

The Smithfield Planning Commission held its regular meeting on Tuesday, November 14th, 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, Mr. Mike Swecker, Dr. Thomas Pope, and Mr. Michael Torrey. Ms. Julia Hillegass was absent. The staff members present were Mr. William G. Saunders IV, Director of Planning, Engineering and Public Works; Mr. William H. Riddick, III, Town Attorney. There were eight (8) citizens present. The media was not represented.

Chairman Pack – Good evening ladies and gentlemen. Welcome to the Smithfield Planning Commission meeting of November 14th, 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 Director of Planning, Engineering and Public Works Activity Report.

Director of Planning, Engineering and Public Works – Thank you, Mr. Chairman. The Joseph W. Luter, Jr. Sports Complex is coming along as you have seen. They are wrapping up the interior of the concession stand. They are working on some change order items that Town Council recently approved such as the paving of the parking lots. The final, we hope the final, turn lane plans have been submitted to VDOT for review. We are working on the transfer of the right of way as it relates to the turn lane project. Things are coming along out there. Thank you.

Chairman Pack – Next, we have Upcoming Meetings and Activities. On November 21st at 6:30 p.m., we will have the Board of Historic and Architectural Review meeting followed by the Board of Zoning Appeals meeting at 7:30 p.m. Please note that on November 22nd the town offices will close at noon in observance of the Thanksgiving holiday. Offices will be closed also on November 23rd and 24th. On November 27th and 28th, the Town Council Committee meetings will be held at 4:00 p.m. The next Town Council meeting will be held on December 4th. The Planning Commission will meet again on December 12th at 6:30 p.m. At this time, we will move to Public Comments. The public is invited to speak on any subject except for scheduled public hearings. We have two tonight. 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?

Director of Planning, Engineering and Public Works – Not for public comments.

Chairman Pack – Is there anyone who did not signup that would like a chance to speak on anything other than the public hearings. Hearing none, we will move to Planning Commission Comments. Are there any comments? Hearing none, we will now move to Public Hearing: Special Use Permit – 308 Main Street – Hotels and Motels, Commercial Recreation Establishments – Daniel and Anne Garland, applicants. Could we have a staff report please?

Director of Planning, Engineering and Public Works – Yes, sir, Mr. Chairman. This staff report relates to 308 Main Street which many people know as the “bumble bee” house. It was the previous home of the Pet Persona business. The owner and applicants are Daniel and Anne Garland. The zoning is the Downtown district. The parking required is zero spaces for less than a ten thousand square foot lot. There is no parking provided. They propose an event center. A lot of the events will focus on charity and fundraising events. However, it will be a business not a non-profit only. The events will primarily take place on the ground floor. However, there are two rooms upstairs that the applicants would like to lease out for lodging to people related to the events or as a stand-alone use for Airbnb type advertisement. The hours of operation will vary based on the time of the event. They propose to be available daily from 8:00 a.m. until 10:00 p.m. with all vendors to have exited the premises by 11:00 p.m. The number of employees will vary based upon the type of event; but there will be at least one staff member on site during the events. The proposed types of events that they foresee could include: fundraising activities, gatherings, showers, parties, and celebrations or other special events within the structure. There are two items that are specifically sought in the special use regulations of the Downtown district. C-9 addresses hotels and motels but that is only for the two rooms that are upstairs. C-15 is for commercial recreation establishments limited to indoor uses. This event center is not going to have outdoor events. It is limited to indoor events as proposed. Town Staff has deemed this application to be complete. The proposal seems to be within the parameters required by the town’s zoning ordinance. As this is a special use permit application, reasonable

conditions may be recommended by the Planning Commission as deemed necessary to protect the public interest and welfare. You will see in your packet a rather thorough business plan that was submitted as well as a site plan of the site. There is also a picture from the street of the structure itself. Thank you.

Chairman Pack – At this time, I will open the public hearing. We have two signups. Our first is Mr. Russ Brooks. Please come to the podium and state your name and address for the record please.

Mr. Brooks – Good evening. I live at 314 Main Street. I am a little concerned with this application. The volume of events, by the description of it, is left wide open. Also, I am concerned by the fact that it drags on until potentially 11:00 p.m. at night which is well past the 10:00 p.m. noise ordinance. The loading of trucks etc. is a pretty loud thing as I can tell you from other events on Main Street. Set up and take down can be pretty noisy with trucks and loading of equipment and slamming doors etc. Also, if there are fifty people visiting a venue, they have no parking spaces. There is a little on street parking there but nothing to cover a fifty person activity. I do not see it as a very good location for that type of business. Again, with the Airbnb and only two rooms, it is potentially two or three cars that would be on the street all night. People would not know the neighborhood and know the parking situation. Many houses on Main Street do not have their own parking off street. Those are some of my concerns. The hours of operation are one of the biggest ones. Thank you.

Chairman Pack – Our next signup is Mrs. Cami Brooks.

Mrs. Brooks – I live at 314 Main Street. I have similar concerns as my husband such as the hours of operation. The amount of noise that occurs from people packing and unpacking disturbs our sleep. We have bedrooms on the front of our home. On occasion, we understand that there are things happening on Main Street that we have to accommodate; but something like an event venue could be twenty-four hours a day basically all year long. When you start to add guests at night then you have the opportunity for additional noise. There are no restrictions about when they can come and go when you have a hotel/motel. As far as I know, there would be no onsite management for that evening. It is a great concern to my husband and I. You could have people who are rowdy and unsupervised; especially when there is a wedding. You

can have very nice weddings or very disturbing weddings. As you all know, there are all different types that can occur. We have lived there for thirty-five years. We really enjoy Main Street. Most of the businesses that occur on Main Street are open from 10:00 a.m. until 5:00 p.m. It makes for a nice quiet evening. It is what we enjoy. You see people walking up and down the street and walking their dogs. Also, it is a concern because it is a very small venue. It is in very close proximity to the two houses directly next door. I am the next one over; however, it is still in close proximity to our home and the noise that might occur. Again, there is no parking. Through the years, we have had to talk with people about our driveway. It is more convenient for them to park there than to go find a parking space. If they cannot find a parking space on Main Street, they will park in our driveway. We have to go out and ask them to move. If they will not, we occasionally have had to tow; but not usually. It adds a lot more than that property is used to accommodating. Most businesses are open 10:00 a.m. until 5:00 p.m. with a lot of them open Wednesday through Sunday. Thank you.

Chairman Pack – Those were all the signups this evening. Is there anyone else who would like to speak for or against? Please state your name and address for the record.

Ms. Emily Norton – I live at 10126 Ogilvy Lane in Carrollton. I have the Main Event by Emily business at 1602 South Church Street. I am an event decorator and coordinator. I would like to be involved a great deal in this business. I totally understand everybody's concerns. A couple of years ago, Smithfield and Isle of Wight sent out the word that they wanted to be known as an encore wedding site. They won awards inviting people to come here and have weddings; especially encore, smaller weddings, renewal of vows and such as that. I have seen a great number of people coming in for those services. One of the things I get asked for whether it is a small or large wedding is where is a place for the rehearsal dinner? Where is a place for a bridesmaid's luncheon? Where can we get ready before our wedding? There are a lot of places where you can do that; but, not enough. When this opportunity came up, I thought what a lovely place to have a small wedding. Fifty would probably be pushing the limit but we would have to check and see. I think more like forty would be the average event for a small family gathering or a renewal of vows or a place for a rehearsal dinner. I think it is

a beautiful place for that. We have talked to Bank of America across the street. They have said they are closed after 5:00 p.m. and they do not care who parks there. An event of forty people is generally less than twenty cars. If it is an Airbnb and two people are staying there it is no difference as far as vehicle wise as if it was a resident. There are no more cars than if it was a residential house. The parking is no more an issue than it is for every day in Smithfield. If that was a home, it would have the same issues. With the 10:00 p.m. guidelines, if you noticed, we did say all vendors would be out by 11:00 p.m. I am a vendor. I can load and unload an entire wedding here at the Smithfield Center with thirty-two tables in an hour. With that venue, we would generally be out in a matter of twenty minutes with one vehicle. I totally understand your concern if you have been outside of a huge event with lots of trucks coming and going. There is not the need for that there. Everything is on site. There would be management staff; someone from my crew. I have been in business for over seven years. We are very well respected. We are preferred vendors here and at many other venues. There would be a staff member there at all times an event was going on. The Taste of Smithfield is now open in the evenings for special events. They have the same issues that have been addressed here. They do have a parking lot in the back. Again, we have the bank parking across the street. There is also the bakery which opens its second floor for the same types of things. That is all we are looking for is to offer that in another place that is a little bit more private to have a gathering where you are not upstairs on top of a bakery or in a restaurant. You can bring in your own food. We will not do any catering onsite. We will just be able to offer something for those people who do not want to have something in a restaurant. They do not want to rent the banquet hall at the Hampton Inn & Suites. They would like to have a lovely home. It could also be opened for small meetings. Again, you are not going to have very many cars for anything like that. I understand the concerns; but I do not think the size of the events that are going to be offered and encouraged would be such a hardship as one might expect with a large venue like the Smithfield Center.

Chairman Pack – Is there anyone else who would like to speak? Please come to the podium.

Ms. Claire Littlefield – I live at 310 Main Street which is right next door to the “bumble bee” house. I have a few concerns. The first is the hours of open business at night because I am a resident. I do not want to be listening to a lot of noise late at night after 9:00 p.m. The Taste of Smithfield and the other restaurants do not have other neighbors that are living there right next door to them. I think we are in a different position as far as what we would have to work with. I park a certain way in my driveway because when it was Pet Persona people thought they could just pull right in and park in my driveway. So, that is a concern for me. Also, are they going to be serving alcohol? Where does that stand in this whole picture? I am concerned about people who get loud and rowdy because alcohol is being served. What protection do we have? I have had experience with Airbnb; some good and some bad. If they are not supervised and someone is not on site there seems to be more problems. Will one of the owners or a representative of the owner be on site when it is being used as an Airbnb so that we do not have some of the issues that can happen? Thank you.

Chairman Pack – Is there anyone else who would like to speak?

Mrs. Brooks – Can I say one more thing?

Chairman Pack – Please come to the podium.

Mrs. Brooks – I live at 314 Main Street. I wanted to add to what Ms. Littlefield said. There are actually homes on all three sides of this venue that is being proposed. Most businesses are being managed by the owners. This is offsite management. It is also a concern of mine. It is just a little less personal and little less private. Thank you.

Chairman Pack – Is there anyone else? Hearing none, I will declare the public hearing closed. Would the applicant like to come up and speak? With no comments from the applicant, I will turn it back over to the Planning Commission for comments. We have heard from the public and the applicant’s representative.

Mr. Torrey – I have a question for Mr. Saunders. The Airbnb thing is fairly new. What kinds of permits or exceptions are there if anybody wants to do an Airbnb?

Director of Planning, Engineering and Public Works – There is really no accommodation in the current zoning ordinance for an Airbnb. We just do not have that which is why this application and one of the elements of the special use permit request

is hotels/motels which are specifically limited to the two rooms upstairs. We do not have an accommodation for an Airbnb in our current zoning ordinance at all.

Chairman Pack – Truthfully, Airbnb is nothing more than a website which is no different than Expedia or anything else. As a hotel/motel, she is subject to occupancy taxes to the town and the health department I would imagine. Normal hotels/motels/bed and breakfast establishments are in town; but when she says Airbnb it is just a way to advertise. It is really nothing more than a website. You are really considering the hotel/motel aspect. Am I correct in that?

Director of Planning, Engineering and Public Works – Yes, you are absolutely correct; but I mentioned it in the generic term meaning short term, small scale overnight transient lodging that people are doing in their homes by advertising through such means as Airbnb. It is not the only one. There is no accommodation for that. There are boarding houses, there are bed and breakfasts, there are hotels/motels, and there are accessory apartments. None of those cover the type of use that is defined by those people that typically advertise on Airbnb unless they fall under one of those other categories. Does that answer your question?

Mr. Torrey – Yes. It is not really part of it as far as I am concerned.

Chairman Pack – So is this particular applicant requesting C-9 which is hotels/motels for the two rooms upstairs for transient lodging? Would this be considered a hotel if it was passed?

Director of Planning, Engineering and Public Works – Only for those two rooms upstairs.

Chairman Pack – It would be a two room hotel.

Director of Planning, Engineering and Public Works – Exactly. They can advertise however they want that way. They could put flyers out, use Airbnb, handout flyers or whatever; but as far as the individual homeowner advertising a room for short term rental overnight, there is no accommodation for that currently in our ordinance.

Mr. Prevatte – As far as parking, they say they have permission from the bank after 5:00 p.m. to use that facility. The bank could also say no more parking over here. Where will all these people park on Main Street? I mean we all hear about parking. It is

a big topic in town. Everybody has a hard spot. If the bank up and says no all of a sudden, the homeowners and the businesses up there will be bombarded with people.

Vice Chairman Bryan – Isn't there a parking area right across from the post office?

Chairman Pack – Yes there is.

Director of Planning, Engineering and Public Works – There are a few public spaces across from the post office. The parking lot behind the Taste of Smithfield is actually owned by the Town of Smithfield. It is a public lot. A couple of the banks allow public parking after hours. The fact is because of the way Main Street was developed over time the ordinance does not require off street parking for any lot or structure less than ten thousand square feet and this one is. It is up to you all. Parking is certainly something for you all to consider as it relates to giving somebody a special approval for something. As far as how the ordinance reads for this use, because of the small amount of lot space, there is no offsite parking specifically required. I would also mention too that the fifty person limit in their business plan may not be a realistic number. It will be up to building codes how many people they allow to be in that house downstairs for a particular event. I do not know what their formula is; but I would assume that fifty is probably going to be higher than what would be allowed. I do not know that to be a fact. That is not my direct area.

Dr. Pope – Who determines that?

Director of Planning, Engineering and Public Works – It would be Isle of Wight Building Codes because we do not have a Fire Marshal in the county. A lot of cities have a Fire Marshal; but here it is the Isle of Wight Building Codes.

Vice Chairman Bryan – So, I take it that the Fire Marshal has not had a chance to review this.

Town Attorney – We do not have a Fire Marshal. As Mr. Saunders just said, the agency that would make the decision about the maximum occupancy would be Isle of Wight Building Codes.

Director of Planning, Engineering and Public Works - We do not regulate that. It is between the applicant and Isle of Wight County to find out what their limit is and meeting that. Fifty seems higher than what I would expect.

Mr. Davidson – Mr. Chairman, if I were a resident living on one side or the other I think I would also have a concern about the hours. Main Street, other than Wharf Hill, rolls up by 8:00 p.m. The businesses that have these venues are not in a residential area. I know there are businesses up and down in the 300 block but this structure has residences on both sides. As Mrs. Brooks pointed out, residences are on three sides really. It is a concern of mine.

Chairman Pack – So, what is the consensus here? I am hearing a lot of concerns. To deny for parking is probably not allowable; but as a Commission.....

Town Attorney – What they are asking for is a special use permit. You have to consider the circumstances in their totality. They have given you potential solutions for parking; whether they are acceptable or not is your call. There is no 'by right' to this. This is a special use permit. You can recommend approval and recommend conditions. They can reject them if they want. The Town Council could also change them. In addition to recommending approval or denial, if there is something that makes you more inclined to support this, you can recommend those conditions.

Director of Planning, Engineering and Public Works – Would you agree that even though offsite parking is not required for parcels under ten thousand square feet that because this is more of an intensive use than what is allowed 'by right' then parking could be a factor in their decision?

Town Attorney – That is right. It is kind of what I was driving at. Parking, by itself, is not a requirement for commercial uses within the Downtown district. We do not have very much of it and we did not require onsite parking except for properties over ten thousand square feet. That was decided a long time ago. Parking has always been at a premium. Even though it is not required, it is still a factor you can consider in a special use permit application. To balance that out, they have made recommendations or suggestions as to how they propose to deal with it. Ms. Norton pointed out alternatives. There are public parking lots; but it is not a secret that parking on Main Street is at a premium.

Dr. Pope – I had raised a concern not necessarily about this project but about the special use permit because part of the proposal in this document from the Nelms house was retail. They were going to sell artwork and different things. If this business does not

end up working out and is not a venue and nobody books it but yet they are doing retail; how does that really change because they may turn this into a store? The response I got from Mr. Saunders was that it has already been a special use permit. It has already been a retail outlet. I guess my general question is why does a special use permit that has already been granted to the property go with the property? Property changes hands and businesses change hands. Why does it not cancel when the businesses go?

Town Attorney – Because that is not the way it works. It is not permitted by law. The special use permit used to be to the applicant; now it is to the property.

Dr. Pope – Is that according to the state?

Town Attorney – Yes.

Dr. Pope – If you keep doing enough special use permits, it is going to be permitted for everything and nothing is ever going to change.

Town Attorney – It is a balancing act.

Dr. Pope – At what point does it reset or can it reset or never resets?

Town Attorney – It is why special use permits have conditions to make them narrowly tailored to specific uses.

Vice Chairman Bryan – I have a question. I apologize because I do not remember the name of the event planner.

Ms. Emily Norton – That is me.

Chairman Pack – Please come up Ms. Norton.

Vice Chairman Bryan – I have one question. Of the events you mentioned, how many would you say you do a year?

Ms. Norton – Well, I do quite a few a year now; but at this location, I really could not tell you how many. Since I am up here, I would like to address a few of these things. With the type of events that we intend on managing and having there, the reason it is such a good idea is because it is a smaller group of people that have a whole lot less tendency to get to the big party atmosphere. There will not be D.J's there. There will not be all of the hoopla. There is no place to dance in there. It will be mostly gatherings. "Event" is a word that is very widely used. When you think of an event most people think of big events. "Gatherings" is probably a more appropriate word for this particular place. We said fifty people to be safe. It is highly unlikely that fifty people are going to be

approved to be in there. Some of the guidelines that we were projecting were to kind of be safe so as not to underestimate. There will be however many the Fire Marshal allows us to have at the property. How many will we have a year; I do not really know.

Vice Chairman Bryan – How many do you do a week?

Ms. Norton – I do big weddings up to three hundred people. My goal for my business is sixty a year offsite. I just go and decorate. Here, I would think that realistically we would certainly like to rent it in the evenings just a couple of times per month. The other things that Anne has proposed, since she has a great heart for community; she would like to be able to do several things during the day or early evenings as fundraising events. We have been talking to the YMCA to offer mother and daughter painting activities or father and son get-togethers. The retail aspect is that Anne is also an artist. She has lots of friends who do wonderful art pieces. A lot of them donate a lot of their proceeds to charitable organizations. There will be pieces that decorate the house available for sale during the events whether it is a charitable event, family gathering, or a rehearsal dinner. All of the events would not go until 10:00 p.m. Some of them may be afternoon events. I have been doing this a really long time. When there is no music and no D.J., the parties do not go on very long. D.J.'s are the key to keeping a party rocking. You can ask the Smithfield Center managers. Once the D.J. stops, the party is over. Without those kinds of aspects, it becomes more of a gathering than a party and an event. We have been here a long time. We know the concerns of Smithfield residents. We do not intend or hope to have a big party place. We want to offer the hospitality of Smithfield; a small town where you can come and have a beautiful gathering in a beautiful Victorian home and it be personal and small. It would kind of be when hospitality meets history right here on Main Street. I am here kind of on Anne's behalf because I am going to manage the facility if it is approved. I will be very active in it. If you have any other questions, I am happy to answer them.

Mr. Swecker – What is your intent on alcohol?

Ms. Norton – As here, whoever rents the property has to have an ABC license. They are responsible for that. Just like here, we have the ability to say that a person is cut off and the bar gets closed. I have a great team of coordinators who are very well trained and have no problem cutting people off and closing down the bar. Again, having

done so many events over the years, I totally understand that concern. The type of event that is going to be there always has the chance that someone would over drink; but you have that at Wharf Hill. There are residents down there too. He has more than forty people in that establishment every night. The other thing about the parking is that with a gathering of forty people the chances of each person driving individually is virtually nil. People drive to these things together. It is Mom and Dad and the kids. You are really talking half or less than half for vehicles of whatever the numbers of guests are. It is just something else to think about with the parking. I have great staff and at 10:00 p.m. it is over. You are out. What happens after 10:00 p.m. is that the person who rented the venue then gets charged extra. They do not want that. They close down at 10:00 p.m. if that is what you all say. Like I said, we are very well aware of how to pack up and clean up and be out in a hurry and quietly. I would say to speak to any of the venues where I am a preferred vendor. They will tell you we are responsible in that way.

Vice Chairman Bryan – Thank you.

Chairman Pack – Would you be open to an earlier closing time?

Ms. Norton – We would. If you go too early with things like rehearsal dinners and small weddings you put a crunch on it; especially on a Friday night. Rehearsal dinners generally start after people get off from work. You allow an hour for the rehearsal and a couple of hours for dinner. That might work; but I think 10:00 is a reasonable time or earlier during the week and 10:00 p.m. on a Friday or Saturday. I do not foresee any Sunday events going late. Most Sunday weddings are in the afternoon and over and done with by 7:00 p.m. or 8:00 p.m. We would certainly consider any regulations you would like for us to consider. Again, we would want to take into consideration the person who is having the gathering. It should not be so early that they could not get from work to the gathering and have a couple of hours to enjoy themselves.

Mr. Swecker – Would you be open to say Monday thru Thursday at 8:00 p.m. and Friday and Saturday nights until 10:00 p.m.

Ms. Norton – I think that is very reasonable. The weeknights would be more like showers and smaller events and there is no desire for anyone to be later. The whole thing of a wedding and a rehearsal dinner ends up needing to go until 10:00 p.m. During

the week, we would have no problem with that. I do not think it would inhibit us from being able to market it.

Chairman Pack – Are there any other questions for Ms. Norton while she is up here?

Vice Chairman Bryan – I have a question for the Mr. Saunders or Mr. Riddick. If they are given a special use permit and they fall out of compliance, how long would it take to revoke that?

Town Attorney – You give them legal notice. It can be brought before the Planning Commission before the next meeting for action by the Planning Commission to be revoked. The fair thing to do is to give people the opportunity to stop doing what they are doing that is in violation. If they do not do that then you have the ability to revoke the special use permit. You would make a recommendation to the Town Council. The Planning Commission does not have that authority but the Town Council does.

Director of Planning, Engineering and Public Works – If I could add to that, we have only revoked one special use permit since I have been here. We treated it as a zoning ordinance violation. We gave them notification by certified letter with a certain amount of time to remedy the situation. When they did not remedy it, it was brought before Town Council and they revoked it.

Chairman Pack – I have always been in favor of making Smithfield as business friendly as we can. The 300 block of Main Street is a little bit different because we have to balance business, residential, and commercial. I think the residents that are here tonight have brought up some valid arguments. In trying to address those arguments so that we can have a win/win here so that the residents are happy, we could approve this with conditions. This is not a motion. It is open for discussion. The conditions would limit the property to have no D.J. or live music. We would limit the amount of people to whatever is restricted by code. Instead of saying fifty people, we would allow Building Codes to give us an actual number in there. They would be restricted by that number. The owner could have a signage plan for proper parking; certainly, to discourage parking in the neighbor's parking spaces or blocking driveways. Of course, they would be required to acquire proper permitting for a hotel as far as the health department and the occupancy tax. They would be treated as any other hotel/motel in Smithfield. There

would also be time restrictions. We talked about maybe 8:00 p.m. on weeknights and 10:00 p.m. on the weekends or maybe even 9:00 on the weekends. I do not know if that helps the homeowners out at all. I am trying to find a win/win for everybody. I am really not trying to start a conversation here. I am trying to stay within our boundaries. It is really just for discussion within the Planning Commissioners. If you want, we can continue to think about this and table it. We can try to work some more things out. I am open. I was not making a motion. I was just trying to steer a little bit of discussion.

Mr. Swecker – Could we table this until the county looks at it to tell us how many people can actually be in the house at one time?

Town Attorney – You can continue this for consideration until your next meeting with the direction that they try to make that determination and get that information back to the Planning Commission.

Chairman Pack – That sounds good. We have one hundred days from today before we have to make a decision on it.

Mr. Davidson – If we are going to table this, I would like to add to that to revisit the hours and come up with a consensus because 8:00 p.m. during the week, I think, is reasonable. I would lean more towards 9:00 p.m. on the weekends; but that is just my opinion.

Mr. Swecker – What time does the Christmas Market close?

Chairman Pack – I think it is probably 9:00 p.m. Our summer concert series is over at 8:00 p.m.

Dr. Pope – But those are outdoor events. This will strictly be an indoor event.

Chairman Pack – That is right.

Mr. Swecker – I think we have to be a little bit more flexible on the weekends. During the week, yes; but on Friday and Saturday nights, I think we have to be flexible. It is a good venue. We need something like that. The question really is whether this is really the right location to have something like it? The town needs the venue she is offering; but is this the right location for the town to have it with all of the concerns of the residents?

Vice Chairman Bryan – I am pretty much in the same position you are. When I saw this proposal, I was elated. I thought it was a very good proposal; but I am listening

to the neighbors and I am concerned about their issues as well. I think we have to come up with a compromise.

Chairman Pack – We have had a lot of discussion. I would be happy to entertain a motion.

Mr. Swecker – Can we open this back up to the homeowners who are here who have concerns? They are here tonight. Can we open it back up and let them say what they consider is reasonable for the weekends? Can we allow them to come back to the podium?

Chairman Pack – Sure.

Mr. Swecker – Apparently, they want to move forward with this. Since we have the people for it and the people against it, we could resolve it and move forward.

Chairman Pack – Absolutely. Mr. Brooks, would you like to come back up and comment? You are the first on the list so you have the first opportunity.

Mr. Brooks – I have had my say; someone else can speak.

Mrs. Brooks – I live at 314 Main Street. I was listening to Ms. Norton and what she was saying. You were asking direct questions and she was replying by kind of turning it back into it being “gatherings.” She said it will not be many people and it might be twenty cars. It kept on shrinking down. It went from fifty back down to twenty. So, if we are turning it into a gathering now then why does it need to go until 10:00 p.m.? If you have that many people for a rehearsal dinner and a wedding, small weddings go by very quickly. They are much shorter than a large occasion. It is just something I want you to consider. It will be much shorter. You do not have all these people that you have to entertain. You probably will not have fifty people there. It is a very small house. I have been in it many, many times. It is a nice location and a nice house. In the proposal, I did see that there was music and there was dancing. It is in the original proposal that I read over briefly. I want you to also consider if you would like that to be next door to you any night of the week. I really think about that. We have lived there for a really long time. An occasional event, you do not mind it; but when it is any night of the week and every weekend and you hear that every weekend, I do not know how you would feel about having that next door to you.

Mr. Swecker – What would you consider since you live there and will be there during the hours it would be open?

Mrs. Brooks – I really have not thought that through as far as it being an evening event place because I thought that was not a reasonable request. Again, the Vintage Market is really noisy. When it is approved and accepted and it happens, it is really loud. It is really bright. It goes on until 9:00 p.m. and they start shutting down. I know the event place will not be that big but there is still a large amount of noise. I think that is one of my main concerns; the noise.

Mr. Torrey – How long have you lived in Smithfield?

Mrs. Brooks – Thirty-five years. I have seen it go from mixed residential. The way it goes now is everybody closes down by 5:00 p.m. and goes home. It is fairly quiet. You just see people walking their dogs. Since it has turned into gatherings and small occasions, I do not see how 10:00 p.m. would be a reasonable request. I am thinking 7:00 p.m. People get done with their weddings and they have dinner. Rehearsal dinners go very quickly. They last about an hour for a small group. Weddings, for a small group, may last two hours at a maximum because there is no room to dance and do all of that.

Mr. Davidson – Are you saying 7:00 p.m. every day?

Mrs. Brooks – Weekends or weekdays.

Mr. Swecker – I want to ask the owners what hours they need on the weekends.

Town Attorney – Mr. Chairman, this is really unorthodox for a Planning Commission meeting. This is not how it is done. The applicant has made their proposal. The residents have voiced their concern. You are putting both of them at odds with each other when you do it like this. It is not fair to either side.

Mr. Swecker – It has to get resolved.

Town Attorney – I know. It is why you are appointed to do what you do. You make the decision. You have people with conflicting positions. The burden is on you to make the decision. You can get feedback from them; but this is not a negotiation. It is not a give and take. It is not let's make a deal. It does not work that way. Now, if they want to do that after tonight's meeting and come back with a consensus as to what they can live with then that is a different story. To put these people in this position right now is not fair to them.

Chairman Pack – Okay, I understand.

Mr. Torrey – I feel that if we are going to allow this place to be what they want it to be then we have to allow it to go past 7:00 p.m. For it to be a successful place to do what they want to do, I do not think 9:00 p.m. on the weekend is unreasonable. They shook their head that they would be amicable to that. If we are going to allow it to happen, we have to kind of say we will allow it to be there. With a rehearsal dinner on Friday or Saturday night, you get to the church at 5:30 p.m. or 6:00 p.m. and do an hour to an hour and half then you have a couple hours for dinner. To me, 9:00 p.m. is not unreasonable.

Chairman Pack – A rehearsal dinner takes every bit of 9:00 p.m. If I was in her shoes, I would be asking for 10:00 p.m. too. I do a lot of rehearsal dinners in my business.

Mr. Torrey – But not too many on Monday through Thursday. Typically, they are mostly on Fridays and Saturdays.

Chairman Pack – They are typically Friday nights with an occasional Saturday night. To be honest, anything less than 9:00 p.m. for a rehearsal dinner is not reasonable for that type of business.

Mr. Torrey – So, if you want to table it until we find out exactly how many people can be there then we can do that and see if anything develops in the next month. Otherwise, the back and forth about an hour here and there I do not think will be productive.

Dr. Pope – Well, the number of people allowed is not going to be any of our business because their business model will decide if they can make it on that. I would make a motion that we table this until the next Planning Commission meeting. We can have a chance to think on this and decide if this is the right venue and get some other feedback from other people to see if this location makes sense.

Mr. Davidson – I will second that.

Chairman Pack – A motion has been made and properly seconded. Is there any further discussion?

Vice Chairman Bryan – And this is contingent upon finding out from the Building Codes what the limitations are for the number of people that can attend.

Town Attorney – It is not contingent on it; but an opportunity.

Mr. Davidson – As Dr. Pope said, it is not really going to make any difference because either they can make it on the number of people or not which has nothing to do with what we are going to say.

Town Attorney – It would be additional information available to you that might have a negative or favorable impression on you when you make your decision. To answer your question, it is not contingent on that but an opportunity to get that information for you to consider.

Mr. Swecker – What information are we asking to get?

Chairman Pack – We have not asked for any information. We have a motion on the floor which has been properly seconded to table this until next month. It is up to the applicant to provide additional information for us. Is there any further discussion? Roll call vote.

On call for the vote, six members were present. Vice Chairman Bryan voted aye, Mr. Davidson 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 – We will take a brief recess.

A brief recess was held.

Chairman Pack - I will bring the meeting back to order. We will now move to a Public Hearing: Special Use Permit – 322 Main Street – Commercial Use in a Residential Structure – Robin Wiatt, owner, Brian and Mary Oszust, applicants. Could we have a staff report please?

Director of Planning, Engineering and Public Works – Yes, Mr. Chairman. Brian and Mary Oszust are the applicants. They live at Buckingham Way in Smithfield. It is in the Downtown district. Zero spaces for parking are required since the property is less than ten thousand square feet. The applicant is seeking a special use permit to operate a retail outlet; specifically, an antique store. At this location, under the provisions of the town's ordinance, it is a conversion of a residential structure for a non-residential principal use. Previous applicants, in 2001, received a special use permit to operate a retail business which was the Pagan River Shops. However, that special use permit was

issued to the applicants rather than running with the land. Therefore, later applicants, in 2017 sought a special use permit to have commercial use on the ground floor and maintain residential use upstairs. The current applicants are before you because they propose to expand the retail use beyond the ground floor to include both the ground floor and the upstairs floor in the residential structure. The proposed use is retail for an antique store. The proposed hours of operation are from 10:00 a.m. until 5:00 p.m. However, they could be altered once the customer demand is evaluated after the opening. There will be two employees who are the owners and proprietors themselves. The application is deemed complete and the proposal seems to be within the required requirements of the town's zoning ordinance. As this is a special use permit application, reasonable conditions may be recommended by the Planning Commission as deemed necessary to protect the public interest and welfare.

Chairman Pack – At this time, I would like to open the public hearing. We have two signups. The first is Scott Liebold.

Mr. Liebold – I live at 7179 Purvis Lane in Smithfield. I grew up at 308 Main Street and 310 Main Street. I also lived at 327 Main Street for a number of years so I am very familiar with the downtown area; specifically, the 300 block. I am Chairman of the Board of Trustees for Bethany United Methodist Church. The church owns the property located at 318 Main Street directly east and adjoining the property which is the subject of this application. This property currently serves as our parsonage and provides pastoral housing as required. I am not here to speak in favor of or against this application. My purpose is to provide information and statements of fact to be entered into the record for your deliberative use. The Isle of Wight United Methodist Church purchased the property at 318 Main Street in 1870 and has continued to use the property as a parsonage for over one hundred forty-five years. In that time, the town has undergone much growth. The focus on several blocks of Main Street has moved from solely residential to a tourism based economic focus. With that said, the importance of the remaining residences must not be overlooked or forgotten. Over the last twenty years, the church has had to assert its property rights to defend against trespass of prior property owners and tenants of 322 Main Street resulting from the lack of vehicular access to the rear of 322 Main Street. In 1995, the situation became untenable and the

church made the decisions to erect a fence on church property along the church's western property line to preclude any further trespass by the former property owner or their tenants. The former property owners sued the church in the Circuit Court of Isle of Wight claiming a prescriptive easement across church property to allow for vehicular access to the rear of 322 Main Street. The Commissioner appointed by the presiding judge of the Circuit Court found that no such easement existed and judgement was rendered on behalf of the church. I have enclosed and will provide to you a copy of the public record of those proceedings from the Circuit Court of Isle of Wight for your review. I have also provided a copy of the most current survey of the church property dated September 13th, 2004 which clearly shows the existing fence is erected on church property. Again, I am neither for nor against this application. I wish the applicant good fortune in their endeavors. I am here to clearly establish, for the record, that no legal easement or access to the rear of 322 Main Street through or across church property exists nor has access been requested by or granted to the current property owner. The conduct of any activity, business or otherwise, at 322 Main Street should occur and remain within the bounds of the subject property. Thank you.

Chairman Pack – The next signup is Ms. Emily Norton.

Ms. Norton – I signed the wrong sheet.

Chairman Pack – There are no additional signups. Is there anyone else who would like to speak? Seeing none, I will close the public hearing. The applicant now has the opportunity to speak.

Mr. Brian Oszust – I am a resident of 103 Buckingham Way in Smithfield. We moved over here two years ago from Hampton. We love the town. I wish we had done it a long time ago. We ran a business in Hampton. It was a referral based business only. It was very successful. My son will take that over the first of the year. My wife and I will be retiring from that so we would like to stay busy. We have purchased the property of the owner of Heritage Antiques. We purchased his stock. Bob has also been referring his furniture repair business to me. I will be doing that and offering that at the store on Main Street. We look forward to being on Main Street and working with the community. We have done a lot of repairs to the property already. We are in negotiations for buying that piece of property as well as Mr. Bob Wyatt's property. I just want to let you know that we

want to only do the best for Smithfield. Hopefully, it is as great referral business here as we have had in the past. I am happy to answer any questions that you may have for us.

Mr. Davidson – Will your antiques include pieces of furniture?

Mr. Oszust – There will be some antiques and some furniture; but mostly on Main Street with the foot traffic it will be gifts.

Mr. Davidson – If you had a larger piece of furniture, how would you get it out of the establishment and load it in if you cannot use the church driveway?

Mr. Oszust – There is access between 322 and 320 Main Street.

Mr. Davidson – Yes. I have walked the property and there is access. I own a smart car and I think maybe I could get it through that area. I do not think you could get a normal vehicle between those.

Mr. Oszust – No sir; you cannot.

Mr. Davidson – So, it would have to be something that would be carried out. Your front door is quite small.

Mr. Oszust – It is smaller than normal.

Mr. Davidson – So, you would have to take it out from the back and then carry it to the front.

Mr. Oszust – I have not had anything, at this point, that I could not get through the front door. Most furniture is eighteen inches deep. The door is thirty inches wide. The back door is actually thirty-six inches wide. It is a wider door. It is opposite of what is usually normal.

Mr. Davidson – So, that would be the way you would load and unload.

Mr. Oszust – Yes, sir.

Vice Chairman Bryan – Are you aware of the church's position?

Mr. Oszust – Yes. I spoke with Mr. Liebold when I moved in. I was told by the landowner and we have not been on the property. I assumed the fence belonged to 322 Main because the fence faces 318 Main Street. Usually, when you put a fence up, you put the good side towards your neighbor. It was facing 318 Main so I believed it was the property of 322 Main Street. It was bolted up so I unbolted it and took a section down. It was raining. I backed in the driveway because no one was living in the parsonage. I backed in and unloaded; but now, I have been made aware that they prefer we do not

do that. There was no one living there for me to ask permission to do it so we would be good neighbors.

Vice Chairman Bryan – Now that you are aware, you do not think this will impact your operation?

Mr. Oszust – No. If someone lived there, I might knock on the door and ask permission. If I can do a favor for a neighbor, I would.

Vice Chairman Bryan – Thank you.

Chairman Pack – Are there any other questions for the applicant? Hearing none, we will have consideration by the Commission now. They already have retail ‘by right’ for the first floor. The decision for us this evening is if it is appropriate to have retail on the second floor as well. We are open for discussion.

Mr. Davidson – It has been done quite successfully. I have no problems with it. We have seen it at Victoria’s Rose and various other places in that area.

Dr. Pope – As long as the applicant is aware of the church’s position, there is really nothing else to say. I would like to make a recommendation to Town Council to approve this application as presented.

Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded. Is there any further discussion? Roll call vote.

On call for the vote, six members were present. Vice Chairman Bryan voted aye, Mr. Davidson 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 – Our last item is Approval of the October 10th, 2017 Meeting Minutes.

Town Attorney – Mr. Chairman, I would like to ask Mr. Saunders a question first before I make my recommendation. Is this supposed to be units or acres?

Director of Planning, Engineering and Public Works – It should be units.

Town Attorney – Okay. Mr. Chairman and members of the Commission, I just had one minor change. It was just a mistake with respect to density on page 10. With that change, I would recommend approval.

Mr. Davidson – I will make a motion that we approve the minutes with the minor change.

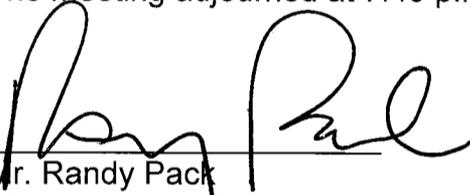
Mr. Swecker – Second.

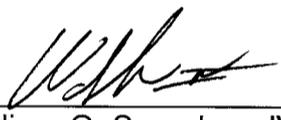
Chairman Pack – A motion has been made and properly seconded. All in favor signify by saying aye, opposed say nay.

On call for the vote, six members were present. Vice Chairman Bryan voted aye, Mr. Davidson 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? Hearing none, we are adjourned.

The meeting adjourned at 7:45 p.m.


Mr. Randy Pack
Chairman


William G. Saunders, IV
Director of Planning, Engineering and
Public Works