

The Smithfield Planning Commission held its regular meeting on Tuesday, December 10<sup>th</sup>, 2019 at 6:30 p.m. at the Smithfield Center.

**Members present:**

Randy Pack – Chairman

Mike Swecker

Bill Davidson

Julia Hillegass

Thomas Pope

**Members absent:**

Charles Bryan – Vice Chairman

Michael Torrey

**Staff members present:**

John Settle

William H. Riddick, III

Councilwoman Valerie Butler

There were approximately twenty-one (21) 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. John Settle reminded the Planning Commission that the final draft of the 2019 Isle of Wight County Comprehensive Plan was considered by the Isle of Wight County Planning Commission at its November 26<sup>th</sup>, 2019 meeting and that the Plan is available for viewing online. It was shared with the Planning Commission upon the distribution of the agenda packet.

**Upcoming Meetings and Activities:**

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

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

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

Tuesday, December 17<sup>th</sup>, 6:30 PM – Board of Zoning Appeals Meeting

Tuesday, January 7<sup>th</sup>, 6:30 PM – Town Council Meeting

Tuesday, January 14<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.

Mr. Hundley of 210 Villa Drive expressed frustration that in order to acquire a business license from the Town for his home office he must first acquire a special use permit pursuant to Smithfield Zoning Ordinance Section 3.F.C.18. He is retired and works part-time for school systems

as a consultant supporting teachers with mathematic instruction in the classrooms. He lives in The Villas of Smithfield which is zoned as multi-family residential and would require a special use permit and a \$400.00 fee. The single-family residential neighborhoods nearby do not have to go through the same process for a business license. The Zoning Ordinance is dated September 1<sup>st</sup>, 1998. The Villas of Smithfield was built in 2006. He asked the Planning Commission to look at the Zoning Ordinance and update it. More specifically, look at the wording for business licenses and the type of business first and then the address.

Chairman Pack stated that there were no more signups. He asked if anyone else would like to speak. There were no other speakers.

**Planning Commission Comments:**

There were no Planning Commission comments.

**Final Plat – Lot 84, Cypress Creek Pkwy., Cypress Investment Holdings, LLC, c/o Stephen Romeo, applicant.**

Mr. Settle reported that at its Tuesday, November 8<sup>th</sup>, 2015 meeting, the Planning Commission approved a site/subdivision/utility plan and preliminary plat application for Cypress Creek Phase VII B&C. This approval was given under the condition that a few minor comments from the Isle of Wight County Stormwater Management Program be addressed. At its Tuesday, December 4<sup>th</sup>, 2018 meeting, the Town Council approved a subdivision agreement for the same development. Following the resolution of all remaining issues identified by Town staff and the interagency review process, a zoning permit was issued on Friday, March 8<sup>th</sup>, 2019 for the construction of all infrastructure related to the proposed development. The applicants are now applying for final plat review and decision by the Planning Commission, allowing them to formally subdivide the property into forty-two (42) SR-zoned properties to accommodate the new construction of a like number of single-family detached dwellings. Town staff recommend that this application be approved under the following conditions:

- (1) A certified copy of the plat recorded in the Isle of Wight County Circuit Court Clerk's Office as instrument number 190000616 be provided to the Town.
- (2) A recordation receipt for the recently-approved boundary line adjustment plat between 1113 Cypress Creek Pkwy (TPIN 22-01-004B) and the subject property be provided to the Town.
- (3) A bond equal to \$392,661.60 be provided to the Town Treasurer.
- (4) Signed, sealed, and notarized copies of the final plats be provided to the Town Manager for his signature.
- (5) Following the recordation of the final plats, copies of the recordation receipts thereof must be provided to the Town.

The applicant, Mr. Stephen Romeo, explained that Cypress Creek has been a lengthy project. The roads have been cut in and the utilities installed. The only thing lacking is the pavement. He is available for questions from the Planning Commission.

Chairman Pack asked the applicant if he is okay with the recommendations of Town staff. Mr. Romeo stated that he was. There were no other questions from the Commissioners.

Dr. Pope made a motion to approve the application as presented with the recommendations/conditions made by Town staff. Mr. Davidson seconded the motion. Chairman Pack called for the vote.

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

**Public Hearing: Special Use Permit (SUP) – 12458 & 13400-13474 Benns Church Blvd. Miller Oil Company, Inc. c/o Lauren Sweeney, applicant.**

Mr. Settle explained that the applicants of 13458 Benns Church Blvd wish to make a series of improvements on the premises. These improvements entail the new construction of an approximately 5,185 square foot commercial structure that will house a convenience store and restaurant (without drive-through facilities) to the rear of the property, the conversion of the existing convenience store located beneath the canopy into additional fuel pumps, the removal of the existing diesel fuel pump and canopy, and the creation of new off-street parking areas on and offsite. Prior to the submission of a site plan amendment application and an application for Entrance Corridor Overlay (ECO) design review, the applicants must first acquire a Special Yard Exception (SYE) from the Board of Zoning Appeals (BZA) for a 4.41' reduction in the required rear yard setback from twenty feet (20') to 15.59'. This is to accommodate the proposed commercial structure at 13458 Benns Church Blvd. Also, to satisfy the additional parking demands from their proposed improvements, the applicants have submitted an application for a Special Use Permit (SUP) for a "waiver of parking and loading requirements" pursuant to Smithfield Zoning Ordinance (SZO) Section 3.I.C.30. Elements of this waiver will apply to both 13458 Benns Church Blvd and 13400-13474 Benns Church Blvd. Specifically, the applicants have requested a waiver from the following Sections of the SZO, to accommodate the corresponding improvements- items waived for both properties have been marked with an asterisk (\*):

- \*8.B.4.a: Waived to allow for parking on the adjacent property to count towards the applicants' minimum required parking even though the applicants do not own the adjacent property.
- \*8.B.4.b: Waived to allow for parking on the adjacent property to count towards the applicants' minimum required parking even though the applicants do not have an ownership interest in the adjacent property.
- \*8.B.8: Waived to allow for parking within five feet (5') of an adjacent boundary line.

- \*8.B.14: Waived to allow for vehicles to extend over property lines, avoid the use of bumper stops in parking spaces, and to exempt parking spaces from the required two foot (2') extension in parking space length- these requirements are only applicable for parking spaces where vehicles may extend over a property line.
- 8.C.2(a): Waived to reduce the required loading space length from fifty feet (50') to twenty-five feet (25').
- 8.H.5: Waived to allow for a reduction of the required handicapped parking space width from thirteen feet (13') to eight feet (8').

Town staff recommend a favorable report from the Planning Commission to the Town Council under the following conditions:

- (1) Pursuant to SZO Section 8.B.4.D, a shared parking easement plat and accompanying deed must be reviewed by Town staff, signed by all property owners, and recorded at the Isle of Wight County Circuit Court Clerk's Office- a recordation receipt from such action must be furnished to the Town.
- (2) Pursuant to the Virginia Department of Transportation's (VDOT's) requirements (see attached letter, dated Thursday, November 21<sup>st</sup>, 2019), 13458 Benns Church Blvd's entrance onto Benns Church Blvd closest to Cypress Run Dr must be closed. Town staff does not advocate for the closure of the entrance on Benns Church Blvd located to the southeast, as it is shared with 13400-13474 Benns Church Blvd.
- (3) To accommodate large trucks, 13458 Benns Church Blvd's entrance onto Cypress Run Dr must be widened in a manner consistent with the illustration generated by Town staff and attached to this staff report.
- (4) The applicants must provide assurance to the Town, as well as to the owners of 13400-13474 Benns Church Blvd, guaranteeing that the only part of 13458 Benns Church Blvd to be utilized as a loading zone is the designated loading space located northwest of the proposed commercial building, and that the general area located southeast of the existing canopy will never again be utilized as an official or unofficial loading zone.
- (5) Given that fuel tank trucks are approximately forty feet (40') in length, the applicants must abandon their request for a twenty-five foot (25') reduction in the required loading space depth of fifty feet (50'), as required by SZO Section 8.C.2(a).

- (6) This SUP is null and void until the applicants have acquired all other necessary approvals and permits from the Town and any other regulatory agency.

Dr. Pope asked about the area to be closed. Mr. Settle explained that VDOT stated that one of the entrances must be closed. Town staff advocates that the entrance closest to Cypress Run Drive be closed because the other entrance is shared with the shopping center.

Ms. Lauren Sweeney, the applicant, is employed by Kimley Horn. They are trying to add a new restaurant and a new convenience store to the existing gas station. The existing convenience store will be removed. Parking will be added for the adjacent property owners.

Chairman Pack opened the public hearing. He asked if anyone would like to speak for or against the application. Hearing none, he closed the public hearing. He asked for Planning Commission comments.

Dr. Pope asked if the kerosene pump would stay in its current location. The applicant stated that it will be moved. Dr. Pope was concerned that the dumpster is located on the front of the plan. He also pointed out that he was concerned with landscaping at the entrance. He stated that some of the parking spaces appear to back out into the road. He was also concerned about some of the curb and guttering. He believes that parking in the back looks great but he would like to see a sidewalk that fronts those parking spaces.

Chairman Pack believes that since there are several questions it might be better to table this item until the comments are addressed. Mr. Davidson made a motion to table this item until the concerns can be addressed. Dr. Pope seconded the motion. Chairman Pack called for the vote.

On call for the vote, five members were present. Mr. Davidson voted aye, Mrs. Hillegass voted aye, Mr. Swecker voted aye, Dr. Pope voted aye, and Chairman Pack voted aye. There were no votes against the motion. The motion passed to table this application.

**Public Hearing – Smithfield Zoning Ordinance Article 3.I Text Amendment (After-the-Fact) – 865 W. Main Street, SB Cox Ready Mix, Inc., c/o Gordon Holloway, applicant.**

Mr. Settle report that on or before Monday, August 12<sup>th</sup>, 2019, the applicants installed a private well on the premises. Because the property is located within the Heavy Industrial (I2) zoning district and is occupied by non-residential uses, this action conflicted with Smithfield Town Code (STC) Section 82-45, which reads: *Where a public water supply is available in the Town, it shall be unlawful to connect a . . . commercial structure to a private well or other water supply, except as may be approved by the Town Manager on a temporary basis, or by approval of a Special Use Permit (SUP) in accordance with the provisions of the . . . [Smithfield] Zoning Ordinance (SZO).* At no point has the Town Manager approved the use of the well on a temporary basis, nor are private wells permissible in the I2 zoning district, pursuant to SZO Article 3.L. Consequently, the applicants are applying for a text amendment to allow for the addition of Section 3.L.C.34 to the SZO, which will read: *Private wells for the purpose of batching and mixing concrete.* If approved, the applicants would then have to apply for an SUP in order to keep and use the well. At its Tuesday, November 12<sup>th</sup>, 2019 meeting, the Planning

Commission asked to be provided with the following information before the scheduling of a public hearing on this application:

- (1) The property owners' average monthly water usage.
- (2) The property owners' average monthly water bill.
- (3) An answer from the Virginia Department of Health (VDH) and/or the Virginia Department of Environmental Quality (DEQ) as to how much water can be drawn from a single private well user in a year.

Town staff were able to discern that the property in question has two water accounts- one for the cement plant, and one for all other operations on the premises. The applicants have assured Town staff that it is their intention to connect solely the cement plant to the private well. The average monthly water usage for the cement plant is approximately 201,000 gallons of water, which equates to an average monthly water bill of approximately \$1,270. The applicants have indicated that they intend to leave the cement plant connected to the Town's water system but admit that continued use of Town water at the cement plant will be minimal. Town staff contacted DEQ, who indicated that private wells withdrawing 300,000 gallons or more of water per month must acquire a groundwater withdrawal permit from them. Consequently, there was no apparent limit to how much water could be withdrawn in any given year, so long as a permit was acquired from DEQ, and all conditions of that permit were met. In any case, the applicants' average monthly withdrawals of approximately 201,000 gallons is below the 300,000 gallon threshold. Conversations with the Engineering & Public Works Department have yielded that the average monthly water usage for a family of four inhabiting a single-family detached dwelling is approximately 7,500 gallons of water. The average monthly usage of the cement plant is notably high, and the applicants' desire to disconnect the operation from the Town's water system would result in the loss of the Town's largest customer. Additionally, the success of this text amendment and the subsequent granting of an SUP to the applicants would establish an unusual and expensive precedent for the Town, which may inspire other high water usage operations in the future to submit applications to achieve similar ends. Town staff recommends that the Planning Commission report unfavorably on this application to the Town Council, and that Town staff's order to the applicants to abandon, remove, or otherwise permanently deactivate the well within thirty days (in accordance with state standards) be upheld.

Mr. Swecker asked if the applicant installed the well without permission from the Town. Mr. Settle reported that no permission was granted from the Town.

The Town Attorney stated that the applicant admitted that they did not know they needed approval from the Town before installing the well. They applied for all their permits from everyone except the Town.

The applicant, Mr. Gordon Holloway, stated that Town staff recommended against the application as it would set an unusual and expensive precedent. He believes that there is an opportunity for a precedent but wanted the Planning Commission to think about the Town's desire to work with local businesses while protecting its natural resources. He wanted the

Commissioners to consider the relationship that Farmers Service has with the Town. They donate time and material to the Town when they have the opportunity. They take pride in being part of the community. Farmers Service also donates to first responders, schools, civic and charity organizations. They consider it part of their duty of being a responsible member of the community. He stated that the main reason they pursued a well was to reduce their water bill. They obtained their permits but did not realize the Town required one. Mr. Settle stated that a Zoning Permit was required. He explained that having a well would give them two sources of water for the concrete plant. He also stated that sometimes they have to shut the concrete plant down due to disturbances in the water line. They have to clean the screens and meters. It is an expensive and time-consuming process. He believes having two sources of water would eliminate that issue. There is also an issue of slow flow in the morning during the time of high usage. The water they fill their trucks with takes two to three times as long at their peak production hours. He explained that the well is 400' deep. The proposed pump would be at 170' depth. He thinks the Town's wells are much deeper than that. He stated that they do not need processed water for the concrete plant. The residents in the community need processed water and would have a greater flow if Farmers Service utilized the well. He was available for questions from the Commissioners.

Mr. Swecker stated that the money they would save for the water would be beneficial to the applicant's business. He asked if the business would pass the savings on to the consumer. Mr. Holloway stated that it would allow him to be more competitive. It would be a business decision that has nothing to do with a well permit.

Chairman Pack opened the public hearing. He asked if anyone would like to speak for or against the application. Hearing none, he closed the public hearing. He asked for Planning Commission comments.

Mr. Davidson stated that he hoped they would not deny the application solely based on losing water money for the town. He understood they were a big water user. He felt they should have the right to be competitive and do not need processed water.

Chairman Pack was concerned about an unfavorable precedent; but agreed that Farmers Service had been a very good steward to this community. He agreed that they do not need treated water to put in their concrete.

The Town Attorney reminded everyone of the development coming online in the next several years; particularly the Battery Park Road corridor. The Town has a finite amount of treated water available through the permitting and capacity of the Reverse Osmosis Plant. Treated water has to be used for residential purposes but not for concrete. The viability of the Town's water system is a major consideration more so than the financial impact.

Chairman Pack spoke to the Town Treasurer via email. Farmers Service has two accounts. The first is the one they want to disconnect and is the highest water user in town at 2,411,500 gallons per year. Their secondary well services their building and their washout

facilities uses 1,900,000 gallons per year which is the second highest water user in the Town. It is enough water to supply 26.8 homes on the groundwater permit.

Dr. Pope asked if wells were special use permit items. He explained that the Planning Commission would be approving the text amendment to allow the avenue for the special use permit. The applicant will have to apply for it after the text amendment.

The Town Attorney explained that it would be limited to concrete plants. The Town has limitations on wells. They are permitted under limited circumstances for irrigation only in residential districts.

Dr. Pope asked if the Town's water and sewer services were self-supporting. Chairman Pack stated that it is. It operates separately from Isle of Wight County. He explained that it directly correlates to how much rain or drought happens. Some years are better than others but, overall, it is designed to be revenue neutral.

Mr. Davidson felt that the Town Attorney made a valid point. The Town has the potential for a lot of new homes that will have to have water. The applicant does not need processed water.

Dr. Pope did not want to set a precedent for the future with new businesses coming in and wanting a private well.

The Town Attorney stated that Smithfield Foods has their own water system. They are not connected to the Town's water system. He is not concerned with the precedent issue since they get considered on a case by case basis. He believes, in this case, they do not need potable water to serve a concrete plant. He further explained that all water currently serviced at the reverse osmosis plant must be treated and the by-product of that is going to HRSD. Chairman Pack stated that the Town has tried to find ways to put it back into the creek. They have done shrimp tests and minnow tests and failed at all of them. The Town spends upwards of \$1,000,000.00 returning the treated water to HRSD so they can then treat it. It is a complicated issue.

Mrs. Hillegass made the motion to recommend the text amendment favorably to the Town Council. Mr. Davidson seconded the motion. Chairman Pack called for the vote.

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

**SUP, Comprehensive Plan Amendment & Official Zoning Map Amendment (Rezoning) – Lot 511, S. Church Street., Waterford at Battery Park, LLC, c/o John Mamoudis, applicant.**

The applicant proposes to construct fifteen (15) two-and-one-half (2.5) story multifamily buildings, each containing ten (10) condominium units. Each building will contain six (6) three (3) bedroom units, two (2) two (2) bedroom units and two (2) one (1) bedroom units. The proposed community will not be age-restricted and will be privately-regulated and maintained by

a condominium association. Amenities include onsite parking, pedestrian paths, private travel ways, pet stations, a clubhouse, a swimming pool, bicycle lockers, a pump station, stormwater retention, landscaping, and approximately five and one-half (5.5) acres of common open space. The proposed development would be accessed via two (2) existing entrances on Battery Park Rd, and one (1) on S Church St. The desired uses for the property would be classified as “multiple family residential dwellings (with no more than three (3) unrelated occupants per dwelling unit)” and “private community facilities, recreation areas, parking lots for recreational vehicles, and other common area improvements normally associated with multiple family residential developments (other than those requiring special use permits).” The only zoning district in which both of these uses are permissible is the Multifamily Residential (MFR) district, pursuant to Smithfield Zoning Ordinance (SZO) Sections 3.F.B.1 & 3.F.B.5. Because the property is currently zoned Highway Retail Commercial (HRC), it became apparent that an application to amend the Town’s Official Zoning Map (OZM) would be necessary (this is often referred to as a “rezoning”). The most essential Town publication to consult during the rezoning process is the Town’s Comprehensive Plan, specifically the Future Land Use Map (FLUM). The entirety of the property in question on the FLUM is designated as remaining “retail commercial” in the future, which accommodates the current zoning as HRC. Consequently, the proposed rezoning is in conflict with the FLUM, and a Comprehensive Plan Amendment is necessary. In acknowledgement of the importance of maintaining a commercial frontage on S Church St, the applicants have proposed amending the OZM and FLUM in such a manner as to preserve the current zoning and future land use (FLU) fronting on this right-of-way (ROW). This means that an approximately 3.9 acre commercial outparcel will be excluded from the rezoning and FLUM amendment and later subdivided from the remainder of the property. The proposed general development plan submitted for the rezoning of the property features no recreational vehicle (RV) parking pursuant to Smithfield Zoning Ordinance (SZO) Section 3.F.I.2.B, which states: *Separate parking spaces shall be allocated and reserved for recreational vehicle parking on the basis of one (1) RV parking space per six (6) dwelling units. No recreational vehicle parking space shall front on a public street.* The applicants have chosen not to accommodate this standard in order to achieve the appropriate net developable acreage to necessitate 150 dwelling units. This means that the applicants will have to apply for a Special Use Permit (SUP) for a waiver of parking and loading requirements. Feedback from the residents of the adjacent subdivision (Villas of Smithfield) on this requested waiver has been positive. Several components of this application can be viewed in the pages immediately succeeding this staff report. At its Tuesday October 8<sup>th</sup>, 2019 meeting, the Planning Commission’s discussion on this application resulted in the generation of the following list of items that they wanted to see in a revised application:

- (a) Traffic count data collected from the intersection of Villa Dr and Battery Park Rd to be included in the traffic impact assessment (TIA).
- (b) Information from Isle of Wight County concerning how school buses might interact with this development, to include bus stop locations in or near the development.

- (c) The locations of dumpsters and other solid waste receptacles, including other information indicating how solid waste generated from this development will be managed.
- (d) Photographs and addresses of other developments executed by the developer, including ones using the new vinyl siding product that was shown to the Planning Commission.
- (e) Information on how this proposed development may react with a road widening project on either Battery Park Rd or S Church St, and how such projects and other similar transportation projects may impact this development's accessibility in the future.
- (f) An alteration of the exterior design of the buildings proposed so that there is clarity as to which façade of the building is the primary façade.
- (g) Clarification on pedestrian travel from the parking lot to the buildings.
- (h) An action plan or explanation concerning procedure for if or when a firetruck or other large vehicle blocks one of the development's entrances or travel ways.
- (i) More information concerning the proposed access improvements on Battery Park Rd.
- (j) Confirmation from Isle of Wight County Schools that their response to the application took other and future developments elsewhere in the County into consideration.
- (k) Illustrations and positioning of signage which may be used to identify the development, particularly the main entrance of the development.
- (l) Information concerning how the bike trail will interact with the proposed development.
- (m) Illustrations and positioning of all proposed fencing in the development, and whether or not the applicants intend to offer any RV parking at all (i.e. would they consider a waiver of part of, if not all, of the RV parking).
- (n) Indication from the applicants as to whether or not they would consider an additional means of access to and from the development and resulting commercial outparcels from S Church St, lining up with Mercer St.
- (o) A presentation on the data gathered from the applicants' traffic count of the intersection of the drive located in between Dollar General and Royal Farms with the intersection of S Church St & Williams St- specifically how this data factors into the comments generated by the Virginia Department of Transportation (VDOT).
- (p) Any effort by the applicants to lessen this application's potential burden on Battery Park Rd traffic would be essential in the Planning Commission's consideration.

The applicant has provided responses to all of the points on this list, with attachments (see 2019-11-01 Amendments). Additionally, this application has resulted in requests for comments from several agencies and entities outside of the Smithfield Community Development & Planning Department. Responses that have been included or updated since the previous Planning Commission meeting have been marked with an “\*”:

Draper Aden Associates, Inc. . . . . Enclosure 1

Isle of Wight County Planning & Zoning . . . . . Enclosure 2

Isle of Wight County Schools (IWCS) . . . . . Enclosure 3

Virginia Department of Historic Resources (DHR) . . . . . Enclosure 4

VDOT . . . . . Enclosure 5

Isle of Wight County Stormwater Division . . . . . Enclosure 6

\*Smithfield Volunteer Fire Department (SVFD) . . . . . Enclosure 7

Smithfield Police Department (SPD) . . . . . Enclosure 8

Isle of Wight County Emergency Services . . . . . Enclosure 9

The Villas at Smithfield . . . . . Enclosure 10

At its Tuesday, November 12<sup>th</sup>, 2019 meeting, the Planning Commission’s consideration of this application resulted in the generation of the following list of items that they preferred to see in a revised application:

- (1) Language imposing restrictions on the leasing of the proposed condominium units.
- (2) If the Town possesses internal traffic count data for Battery Park Rd, that data should be shared with the applicants.
- (3) Confirmation from the SVFD as to whether or not the applicants’ 2019-10-02 Amendments to their application have satisfied the initial concerns held by the SVFD, as outlined in their email to Town staff, dated Monday, September 16<sup>th</sup>, 2019.

Since the meeting, Town staff has received a response from the SVFD concerning item three (3) above (see Enclosure 7). A small amount of internal traffic count data for Battery Park Rd. has been located by Town staff and circulated to the applicants. There has been an updated proffer statement circulated to the Commissioners. Item 6 in the proffer statement provides language concerning rental restrictions for the proposed development. Pursuant to SZO Section 4.E.4, the Planning Commission has until Thursday, January 16<sup>th</sup>, 2020 to decide on this

application before it is automatically forwarded to the Town Council with a recommendation for approval.

Ms. Beverly Walkup, consultant for the applicant, explained that the applicant did provide the language for rental restrictions. It was a minor change that was made earlier today. The applicant has addressed all other items that the Planning Commission had requested. She stated that they hope the Planning Commission will act favorably on the application.

Chairman Pack stated that the public hearing was last month. The Planning Commission can take action tonight or not. He stated that Item 6d in the proffer statement explains the total number of units that can be leased will not exceed 10%. It goes into more detail. It explains later that the applicant/developer cannot make any changes to the rental cap until a minimum of 90% of the units/structures are sold. He believes that this gives them an out and can be changed later. It could switch to higher rental occupancy at some point.

Ms. Beverly Walkup explained that it was difficult drafting the language that the Planning Commission wanted to see. They tried to make it such that the applicant did not have an out. At the point of 90% of units sold, it is completely in the hands of the property owners not the applicant. He would no longer be a majority of the Board of Directors. She believes that the owners then have a vested interest and they will be like every other property owner who does not want to see a lot of rentals in their development.

Dr. Pope believes the units are attractive. He likes that they are not the standard box. He is concerned about traffic. He would not want a commercial development there and would rather have residential. His biggest fear is that something worse may come along. He has a hard time seeing fifteen condominium buildings sitting on the property.

Mrs. Hillegass stated that The Villas of Smithfield supported it and will be their neighbors. No one spoke against the project. There are concerns about traffic. She does not see a reason that it can be turned down.

Mr. Davidson agreed but continues to be concerned about traffic at the intersection. There will be a lot of development on Battery Park Road at some point.

Dr. Pope asked if there could be stipulations that developments must be done in a specific time frame since there are quite a few pending developments along Battery Park Road. Some of the approved developments have not been built in many years since approval. The Town Attorney stated that the developer can offer a time frame but the Town cannot require it.

Mrs. Beverly Walkup stated that the applicant, Mr. Mamoudis, is ready to start as soon as he obtains site plan approval. He will be purchasing the property and will be ready to move forward.

Chairman Pack stated that one of the duties of the Planning Commission is to decide what is best for the Town of Smithfield. It is not always easy to do. He has spoken to a lot of people about this project. He has not really heard anyone say anything negative about it. There

has not been opposition. The Villas of Smithfield have been here for every meeting in support of the project. Usually, there are only naysayers.

Mrs. Hillegass made a motion to recommend the Comprehensive Plan amendment, the official zoning map amendment, and SUP applications favorably to the Town Council. Mr. Swecker seconded the motion. Chairman Pack asked if there was any further discussion. Hearing none, he called for the vote.

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

**Approval of the Tuesday, November 12<sup>th</sup>, 2019 Meeting Minutes.**

The Town Attorney reviewed the minutes and made one minor correction. He recommends the minutes be approved as revised. Mrs. Hillegass made a motion to approve the minutes as revised. Mr. Davidson seconded the motion. Chairman Pack called for the vote.

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

The meeting adjourned at 7:55 p.m.



Mr. Randy Pack - Chairman



Mr. John Settle – Community Development  
& Planning Director