

At a meeting of the Accomack County Planning Commission held on the 14<sup>th</sup> day of September, 2022 at the Accomack County Board of Supervisors Chambers, Room 104, in Accomac, Virginia.

**1. CALL TO ORDER**

**MEMBERS PRESENT AND ABSENT**

**Planning Commission Members Present:**

Mrs. Angela Wingfield, Chairwoman

Mr. Lynn Gayle

Mr. Kelvin Pettit

Mr. Brantley Onley

Mr. Leander Roberts

Mr. Glen “Adair” Tyler

Mr. C. Robert Hickman

Mr. John Sparkman

**Planning Commission Members Absent:**

Mr. Roy Custis, Vice Chairman

**Others Present:**

Mr. Rich Morrison, Deputy County Administrator of Building, Planning, & Economic Development

Mrs. Jan Proctor County Attorney

Ms. Shawnta McCain, Administrative Assistant of Building, Planning, & Economic Development

Mr. Owen Lewis, Code Enforcement Inspector I of Building, & Zoning

**DETERMINATION OF A QUORUM**

There being a quorum, Chairwoman Wingfield called the meeting to order at 7:01 pm.

**2. ADOPTION OF AGENDA**

**On a motion made by Mr. Roberts and seconded by Mr. Onley, the Planning Commission voted to unanimously adopt the agenda with corrections.**

**3. PUBLIC COMMENT PERIOD**

Chairwoman Wingfield opened the public comment period.

There being no one signed up to speak, Chairwoman Wingfield closed the public comment period.

**4. MINUTES**

**A. July 3, 2022 Meeting Minutes**

***On a motion made by Mr. Gayle and seconded by Mr. Roberts, the Planning Commission voted unanimously to approve the July 3, 2022 meeting minutes as presented.***

**5. OLD BUSINESS**

**A. Review Aircraft Potential Zones (APZ’s) and other applicable parts of the Joint Land Use and study (2015) as they relate to future Comp Plan update.**

- B. Review and discuss Future Land Use Map list from 2018 Comp Plan Update.
- C. Review and discuss initial staff scoping list for upcoming Comp Plan Update.

It was asked by Chairwoman Wingfield that the Rt. 13 Corridor be added to the initial scope list of the Staffing Comp Plan.

Mr. Kelvin Pettit asked a question of allowing second dwellings on parcels that were big enough to house two dwellings. Rich Morrison suggested that the question be brought to the Board of Supervisors for consideration, and a zoning amendment pursued.

## 6. NEW BUSINESS

There is no new business at this time.

## 7. PUBLIC HEARING

### A. **Zoning Ordinance Amendments related to the Zoning Board of Appeals (Section 106-251 through 106-258) to bring the County Zoning Ordinance in alignment with State Code.**

The Accomack County Planning Commission proposes to amend the Accomack County Zoning Ordinance Sections 106-251 through 258 related to the Zoning Board of Appeals as recommended by the County Attorney, Jan Proctor.

Jan Proctor presented a Summary BZA Amendments to the Board:

- These amendments are intended to bring the ordinance into compliance with state law, update statutory citations, ensure consistency of terms and re-organize portions of ordinance.
- The primary change is to the standard for the issuance of a variance. This standard was revised by the General Assembly a couple years ago to make it easier for the BZA to grant variances.
- Instead of having to show unnecessary hardship approaching confiscation (which was narrowly defined in case law), an applicant now must show that the strict application of the regulation in question will unreasonably restrict the use of the property. The remaining elements are largely the same, e.g., hardship cannot be self-created or be of substantial detriment to adjacent properties.
- Details were added to provisions relating to appeals of a zoning officer's interpretation of the Zoning Ordinance. These provisions are taken directly from state law and are added to provide guidance to the public.
- Changes were made to clarify the standards applicable to special exceptions, also sometimes referred to as special use permits, to reflect criteria established under state law.
- State law relating to membership, meetings, applications, public hearings, minutes, voting, and appeals are set out in full. Note: September 1<sup>st</sup> change in law requires minutes to be posted within 7 days of adoption. This provision is not in the amendment but can be added.
- Special rules and regulations relating to mobile/manufactured homes are reorganized and clarified.

Chairwoman Wingfield opened the hearing, then closed the public hearing being there were no public comments.

*On a motion made by Mr. Hickman and seconded by Mr. Sparkman, the Planning Commission voted unanimously to approve the amendments to Article XI Chapter 106 of the Accomack County Code, version date June 29, 2022, with the addition of 2022 changes to state law that require posting of minutes within 7 days of adoption.*

**B. Subdivision Ordinance Amendments related to boundary line adjustments (Section 78-3) and add Section 78-8.1 to bring the County Subdivision Ordinance in alignment with State Code.**

The Accomack County Planning Commission proposes to amend the Accomack County Subdivision Ordinance Section 78-3 and add 78-8.1 related to boundary line adjustments as recommended by the County Attorney.

Jan Proctor presented a Summary of Amendments to Subdivision Ordinance to the Board:

- These amendments are intended to reflect changes to state law in 2022 relating to the definition of “subdivision”. Specifically, House Bill 1088 sets forth mandatory exemptions for certain boundary line agreements and certain partition orders.

Divisions of Land by Boundary Line Agreements –

- State law mandates that certain boundary line agreements be exempt from any local definition of "subdivision" if the boundary line agreement: (i) is valid and enforceable between adjacent property owners, (ii) resolves a bona fide property line dispute, (iii) does not move any boundary by more than 250 feet from the center of the current platted line, (iv) does not result in an increase in acreage by more than 5% of the smaller parcel, (v) does not create an additional lot, (vi) does not alter the County's boundaries, (vii) does not result in greater street frontage than currently exists, (viii) does not interfere with any recorded easement, and (ix) conforms with all County Code and Health Department requirements
- Notice and opportunity to review the boundary line agreement must be given to the County's zoning administrator or designee.

Divisions of Land by Partition Orders -

- House Bill 1088 mandates that divisions of land ordered by the court in a partition suit be exempt from any local definition of "subdivision."
- Such orders shall override minimum lot area, width and frontage requirements in the zoning ordinance, so long as a lot or parcel resulting from such order does not vary from such requirements by more than 20%.
- A copy of the court order shall be provided to the County's zoning administrator or designee.

Divisions of Land Not Considered a Subdivision under Current Ordinance -

- The amendment attempts to clarify other situations that are not considered subdivisions under the County's current subdivision ordinance. These include generally: (i) divisions ordered by courts other than partition orders described above (no variances in lot area, width or frontage requirements), (ii) divisions for bona fide agricultural or timber purposes,

(iii) divisions by gift or will, (iv) boundary survey plats that do not alter property lines (except by a valid and enforceable property line agreement), establish or alter public streets, easements or other public areas, or create additional parcels, and (v) family subdivisions.

- All such divisions must comply with the zoning ordinance and cannot create or extend a public street or private street unless such street is not over 20 feet in width or such street is required to meet the criteria applicable to private streets in Section 78-6(c)(1) and Section 78-9(g)(6)) or is constructed to VDOT standards for inclusion in the secondary highway system.

#### Boundary Adjustments as Resubdivisions -

- A new definition and criteria are added to allow boundary adjustments that alter, relocate or vacate property lines, other than under a valid and enforceable property line agreement, by recording an approved resubdivision plat.
- By definition in Section 78-3, a resubdivision does not include conveyances so as to combine existing lots by deed or other instrument. Thus, in some cases the vacation of a property line may be exempt from any requirement for a resubdivision plat.
- The resubdivision plat is to satisfy the following conditions: (i) no additional lots are created, (ii) all requirements of the Accomack County Code are met, (iii) no public streets, alleys, easements for public passage or other public areas are created, relocated or extinguished by the boundary adjustment without the express consent of all persons holding any interest therein, (iv) no private streets, alleys, rights of way, or easements are relocated, altered or extinguished unless by deed or other legal instrument by and between all persons holding any interest therein, and (vi) all property owners other than the Commonwealth and incorporated towns in the County must sign the resubdivision plat.
- This process does not apply where one or more of the lots to be changed by the boundary adjustment was not lawfully created or vested under Section 78-1 of the Accomack County Code (lots recorded prior to May 1, 1973).
- If this process does not apply for any reason, the boundary adjustment may only be accomplished by undergoing the full subdivision process.

Chairwoman Wingfield opened the public hearing for any public comment, there being none Chairwoman Wingfield closed the public hearing.

*On a motion made by Mr. Gayle and seconded by Mr. Sparkman, the Planning Commission voted unanimously to approve the amendments to Chapter 78 of the Accomack County Code with certain clerical and clarifying corrections set out in the version date September 14, 2022.*

- *With corrections of adding number five (vi) to bullet three of Boundary Adjustments as Resubdivisions.*

#### **8. SUBDIVISION AGENT REPORT**

There was no report presented.

## **9. REPORT ON BOARD OF ZONING APPEALS UPCOMING HEARINGS**

There is currently four applications set for public hearing for the October 5<sup>th</sup>, 2022 BZA meeting.

- A special use request by David McCaleb pursuant to Accomack County Code Section 106-179 which states it shall be unlawful to erect, locate, establish, display or paint on a structure any size or type of outdoor sign or billboard, as described in section 106-1 of this chapter, anywhere within the jurisdiction of the county without first obtaining a special use permit from the board of the zoning appeals. Mr. McCaleb is requesting an SUP to allow the continued use of a billboard installed on this parcel. This unimproved parcel is located on Lankford Hwy, south of Painter, is Tax Map # 119-A-36 and is zoned General Business.
- A variance request by Brittany Colona for a variance of 37.6 feet pursuant to Accomack County Code Section 106-406(a) which requires buildings in the general business district "B-1" shall be located 50 feet or more from any street right-of-way. 2. A Variance of 6.2 pursuant to Accomack County Code Section 106-406(c) which states the minimum side yard shall be ten feet. The applicant is looking to address the setback issues on a recorded plat. This parcel are located at 8014 Lankford Hwy, Oak Hall, Tax Map #26C-1-1 and is zoned General Business.
- A special use request by John Power pursuant to Accomack County Code Section 106-53(27) which permits an A use of land not specifically listed as a use permitted by right or by special exception-special use in the agricultural district regulations, which is clearly similar and compatible with the uses listed therein. Mr. Power would like to finish constructing the pole barn that is located on the parcel without having a primary residence. The parcel is located on Holland Rd, is Tax Map# 11-A-46, and is zoned Agriculture.
- An appeal requested by Heidi Ontiveros to appeal a Zoning Decision pursuant to Accomack County Code Section 106-252(1) which states the Board of Zoning Appeals shall hear and decide appeals from any order, requirement, decision or determination made by an administrative officer or zoning administrator in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto. Ms. Ontiveros is appealing the decision of the Zoning Administrator that the parcel in question is not in conformance with the Zoning Ordinance due to an improper subdivision plat that was recorded in 2006. This unimproved parcel is located on Gargatha Landing Rd, Tax Map #69-9-C 1 and is zoned Agriculture.

## **10. OTHER MATTERS**

Mike Mason, County Administrator, will be in attendance at the next meeting. It was asked that the Planning Commission choose a representative to participate in the recruitment of a new Deputy County Administrator; as Mr. Rich Morrison's last day with the County will be October 28, 2022. Planning Commission members chose chairwoman, Mrs. Angela Wingfield and Mr. Leander Roberts to represent the Planning Commission in the process.

## **11. NEXT MEETING**

The next Planning Commission Meeting is Wednesday, October 12, 2022 at 7:00 p.m. in the Accomack County Board of Supervisors Chambers, Room 104.

## **12. ADJOURNMENT**

**On a motion made by Mr. Tyler and seconded by Mr. Pettit, the Planning Commission voted unanimously to adjourn the meeting.**

The meeting was adjourned at 8:26 p.m.

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Angela Wingfield, Chairwoman

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Shawnta McCain, Administrative Assistant of Building, Planning & Economic  
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