesses did not have a need for storage containers, but he felt that the Planning Commission should at least be aware of it.

Mr. Pack questioned what the difference in number would be if they were in the appropriate zoning and the storage containers were not visible.

Dr. Pope stated he believed that a Conex box was going to stay indefinitely where it is placed.

Vice Chair Hillegass stated that this would allow for the Commission to be aware of what is happening on the property and guessed that there was likely some sort of chemical storage that was needed for Community Conservation zoning purposes. She questioned how much of that type of storage would they want in that area.

The Town Attorney stated that there would always be chemical storage needed in Community Conservation zoning.

Vice Chair Hillegass acknowledged this and questioned if the Commission wanted this type of

storage in Light Industrial as well considering the sites they discussed already with that zoning.

Mr. Pack stated that the name Light Industrial suggested that there may be some type of chemical storage happening there as well. He added that this was not where they would have residents.

Vice Chair Hillegass pointed out that there would be residents nearby in some areas, using the property behind the Royal Farms that was approved for 150 residential dwellings as an example. She stated that she would want to know how many containers would be placed, and what kind of items would be placed in them which would require an SUP.

Chairman Bryan questioned if the Commission would like to add a maximum number to the ordinance.

The Town Attorney stated that information would be part of the SUP.

Mr. Pack stated that by-right it could be stated how many storage containers could be on a property, and if someone wanted more than that then the SUP would apply. He agreed with Dr. Pope's assertion that removal of storage containers once placed were not likely to happen.

Chairman Bryan asked if the storage containers already in existence would be grandfathered in.

Mr. Pack reported that there had been no discussion of grandfathering in existing containers, which is why the Town Council members had been working to assist owners to get them into compliance. He reported that he had misspoken earlier when he referenced the Smithfield Recreation Association's two shipping containers. He added that they had previously applied for and received accessory structure permits therefore were in compliance.

The Town Attorney added that those particular containers could not be removed but their appearance would have to be kept up.

Mr. Pack inquired if this was also the case on Battery Park Road.

Mrs. Clary stated that the Harvest Fellowship Church had come before the Board of Zoning Appeals (BZA) for approval to remove the trailer that had been on their property and construct a new building.

Dr. Pope confirmed that the trailer there was already removed.

Mr. Pack stated that the trailer that was behind what will now be Caliber Collision will be removed by January 1st as well.

Dr. Pope stated that he did not think they could limit the number of storage containers located within Heavy Industrial zoning but felt that in Community Conservation/Farming there needed to be a limit in place. He gave the hypothetical example of building a 1000 square foot workshop and placing 20,000 square feet of storage in containers outside. He questioned if in that example should the Planning Commission make him build a larger workshop to accommodate the storage needs or allow the cheaper and easier placement of multiple containers. He asked if the number of containers allowed should be tied in with the square footage of the building. He acknowledged that it might be too complicated to tie to square footage but added that the size and use of buildings would be appropriate in considering how many storage containers should be allowed. Dr. Pope stated that this was the purpose of suggesting use of an SUP for Light Industrial zoning.

Mr. Pack agreed that this was the function of an SUP.

Dr. Pope stated that he thought it would be good for applicants to see a numbered limit and if they needed more then give them a way to present their argument as to why they need more.

Mr. Pack asked for confirmation that Dr. Pope was suggesting in Light Industrial zoning there

would be a limit on the number of containers allowed, if shielded, by-right or if he was suggesting that all containers require an SUP.

Dr. Pope replied that he recommended all containers by SUP but include a maximum number allowed.

The Town Attorney stated that he did not think that a number had to be used as it was a special use and they would need to come before the Commission regardless of if it was 10 or 1.

Vice Chair Hillegass stated that having a number limit was too site specific.

Dr. Pope gave the example of an applicant coming to the Commission every 15 months and requesting a new Conex box on their property.

The Town Attorney stated that the Commission could deny the application.

Dr. Pope stated he felt it would be helpful to give applicants an actual number as he was not going to be on the Commission forever.

The Town Attorney stated that whatever number was chosen would be arbitrary. Vice Chair Hillegass said the same.

The Town Attorney stated that the idea was not to impede the businesses as they wanted the Light Industrial entities to flourish, but with guidance.

Chairman Bryan inquired if the picture of the storage container at the address of 1802 South Church Street was at the Fire Department.

Mrs. Clary stated that it was the container that was placed between the shed at the rear of the property for the Fire Department.

The Town Attorney recalled that the Planning Commission had approved of the permit for its continued use.

Chairman Bryan reported that the picture that he was viewing showed two storage containers stacked.

Mr. Pack stated that he believed that it was used for training within the Fire Department.

The Town Attorney confirmed that it had been modified to become a training site for the department.

Chairman Bryan pointed out that in the proposed text amendment stacking of storage containers was not allowed.

Mr. Pack stated that this was correct and would constitute a violation.

Dr. Pope inquired if the stacked containers were only temporarily used only during the training modules.

Mr. Pack stated that he felt it was a hard subject to figure out how to handle. He stated that the Smithfield Fire Department had some of the very best training in the entire region with firefighters traveling from all over to attend their trainings. He continued that it was important for the firefighters to get this type of training in controlled environments to protect them. He acknowledged that it was difficult as he wanted to support the Fire Department, but also wanted to maintain the appearance of the Town.

Chairman Bryan stated that he did not recall anything about stacked containers when the application was originally presented to the Planning Commission.

Mr. Pack stated that it was not part of the original application.

The Town Attorney stated that they were two different issues. He stated one of the containers is behind the building and is used for storage.

Vice Chair Hillegass reported that was the container that had been approved for continued use.

The Town Attorney continued that the other stacked containers were over on the Virginia Department of Transportation (VDOT) right of way property and likely not permanent.

Dr. Pope inquired if the Commission would go through each of the pictures at the meeting to say how they could bring the existing containers into compliance.

The Town Attorney replied that the Town Council was currently working on that issue.

Chairman Bryan reported that he had questions about the list of terms that was included.

Mr. Pack agreed that there should be more work done on better defining the containers. He stated that he felt the definition included was sufficient but that the trailers at True Value gave him pause. He stated that he agreed with Mr. Swecker's earlier comment that they were clearly storage units. He related that Conex boxes could have wheels on them as that is how they were transported from site to site. He stated that he would like this to be addressed in the terms as well.

Mr. Swecker stated that if they let those particular containers on trailers stay then there would be questions if they made other Conex boxes move.

Mr. Pack agreed and reiterated that the Commission ought to include definitions for trailers and Conex boxes as the same.

Chairman Bryan asked if freight cars would be included in that definition as well.

Mr. Pack inquired if Chairman Bryan meant freight cars from a train.

Chairman Bryan stated that they also looked the same.

Vice Chair Hillegass acknowledged that many Conex boxes were loaded on trains for transport.

The Town Attorney stated that a true freight car was not generally used.

Mr. Pack related that Conex boxes were able to be transported by trailer or train and were seen locally at the ports.

The Town Attorney asked if the Commission had decided on SUPs for use of storage containers in Community Conservation zoning and Light Industrial and keeping them by-right in Heavy Industrial zoning.

Vice Chair Hillegass stated that this was her understanding.

Mr. Pack stated that he does not particularly agree with this approach.

Vice Chair Hillegass asked Mr. Pack what aspect was keeping him from agreement.

Mr. Pack stated that he could see the case for asking for an SUP to be completed for Community Conservation, but in Light Industrial would likely include facilities like Dave's Auto Service Center where he could see having a Conex box on site would be more attractive than having their items out, as long as the box was shielded from view. He continued that he felt Light Industrial had different specifications than other types of zoning. He asked for confirmation that Pinewood Heights would be zoned as Light Industrial.

Chairman Bryan stated this was correct.

The Town Attorney stated that he thought that it already was zoned that way.

Mr. Pack stated he felt that was a perfect example of a Light Industrial Area that they were hoping to attract businesses to and asked the Commission to think about what businesses they considered as Light Industrial. He asked that as it was a new area, did they think storage containers in this new industrial park make sense. Mr. Pack continued that he did not have an issue with the use of storage containers in a Light Industrial area as long as they were kept out of sight.

Dr. Pope used the example that if he was an electrical contractor, it would be cheaper than building to place a Conex box on the property.

Mr. Pack stated that Dr. Pope's example made sense but added that he was not opposed to one or two containers on the property.

Dr. Pope agreed but added that he would like the chance to question when there was a larger number of containers that were exceeding the square footage of the business' building.

The Town Attorney stated that he did not want to be too site specific, but the Town could fix that issue with restrictive covenants.

Mr. Pack asked if a restriction could be placed to address this by saying the storage space within the containers place could not exceed 50% of the brick-and-mortar business space.

Dr. Pope stated that there had been the suggestion to not included a number limitation. He related that in his personal business he could use a Conex box for storage and had the space, but he would never do it as he could consolidate. He added that there were many businesses that could use extra storage, but he did not feel that this was an appropriate way to gain extra storage, except in the case of industrial types of usage. He added that he did not think the Planning Commission should outright deny the use, but that they should know what it is being used for and where it is going.

Vice Chair Hillegass stated that this is why she was in favor of utilizing SUPs, so that the Town was not overrun with storage containers, and they would be aware of their purpose. She added that there were many pockets of Light Industrial zoning near residential areas and there were going to be some conflict of their use.

Mr. Pack inquired what they should do in a case like out on Battery Park Road where there were 15 storage containers in very poor shape in a Light Industrial zoning.

Vice Chair Hillegass stated that they needed to be removed.

Dr. Pope stated he guessed that they would have to wait until there was a substantial change in the use of the property and they figure out how to help move them along.

Vice Chair Hillegass inquired if the containers were endangering the health or safety of residents.

Mr. Pack surmised that a case could be made, questioning if they were open, did children have access to them, if there was any leakage, etc. He asked Mrs. Clary if the property was in violation at this time.

Mrs. Clary asked for clarification of the property they were discussing.

Mr. Pack stated that it was at Colonial Rental.

The Town Attorney stated that it was at 207 and 213 Battery Park Road. He added that he had been unaware of the container's presence in this area.

Chairman Bryan also stated that he had not known they were there.

There was a general discussion about what was stored in the trailers from marina supplies to Dodge Chargers.

Mr. Pack agreed with Vice Chair Hillegass' sentiment that it should be removed, but he imagined that the owner who had been at that location for 50 years would not be in agreement.

The Town Attorney reported that the Town would have great difficulty in making him clean it up as he was in business long before the regulations against this type of industrial disarray were adopted.

Mr. Pack pointed out that it would be different if it were to transfer ownership.

Mr. Swecker stated that it had been up for sale for an extended period.

Dr. Pope stated that he did not have many issues with the pictures of the existing storage containers in existence around Town with the exception of the box behind Kroger.

Mr. Pack reported that he believed it had been removed.

Vice Chair Hillegass stated that every once in a while, there is a Conex box placed at CVS that stays for too long.

Dr. Pope agreed and reported that they had been doing some repairs.

The Town Attorney stated that the purpose of the discussion was to see if the Commission felt it was appropriate to return with the item as a Public Hearing. He stated that they would just need to make a recommendation as to which items they felt needed to be by-right and which items required an SUP.

Mr. Pack stated that he would also like to see a very solid definition of a shipping container included.

The Town Attorney stated that verbiage could also include traditional transfer trailers on fixed axels.

Mr. Pack stated that he felt what they reviewed felt like there were still opportunities for applicants to state that their storage container was not a Conex box.

Dr. Pope stated that there need to be definition regarding how long a trailer was sitting idle.

Vice Chair Hillegass inquired if they were planning to advertise for a Public Hearing on the text amendment for December's Planning Commission meeting.

Mr. Pack recommended that they suggest to staff what they would like to see and have a draft brought to December's meeting for review. He reiterated that direction would need to be given to Mrs. Clary for changes they would like.

Dr. Pope asked if the wording "including but not limited to" could be used in regard to containers that were possibly on wheels.

Mr. Pack stated that they needed to address the 16 existing storage containers around the Town now, but also keep in mind what will the effect be in the future.

Dr. Pope pointed out that Isle of Wight County did have provisions based on the size of the lot that containers could be placed on. He added that he felt that the definition needed to be expanded to include more.

The Town Attorney agreed with the recommendation to return with another draft of the text amendment.

Chairman Bryan reviewed that the recommendations were to include SUPs and expand the definitions used.

Mrs. Clary gave confirmation of their inclusion.

Dr. Pope inquired if this would include the PODS brand storage.

Chairman Bryan stated that PODS were covered under a different ordinance.

Mrs. Clary confirmed that they were addressed in Section 15 of the zoning ordinance.

Chairman Bryan confirmed that PODS were specifically named in the ordinance.

Mr. Pack stated that the issue with PODS containers were that they required a zoning waiver which were approved for 60 days when appropriately applied for. He continued that the issue was that people generally did not know that they required a permit. He stated that it would be great to reach out to the POD franchises that place their product in Smithfield to educate them that placement required a zoning waiver, but that this was very difficult to enforce.

The Town Attorney stated that in addition to that PODs generally do not stay longer than a few days, but every once in a while, they linger which is when someone has a problem with them and calls the Town.

Chairman Bryan asked Mrs. Clary for a summary of revisions.

Mrs. Clary stated that Town staff would bring the text amendment draft back in December as a discussion item with shipping containers as a by-right use in I-2 Heavy Industrial, as a SUP in the HRC, I-1 Light Industrial, and Community Conservation. She added that they would expand the definition of shipping container in article 13 to include truck chassis storage boxes, investigating definitions used by other localities to address it as well.

Approval of Tuesday, October 11th, 2022 Meeting Minutes:

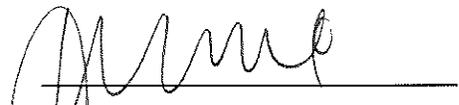
The Town Attorney recommended the minutes be approved as presented.

Vice Chair Hillegass made a motion to approve the minutes as presented. Mr. Pack seconded the motion.

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

The meeting adjourned at 8:10 pm.


Charles Bryan - Chairman


Tammie Clary – Community Development &
Planning Director