

The Smithfield Board of Historic and Architectural Review held its regular meeting on Tuesday, October 20<sup>th</sup>, 2015. The meeting was called to order at 6:30 p.m. Members present were Mr. Roger Ealy, Chairman; Mr. Trey Gwaltney, Vice Chairman; Mr. Ronny Prevatte, Mr. Russell Parrish, Ms. Julia Hillegass, Mr. Gary Hess, and Mr. Jeff Yeaw. Staff members present were Mr. William G. Saunders, IV; Planning and Zoning Administrator and Mr. William H. Riddick III, Town Attorney. There were twenty four (24) citizens present.

Chairman Ealy – I would like to call the October 20<sup>th</sup>, 2015 Board of Historic and Architectural Review meeting to order. The first item on the agenda is the Planning and Zoning Administrator's Report.

Planning and Zoning Administrator – Thank you, Chairman. I do not have any administrative approvals to report tonight. I like to mention that if anybody wants to speak publicly there are no public hearings tonight. Any public speech will have to be done during the public comments section. There is a signup sheet on the table if you want to sign up. Thank you.

Chairman Ealy – I will add one comment. We do not have anything to do with zoning, traffic, planning, and parking. The only thing we are doing is appraising the architectural features of what someone wants to do. Next we have the Upcoming Meetings and Activities which you have a list of and can read. Next we have Public Comments. Please state your name and address for the record.

Ms. Braunhardt – My name is Sharla Braunhardt. I live at 101 Goose Hill Way. I was going to remind the committee what Mr. Ealy said at the beginning of last month's meeting but you said it again this month. So, let me repeat, this committee is only concerned with the architectural aspect of the homes in the proposed Pierceville development. The only assumption I can make from that declaration is that this committee is not involved in the rezoning request or the Comprehensive Plan change request and rightly so according to the mission statement that I read about online. The question then becomes why do we have agenda item six which is a rezoning update? My next question involves the material that was provided to you for this agenda item. It appears that this committee was provided with a plethora of information from the developer. In turn, did this committee receive copies of the petitions against this rezoning, Comprehensive Plan change, and development proposal? Did the committee

receive copies of petitioner's previous committee and Council testimonies specifically from the August Planning Commission meeting? If you did then I am quite relieved to know that but if you did not then why not? I think that is a question that each and every one of you needs to be asking. The committee is comprised of our neighbors and friends. We understand the sacrifice each of you make and it is greatly appreciated. However, it is extremely important that every member of every committee, as well as every Town Council member, know and remember that the vast majority of citizens in the historic area and adjacent areas are dead set against every aspect of this proposal. This development is to be comprised of tract homes. There is no other way to categorize it. According to the ordinances that govern this committee there is no justification for allowing tract homes within the historic area. This type of development is not worthy of the last parcel of historic land within the historic Smithfield area. People do not come here to see tract homes. There is nothing about this development that makes it worthy of belonging in a historical area. This sacred historical land deserves to be nurtured and treasured. Please do not ignore the voices of the people. Let us all be good stewards of this valuable asset. Thank you very much.

Mr. Arinello – My name is Dennis Arinello. I represent over three hundred plus petitioners that are tied to this event here. We, the petitioners, challenge Hearndon's privilege before the Board of Historic and Architectural Review in so much as the BHAR has no mandate under rezoning or subdivision ordinances to adjust changes to the Future Land Use Map, Comprehensive Plan, or the conditional rezoning. We have been told, time and time again, that it has precedence over anything that is being presented tonight. In fact, the developer has already appeared before the Board on July 23<sup>rd</sup>, 2015 which was more than two weeks before the Planning Commission's public hearing on August 11<sup>th</sup>, 2015 to present what we believe is a preliminary subdivision plat. One can only conclude that the developer is being allowed to present and prepare substantive changes to their current proposal which was denied earlier by the Planning Commission for what basically is a direct rehearsal of a formal presentation that will be presented to the Town Council at the November 3<sup>rd</sup>, 2015 public hearing. We find no legal basis for the Council to sanction a major revision of what we have been told is not a presentation of a subdivision plat without Planning Commission's review and action, or we surely contend that the developer should not be allowed to rehearse revision proposals before

the Town Council's Public Buildings & Welfare Committee meeting on October 27<sup>th</sup>. Our understanding of Article 5 of the Subdivision Ordinance is that the town's Planning & Zoning Administrator and a Subdivision Review Committee should have been addressing changes to the Comprehensive Plan and the rezoning issues within the concurrent processing of the developer's preliminary subdivision plat. This causes us to ask how a one hundred and fifty-one home subdivision proposal is not considered a major site plan in accordance with your own Article 11 of the Rezoning Ordinance or a preliminary subdivision plat in accordance with Article 5 of the Subdivision Ordinance. The town's Planning and Zoning Administrator and the Town Manager have been referring to the Cary and Main Subdivision proposal for at least eight months in written communications and formal announcements. We, as petitioners, strongly believe that the Subdivision Ordinance has precedence and that the Town Council's present course of action represents a near intentional violation of their own ordinances. Thank you very much.

Mr. Braunhardt – My name is R. B. Braunhardt. I live at 101 Goose Hill Way. It probably comes as no surprise that I am against this. Many of you have heard this before from me. I would like you to indulge me for just a moment and ask you to listen as I read through the architectural guidelines for new construction from Article 3.M which is Historical District Guidelines and Overlay. It states that where new construction is proposed the design should take into account the special visual and special qualities that the historic district is established to protect, including building heights, scale of buildings, orientation, spacing, and site coverage of buildings, façade proportions, window patterns, size, shape, proportions of entrance, porch projections, materials, textures, colors, architectural details, roof forms, horizontal or vertical emphasis, landscaping, walls, and fences. I am not going to impugn Mr. Hearndon and his buildings. Some of the pictures look very nice. One or two of them actually look like they might be colonial homes. The rest of them look like anything else that you could drive through and see in any subdivision anywhere in the United States that is not a historical district. I challenge you to argue with me, discuss, and prevail that these look like historic building structures or that they match anything on South Church Street or other areas around town within the historic district. They do not. You can put lipstick on a pig but it is still a pig. It is not a historic home. I just cannot stress that enough. I have one

more thing that I want to ask. I do not expect an answer with this Board but I think it is worthy of a written explanation as has been said many times by the Town Council and the other Boards. I am requesting a written answer to the question I am about to propose. In Article 3-M under Historical District Guidelines and Overlay in paragraph 'E' which is HP-O District Administration: Board of Historic and Architectural Review in paragraph 11 Certificate of Appropriateness, it specifies that the project which encompasses reconstruction, construction, deconstruction by your definition in that document; certificate of appropriateness will be issued by this Board. It also states that they have up to one year to start that project and it has to be completed within two years. This is a seven year project. How can that be done?

Chairman Ealy – House by house.

Mr. Braunhardt – No sir. It is by project.

Chairman Ealy – No sir. That is not the way it has been presented to us.

Mr. Braunhardt – I think we are going to have to challenge that one sir. They are coming in and asking to build a subdivision which is one hundred and fifty-one homes. You and your own documents and public notice as well as in your meeting notes have specified the Cary & Main project. You have specified the Pierceville project. Your building guidelines talk about a project and then describes different kind of categories as I mentioned before such as construction, destruction etc. This is a project for one hundred and fifty-one homes with two years to complete. Later on, if you would like to talk or give me written explanation that is fine. I do not think you can take this on a house by house basis sir. I really do not think you can. Thank you very much for your time.

Town Attorney – You absolutely can. That has been done. It has always been done. That is not what the law says so that is not an issue for us to challenge.

Mr. Braunhardt – I was not able to hear you.

Town Attorney – I said that it is not the case. You are incorrect in your interpretation, Mr. Braunhardt. You can do this on a house by house basis. If they choose to they can proceed in that manner. If they chose to do more than one, they can come back and ask for a renewal at the end of the year. There is a method to deal with the time limit. There is an appropriate way to do this. It is not what we are talking about tonight anyhow.

Mr. Braunhardt – That is what this Board does sir.

Town Attorney – Mr. Chairman, this is not a debate. It really is not.

Mr. Braunhardt – Okay, well, go ahead and send me the written explanation please. Thank you.

Chairman Ealy – Thank you. Our next speaker is Mr. Mark Gay.

Mr. Gay – Good evening. I live at 110 Goose Hill Way. Mr. Chairman and members of the Board, as others have indicated already, your Board has been asked to help Town Council circumvent its own legal codes and ordinances for reasons that remain unexplained. Nine months into our petitioner inquiry, we appear to be playing a game with the developer's subdivision proposal for Cary and Main also known as Pierceville. If I am not mistaken, this is the third time that Hearndon Construction has presented before your Board this year. The Town Attorney continues to insist that the only issues for decision, at the moment, are a proposed change to the Future Land Use Map of the Comprehensive Plan and the developer's request for conditional rezoning of Pierceville. As others have said, this would accommodate an unthinkable housing density upon a three hundred and eighty year old historic property that lacks the necessary infrastructure to support the buildout. As you know, the Planning Commission recommended disapproval of both requests at the August 11<sup>th</sup> public hearing. The Town Attorney is partly right. Future land use and conditional rezoning are necessary requirements within the preliminary subdivision plat proposal process. However, Article 5 of the Subdivision Ordinance which is both more recent and more stringent than the Rezoning Ordinance takes legal precedence in this matter. Article 5 is the cornerstone document that describes the process from soup to nuts including your Board's participation within the mandatory subdivision review committee that has yet to be formed. It is the Planning and Zoning Administrator and the Planning Commission's responsibility to address rezoning issues within the subdivision review committee process. It is necessary for those rezoning issues and Comprehensive Plan changes but not sufficient. What is also required explicitly by Article 5 is an evaluation and Planning Commission's decision on the preliminary subdivision plat itself. The time for that decision has long past according to the ordinance. It was supposed to occur at public hearing within forty-five days of the developer's resubmission of his proposal in the May time frame. My belief is that every member of the Planning Commission and

ninety-eight plus percent of the people at the August public hearing thought that the second vote that evening was about the subdivision proposal. The Town Attorney argues differently. The road map for the developer's process at the Public Buildings and Welfare Committee meeting, as Colonel Arinello said moments ago, was August 25<sup>th</sup>. However, that road map is not supported by Article 5 or Article 4 of the rezoning ordinance which are the cornerstones of the Council's arguments. In fact, nothing in either the Rezoning or Subdivision ordinance authorizes the developer's reappearance before your Board tonight or a dry run rehearsal before the Public Buildings and Welfare Committee as a rehearsal for the public hearing at the Town Council meeting on election night of November 3<sup>rd</sup>. I invite each member to read the transcript of the public comments from the Planning Commission's August 11<sup>th</sup> meeting. That evidence will confirm to anyone that we petitioners and Isle of Wight County Planning provided subject matter expertise that night to critique the specifics of the subdivision proposal and Hearndon's proffers. We find it most curious that the testimony was not offered to you this evening as part of your read ahead for the meeting. On October 12<sup>th</sup>, petitioners wrote to the state Attorney General asking that he render a legal advisory or provide us with legal instruction on how best to proceed within the framework of existing town code and ordinances. I was told today that Mr. Herring is an honorable man and will respond as time permits. So you are being asked this evening to render a recommendation about subdivision architectural design for the Cary and Main subdivision directly to Town Council and thereby usurping the Planning Commission's exclusive authority in accordance with the provisions of town code, rezoning ordinance, and subdivision ordinance. We ask respectfully that you decline. Thank you for your time.

Ms. Riddle – My name is Dawn Riddle. I live at 36 Main Street. I have had the privilege of living and working in an 1888 Victorian home for over thirteen years now. Let me add my voice of opposition to the Pierceville development. Our history goes back several centuries. We are in the back yard of Williamsburg and Jamestown. It is precious and priceless. Smithfield and Isle of Wight County depend on tourism for its revenue. If I recall correctly, I believe that tourism is its second largest industry. We need the tax revenue and employment and such. It is our specialty which has been reiterated time and time again. People come here for the experience of Smithfield. We

can build homes and housing on land anywhere that we want to designate. There are lots of other options other than this particular land with historical significance. Once it is used and repurposed, we are not going to be able to get it back. It is a shame, I believe, to do that. Virginia is where it all started as we know. We have a piece of that. The county was one of the first eight original shires. There are options and ideas that have been presented. Smithfield itself brands as a place for history and heart meaning art. We cannot enhance that or add to the magnitude of that. It is a wonderful experience. Why lose that when there are certainly other options for development elsewhere? Why not retain, expand, enhance, and embellish what we already do. This is what we are known for. It is what we do well with our own unique history. It is precious, priceless and profitable. Please consider that. Thank you.

Chairman Ealy – Our next item is Board Member Comments. Are there any comments from anyone on the Board? Hearing none, we will move to Proposed House Addition – 352 South Church Street – (Landmark) – Joseph J. Howell, applicant. Is there anyone to speak on behalf of this?

Mr. Parrish – Good evening. My name is Russell Parrish. I am with Pagan River Architects. I am working with Mr. Howell on the rear addition for his home at 352 South Church Street. In your packet, you should find a couple of exhibits that give an idea of the amount of architectural confusion on the rear of this home that has occurred over the many years of its existence. It is hard to explain unless you have actually been out there to take a look. I have provided a few photographs so that you get the idea. Part of what we are doing here is to try to clean up a little bit of the rear of the home and in the process add some usable interior space and covered porch space along with new deck additions on the side that will tie several of the different entrances and strange variations together. The materials are in keeping with what is already on the home for the most part. There have been at least eight or nine identifiable additions on this house. We could pick one but there is really nothing that has not been done back there before to some degree. We are just trying to clean up a few things. I think you have a list of all of the materials on here. Please let me know if you have any questions. I do not believe we are using any shutters even though that is on the list at this time. Beyond that, it is just cleaning everything up. We are within the RPA line. We have satisfied that requirement. We had to remove an old decayed chestnut tree to clear room for it. It

needed to come down before somebody got hurt. The only thing that is visible from South Church Street is the little side porch. We are using materials compatible with what is back there already. It is a pretty simple house from the street. It does not have a lot of architectural detailing except for the front porch. None of that conveys to the rear, on any level, as you can see from the photos.

Chairman Ealy – It is my understanding that they will re-side the entire house.

Mr. Parrish – I will defer to the homeowner for that.

Mr. Howell – No sir. The addition of the den and the dining room will consist of Hardie Plank siding which is the same material that is on the side of the house now. It will be the same color and same material. The front of the house is eight inch beaded clapboard. It will remain.

Chairman Ealy – Thank you. Are you going to use vinyl windows on the back?

Mr. Parrish – We will be using double hung wood windows. The precedent for windows is all over the place back there. We are just trying to pick a nice clean one so that we can get a good view of the water.

Mr. Howell – It might be hard to visualize in the pictures. The dining room has Anderson colonial windows. They are 6/6 double hung. We will use the same in the addition.

Chairman Ealy – I remember when that addition was put on. It was probably about fifteen or sixteen years ago.

Mr. Howell – The addition was in 2000.

Chairman Ealy – I like the tin roof. I think that will help things with the porch area.

Are there any other questions?

Mr. Yeaw – The siding is Hardie Plank. Is the deck PVC?

Mr. Howell – Yes sir.

Mr. Yeaw – How do you think that is going to hold up?

Mr. Parrish – They are composite materials. They will be fine. It just comes down to a color choice after that. The deck itself will hold up. We were looking for something that would be low maintenance for an extended time period. The clapboard has held up pretty well over the years but the issue is paint. Paint is something the owner will be dealing with for a long time just as the previous owners have. We are just trying to clean

up the materials back there. I think the photos sort of explain what has happened back there.

Chairman Ealy – Are there any other questions or comments?

Vice Chairman Gwaltney – Is the roof raw galvanized or is it painted?

Mr. Parrish – The cut sheet should be in your packet.

Vice Chairman Gwaltney – It says gray. I just wanted to know if that was a paint color or the natural color.

Mr. Parrish – Most of these are baked on colors as part of the process. It is baked on enamel paint. It also has a sealant. He will not have any issues with this before he has issues with other parts of the house. Part of what we are doing too is to create a precedent for when the other parts need to be replaced so we can tie them together.

Ms. Hillegass – I would like to make a motion to approve as presented.

Mr. Hess – Second.

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

On call for the vote, seven members were present. Chairman Ealy voted aye, Vice Chairman Gwaltney voted aye, Ms. Hillegass voted aye, Mr. Parrish voted aye, Mr. Hess voted aye, Mr. Yeaw voted aye, and Mr. Prevatte voted aye. There were no votes against the motion. The motion passed.

Chairman Ealy – The next item is Rezoning Review - Cary & Main (Pierceville) Project – William G. Darden, Hearndon MC Builders, LLC, applicant.

Town Attorney – Mr. Chairman, could I say a few things before we proceed?

Chairman Ealy – Certainly.

Town Attorney – I want to explain the process and what your authority is in this regard. First off, the application for the Cary & Main project is a pending application for rezoning prior to that is a proposed change to the Comprehensive Plan. The Board of Historic and Architectural Review has nothing to do with either one of those, absolutely nothing. You have no authority. Sole and exclusive jurisdiction for approval of the rezoning lies with the Town Council. As far as the Planning Commission, it is required by law to have a public hearing and for them to make a recommendation but the ultimate authority in approval for a rezoning is the Town Council. It is a proposed

subdivision. It is not a subdivision. It cannot be a subdivision until such time as it is properly rezoned. It is the first step. The town's Subdivision Ordinance does not apply until such time as the property is rezoned. The property owner would then submit a subdivision plat. We are at the rezoning stage right now. Your function is to review for appropriateness the proposed architectural renderings that have been submitted by the applicant and that is all. I will read from the ordinance in a moment. These are proposed renderings or proposed architectural styles. If you remember, this is very similar to an application made several years ago having to do with the Commerce Condos project. In order for the Town Council to make a far and educated and appropriate decision about the project, they wanted input about the architectural proposal for the property which is what is being done here. Chairman Ealy is correct. If the property was rezoned and if a subdivision was constructed, the applicant would probably come back with these applications and renderings and get specific approval for each and every one of them. You would then give them a certificate of appropriateness so that they could proceed. If it takes seven years then perhaps they could come back and renew that or maybe they would only submit a certain number at the time. There is a mechanism for dealing with it. Your purview is to apply the guidelines and that is all you can provide. The reason that you have not received any petitions about public opinion, in support or opposition, is because it is completely irrelevant. It does not matter what people think about this subdivision with respect to your function. Your job is to solely look at what is being presented, apply the guidelines, and make your opinion as to the appropriateness of the proposed renderings. It has nothing to do with traffic, density, or any of that. It is purely related to the architectural style proposed by the developer and that is it. I will read to you a little of the ordinance so that you have a clear understanding of this. Many things that can be done in the town and the historic district are exempt from you but this is a major function of the Board of Historic and Architectural Review because they are proposing to construct new homes in a district which partly includes the historic preservation district. You are to consider the compatibility with the design, development, standards, and criteria as included in the town's adopted historic district's architectural design guidelines. It is the document we have right here. It is your bible. This is what you look at to determine the appropriate styles. There are lots of other factors but this is primarily where you look. It also says that the Board shall not be strict in its judgement

of plans for structures of little historic or architectural value or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding structures of the surrounding area. It is your opinion. It is the degree to which you strictly construe these. It is dependent on your opinion as to how this might impact the area. It is a judgement call but that is why you are constituted as a Board to make those decisions. Ultimately, you would give a certificate of appropriateness for these designs but the applicant is here to present what they perceive as the type of architectural styles that they would construct within the proposed development if and when it is ever rezoned. It is why you are constituted tonight, as a Board, to make that decision and listen to what they have to say. It is just as you have done many, many times on a much smaller scale with individuals. They are asking you to look at all of them collectively and give an opinion as to the appropriateness based on your interpretation of the guidelines.

Chairman Ealy – We have Ms. Melissa Venable to speak on behalf of this.

Ms. Venable – I am with Land Planning Solutions. I am the agent for the applicant on the rezoning. My company is the firm that created the drawings that are in front of you. We submitted them in July. You met on July 23<sup>rd</sup> and I was not able to attend that meeting due to a conflict for a rezoning hearing in another city. Someone else was here that evening and I believe he answered several of your questions. What we are asking you to make a recommendation for this evening is for the exact same package we submitted in July. Actually, I think we submitted it in April but we were heard in July. It is the same package. We have had some time so tonight we have brought with us twenty four renderings which are in your package. They show the different styles and different ways that these buildings can be rendered or elevated. Obviously, it is countless what we could do with them with the different options of dormers, gables, siding and so forth. We wanted to show you some of those. We are in the process of building three of these homes. It is the first time they have been built. They are going up right now in North Carolina. It is a bit of a trip. We brought pictures for you to see. They are not the best pictures because you see dirt around, buildings are not finished, and garage doors are open. I wanted to at least give you an idea of what they look like. With your standards here in Smithfield, we are putting ourselves under higher scrutiny. We are submitting higher standards for Smithfield. You can see the trim

packages on those buildings. You can see the detail that is being put into those buildings. I wanted to be able to bring to you the built example. They are not tract houses but quality homes that are being built in a price range that the majority of folks can afford. With that being said, we are not asking for anything different. I would ask for you to make a motion this evening to move forward with the package we have submitted to the BHAR so we can move through this process. I appreciate your time and efforts. If you have any questions, John, Mr. Jones or I can answer those. Thank you.

Mr. Parrish – I have a question for Ms. Venable. She may not be able to answer it since she is speaking on behalf of the developer. I am not a big fan of the models or the concept. In your discussions with the developer, are they open to any sort of customization when it comes to detailing these things above what you have presented so far? I know some of it is market driven.

Ms. Venable – You ask a good question. Hearndon is very much market driven. As we start the process, we have a first phase which is about forty units. I do not remember off the top of my head. As they start to build these homes here and things need to be changed and customized then they will do that. I cannot say whether they will customize the house for each customer. No, they will not. Once they get feedback and they have built the product and they understand that certain things need to be changed then they will make those changes. We have also had very specific questions about if individual residents could come in and buy lots. He would be open for individuals but not other builders. There could be some custom houses that do come in but Hearndon as the builder would not build custom homes. Does that answer the question?

Mr. Parrish – I did not realize that the tracts were potentially open for people to purchase.

Ms. Venable – As he releases phases, if there is an interest to buy a lot here or there he has very specifically said that he would entertain that.

Mr. Parrish – So from what I understand there will also be some spec houses going up in here.

Ms. Venable – If there is interest to be able to come in and do so.

Mr. Parrish – The full buildout is intended, in a best case scenario, to take seven to ten years. Is that correct?

Ms. Venable – We have talked about the longest being seven years. I think that is what we talked about. Obviously, our hope is that every good development in Hampton Roads sells forty a year. It is the quickest pace we have seen with one exception. Just this year, Dominion Meadows which is another Hearndon project, has actually had to slow their pace because they were just selling like crazy. It is in a good school district. There was pent up demand so it is an anomaly. Over the last ten years, the most you will see in one neighborhood is forty a year. We do not really believe that forty will sell in Smithfield per year. It is our hope. If that can happen it would put us at approximately four years. We do not believe that would happen. We have a phasing plan that stretches it out further than that to four phases or so. We think we are going to be closer to twenty-five to thirty-five units per year which would be seven years at the least amount. Things will change over that time period. They have to change. The same buyer today or five years from now will want something different. The demands will be different. It is the one thing that Hearndon has done very well over the years. They quickly react to the market and change their plans especially in the last few years. They have done a good job responding to the market.

Mr. Parrish – That is when we expect to see you back here.

Ms. Venable – Sure. We would have to come back. Anytime we add a plan to this package we will have to come back. It is sort of our kickoff with Phase 1 and what we are proposing. Nobody gets it right the first time around. We are going to have to come back at some point. I am not going to be able to get every plan and every modification to that plan that we have proposed in the package spot on. The market will look for something different from what we are proposing. It is just the way it goes.

Chairman Ealy – Are there any other comments?

Mr. Hess – I think the comments that Mr. Parrish made are one of the concerns that I have. I fully understand that it is a market driven process. I would not expect it to be any other way. The strength of the market pressures three to four years down the street compared to the requirements that we place in the historic district from an architectural perspective. I think there will be a lot of friction. I am not saying it is not possible but I think there will be a lot of friction, over time, based on what is demanded

by potential buyers compared to what we would probably see as a less flexible perspective because it is in the historic district. I think it will be a challenge. It is something you and the builder would have to manage very closely. I understand that the tendency in a market driven process involves the customer.

Ms. Venable – I would say that it is the beauty of your process. When we make changes, we have to come back to you. We call this the '400 series' for lack of a better term. When we decide we need a '490 series' because there have been changes then we have to come back to you. You see the series in front of you and as soon as that is different you have a Board in place where we have to come and ask for your approval for whatever modifications are made and when new designs come forward. You will have control of that along the way. I think you are right because we are in a historic district things are going to change. It is very similar to our project in Elizabeth City. It is a slow market. They bought it in 2009 to 2010 when nothing was moving especially down there. They knew they would just be steady and ride the course. It has turned out to be a very good project for them. They are introducing a series of houses here. There have been a lot of different homes that have been built. It is the first time they have been built here. It is the third phase they are getting into now. The market conditions have changed. The buying population has changed. The builder is responding. They have done a better job with the architectural plans they are introducing down there. I think you will see the same thing. The builder will respond. One hundred and fifty one houses is not a small number of homes. We will have to respond to changes but you have control of that.

Chairman Ealy – I would like to say that I am pleased to see the actual product look like the rendering that is presented. The details on the rendering are on the actual product and a lot of times that is not the case.

Mr. Hess – It might be worth a trip to Elizabeth City.

Chairman Ealy – A picture is worth a thousand words.

Mr. Yeaw – I heard the explanation from counsel but I am a little confused about the process. I was with you until the end when you said to render an opinion.

Town Attorney – I will speak to that if I could. You need to gather as much information as you can. You have a choice I think tonight. If you look at Article 3.M of the Overlay Ordinance, there is a provision for the application submission requirements.

There is a long laundry list of things that you can require. I will read from this so you will understand. It states: In consideration of a complete application, the Planning and Zoning Administrator or the review Board may require any or all of the following information and any other materials as may be deemed necessary for its review:

A.) Statement of proposed use and user. B.) Statement of estimated construction time. C.) Photographs and maps relating proposed use to the surrounding property and/or the corridor on which it is located. D.) Site plan drawings, showing the location of the existing and proposed building and site improvements, including: (1) Existing property boundaries, building placement and site configuration, (2) Existing topography and proposed grading, (3) Location of parking, pedestrian access, signage, exterior lighting, fencing and other site improvements, (4) Relationship to adjacent land uses, (5) proposed site improvements, including location of parking, pedestrian access, signage, exterior lighting, fencing, buildings and structures and other appurtenant elements and (6) Proposed building color and materials E.) Architectural drawings showing plan view and elevations of new planned construction or renovations, including drawings of original building. F.) A landscaping and buffer plan. G.) Designs for exterior signing, lighting and graphics, to include description of materials, colors, placement and means of physical support, lettering style and message to be placed on signs. These are all things that you can require. It is up to you as to how much you want. If you believe that you have been provided sufficient information to render an opinion then you can. If you do not think you have sufficient information then you can deem the application incomplete. If you deem it to be incomplete then you cannot take action on it. It is entirely within your purview one way or the other. I would suggest that if you choose not to find that it is a complete project, in order to assist the Town Council, you put your comments on the record as to what you like or do not like about the proposal and whether you think they are generally appropriate enough because that is what the Town Council is looking for. It is what they looked for with the Commerce Condo application. If you recall, Mr. Chairman, that went to the Town Council and then they asked how it fit in and if it was appropriate for the area where it was proposed to be constructed. They sent it back to you all for your opinion as to whether it was appropriate or not. I think the Town Council would value your input and opinion as to whether these designs are appropriate for the property as designed. Whether you choose to make a final decision

as to appropriateness or not is your decision. If you do not think you have enough information or want more information then the correct answer there would be to find it an incomplete application. I would strongly encourage you, if you do that, to please express your opinion. The minutes would be provided to the Town Council so that they would have more input and guidance with respect to that component of the proposed application. The applicant is making these designs part of their application. They are saying that if they are given the rezoning and we ultimately build the subdivision then this is what they want to put there. It would be an important consideration for the Town Council in making an ultimate decision about rezoning the property. Mr. Yeaw, did that answer your question?

Mr. Yeaw – Yes, partially. You mentioned a lot of materials that we might ask for and that they might provide. Some of those were provided in the previous package which we have. Is the assumption, tonight, that they were all sufficient? All we are discussing right now is the renderings.

Town Attorney – It is really your decision. If you do not have all of the materials then it is up to you to make that decision. It is within your purview to determine if this is a complete application.

Mr. Yeaw – My final question is about the proposed proffers that I have in front of me. They were discussed at the last meeting. They needed some work. My assumption was that the next time we were together we would see something improved on that.

Mr. Jones – My name is Robert Jones. I am at 1600 South Church Street. I am the attorney for the applicant. To address your question, the proffers are being amended. They were changed after we met with you the last time. They will be submitted to the Town Council in their amended form but I do not believe that you have received updates. There will be new ones filed this week. They were changed but I do not think they were submitted back to you for this because this was purely, at this point, the renderings that we were discussing.

Mr. Yeaw – You had referred to a Homeowner's Association in one paragraph and a Property Owner's Association in another.

Mr. Jones – When it went back to the Planning Commission those had been changed.

Town Attorney – Mr. Yeaw, none of that is within your purview. The Homeowner's Association is nothing for this Board to be concerned about. That has to do with how property owners will interrelate with themselves if the project is ever built. It is not in this book right now. You will not find it mentioned in the Historic Overlay District and it is not in your design guidelines. It is not something that you should be concerned about.

Mr. Yeaw – So it should not have been in our package.

Town Attorney – The proffers will be considered by the Town Council in their decision as to whether or not to grant the change in the zoning classification. If the change in the zoning classification is not granted by the Town Council then all of this is mute. It is for naught because the proposal cannot go forward without a change in the zoning classification. Right now, the majority of that property is zoned Community Conservation. Under the current zoning there is a maximum of five houses that can be built and that is it. Unless the zoning is granted, there could not be a large subdivision plat and there could not be this development.

Mr. Yeaw – This goes back to my other question about the opinion we are rendering or the recommendation that we are making. At the last meeting, we made some constructive recommendations on certain things architecturally. Is this a continuation of that?

Town Attorney – Yes that is appropriate because those are the types of issues addressed in your guidelines.

Mr. Yeaw – The developer did make a statement about a motion tonight.

Town Attorney – It would be your action tonight as to whether or not you choose to find the application incomplete or complete and you make a finding of appropriateness or inappropriateness.

Planning and Zoning Administrator – We provided all of the materials that we had for this project to provide the big picture. But a number of elements in the proffers relate to the structures themselves such as foundations, exterior finishes, exterior color, windows, roofing, and fencing. If you refer to your staff report, those sections in the staff report came from the newest set of proffers. Those elements that are listed on page 2 and 3 of the staff report are those portions of the proffers that are the newest version that went to the Planning Commission that related to the buildings themselves and the

elements that related to the buildings. These have been updated. Each of these paragraphs that were modified after the May version is in respect of that as well as the section on page 3 relating to the Pierceville home and the outbuildings. It was changed also.

Mr. Parrish – I have another comment since I sort of do this for a living as well. Typically, when we design for a single lot it is site specific for a house. Personally, I have an issue with just approving twenty-four designs that could be interchangeable. My preference would be to continue the process that we have when a house is ready to go on a lot. It would come before us and we would go through our process as we typically do.

Planning and Zoning Administrator – Actually, each one of these houses will be coming to you all individually that are within the historic district.

Mr. Parrish – On a particular lot?

Planning and Zoning Administrator – Individual houses before they are built just like a new construction house on a lot anywhere else in the Town of Smithfield will come to you.

Mr. Parrish – But will it have an actual lot number?

Planning and Zoning Administrator – It is not going to be a big blanket thing. Each individual house is going to have to come to you. They are going to tell you what type of siding, what colors, and what type of exterior colors are going where. Each house in the whole subdivision is going to have to go before their Architectural Review Board that is internal. In addition to that the ones in the historic district will come to you all just as other new construction in town does. The difference is and what is happening here is that this rezoning is a conditional rezoning. They have proffered things. They have basically promised to do things a certain way to kind of sweeten the pot for Town Council. They want the Town Council to have a level of comfort in approving the rezoning because they know more of what they are expecting to see. If the rezoning goes through when they do the subdivision plan and the subdivision plat, you are expecting to see a project that will be in substantial conformity to what they are proffering.

Mr. Parrish – But that is in our guidelines already.

Planning and Zoning Administrator – That is right. What you are doing is making a recommendation on this bigger picture or direction. When they come back it needs to be within substantial conformity for what they are showing. That is not to say that they cannot add more elevations or details; but every one of them will have to come before you.

Mr. Parrish – So do we really have to do anything tonight?

Chairman Ealy – I think what they are asking is if the designs they are presenting would be appropriate.

Planning and Zoning Administrator – You can vote to not give a recommendation or you can vote to give a recommendation.

Chairman Ealy – We can do that without being specific to each house.

Planning and Zoning Administrator – That is right. That is all it is. It is a recommendation. If you choose to not give a recommendation and Council goes to vote on it and they prefer to have that recommendation then they will send it back. That is their purview. It is also your purview to decide whether to give them one or not.

Chairman Ealy – I will add one other thing. Go back twenty years until now and look at what has been approved for new construction in town. I have to say that Hearndon is well within the purview of what has been approved for new construction.

Mr. Parrish – It goes back to what the market is going to do. Is it going to require them to put up some more models? Is someone going to decide they do not want to use one of those models? Is there going to be brick somewhere or some better detailing? We are talking about something that it is seven years or so and that is a concern too. I like to sort of see the individual. Our design guides are already here without even seeing these. These are pretty pictures probably for somebody else more than for us. We want to get the specifics when they come back one house at the time. That is what you said. Is that correct?

Planning and Zoning Administrator – Yes it is but what the applicant is trying to do is show Council what they can expect to see to some degree. The hope is that it would help their chances of getting the rezoning. If you all choose to not participate in that then you can choose that. If you feel that what the developer is trying to do as far as that goes per the venue or feel that you are ready to go then that is up to you all to decide. It is why we are here discussing it tonight. The applicant is putting as much on

the table as they can to try to show Council what to expect with the rezoning if they choose to approve it.

Mr. Hess – So the process can move forward.

Town Attorney – That is correct. You have no authority to approve or disapprove the rezoning.

Planning and Zoning Administrator – Even without all of this, let us say they try to get it rezoned for a subdivision and they did not give us any kind of renderings at all and it was approved. It would still come back house by house for you all to look at individually.

Mr. Hess – So what they are asking us to do is to be part of the process.

Chairman Ealy – We need to give the Town Council an idea that what they have proposed is appropriate. Do we have a motion?

Mr. Parrish – I would like to make a motion that we approve the direction that the renderings are taking towards our own historic guidelines. They are generally appropriate in the context of the historic and architectural design guidelines.

Mr. Hess – I would like to alter it a bit and say subject to approval of the Town Council.

Mr. Parrish – That would have to happen anyway.

Mr. Hess – Second.

Planning and Zoning Administrator – Before you vote, could we restate the motion so that I can make sure I have it right.

Mr. Parrish – I would like to make a motion that the application as submitted is appropriate with the historic design guidelines as they currently exist.

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

On call for the vote, seven members were present. Chairman Ealy voted aye, Vice Chairman Gwaltney voted aye, Ms. Hillegass voted aye, Mr. Parrish voted aye, Mr. Hess voted aye, Mr. Yeaw voted aye, and Mr. Prevatte voted aye. There were no votes against the motion. The motion passed.

Chairman Ealy – Our next item is Approval of the September 15<sup>th</sup>, 2015 Meeting Minutes.

Town Attorney – Mr. Chairman and members of the Board, I have made minor corrections and would recommend the minutes to be approved as revised and corrected.

Ms. Hillegass – So moved.

Mr. Hess – Second.

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

On call for the vote, seven members were present. Chairman Ealy voted aye, Vice Chairman Gwaltney voted aye, Ms. Hillegass voted aye, Mr. Parrish voted aye, Mr. Hess voted aye, Mr. Yeaw voted aye, and Mr. Prevatte voted aye. There were no votes against the motion. The motion passed.

Chairman Ealy – Is there any other business? We are adjourned.

The meeting adjourned at 7:38 p.m.

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Roger Ealy  
Chairman

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Mr. William G. Saunders IV  
Planning and Zoning Administrator