

The Smithfield Planning Commission held its regular meeting on Tuesday, November 10<sup>th</sup>, 2020 at 6:30 p.m. at the Smithfield Center.

**Members present:**

Randy Pack – Chairman

Charles Bryan – Vice Chairman

Mike Swecker

Julia Hillegass

Thomas Pope

Michael Torrey

**Members absent:**

Lilton Marks

**Staff members present:**

John Settle – Community Development & Planning Director

William H. Riddick, III – Town Attorney

Tammie Clary – Town Planner

There were six (6) citizens present. Chairman Pack welcomed everyone to the meeting. All in attendance stood for the Pledge of Allegiance.

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

Mr. Settle reported that at its Tuesday, October 13<sup>th</sup>, 2020 meeting, the Planning Commission tasked Town staff with examining ways to adequately address blighted properties within Town limits. Town staff continue to explore viable options to address blighted properties. Now that the Smithfield Comprehensive Plan update is underway, we are in need of public input. Our consultants, Summit Design & Engineering Services, PLLC, have prepared a citizen survey to assist us in gathering this input. The survey was mailed in the Town's fall newsletter to all recipients and is available in hard copy at Town Hall upon request. It is also available online via survey monkey and the Town's website. Input is requested no later than Sunday, December 20<sup>th</sup>, 2020. On Thursday, November 5<sup>th</sup>, 2020, the applicants for 19474 & 19502 Battery Park Road's (Mallory/Scott Farm) conditional rezoning application elected to decline their application's appearance on this Planning Commission meeting agenda.

**Upcoming Meetings and Activities:**

Monday, November 16<sup>th</sup>, 3:00 PM – Town Council Committee Meetings

Tuesday, November 17<sup>th</sup>, 3:00 PM – Town Council Committee Meetings

Tuesday, November 17<sup>th</sup>, 4:00 PM – Pinewood Heights Management Team Meeting

Tuesday, November 17<sup>th</sup>, 6:30 PM – Board of Historic & Architectural Review Meeting

Tuesday, December 1<sup>st</sup>, 6:30 PM – Town Council Meeting

Tuesday, December 8<sup>th</sup>, 6:30 PM – Planning Commission Meeting

**Public Comments:**

The public is invited to speak to the Planning Commission on any matters, except scheduled public hearings. 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 following the meeting.

Antonio Viudez resides at 10101 Bolling Blvd., in Smithfield, Virginia. He explained that he has been reading the Comprehensive Plan in regard to the proposed Mallory Scott Farm development.

It is in the process of being reviewed by the Planning Commission. In Chapter 5 regarding the Battery Park North planning area, it states “the soils of the vast majority of the planning area drain poorly and are highly susceptible to high shrink/swell conditions.” It also states that “the planning area’s development potential is constrained severely by its poor soil characteristics and the presence of Moone Creek and the associated marshlands along its northern and western boundaries.” It is planned for a low density residential area allowing only neighborhoods of single family homes. He emphasized that the Scott Farm property is not included in the Comprehensive Plan from 2009 since it was recently added to the Town. It also states that the “topography and soil conditions of the area are not suitable for massive buildings and expansive parking. Therefore, low density single family residential development is recommended. The proposed master plan should also protect as many existing trees as physically possible within the future development plan.” Later in the chapter it states that “the seating of the new homes should be gently placed within the angular terrain. Extensive landscaping and minimum earth works are needed for a new development. Mr. Viudez stated that the developer cannot remove dirt and put in new dirt. He read an article in the Daily Press from April 2016 which stated that “Smithfield Town officials reviewed a request to annex the Scott Farm and asked county officials to consider letting go of the rule that says the Town must wait ten years between boundary line adjustment (annexation) requests. Mr. Viudez understands that to mean that the Scott Farm was in Isle of Wight County and annexed into Smithfield. The article also stated “the issue dates back to at least 2013 when Napolitano Homes first wanted the Scott Farm property to be bundled with an unrelated seventy-nine acres that the county was already going to give to Smithfield.” He explained that Smithfield wanted to build their baseball fields there, but there was an environmental study done and they were not able to use the property. Now, a developer wants to put 1,106 units on the property. Mr. Viudez emphasized the importance of the Planning Commission’s application of the Comprehensive Plan.

William Knapp lives at 12491 Windjammer Ct. in Smithfield, Virginia. He thanked the Planning Commission for trying to reconcile and resolve the project’s issues, sympathizing with the Planning Commission’s burden of such a difficult task. He has heard that the neighbors, community, and the surrounding environments have amenities that the citizens value greatly. Citizens have concerns about the project proposed by Napolitano Homes and its affect on the amenities that citizens value. Citizens would like the Planning Commission and the Town of Smithfield not to simply understand and respect what citizens value; but to show it in their recommendations to the Town Council. The value of Smithfield is its small town character, public safety, ease of access for first responders, and public health. Public health is the ability to enjoy the tranquility and peace of mind while walking and riding through the community and the Town. Due to COVID, many have declining mental health. Other concerns were the current infrastructure and if it is adequate and will continue to be adequate and how it will be affected by the development. The Napolitano Homes website states “we build where families love to live.” They make that statement to attract people to where they are building. It also applies to citizens that are there already. The development should not conflict with or nullify why the citizens love to live here. The website also says that “Napolitano Homes brings easy access to services, groceries, entertainment, shopping, schools, major roads, and recreational opportunities.” He explained that Napolitano Homes does not bring that; somebody provides it. It may eventually be available but they certainly do not bring it. He recommended that Napolitano Homes

not be allowed to build any more than two hundred and fifty homes and that they build them within thirty months of initiating site prep work. Napolitano Homes should protect, to the maximum extent possible by local, state, and federal law, the communities and surrounding environments. They should protect the small character of the neighborhood, the public safety of the citizens, the public health of the citizens, and the infrastructure which needs to be improved. He encouraged the Planning Commission to examine the development's context, and to take a step back so that they can do what makes the most sense.

**Planning Commission Comments:**

There were no Planning Commission comments.

**Site Plan Amendment, Entrance Corridor Overlay (ECO) Design Review & ECO Waiver Applications – 601 N. Church St, C/O Jason Reale, applicant:**

The Community Development & Planning Director reported that the applicant is seeking approval for the following improvements on the premises:

- (a) Expansion of an existing corporate office and training facility by approximately two-thousand (2,000) square feet.
- (b) The demolition of an approximately 1,500 square foot building (after-the-fact) located behind the existing corporate office and training facility and in the same general area as the proposed addition.
- (c) The installation of additional site improvements (such as landscaping, etc.) to accommodate the proposed improvements.

Mr. Settle explained that the expansion to the building is intended to expand an existing training facility operation to combat COVID. As such, the application carries a little bit more urgency than most applications. There is a comment letter generated by Town staff which signifies to the Planning Commission that the administrative review process has not been completed with the applicant. In understanding of the project's urgency, staff agreed to let them come to the Planning Commission for contingent review and approval on the site plan amendment and the ECO design review components of the application. As the property is located within the Entrance Corridor Overlay (ECO), all improvements are subject to the provisions of Article 3.R of the Smithfield Zoning Ordinance (SZO). The applicant has chosen to accompany his applications for a site plan amendment and ECO design review with an ECO waiver request, pursuant to SZO Section 3.R.P. Specifically, he is requesting relief from the following Sections of SZO Article 3.R:

D.6: The applicant must certify on sheet CP100 of their plans that no trees will be removed as a part of this project.

J.2.b: Heating, ventilation, and air conditioning equipment, ductwork, air compressors, fixed operating machinery, large trash receptacles, dumpsters, utility meters, above-ground tanks, satellite dishes, antennas, and other utilitarian features must be screened with materials consistent with the building's architecture and design so that they are not visible from N Church St. The applicant's plans suggest that certain utilitarian features may be visible from N. Church St. These features must be screened accordingly or relocated to a position where they are not visible from N Church St.

J.2.e, J.2.g & J.2.h: The proposed addition to the subject building must be clad in stucco to match the materials present on the rest of the building.

J.2.f & N.3.h: The applicant must submit an architect or artist's rendering (in color) of all sides of the subject building's proposed configuration.

J.3.i & K.2.f: A five foot (5') wide sidewalk must be installed along the property's frontage on N Church St. In understanding of the nature of this required improvement, the Town is generally open to discussion on alternatives.

K.2.g: All sites are encouraged to provide underground irrigation systems to ensure the survival of all existing and proposed landscaping materials. On sheet CP100 of the applicant's plans, he indicates that an underground irrigation system exists elsewhere on the property to assist in the maintenance of the landscaping proposed at that location. However, there is no indication that an underground irrigation system exists in the vicinity of the subject building to assist in the maintenance of the landscaping that must be planted at that location.

N.3.j: The applicant must submit a comprehensive lighting plan for all proposed lighting onsite. His plans are not entirely clear as to whether or not any new lighting is proposed as a part of this project, or if there will be any changes to any existing lighting.

Town staff recommended approval of all three applications under the following conditions:

- (1) The applicant must comply with all of the Sections of the SZO noted in their ECO waiver request, with the exception of SZO Sections 3.R.J.3.i, 3.R.K.2.f & 3.R.K.2.g.
- (2) In light of condition one (1) above, the applicant must satisfy all of the remaining comments generated in the attached comment letter (see Enclosure 1), as well as all comments, if any, generated by the Isle of Wight County Stormwater Division, prior to Town staff's issuance of a zoning permit.

The applicant, Jason Reale, of 111 N. Church Street in Smithfield, Virginia, explained that COVID has impacted everyone's lives. Like all businesses, Smithfield Foods has to make sure that all employees have a safe working environment including social distancing break options. They are developing and executing various procedures throughout all of their facilities across the country. There have been local operational changes; but they need to expand the training and onboarding facility. Smithfield Foods has temporary tents that allow for socially distanced breaks. With the uncertainty of the future, they want to provide a more permanent solution which is the requested expansion. The intent is to remove the tents once the addition is complete. He was available for questions from the Planning Commissioners.

Chairman Pack asked if the applicant was aware of the staff comments and requests.

Mr. Reale stated that he was.

Chairman Pack explained that Town staff recommended approval of the application with two conditions. He asked if they were favorable with Smithfield Foods.

Mr. Reale stated that with the landscaping there is a small area immediately in front of the building. They are proposing landscaping in front of the administrative area of the primary structure. The only green space available is underneath power lines. He does not feel it is a viable, long term solution. Instead, the space they are proposing is more sustainable and irrigation can be installed.

The Community Development & Planning Director explained that the applicant is referring to an area located at the center of the larger building of the property which is the actual meat packing plant. Looking at the attachments, it is sheet CP100 which is the landscaping plan.

Chairman Pack stated that there seems to be some conflict with the staff recommended conditions versus what Smithfield Foods wants to do as to where the landscaping would go.

The Community Development & Planning Director stated that he and the applicant would resolve that.

Mrs. Hillegass asked the applicant if they could meet the recommended requirements for approval and the stormwater comments that will be forthcoming.

Mr. Reale stated that they were not prepared to provide any landscaping inside the existing fenced area. It is essentially gravel parking. There is nothing sustainable in that area. The project does not include any work to the existing fence. It is strictly an addition to the existing structure on the back end.

Mrs. Hillegass asked if it was the only thing they feel they cannot do.

Mr. Reale stated that clarification would be needed on some of the other staff comments such as signage. They are not proposing any new signage or changing the existing signage. Other than Item E, he believes they can meet the intent of the other items that have been broken down.

Mrs. Hillegass stated that there is a lot included in Mr. Settle's recommendation and she does not feel comfortable approving the application tonight.

Chairman Pack explained that the application has been rushed due to COVID.

Mrs. Hillegass asked the applicant to explain what they would not do of the recommended items.

Mr. Reale indicated that he had no issues with Item A. He explained that the site has been non-conforming since it was constructed in the 1940's. He can show Mr. Settle, based on the demolition of some structures, that they can meet the threshold outlined in Item B. Item C refers to removing trees. Mr. Reale stated that no trees would be removed. For Item D, no changes are proposed for the HVAC systems. There will be replacement-in-kind of older systems; but no significant changes to the HVAC systems.

Mrs. Hillegass asked if the HVAC systems would be visible from N. Church Street.

Mr. Reale stated that there would be a replacement-in-kind; but when he drove by he did not see any above the mansard roof. The system is beyond its life expectancy. The mansard roof acts as the screening for the HVAC systems.

Mr. Settle reminded the applicant that he was requesting a waiver from that particular item.

Mr. Reale stated that they requested the waiver but they are not adding any of the structures referred to in that section. He does not believe it would apply. It is strictly an expansion of the existing structure.

Chairman Pack stated that the plan suggests that certain features may be visible from N. Church Street. A waiver from that has been requested. The recommendation is that the features must be screened accordingly or relocated to a position where they are not visible from N. Church Street. He asked if it was a condition the applicant was willing to accept.

Mr. Reale believes it is a condition they are willing to accept. They will make sure that any rooftop items are moved or screened.

Mrs. Hillegass stated that with Item E there is gravel and the applicant does not feel they can sustain any landscaping there.

Mr. Reale explained there is an existing chain link fence that was replaced in the last couple of years. It was replaced with black vinyl. It is a compact parking lot area. Part of it encloses a natural gas valve station. He is not proposing any screening along the existing fencing as part of the application.

Mr. Settle stated that a photograph has been provided by the applicant that shows the area is grass not gravel. It is the area immediately in front of the black chain link fence which is where trees are needed. Sheet CS100 provided by the applicant, at the bottom right hand corner of the parking lot next to the gas infrastructure that is fenced in, shows the area to the right of the fence running to the right of the enclosure. He explained that it is mandatory buffer yard screening.

Mr. Reale looked at the plan with Mr. Settle. He was not clear on the requirement and why that area needed to be landscaped.

Mr. Settle explained that it is required between an adjacent property line and a parking lot. He stated that the Planning Commission has asked a lot of technical questions that are typically resolved in an administrative setting. Basically, the Planning Commission does not have the ability to waive the provision. It is a provision of Article 9 and 3.R. The applicant is looking for a site plan amendment and an ECO waiver. If Item E was solely from Article 3.R then the Planning Commission would have the ability to decide on it now; but the item includes Article 3.R as well as Article 9 so the Planning Commission is not in a position to waive it.

Mrs. Hillegass asked if the applicant must do everything on the list.

Mr. Settle stated that the applicant either has to or show that he has met the intent of the ordinance. There are certain provisions in Article 9 such as a tree canopy coverage provision where the applicant could satisfy it with off site landscaping. He does not know that the same sort of leniency would apply in this case; however, he knows for certain that the Planning Commission cannot waive it.

Dr. Pope asked if he has to landscape the sides then why not the front.

Mr. Settle explained that the front does have to be landscaped but it is contained in another provision which is Item I. The Town has been trying to work with the applicant in this regard. There is a defacto power line easement in that location. When the Town encounters that then the Town can waive trees since they obstruct the power lines. Staff has taken that liberty in this case; but it does not preclude him from installing the required forty-two inch tall evergreen hedge. He reminded the Planning Commission that in August of 2018 landscaping was identified as one of their top priorities. Consequently, Town staff's interpretation and enforcement of the zoning ordinance, specifically as it relates to Article 3.R, Section K and Article 9 must be detail-oriented, just as the Planning Commission wanted.

Mrs. Hillegass made a motion to approve the application with staff's recommended conditions. Mr. Swecker seconded the motion. Chairman Pack asked if there was any further discussion.

Mr. Settle asked the applicant if the project would result in the tents being removed.

Mr. Reale stated that the tents would be removed. The purpose of the application is to provide a permanent solution for the social distancing requirement for COVID. Once the project

is finished, the tents will be removed. The contractor has reached out to the county. VDOT and Isle of Wight County Stormwater comments have been received. They are trying to get it done as soon as possible.

Dr. Pope stated that he was not yet prepared to vote and asked what was happening to the gravel parking lot in the area where the tents are.

Mr. Reale did not have any information on the tent area.

Dr. Pope asked if they would extend the sidewalk down to the natural gas line. He explained that it looks like a heavy traffic area to get back to the smokehouse or the tent area. It looks like it needs to be cleaned up in his opinion.

Mr. Settle explained that the sidewalk is a sticky subject which is why staff recommended it to be waived. The nature of Article 3.R allows for discussion between the applicant and Town staff as to the feasibility of sidewalks. Staff typically ascertains who owns the right-of-way as well as the perceived need by the Town. In this case, VDOT owns the right-of-way. Most rights-of-way in the ECO are not the Town's rights-of-way which limits what can be required for sidewalks. Unless it is a Town right-of-way, staff directs applicants away from sidewalks.

Dr. Pope explained that it is a haphazard look. He would like to see it cleaned up. It is not a pleasing site line. His opinion is that the landscaping in front of the natural gas line is irrelevant in this setting. A sidewalk would look better than landscaping.

Mr. Settle explained that there are seven items in the waiver for the Planning Commission to consider. Staff could engage in conversations with the applicant about a five foot sidewalk. It would need to be an amendment to the motion retaining only SZO Section 3.R.K.2.g in the applicant's approved waiver.

Mrs. Hillegass stated that landscaping would improve the area.

Mr. Settle asked if the Planning Commission was looking to amend the motion such that the applicant would only get relief from the underground irrigation component of the waiver request. It would not mean that the applicant would be bound to putting in a sidewalk. It would, basically, just bring it back to the table between the applicant and Town staff.

Vice Chairman Bryan asked about lighting.

Mr. Settle explained that it was not clear if existing lighting would be improved or altered. It also was not clear if the applicant was proposing new signage. Most signage in Town is lit in some fashion. It would need to be included in a lighting plan which is a provision of Article 3.R. He included it so the applicant had to address it.

Mr. Reale explained that there is a note on page C100 in regard to signage. There is no change to the signage and no change to any lighting. It is strictly an addition to the rear of an existing structure. There will not be any lights added to the rear of the building.

Chairman Pack reminded everyone that there was a motion and a second on the table. Dr. Pope suggested the Planning Commission amend the motion. There was a motion to approve the application with staff recommendations amending with the exception of J3.I and K2.F. Mrs. Hillegass and Mr. Swecker agreed with the amended motion. Chairman Pack called for the vote.

Mrs. Hillegass and Mr. Swecker agreed with the amended motion. Chairman Pack called for the vote.

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

**Planning Commission Bylaws Amendment, Town of Smithfield, applicant:**

The Community Development & Planning Director reported that, earlier this year, Town staff conducted a review of the bylaws of all of the Town's appointed boards and commissions. This review entailed a thorough comparison of each board's bylaws to those present in other jurisdictions, in addition to all applicable regulations outlined in the *Code of Virginia*. The Planning Commission is unique in that the *Code of Virginia* specifically outlines its powers and duties. Because Virginia follows the Dillon Rule, local governments are limited to the powers expressly granted by the state. Consequently, and in keeping with Title 15.2, Chapter 22, Article 2, of the *Code of Virginia*, the following changes to the Planning Commission's bylaws are proposed:

- (a) In accordance with Section 15.2-2212 of the *Code of Virginia*, the following language was added to Article 2, Section 1:

*All members shall be residents of the Town and at least half of the members shall be owners of real property.*

- (b) In accordance with Section 15.2-2221 of the *Code of Virginia*, the ability to form committees was transferred from the sole discretion of the Chairperson to that of the Planning Commission. This entailed the alteration of Article 4 so that Section 1.b was removed and Section 3.c was added, which states:

*The Planning Commission shall . . . if deemed advisable, establish an advisory committee or committees.*

- (c) Also, in accordance with Section 15.2-2221 of the *Code of Virginia*, Sections 3.a, 3.b., and 3.d were added to Article 4.

- (d) Article 6, Section 2 was removed, as this language is not present in Section 15.2-2214 of the *Code of Virginia*. Additionally, its presence inexplicably discourages the ability of the Planning Commission and is atypical language to include in a Planning Commission's bylaws.

- (e) In accordance with Section 15.2-2204 of the *Code of Virginia*, Article 8, Section 2 was altered to show that public notice will be published no less than five (5) days prior to the date of a public hearing. The bylaws currently establish the minimum timeframe as six (6) days.

Additionally, several technical changes were made that are not related to the *Code of Virginia*:

- (f) Article 1, Section 1 was updated to reflect the correct date of adoption of the Town's zoning ordinance.

- (g) Article 5, Section 2.g was removed, as these duties of the Clerk are already enumerated in Article 7, Sections 2 and 3.

- (h) Article 6, Section 1 was updated to include the correct regular Planning Commission meeting time. This change was already formally adopted by the Planning Commission on

Tuesday, December 9<sup>th</sup>, 2014, but (for reasons unknown to Town staff) the bylaws were never updated to reflect this change.

- (i) All occurrences of the title “Director of Planning, Engineering & Public Works” were replaced with “Community Development and Planning Director.”
- (j) Numerous grammatical and mechanical alterations have been made to streamline the bylaws’ language for the reader.

A redlined version of this bylaws amendment is included in the pages immediately following this staff report. Town staff recommended approval as submitted.

Chairman Pack asked about Item B in the staff report which states “the Planning Commission shall...if deemed advisable, establish an advisory committee or committees.” He asked who deems it advisable.

The Town Attorney stated it would be the Planning Commission as a whole.

Mrs. Hillegass made a motion to approve the amendment as presented. Dr. Pope seconded the motion. With no further discussion, Chairman Pack called for the vote.

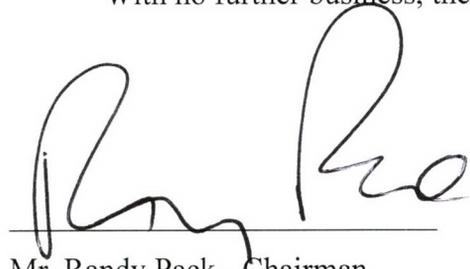
On call for the vote, six members were present. Mrs. Hillegass voted aye, Mr. Swecker voted aye, Mr. Torrey voted aye, Dr. Pope voted aye, Vice Chairman Bryan voted aye, and Chairman Pack voted aye. There were no votes against the motion. The motion passed.

Vice Chairman Bryan stated that there was a program through the Smithfield Volunteer Fire Department where they placed blue reflectors in the road next to fire hydrants to help locate them. He asked what happened to them.

Chairman Pack explained that the snowplows scrapped them off and they were not replaced.

Mr. Settle stated that he would ask the fire department if there were any plans to replace them.

With no further business, the meeting adjourned at 7:30 p.m.



Mr. Randy Pack - Chairman



Mr. John Settle – Community  
Development & Planning Director