

The Smithfield Planning Commission held its regular meeting on Tuesday, May 8th, 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, Mr. Mike Swecker, Dr. Thomas Pope, and Ms. Julia Hillegass. Mr. Michael Torrey was absent. 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 two (2) citizens present. The media was not represented.

Chairman Pack – Good evening ladies and gentlemen. Welcome to the Smithfield Planning Commission meeting of May 8th, 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. The week of May 14th will mark the paving of the parking lots for the Joseph W. Luter, Jr. Sports Complex as well as the installation of the cross drain structure across Route 258. These are the last two large achievements to be made on the primary sports complex project. It is winding down. They have been working on final grade and seed for the last couple of weeks. There are only a couple of minor punch list items to deal with on the concession stand building until they get their Certificate of Occupancy. Hopefully, VDOT now has all the documentation they need to approve the plans for the turn lane portion of the project. We are hoping that goes out to bid in the near future. As you may have seen, some of the E & S control structures have gone in for the Clontz Park boat ramp project. It just went out for bid on May 3rd. The RFP is out. If you know anybody that does that kind of work, tell them to check out the website for the RFP. There will be a voluntary pre-bid meeting on May 10th and the bids are due back on June 7th. Hopefully, we will get some good activity on those. Thank you.

Chairman Pack – We will now move to Upcoming Meetings and Activities. On May 15th, 2018 there will be a meeting of the Board of Historic and Architectural Review at 6:30 p.m. The Board of Zoning Appeals will not have a meeting this month. The Town Council Committee meetings will be held on May 21st and 22nd beginning at 4:00 p.m.

Town offices will be closed on May 28th in observance of Memorial Day. On June 5th at 7:30 p.m., we will have our next Town Council meeting at the Smithfield Center. The next Planning Commission meeting will be on June 12th at 6:30 p.m. The next item on the agenda is Public Comments. We have a signup sheet. If you have not signed up, we will give you a chance to speak. We ask that you speak on any matter except for scheduled public hearings. We do have one public hearing scheduled for this evening. Comments are limited to five minutes per person. Any required response from the town will be provided in writing following the meeting. As you come up, please state your name and address for the record. Are there any signups?

Director of Planning, Engineering and Public Works – No, there are not.

Chairman Pack – Is there anyone who would like to speak that did not sign up? Hearing none, we will move to Planning Commission Comments. Are there any comments from the Planning Commission members? Hearing none, we will move to our Public Hearing: Special Use Permit – 958D John Rolfe Drive, Morris Creek Apartments – Takeya Chapman, T.L. Chapman Photography. Could we have a staff report please?

Director of Planning, Engineering and Public Works – Ms. Takeya Chapman of T.L. Chapman Photography is the applicant. She lives at the Morris Creek Landing Apartments. Her address is 958D John Rolfe Drive. This is before you tonight because any home occupation in the multi-family district on a multi-family property requires a special use permit to be approved. Her proposal is for a photography business within the multi-family residence. She proposes to establish this under Articles 3.F and 6 of the Zoning Ordinance. Her photography business is proposed to be held in the residence; however, it will only relate to office type work. All photo shoots will be conducted in offsite public or private places. A photography business is an appropriate home occupation use for consideration for this type of application. You can also find enclosed her business plan for more information on this application. Town staff finds her application to be complete and also wants to make the Planning Commission aware that reasonable conditions may be recommended by the Planning Commission as deemed necessary to protect the public safety and welfare as this is a special use permit application. I would also like to state that home occupations should not increase traffic, parking, noise, use intensity, exterior appearance, light or hazardous material use

beyond that of a typical residence. Based on Ms. Chapman's business plan, it does not seem that any of those would be affected. Thank you.

Chairman Pack – At this time, we would welcome an applicant presentation.

Ms. Chapman – The business that I am proposing is T. L. Chapman Photography. Mr. Saunders pretty much summed up everything that I needed to present to you today.

Chairman Pack – Are there any questions for the applicant? I have a couple of questions. Will you have meetings at your home office with clients to discuss photography shoots or other things?

Ms. Chapman – I plan to do phone calls or email; not necessarily bring them to my home.

Chairman Pack – Secondly, do you own or rent your residence?

Ms. Chapman – I rent.

Ms. Hillegass – Is your photography primarily digital or do you have a dark room situation?

Ms. Chapman – It is just digital.

Chairman Pack – Are there any other questions?

Director of Planning, Engineering and Public Works – I would like to add one thing. We do have an email from the manager of the apartment complex. She does not have any concerns about this proposed application.

Chairman Pack – Very good.

Ms. Hillegass – Mr. Chairman, I move to approve this application as submitted.

Town Attorney – We need to open the public hearing first.

Chairman Pack – At this time, I would like to open the public hearing. Is there anyone here who would like to speak for or against this application? Hearing none, I will close the public hearing.

Ms. Hillegass – Now, I would like to make a motion to approve the application as submitted.

Mr. Davidson – Second.

Chairman Pack – I have one more question. This is a special use permit. As we have done others downtown, they have transferred with the property.

Town Attorney – This should be specific to her because she does not own the property.

Chairman Pack - Does it need to be in the motion?

Town Attorney – Yes; I think you should make that clear.

Ms. Hillegass – I move to approve the special use permit for Ms. Chapman's photography business with the condition that the permit is exclusive to her and not transferrable to the property.

Chairman Pack – We have a motion that has been amended.

Mr. Davidson – I will second the amended motion.

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

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

Chairman Pack – Our next item is a Boundary Line Adjustment – Scott Farm. It is really just a briefing that Ms. Hillegass asked for from town staff.

Director of Planning, Engineering and Public Works – Correct. This is not before you as an action item; although there has been a lot of action taking place on it of late. This is educational for you all only. Your part in this is about to begin; not so much with making it happen but dealing with it after it happens. The project is a boundary line adjustment. It is typically referred to as the Scott Farm. It is comprised of approximately one hundred and eighty four acres of undeveloped land northeast of the intersection of Battery Park and Nike Park Roads. Currently, the lion's share of it is zoned RAC which is Rural Agricultural Conservation in Isle of Wight County and GC for a 1.5 acre parcel right at the corner which is General Commercial. This is a voluntary boundary line adjustment. A lot of times, they are referred to as annexations; but typically, annexations are contested. This is voluntary so it is just a boundary line adjustment. We will move the town boundary outside of the Scott Farm. In 2012, discussions began on bringing this into the town. The partners who owned the property put forward the money to create a plat that would be required as an exhibit to bring that property into town.

Concurrently, we were exploring the opportunity of using some land on Great Springs Road for the sports complex. When that land was deemed to be unsuitable, both parcels were in the agreement. The county Board of Supervisors rescinded the agreement totally instead of just taking out the Great Springs property. This situation has languished for nearly five years until some town and county officials began new conversations about this boundary line adjustment. Now, both the Town Council and the Board of Supervisors have agreed to adjust the boundary so that the Scott Farm will be in the town effective July 1st, 2018. The town approved their agreement on April 3rd. The county approved their agreement on April 19th. Typically, when land is brought into a town then its zoning classification is changed to the most similar classification that the receiving municipality affords. The Rural Agricultural Conservation classification will likely become zoned CC which is Community Conservation. It is our closest district to agricultural. As far as the General Commercial piece, it will likely become Highway Retail/Commercial which is really our workhorse of the business and commercial zoning district. In the attachments here, you will find the agreements that the town and county entered into. There is also a resolution. You will find the meets and bounds. You will find the public notice. I will not put you through reading all of it; but you have it all there for your own perusal. You also have a plat that will actually bring this property into the town as an exhibit to the action. I have also enclosed two GIS exhibits for you. The first one shows just the Scott Farm property. It borders Gatling Pointe to the north. It borders the existing town boundary to the west. It follows the run of the creek on the east predominately and then private property lines to the southeast and also on the southwest corner along Nike Park Road. You can see the 1.5 acre parcel in the lower left hand corner which is the General Commercial parcel. Now, I will also call your attention to the second exhibit that says Napolitano Partner Properties. This is relevant here and I felt it germane to the boundary line adjustment so I added it to the presentation. The Napolitano Partners, in addition to having control of the Scott Farm, also have control of Mallory Pointe. It is shown as green on the exhibit. The fuchsia color shows an eighty-eight acre piece also. Mallory Pointe consists of three hundred and twenty-seven acres of undeveloped land directly across Battery Park Road from the Scott Farm. It was rezoned to Conditional Neighborhood Residential in 2004 to include

a maximum of two hundred and sixty-five single family homes. Due to the fact that this subdivision was designed at the peak of the housing market, the potential of the developer redesigning Mallory Pointe for greater density is a real possibility. Further, full proffers were included in the 2006 rezoning to meet the projected impacts based on the county proffers at that time. The eighty-eight acre piece is undeveloped land directly across Battery Park Road from Wellington Estates. It is currently zoned Community Conservation. The boundary line adjustment bringing the Scott Farm into the town would potentially trigger the design and/or redesign of approximately six hundred acres of undeveloped land along Battery Park Road at one time by one developer. This could have an enormous impact on the future of the town and adjacent areas of the county. If anybody has any questions, I or the Town Attorney could try to answer them for you.

Ms. Hillegass – You mentioned proffers. Are they committed to that previous proffer agreement since things have changed with the General Assembly or no?

Director of Planning, Engineering and Public Works - There is a date certain in the ordinance that I cannot quote you tonight that if the proffers were agreed to before that date then the change in the law does not affect it. There are also stipulations on how they change the development as whether it constitutes a new situation or a grandfathered situation. It really depends on how they go with it as I understand it.

Ms. Hillegass – So, we really do not deal with it until they present something for development.

Director of Planning, Engineering and Public Works – Right. If they just want to make minor changes, it is possible they are still on the hook for the original proffers. If they completely open up a whole new can of worms, it potentially would come under the current legislation.

Town Attorney – That is right. They have not put anything forward but the preliminary indication is that because of the change in demographics and the housing products that are popular and marketable today they are likely to change from what they had before to something else that is very typical of current development. One thing that is really interesting about this though is that they had proffered a traffic circle at the intersection of Battery Park and Nike Park.

Director of Planning, Engineering and Public Works – They also proffered land and money towards the water tank which is currently there.

Town Attorney – Right; but having just been to Australia, we could learn an awful lot from them. Their traffic circles are amazing. They move a tremendous amount of traffic with no delay.

Ms. Hillegass – We just cannot seem to get it right though.

Director of Planning, Engineering and Public Works – Based on initial conversations with them, it is likely this will include a mix of housing types. They may not want to completely redraw Mallory Pointe because they have invested so much into the design of the streets and the infrastructure; but it could be that they take different phases of it not unlike Cypress Creek where they changed Phase 6 and the main street stayed where it was and the main utilities stayed where they were. They could potentially take different phases and change the product. They may take one phase and it might be townhomes. They would just have a block of townhomes but it does not completely change the entire development.

Chairman Pack – I have one question. It says on here that the zoning would likely be zoned Community Conservation and the General Commercial would likely become HRC. ‘Likely’ usually means probably or maybe not. Who determines that and how is that determined?

Director of Planning, Engineering and Public Works – At that time, I will do more research into it than what I did for this staff report which was just for informational purposes. Based on my knowledge on a short research, those are the most likely ones.

Chairman Pack – Who determines that?

Director of Planning, Engineering and Public Works – It would likely be me.

Town Attorney – It is what we did last time.

Chairman Pack – I think it makes perfect sense when we put ‘likely’ on it.

Town Attorney – The problem with doing other than that is that you are effectively, without a public hearing or any other input, changing the zoning of what somebody had. Therefore, you start getting into the issue of vested rights and whether you are trying to take them away from the property owner. We do not want to do that.

We do not want to fight that battle. We have told everyone that this is by consensus and agreement between the parties.

Director of Planning, Engineering and Public Works – I am very sure that the RAC will become CC. Since the lot size is 1.5 acre for the commercial, I just want to make sure which one fits it best; whether it is HRC or Downtown Commercial.

Town Attorney – I am pretty sure that carries conditions because I rezoned that about twenty years ago for the property owner. I am confident that has conditions on it. We might want to do that too.

Director of Planning, Engineering and Public Works – Due to its size, it will likely be Highway Retail which is typical along South Church Street.

Chairman Pack – Battery Park and Nike Park are major corridors in our community. Do we need to look at putting some overlays on Battery Park and Nike Park; similar to what we have done on South Church Street so that we have control over what fronts the roadway?

Ms. Hillegass – That would be an entrance corridor; wouldn't it?

Town Attorney – It would be an entrance corridor.

Chairman Pack – It will be eventually.

Director of Planning, Engineering and Public Works – It is already.

Chairman Pack – So, it is an entrance corridor. So, the same stipulation we would have on South Church Street would apply.

Ms. Hillegass – So, we would just expand that boundary.

Chairman Pack – Well that takes care of that.

Town Attorney – The way to deal with it is when they come in with their proposal. For example, with the Scott Farm, they are going to propose a development plan. You want to make sure there are buffers and landscaping and all that kind of stuff.

Chairman Pack – We just have to have some teeth to make sure that we can say that. We can suggest they have purple bushes for example; but we do not say they have to have purple bushes. You need to have justification.

Director of Planning, Engineering and Public Works – With that being said, I believe it goes on Battery Park Road to the intersection of Nike Park; but I do not know that it extends all the way to Gatling Pointe.

Town Attorney – And we will probably want to extend that. I have always noticed that when you go to James City County there is tremendous density over there; but you ride down the thoroughfares and you do not really see houses. You just see the trees.

Ms. Hillegass – You see tree lined streets with nice bike paths.

Town Attorney – That is right and then you see an entrance here and an entrance there; but you do not see houses. Your visual impression is that you are in the country. However, there is tremendous density all around.

Dr. Pope – Does that mean VDOT is getting involved on the roads as well for future expansion? Is all that stuff being considered by the developer?

Director of Planning, Engineering and Public Works – We have already done a corridor study on Battery Park Road. We are getting an extra fifty feet on each side of the road every time somebody brings in a new site plan or subdivision plan. It shows an extra lane and a center turn lane as well as multi-use paths or sidewalks on either side. There is already a corridor study in our Comprehensive Plan and they will certainly have to undergo traffic studies for anything on this scale.

Dr. Pope – There is consideration that Nike Park Road will go to a four lane road eventually. Will all of that be buffered into the southwest corner of this property and all that?

Vice Chairman Bryan – When you say four lanes, you are talking about that intersection. There is some personal property there.

Chairman Pack – From Reynolds Road to the bridge.

Vice Chairman Bryan – Will it go all the way to Reynolds Road?

Town Attorney – The county has already got an extension plan that comes from the intersection at Reynolds Road and cuts through to Route 17.

Vice Chairman Bryan – How many lanes will it be?

Director of Planning, Engineering and Public Works – Four lanes.

Vice Chairman Bryan – So then you are talking about replacing the bridge there.

Director of Planning, Engineering and Public Works - There will be four lanes from Nike Park as well. There is so much traffic that likes to avoid Route 17. When they did the Brewers Neck corridor study, they ended up doing Nike Park and Battery Park

as an alternative study because they realized so much traffic is diverting through there to avoid Route 17.

Vice Chairman Bryan – I am just thinking about the cost of replacing that bridge.

Chairman Pack – They will not be able to just replace that bridge as it exist which is about two hundred feet long or so. There is marsh on either side. There is zero tolerance for additional marsh loss in the state of Virginia so that bridge will have to go all the way up to the top of the hill on either side. The bridge will be three or four times as long. It will be very expensive.

Dr. Pope – All I am saying is that we need to make sure that we keep our vision in place for along that road whenever they bring those houses in so there are plenty of buffers there. On that side of the road, it looks like it can only go to that property and if it gets closer to the creek who knows. I think we will at least have some preliminary say in what happens on that end of the development or we should.

Director of Planning, Engineering and Public Works – Sewer infrastructure will be a big factor too. There is only a force main that runs down Battery Park Road that feeds Gatling Pointe. It all goes to one of our existing pump stations to pump it into HRSD. There will be multiple new pump stations and likely another force main. Potentially, there could be major upgrades to our receiving station to pump it to HRSD.

Town Attorney – But the general premise is that developers who want to put those burdens on the town utilities will have to pay. If we want to build in additional capacity that exceeds what they require then the locality is required to give an opportunity to reimburse them. There are mechanisms to do that. This is the comprehensive development of that whole area so you would expect them to pay the lion's share.

Vice Chairman Bryan – Are you expecting the developer to start soon?

Director of Planning, Engineering and Public Works – I believe they are working on the concept plans already.

Chairman Pack – I would expect it to be in front of us in the next year.

Town Attorney – I have had some conversations with developers from Chesapeake and Virginia Beach and they are done out there. There is nowhere else to

go and they are all looking west. We can expect some real development pressure this way.

Ms. Hillegass – Mr. Saunders, I appreciate you updating us. I hope it was not too much of a burden; but I thought it was important for us to have in our minds.

Director of Planning, Engineering and Public Works – It is information that you all needed.

Vice Chairman Bryan – I realize we will be looking at a new plan and some revisions; but when you are talking about a four lane highway, I think that is way in the future. With the boundary adjustment, I was thinking to expand that road just beyond the personal properties on this map in the area I am pointing to. They could start making that road two and three lanes instead of waiting for the county to widen that road.

Director of Planning, Engineering and Public Works – The traffic study would lead to that decision. It will show all the impacts.

Vice Chairman Bryan – I have one other question. The developers own these three properties. There is a property in there that is not colored on the map. Is that one owner?

Director of Planning, Engineering and Public Works – It is one owner. Another developer is interested in developing it. He is interested in having Mallory Pointe stub out street connections for him to develop that. He would probably want to use their entrances and traffic improvements. We tried to initiate a conversation because it behooves the town to have connectivity between subdivisions because it keeps people from driving out to the main road and then driving back into another subdivision. We want them to have connections between these adjacent properties. We have tried to initiate a conversation between the two of them so they can work together on it. Surely, Mallory Pointe is going to be investing a lot of money in their entrances and traffic flow that this other property owner would benefit from. I do not know how it will play out; but, in some way, it is likely to be developed along with Mallory Pointe either as a partnership or independently.

Town Attorney – It will be really important to look at the soil conditions there. It will be really critical because Wellington had horrible shrink/swell soils in there. Town Council and the Planning Commission, prior to annexation, said do not do this because

of the shrink/swell soil issues and it really was not a great place to develop. They did it anyway so then we took it in and there were shrink/swell soils over there and there was a lot to deal with. It is likely to be the case with that piece you are talking about.

Chairman Pack – Are there any other questions?

Mr. Swecker – I would like to know what is going on with the Tastee Freeze property.

Director of Planning, Engineering and Public Works – That is a good question. The dumpster that we were receiving complaints about is gone now. They have put up the concrete walls. They got a new permit which I believe goes through December. It is their last renewal on the permit. Basically, they have an open permit until December. They will either sink or swim on this one. I do not think the county will renew it again if they have not made real progress.

Mr. Swecker – They started off good at the beginning of the year. They did the blocks and then all of a sudden they moved again or something.

Ms. Hillegass – I think they got in over their head. That place is a money pit. I have a question for Mr. Saunders. What is the deal about containers in retail parking lots?

Director of Planning, Engineering and Public Works – The one at CVS has languished there so long that it has almost become a permanent fixture; but it is not a permanent fixture. I have already asked the Planning Technician to make contact with them about getting it out of there.

Ms. Hillegass - What about PODS in the historic district? What is the time frame on those?

Director of Planning, Engineering and Public Works – I want to say six weeks; but the folks on Mason Street contacted us about putting them there. We told them how to put them there with cones around them. They should be out within the first time period before they need any type of permit.

Ms. Hillegass – Thank you.

Vice Chairman Bryan – Are PODS requirements different in the historic district as it is to the rest of the town?

Director of Planning, Engineering and Public Works – It is the same for any residence.

Chairman Pack – Moving on, we have Approval of the March 13th, 2018 Meeting Minutes.

Town Attorney – Mr. Chairman and members of the Planning Commission, I recommend approval of the minutes.

Ms. Hillegass – I move to approve as presented.

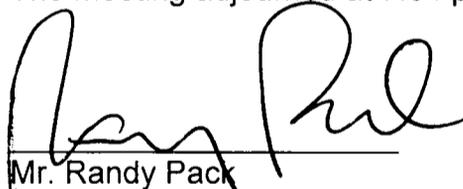
Mr. Swecker – Second.

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

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

Chairman Pack – Is there anything else to come before the Planning Commission tonight? Hearing none, ladies and gentlemen, we are adjourned.

The meeting adjourned at 7:04 p.m.



Mr. Randy Pack
Chairman



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