

The Smithfield Planning Commission held its regular meeting on Tuesday, January 9th, 2018. 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, Ms. Julia Hillegass, Mr. Mike Swecker, Dr. Thomas Pope, and Mr. Michael Torrey. The staff members present were Mr. William G. Saunders IV, Director of Planning, Engineering and Public Works and Mr. William H. Riddick, III, Town Attorney. There were thirteen (13) citizens present. The media was not represented.

Chairman Pack – Good evening ladies and gentlemen. Welcome to the Smithfield Planning Commission meeting of January 9th, 2018. We will start our meeting with the Pledge. Please stand.

Everyone present stood and recited the Pledge of Allegiance.

Chairman Pack – Good evening and thank you for joining us. 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. I have a couple of items tonight. The first is the Chesapeake Bay Preservation Ordinance revisions. As some of you may be aware, we went through our five year audit with the Department of Environmental Quality this year on our Chesapeake Bay Preservation program. They only found one item that they recommended to be improved. It is the addition of some references in our Subdivision Ordinance and Chesapeake Bay Preservation Ordinance. They want us to add some boiler plate language to all plats and plans that are approved which include RPA's about the protection of the RPA. So, if it is alright with the Planning Commission, we would like to bring some draft ordinances and hold a public hearing next month on that item. It would go to Town Council following your approval. I would also like to congratulate Commissioners Bryan, Pack, and Swecker for their reappointment to the Planning Commission for another term. I would also like to make a note to those in attendance tonight that neither of the action items are public hearings. If anyone wants to make public comments about either of these items, it should be done during the public comments section of the agenda. Thank you.

Chairman Pack – Next, we have Upcoming Meetings and Activities. Town offices will be closed on January 12th and 15th in observance of the Lee/Jackson Day and Martin Luther King, Jr. Day. I can assure you our Public Works crew will appreciate a

little time off after the work they have been doing lately. On January 16th 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. The Town Council Committee meetings will be January 22nd and 23rd at 4:00 p.m. at the Smithfield Center. They run until approximately 6:00 p.m. Our next Town Council meeting will be on February 6th at 7:30 p.m. The next Planning Commission meeting is February 13th at 6:30 p.m. We will now move to Public Comments. The public is invited to speak on any subject except for scheduled public hearings. We do not have any public hearings tonight. At this time, 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 – We have three signups. The first is Mr. Jim Phillips.

Mr. Phillips – I live at 435 Lane Crescent. I am here in regards to the Lakeview Cove project. I will not revisit the issue since I was here from the very beginning. None of you were; as I recall. It was a fiasco then and it is now. With that aside, it has to be fixed and a bulldozer plowing them under is not the answer. There has to be something better. I have talked to Mr. Saunders and I saw the plans, forthcoming, which are better. However, what still has my concern is the allowance of what I call “multi-family functional units” mixed with single family residential units. Building a berm of dirt in between the street where I live and these condos is not and will not make it a subsection of another neighborhood. They are conjoined. The larger issue though is, again, there has been no impact study that I am privy to regarding traffic flow. From Andrews Crossing all the way to the end of the cul-de-sac which is where I live, there are fifty single family homes. This proposal adds sixty-nine which, granted, is less than the eighty-four before. There will be another one hundred and forty vehicles added to the traffic flow on the same narrow street corridor of a neighborhood. Another thing that I brought up was about home values. We are all aware of that. This may be good for the county but it is certainly not good for the homeowners. With that aside, we have another issue that was never addressed then and still has not been addressed. It has never been corrected. Our neighborhood is used as throughway by Moonefield, Pagan, and

the rest of the folks coming through the neighborhood to go to work. They do not want to go to the end of John Rolfe and make a left turn on Battery Park to go across the bridge or wherever they are going. Our children are picked up on that very corner to go to school. They are not coming through there at 25 mph because they are not doing 25 mph on John Rolfe. They are not doing 25 mph through the neighborhood. Again, that has never been corrected. We have this taking place between the hours of 7:00 a.m. all the way until 9:30 a.m. I do my walks and jogging then in conjunction with the traffic flow that is going to be increased. It is what is going to go on at that one small intersection in a residential area. I would like for the Commission to, at least, ask for a traffic impact study to perhaps mitigate or even offset that impending problem. Thank you.

Chairman Pack – Thank you, Mr. Phillips.

Director of Planning, Engineering and Public Works – The next signup is Mr. Randy McCoy.

Mr. McCoy - live at 427 Lane Crescent. Unfortunately, I was not here in 2006. I had not moved to Smithfield yet; but one reason why we chose Smithfield was because it was not as built up as the Peninsula where I work. My question is about an environmental study. Was there a study conducted initially? If so, with this change in planning, has it been updated to seek compliance of what has changed in the last ten years? As far as Mr. Phillip's concerns about the traffic flow, I do not jog but a lot of people do in the neighborhood. That piece of area has all kinds of family traffic through it. There are no sidewalks so everybody is traversing and doing their exercising and walking in the street. With the additional number of vehicles possibly being utilizing that road, impacts the possibility of more accidents and loss of life and family members. Finally, the other piece I would like to bring up is the current build they have. I am not sure how many are sold or how many are rented out. I would venture to guess that the number of rentals is probably in the 90% to 95% range. There have been a number of issues with the tenants back there and a lot of police action. I am not sure if it is a really sound area for these to be saleable units; thusly empty and rented out and not providing any additional taxes for Smithfield at all. It is just a blight on the neighborhood. That is about it. Thank you.

Director of Planning, Engineering and Public Works – The next signup is Mr. Jason Fisher.

Mr. Fisher – I live at 428 Lane Crescent. A couple of my primary concerns have already been addressed by my friends and neighbors who have already spoken. We spent this last Christmas together and it was a fantastic time. Unfortunately, there are several neighbors who could not be with us today because they had other engagements or were still at work. I can assure you that they share our sentiments. One of my top concerns as a new resident to the neighborhood is that Smithfield has a charm to it. Smithfield has this character. Every time one of these types of facilities is approved and put on the map, it erodes that character. It erodes what makes Smithfield; Smithfield. As a military member moving into the area, we do extensive research into where we are going to live. All of the things on my checklist for the type of place I would like to live, Smithfield met that in every single way. I can tell you that one, two, or three years from now when you have prospective people looking at areas that they want to live they will drive by this facility that you are going to build on this road. They are not going to see it as a condo or a high dollar building. They are going to see it as an apartment complex. Unfortunately, it skews individual's perspectives on the neighborhood. I can tell you that if I were to look online after this was built and come in to visit; I might fall in love with the house but I can you that the second I drive past that complex I would probably, more than likely, not purchase the house. The big driver in that is that it will eventually bring down property values. I hope that it does not. I hope it is a good investment. I hope the property owner does incredibly well and makes a whole bunch of money off of it. I really do. I hope the town shares in that and the revenue goes up and everybody is happy and lives happily ever after. Unfortunately, the statistics show that when we put too many of these multi-family residences in an area, we are looking at up to a 13% decrease in property values. What that turns out to be is a wash for the town. So, you have the additional personnel moving into the area; but when those values come down it is a wash. Now, maybe they will spend money in the community which would be an additional way to earn some revenue. However, we do not have the facilities to support that. What is going to happen is that you will build these multi-family units and will eventually have a population that will be demanding a Wal-Mart and a Home Depot and

we will have to give them one. Back to my originally point, it fundamentally changes what makes Smithfield; Smithfield. Thank you.

Chairman Pack – Thank you, Mr. Fisher. We have no more signups; but if anybody would like the opportunity to speak on this matter or any other matter pertaining to the Planning Commission now is your opportunity. Hearing none, we will move Planning Commission Comments. Are there any comments? Hearing none, I have two comments for our Director of Planning, Engineering and Public Works. One of the things I would like to see us do in this next year is address some of our landscaping requirements in our ordinance. We have talked about this before. It is not so much the requirements themselves but the follow-up when plants have died and nothing is being taken care of. I would like us to look at some sort of maintenance schedule as a Planning Commission; something that we can add to our ordinance and make a recommendation to Town Council. As that highway corridor fills out, we need to be prepared to not only enforce the landscaping requirements but have them continue into perpetuity. We can have some substance behind it instead of just a couple of scrubby trees that pass the basics. The second item I have is the hope that you can give us an update on the former Tastee Freeze building. I believe that my last information was that their building permit was set to expire in mid-December. Are we anywhere near where we can address that eyesore?

Director of Planning, Engineering and Public Works – There was a lengthy conversation at the Town Council meeting last week.

Chairman Pack – I missed that meeting because of the snow.

Director of Planning, Engineering and Public Works – When you read through the minutes, maybe you will glean a little more from that. Basically, the lessee of the property renewed the building permit for six months on December 9th. We are hopeful that is a good sign; albeit potentially being a vehicle to shield the potential nuisance/blight condition of the property because of having an open building permit. It is kind of a double edged sword. You cannot really enforce a nuisance violation on an open permitted site. On the other hand, hopefully, it is a sign that there will be progress on the site within the next six months. The building officials have the ability to not extend the building permit again if there is not substantive change occurring in the next six

months. They may have been optimistic when they renewed it last time. It was not a full six months that there was not substantive change; but if in the next six month period, there is not substantive change then the building officials do not need to renew the building permit at that point. Town Council could potentially deem it an unsafe structure if they choose to and take action. For right now, we are kind of in a holding pattern.

Councilman Swecker – I have a question concerning the old Tastee Freeze building. I think last year or the year before we put an ordinance in where the Conex containers that you put in front of your house could only be there for thirty days. They would need to come back before the town to have it extended. How about the open dumpster that has been there all summer long? Can we do anything on that? We could tell them that they are only allowed a dumpster for a certain period of time.

Director of Planning, Engineering and Public Works – There again, it goes back to them having an open building permit. You can have a construction dumpster as long as you have an open building permit. It is just one of the effects of that.

Vice Chairman Bryan – When was the last time anything was done to the site?

Director of Planning, Engineering and Public Works – I would argue about six months. The last time something was actually done was when we sent them a vegetation violation and we had to send our guy out there to cut the grass. We actually did the last thing that was done out there which was at the end of the summer.

Town Attorney – The Mayor said that the last construction had to do with some of the walls not being the right size so they had to go in and build them up with masonry and then put framing on top of them. It is really the last thing that was done.

Director of Planning, Engineering and Public Works – It is a long saga. The first time they were going to put the new roof on top of the old roof. It was determined that it would not support it so they tore the walls down and put back stick walls. Then the contractor passed away and they had to get another contractor. The permit was extended and they took down the stick walls that would not support the new roof either and put up block walls. Now, apparently, they are waiting for some trusses to be built and delivered which is the latest information.

Chairman Pack – Okay. Thank you, Mr. Saunders. Are there any other comments from the Planning Commission? Hearing none, our next item is the Election of Officers. We have two positions open; Chairman and Vice Chairman.

Town Attorney – The first election will be for the Chairman. The floor is open for nominations for Chairman of the Planning Commission.

Mr. Davidson – I would like to nominate Julia Hillegass for Chair.

Vice Chairman Bryan – Second.

Town Attorney – Are there any other nominations?

Mr. Swecker – I will nominate Randy Pack.

Mr. Goodrich – Second.

Town Attorney – Are there any other nominations? Hearing none, the nominations are closed. All in favor of Julia Hillegass as Chair signify by saying aye and raising your hand.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, and Ms. Hillegass voted aye. The vote is three for Ms. Hillegass.

Town Attorney – All those in favor of Randy Pack signify by saying aye and raising your hand.

On call for the vote, seven members were present. Mr. Swecker voted aye, Dr. Pope voted aye, Mr. Torrey voted aye, and Randy Pack voted aye.

Town Attorney – The vote is four to three. Mr. Pack, you have been reelected as Chairman. The floor is now open for nominations for Vice Chairman.

Mr. Davidson – I would like to nominate Charles Bryan.

Dr. Pope – Second.

Town Attorney – Are there any other nominations? Hearing none, the floor is closed. All those in favor of Charles Bryan as Vice Chairman signify by saying aye.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass 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.

Town Attorney – Mr. Bryan, you have been elected as the Vice Chairman. Mr. Pack, the meeting is yours again.

Chairman Pack – Thank you, sir. Thanks to the Commission for electing me as Chairman for another year. Up next is a Special Use Permit – 308 Main Street – Hotels and Motels, Commercial Recreation Establishments – Daniel and Anne Garland, applicants. We had a public hearing on this in November. We did not have a December meeting. Could we have a staff report please?

Director of Planning, Engineering and Public Works – As a reminder, the special use permit application before you is for 308 Main Street known to many as the Bumble Bee house. It is for an event center with lodging. Specifically, the two items that are requested for the special use permit are Hotels and Motels only relating to two rooms to rent upstairs for transient lodging which may or may not be associated with event activities and Commercial Recreation Establishment limited to indoor uses for the event center activities described in the business plan. Many of these activities will be non-profit; although, some of them will be for profit. At the previous meeting, there were a number of comments about parking, about the hours of operation, and about the maximum number of guests. Part of the reason it was tabled, I believe, was to have the applicant garner more information to bring back to the Commission on these items. I have passed out tonight to you a couple of emails about some last minute information that they brought to me. I will also say that by the time that the packet went out the applicants had amended their hours of operations. They were originally proposed to be daily from 8:00 a.m. until 10:00 p.m. with vendors to exit the premises by 11:00 p.m. However, based upon feedback garnered at the November meeting, the proposed hours were revised to 8:00 a.m. until 8:00 p.m. on Sunday – Thursday and 8:00 a.m. until 9:30 p.m. Friday and Saturday. I received another revision to that application by email. It is dated January 4th for hours of operations to be Sunday – Thursday from 8:00 a.m. until 8:30 p.m. and Friday and Saturday 8:00 a.m. until 10:00 p.m. The applicant will add clarity to this discrepancy when they have their opportunity to speak. Also, in the other email, you have feedback from Isle of Wight County Building Codes. We do not have a Fire Marshall in the county. Isle of Wight County Building Codes are the arbiters of the limits on individuals in a place of business. The limit for this use is forty-

nine. They did not miss it by far with their request of fifty; but forty-nine would be allowed in this establishment as an event center. It is supported by the email dated January 8th. It also says, however, that in order to have the lodging upstairs that they would have to install a sprinkler system. In an effort to save the applicants the trouble and expense of coming back at a later time if they choose to have that sprinkler system installed the Commission may want to consider, if it is in their interest, to approve this contingent upon the satisfaction of Building Codes as it relates to sprinkler systems. Thank you.

Chairman Pack – Would the applicant like to come up and speak? Do you have anything to add?

Ms. Norton - Happy New Year everyone. I just want to be available if anyone has any questions. The one thing I will address is the time change. It was changed after Clair Littlefield, which is the neighbor immediately next door, approached Mrs. Garland and told her she was totally comfortable with the times being 8:30 p.m. during the week and not 10:00 p.m. during the week. I figured I would come back and ask for that since the neighbor right next door was okay with it. I wanted to let you all know that we would like that. The other thing was a handicap ramp and the back porch is accessible from the front through a walkway which is in the process of being uncovered. It is a little grown over. The back door is big enough to allow a wheelchair in. We will be making it handicap accessible either through a permanent ramp or a temporary ramp but there is a door large enough for a wheelchair. That is it unless anybody has any questions for me.

Vice Chairman Bryan – I have a question. Perhaps I do not recall but was there supposed to be an attempt to meet with those that opposed the application at the last meeting to discuss some of the issues with them.

Ms. Norton – One of the neighbors did approach Mrs. Garland and say she was okay with those times. The other one has not; but she is not an immediate neighbor. What we were supposed to get was how many people were allowable and those things which we presented. Forty-nine people can be there. We cannot have overnight lodging unless the sprinkler system is installed which is not on the agenda immediately but may be in the future. Like Mr. Saunders said, if it is agreeable to the Commission to allow

that it could be a contingency to put those sprinkler systems in at another time it would save Mr. and Mrs. Garland from having to re-apply in the future.

Vice Chairman Bryan – There was also the issue of parking. I think there were some restrictions within the proposal itself.

Ms. Norton – Bank of America has said that we can park there since a lot of these events would be after hours and it would not be an issue. I think the comment was that everybody on Main Street has to deal with that issue so it is no different from any other business there that needs parking. Parking is at a premium for everybody on Main Street. Wharf Hill, I can guarantee you, has more than forty-nine people in there at a time. They have the same or similar issues there that we would have with parking. They are able to maneuver it.

Vice Chairman Bryan – Yes; but I think there should have been some restriction added where a guest would not illegally park within the neighbor's property.

Ms. Norton – The one issue was with one of the neighbor's driveway; but again, that is an issue for anybody who is shopping on Main Street. You cannot park in front of a driveway. In our contracts with our clients when they rent the facility, it would be in there the places that have already given us approval to park after or during business hours. There is public parking behind Where Pigs Fly that the town owns. The bank could be used after hours. Also, there is the old Little's Grocery Store and places like that which have open parking. It would be in our contract with our clients so that we would help to guide them away from parking in places they should not.

Vice Chairman Bryan – Including the neighbor's property.

Ms. Norton – Yes, including the neighbor's.

Vice Chairman Bryan – I guess they agreed to the proposed hours. Did you discuss that with them?

Ms. Norton – Yes. The one next door actually sought Mrs. Garland out to tell her that she was okay with that.

Vice Chairman Bryan – Okay, thank you.

Chairman Pack – Are there any other questions for Ms. Norton.

Director of Planning, Engineering and Public Works – I would bring attention to the discrepancy between the two sets of hours in the revised plan. In the first revision

which is listed at the bottom of the first page of the staff report, they had asked for 8:00 a.m. until 8:00 p.m. Sunday – Thursday and 8:00 a.m. until 9:30 p.m. for Friday and Saturday. The email dated January 4th says Sunday – Thursday 8:00 a.m. until 8:30 p.m. and Friday and Saturday 8:00 a.m. until 10:00 p.m.

Chairman Pack – Which are you asking for Ms. Norton?

Ms. Norton – We like the 8:00 a.m. until 8:30 p.m. on weekdays and then 8:00 a.m. until 10:00 p.m. because that is what the neighbor said she was comfortable with.

Chairman Pack – Thank you for the clarification. Are there any other questions? Hearing none, we have had a public hearing on this. We have heard from the public both for and against. We have heard from the applicant. At our last meeting, we tabled this until this meeting. What is the pleasure of the Planning Commissioners? Mr. Riddick, must we make a vote for or against this evening? Do we have a time restriction?

Town Attorney – You have one hundred days from the initial application. You do not have to decide tonight.

Chairman Pack – But if we tabled it tonight, we would have to make a decision in February. Is that correct? The Commission is open for discussion.

Town Attorney – Yes that is correct.

Mr. Davidson – Mr. Chairman, at our last meeting, Claire Littlefield seem to be the primary opposer living right next door. If she is alright with this then I feel more comfortable with it than I did last month.

Chairman Pack – I have a few comments on this and will tell you how I personally feel. The 300 block of Main Street is a difficult block. It is a mix of residential and commercial. It is difficult to get customers from the 100 and 200 blocks into the 300 block. It is difficult because residences are mixed with businesses. It is a mixed use community. Being a mixed use community, we have to be able to allow for businesses to operate in normal hours. The normal hours for an antique store may be 9:00 a.m. until 5:00 p.m.; but for the uses they are asking for, these are hours that are reasonable in my opinion. It is tough for residents that live in a neighborhood like that because you are in your home on Friday night and there is a rehearsal dinner going on next door. Generally, they are not too noisy but it is not like living in a neighborhood where there is

not a party every weekend; but neighborhoods are protected by that. Most neighborhoods do not have a party going on next door every night. When you move into a mixed use district, it is part of the deal. It is part of what you have to accept in my opinion. I am okay with this application as it has been presented. It has some unique benefits to the town that we do not currently have. We have a homeowner and a small business owner who are trying to do good things in town and trying for reasonable hours. They are not asking to stay open until 2:00 a.m. On a Friday and Saturday, 10:00 p.m. is late but not absurdly late. In my business, we always say that nothing good happens after midnight and that is very true. It is very true; but they are not asking for that. They are asking for 10:00 p.m. I think it is a reasonable request. I am happy to support this application as presented.

Mr. Davidson – I do feel, Mr. Chairman, that we should add the sprinkler situation to it. If we are going to approve it with the upstairs, the owners would have to provide the sprinkler system before it would be approved.

Chairman Pack – It is an interesting point because in a Smithfield 2020 meeting we had this week, the flower shop downtown came and were discussing some of the struggles they have had with the county and other things during this application process. One of them was a discussion of sprinkler systems. They did not feel that they needed to have it. According to them, the county is going to push for everything that they can possibly have. There is some letter of the law that allows for exceptions for a sprinkler system. Long story short, Fleur de Fou did not have to put in a sprinkler system. It would have been ungodly expensive. They did not even have to put in a handicap ramp either. There were some exceptions made for that by the county. So, rather than say they need to have a sprinkler system, why don't we say that they have to follow the letter of the inspections department and let them figure it out with the county. I understand your point but let's allow them to figure that out with the county.

Mr. Davidson – That is just if someone is just living there that is in residence there. How about renting it out?

Chairman Pack – You mean like a hotel situation?

Mr. Davidson – Right.

Chairman Pack – From what I know, there are exceptions where certain square footage do not require sprinkler systems. We were able to do that with some of our smaller cottages that do not require sprinkler systems. I do not know what that square footage requirement is or on what basis the county might enforce it. I do not think it is necessary for the Planning Commission to decide. The structural would be but let the county inspection department duke it out with them as far as a sprinkler system. They will not be able to have a hotel type business if they do not have the proper permit from the county. Perhaps it would be better to say ‘with the proper permitting.’

Town Attorney – Why don’t you say, with respect to the hotel/motel component of this application, that it would be approved subject to the fire protection requirements as may be imposed by the Isle of Wight County building official.

Mr. Davidson – Sounds good.

Vice Chairman Bryan – There is a statement to that effect in one of these emails we were provided. As an additional note, there may be some plan in the future to use the second floor for sleeping rooms.

Chairman Pack – Correct.

Vice Chairman Bryan – If this is pursued, the entire structure would have to be provided with a sprinkler system.

Town Attorney – That is the whole point he is making Mr. Bryan. It is just a blanket statement right now. There are many occasions in the past where building officials will say one thing; then upon further review and consideration and the application of the building code it may not be the requirement. What I think Mr. Davidson and Mr. Pack were suggesting is instead of making it an absolute requirement that they put in the sprinklers that you just require that they comply with whatever the building official may require at such time as they do this. In other words, you are not making the call that they have to put the sprinklers in; that is up to the building official after consideration of the application and review of the building code then it will be determined. They are always going to say you have to put in a sprinkler system. It is the first thing they say.

Mr. Davidson – I would like to make a motion to approve it as presented with the condition that if it is a hotel/motel then it would be subject to approval of the fire protection requirements of the Isle of Wight County building official.

Mr. Swecker – Second.

Chairman Pack – A motion has been made and properly seconded. For clarification, we have the hours of operation on Sunday – Thursday from 8:00 a.m. until 8:30 p.m. and Friday – Saturday 8:00 a.m. until 10 p.m. with the provision that they abide by the local fire code ordinance. Is there any further discussion? Hearing none, roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass 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 next item is a Preliminary and Final Subdivision Plan Review – Lakeview Cove – Thomas West Meehan, LCCP Investment LLC, applicants. Could we have a staff report please?

Director of Planning, Engineering and Public Works – This is a preliminary and final subdivision plan review for the Lakeview Cove condominiums. This is located at the northern end of Lane Crescent. It is zoned multi-family residential. There is a Chesapeake Bay Overlay District on part of that property. The gross site area is 14.92 acres. The net developable area is 7.33 acres. The originally approved total number of units allowed in this subdivision was eighty-seven. The total number proposed currently is sixty-nine. This project, in 2006, was approved for twelve 7-plexes for a total of eighty-four units. There were marketability issues with the 7-plex units which were very expensive and at the height of the market and expected to sell. Once the market went south, they did not sell. In 2011, the developer redesigned the entire subdivision in order to provide what he felt was a more marketable 5-plex structure. Currently, two of the original 7-plexes were built and reside on the property. One of the 5-plex structures was built and resides on the property. The new owners of the development, subsequently after building one 5-plex, went bankrupt. Currently, it is a failed subdivision until the new owners of the development bought it. They now propose to

build out the project with condominium units; however, the style resembles a fee simple townhome from the curb. The only subdivision that has picked up since the down-turn in the housing market and has built out is the fee simple townhomes behind BB & T called Church Manor. This is a similar product that they envision here to build that out. The hope is that this is going to be more desirable to the market. It will look like a fee simple townhome from the curb. However, on paper, it will still be a condo. All of the Homeowner's Association covenants and fees are consistent with the units that are already there. There will be ten proposed structures which range from three units to seven units per structure resulting in a total buildout of sixty-nine units. Town staff recommends preliminary and final approval of the plan contingent upon the applicant satisfactorily addressing Isle of Wight county Stormwater Division comments. The applicant's amended subdivision plan may remedy some of the marketability problems that this subdivision has suffered since its original approval in 2006. The applicants are here tonight. Thank you.

Town Attorney – Just to explain things a bit in light of the fact that some people from the neighborhood were concerned about this whole thing. This is not a rezoning. It has already been rezoned. It is merely an approval of a different type of residential unit that is proposed there. It is not a question of whether they can do this type of thing or not; it is just a question of what kind of project are you going to permit over there. They are asking for a redesign and they are asking for fewer units. I am afraid that maybe some of the earlier speakers have already had a misconception as to what the authority of the Planning Commission is at this point. You do not have the ability to overturn the zoning. That is not what you are doing tonight. You are simply reviewing the plans as presented and deciding whether it is something you can support, if it is appropriate, and if it meets our ordinances.

Dr. Pope – Is this not a significant change in the subdivision plan similar to what happened at Cypress Creek? They were asking for a change in what they were proposing.

Town Attorney – The underlying zoning still supports what you are doing right here. There would need to be no change in the zoning to permit them to do what they are doing.

Director of Planning, Engineering and Public Works – There are two other things that are different in that application and this one. In the Cypress Creek application, there was also a special use permit involved which potentially could have had conditions on it that is not in play here. Also, they increased the density in Cypress Creek. This actually decreases the density, I believe, by fifteen units. It is a little bit different in what your purview is and a difference in intensity because rather than increasing the number of units they are actually decreasing the number of units from what was originally approved.

Chairman Pack – Does that answer your question Dr. Pope?

Dr. Pope – It does; it just seems like it is a different subdivision plan to me.

Town Attorney – It is but Mr. Saunders explained that.

Dr. Pope – I understand.

Town Attorney – You are always permitted to do less. You just cannot do more. When it was approved, the town did not say you have to build a 5-plex. It was not one of the conditions. It is permitted for multi-family and that can evolve.

Director of Planning, Engineering and Public Works – This is certainly a different plan. It is here for preliminary and final subdivision approval to redesign the neighborhood. Changes were substantive enough to come back to you; but it is within the parameters of what was approved at the rezoning at the time.

Chairman Pack – I have seen this project but I was not here in 2011. Did we have a re-application hearing?

Director of Planning, Engineering and Public Works – We may have had a pre-application meeting over a year ago when they first purchased the property.

Chairman Pack – I knew this project was familiar. If the applicant removed this from the table and went back to what was existing is there a subdivision plan that is in existence where they could immediately start building if they so choose?

Director of Planning, Engineering and Public Works – They could be working on the 5-plexes today. They re-drew that and that was approved in 2011; but they do not feel that it is as marketable as what they propose to put in there.

Chairman Pack – Would the applicant like an opportunity to speak? Please state your name and address for the record.

Mr. Henry Stephens - My partner, Thomas Meehan, is here also. I do not want to bore you with a long presentation; but I would like to explain why we are here tonight. We purchased this property from Farmers Bank in November of 2014. When we purchased the property, there was a non-functioning Homeowner's Association. We spent a significant amount of time, most of 2015, trying to get that sorted out. We have invested, not counting legal fees, over \$50,000.00 in trying to make sure that it is a functioning association. The original developer went bankrupt. They just left. These people did not have bank accounts in the bank. They just maintained it until they could sell it. We spent a significant amount of effort doing that. We began trying to market the land. In 2016, we had some interest in the property but we were not able to sell the land. We did sell the nine existing unsold units that were in the original three buildings during that time. After we finished selling those units and considering our situation, we began looking at what would the market expect. A townhouse style unit seemed to be the most logical step for the project. At that point, we began studying to see what we could do to do that. As you alluded to, we had a pre-application meeting with the town to see what the comments would be. We felt that we received a very agreeable meeting. Everybody seemed to be enthusiastic about the change. The change involved eliminating a building that was out on a peninsula of land, reducing the total amount of coverage of asphalt and paving, and reducing the number of units. We are reducing fifteen units out of the total approved. There are nineteen now. There were sixty-five approved. We are now proposing to switch to these townhouse styles to be fifty additional units. As we have gone through that, we have now come to the conclusion that we will have to develop the land ourselves. We have created a company to do that and will transfer all these permits and approvals into our development company that will actually finish up the paving and improvements. One of the critical things is that we need to get more units out there and sold and occupied because the existing nineteen units are primarily owner-occupied. There are only three that are rented; one of which we own. We will be selling that at some point in the future. At any rate, we are here tonight to amend the site plan. The shapes of the buildings are laid out on the property in essentially the same locations as the approved plan of the thirteen buildings of five units each. It can be amended so that we can have those building pads and units

constructed. It is basically the same configuration. The street itself is probably 70% complete. We are not changing any of that. The utilities are in the ground and we are not changing that. We are just changing how the buildings are connected to the utilities. Each unit will have an individual connection now rather than a single connection for a whole building which is the way they were done in that apartment style 5 unit buildings. To get through a few of the comments we heard earlier this evening, obviously, the reduction in the total number of units has reduced the impacts. Whatever studies were done or not done when the zoning was approved, we were not party to and have no knowledge of it one way or the other. We do believe that with reducing the impervious surface of the project and the total number of units that it will reduce the traffic. There was a comment about apartments and rentals. To be able to sell these units, we will have to have FHA/VA and other approvals. Most of those agencies require a cap on rentals. The rental cap is currently set at 25% of the total number of units. As I said, currently, we have nineteen existing units, a clubhouse, and a pool. There are only three that are rented. One is because we have to own one to be involved with the Board of Directors to be able to support that association; otherwise, we would have sold that and there would be one less out there. These are all going to be sold for owner occupancy. At some point in the future, an owner may choose to rent out their unit; but there will most likely be a cap of some description. You cannot get approval for financing without meeting those requirements for a condominium project. I am willing to answer any questions. We have our engineer here in case you have any technical questions. Basically, we bought a project. It was approved for eighty-four units. We have looked at it and studied it and decided that our architecture needed to change to be able to meet the market demands. In the course of doing that, we reduced the total number of units by fifteen. I am available for questions.

Chairman Pack – Thank you. Are there any questions for the applicant?

Vice Chairman Bryan – You said that there are nineteen total units there currently and that only three are occupied.

Mr. Stephens – Only three of them are rented. There are sixteen that are occupied by owners and three units that have been rented out. One of those owners of

a rental has moved out of the association but he just lives down the street. He is there all the time checking on his unit. Other than that, there are no rentals.

Vice Chairman Bryan – I have seen the units that are currently back there. They are quite large. Would it be fair to assume that the new units you are designing will be smaller for marketability?

Mr. Stephens – That is correct. It will look like a townhouse when you drive into it. We presented it to the Homeowner's Association at their meeting in November. We had a discussion with them and showed them the plans and proposed elevations. They accepted them and approved what we were proposing to do. The Board of Directors for the architectural review formalized that approval by approving the architecture as long as they are within general conformance with the plans that were presented then they could go forward and be built in the community. We have two types of units that will be mixed; based on what the market demands. We have three story units with a garage and two story units with no garage. If the demand is for garages then we will build three stories. If not, we will build two story units without garages. All units have parking in front of them. Each unit has two dedicated parking spaces. There are additional parking spaces for visitors.

Vice Chairman Bryan – The units would not be built until someone purchased it.

Mr. Stephens – You cannot build them one at the time. We will have to build the building and then sell that building and move to the next building. As people buy them, you would continue to build buildings.

Vice Chairman Bryan – How will you make the determination between the three stories or two story unit?

Mr. Stephens – Well, you build a building at the time. In the beginning, you start taking some risk by building what you think will sell and you mix them up. If they like the three stories with garages then you build more of those or you may mix them up just to try to expand your market. Some people might like a two story without a garage and others do not. There will be some model units built that allow people to look at the units and pick what they want. When there are enough sales then the next building would be built.

Mr. Torrey – Do you know what the approximate square footage on the models is going to be?

Mr. Stephens – I would say somewhere between twelve hundred to eighteen hundred square feet which is comparable to what is there now. The two bedroom units in the project now are in the twelve hundred square foot range. The three bedrooms units are somewhere between thirteen hundred and sixteen hundred square feet.

Dr. Pope – If I am hearing this correctly, we do not really have anything to say about what the siding looks like or the brick or whether it matches what is already there. All we are doing is saying if they can do this. There is nothing. We do not know anything about their Homeowner's Association agreement or who is going to approve that for them. If they want to change from two stories to three story buildings, we do not have a say in that. Is that correct? We are talking about this but it makes no difference. All we have to do is say whether we like this or not. All that stuff has been approved from before.

Town Attorney – Correct.

Dr. Pope – I appreciate all the input but it has already been decided.

Vice Chairman Bryan – Do you have drawings of the units?

Mr. Stephens – I have pictures I could pass around if you just want to look at them. We also have a copy of the resolution from the minutes of the meeting where it was presented. The units were approved by the Association for construction. They are the ones that control the architecture within their Association. All we are asking is for an amendment to the footprints of the buildings, elimination of some proposed parking areas, and additional units that we are choosing not to build.

Chairman Pack – Are there any other questions of the applicant? Hearing none, we will have discussion by the Commission. We are looking at a reduction of eighty-seven units to sixty-nine units and a reduction from the original plan of the permeable area. We have seen plenty of preliminary and final subdivision before. Staff is recommending approval contingent upon the applicant's satisfactory review by the Isle of Wight County Stormwater Division.

Ms. Hillegass – Mr. Chairman, based on our discussions, I would recommend preliminary and final approval based on compliance with the stormwater ordinance.

Mr. Davidson – Second.

Chairman Pack – A motion has been made and properly seconded. Is there any further discussion? Hearing none, roll call vote.

On call for the vote, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass voted aye, Chairman Pack voted aye, Dr. Pope voted nay, Mr. Swecker voted aye, and Mr. Torrey voted aye. There was one vote against the motion. The motion passed.

Chairman Pack – The last item on our agenda this evening is the Approval of the November 14th, 2017 Meeting Minutes.

Town Attorney – Mr. Chairman, I recommend approval of the minutes as presented.

Ms. Hillegass – Mr. Riddick, I have one issue on page 22. I was credited for voting for something in that paragraph and I was not in attendance at that meeting. With that change, I would recommend approval.

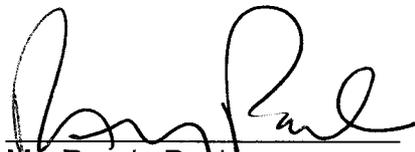
Mr. Davidson Second.

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, seven members were present. Vice Chairman Bryan voted aye, Mr. Davidson voted aye, Ms. Hillegass 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? We are adjourned.

The meeting adjourned at 7:36 p.m.


Mr. Randy Pack
Chairman


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