

At a meeting of the Accomack County Planning Commission held on the 8<sup>th</sup> day of March, 2023 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. Leander Roberts, Vice Chairman  
Mr. Lynn Gayle  
Mr. Kelvin Pettit  
Mr. Brantley Onley  
Mr. Glen “Adair” Tyler  
Mr. John Sparkman  
Mr. Robert Hickman

**Planning Commission Members Absent:**

**Others Present:**

Ms. Maxie Brown, Interim Zoning Administrator of Building, Planning & Econ. Development  
Mr. Paul Seltzer, Deputy Director of Building, Planning & Economic Development  
Ms. Shawnta McCain, Administrative Assistant II of Building, Planning & Econ. Development

**DETERMINATION OF A QUORUM**

There being a quorum, Chairwoman Wingfield called the meeting to order at 7:00 p.m.

**2. ADOPTION OF AGENDA**

*On a motion made by Chairman Roberts and seconded by Commissioner Gayle, the Planning Commission voted unanimously to adopt the agenda.*

**3. PUBLIC COMMENT PERIOD**

Chairwoman Wingfield opened the public comment period. Ms. Connie Chandler of Hermitage Road expressed her concerns regarding the Commonwealth Senior Living Rezoning. Ms. Chandler stated that the existing Commonwealth facility has been a very good neighbor and that the service it provides is truly an asset to the Eastern Shore. Ms. Chandler stated that her concern was going from agricultural zoning to residential zoning. She stated that she is concerned about the peaceful rural area becoming a different place. There would be increased traffic, increased trash, and lack of privacy and the loss of wildlife enjoyed by rural communities, which are the reasons to live here. Ms. Chandler stated that if the request was to be granted as a one-time Conditional Use Permit with the contingency that it could not be expanded, than she would be much more accepting.

Kevin Daley of Hermitage Road questioned the 80% percent of the homes to be occupied by 55 and over, and wanted to know what the other 20% would be.

*There being no one else signed up to speak, Chairwoman Wingfield closed the floor for public comment.*

- **Introduction: Mr. Leander N. “Lee” Pambid, CZA, MURP, MPA**  
*Deputy County Administrator for Building, Planning and Economic Development*

- Mr. Mason introduced Mr. Leander “Lee” Pambid as the new the Deputy County Administrator for Building, Planning and Economic Development. Mr. Mason stated that Mr. Pambid holds a Bachelor Degree in Urban Studies and Planning, a Graduate Certificate in Urban Revitalization and a Master Degree in Urban and Regional Planning all from the Wilder School of Government and Public Affairs at VCU (Virginia Commonwealth University). Additionally he holds a Graduate Certificate in Local Government Management and a Bachelor’s in Public Administration, both from Virginia Tech. His most recent position was the Director of Community Development in Farmville and prior to that he held positions in Strasburg, Henrico County and his hometown South Boston, all in Virginia. He is a certified Zoning Administrator, an experienced Planner, and a Marine Corp Veteran and has brought experience of Planning & Zoning in the Commonwealth having served as a Director of Community Development, a Planning & Zoning Administrator and a Planner for both large and small local Governments.

4. **MINUTES**

- **February 8, 2023 Meeting Minutes**

*On a motion made by Commissioner Hickman and Commissioner Sparkman, the Planning Commission voted unanimously to approve the February 8, 2023 meeting minutes with corrections.*

5. **OLD BUSINESS**

There is no old business at this time.

6. **NEW BUSINESS**

There is no new business at this time.

7. **PUBLIC HEARING**

**A. REZ-000395-2022: Conditional rezoning request submitted by MCAP Eastern Shore Land, LLC, to rezone Tax Map #85-2-2A from Agricultural to Village Development District**

The Planning Commission will held a public hearing on the proposed Tax Map #85-2-2A to rezone the parcel from Agricultural to Village Development District to develop a 40-unit senior housing, patio home development. The property is located across Hermitage Road from the existing Commonwealth senior living community. The applicant has also submitted a Proffer Statement with the conditions/restrictions:

- Units to be for sale or lease by the owner.
- A minimum of 80% of the residential units will be occupied by at least one member of the household who is age 55 or older.

Ms. Brown gave an overview of the case stating that in terms of zoning considerations, when this development was initially discussed, staff concluded that the best path to move this along would be a rezoning from Agricultural to the Village Development District, as the VDD best aligns with the proposed development: Several reasons include:

- The existing Agricultural District does not list senior housing and assisted living facilities as a permitted or conditional use.
- The VDD District allows senior housing and assisted living facilities with 25 beds or less as a permitted by-right use.
- The VDD District also allows senior housing and assisted living facilities over 25 beds subject to securing a conditional use permit.

- The proposed project does not involve subdivision or clustering but the overall density does not exceed four units per acre, which is a better fit for the VDD District than the Agricultural District which requires an overall base site density of one lot per five acres.
- The existing facility across the street was opened in 1965, prior to the County adopting the Zoning Ordinances. It has remained in continuous operation since 1965 and in 2022, a Special Use Permit was approved to allow an expansion of eight (8) units.
- Parking should be adequately accommodated as follows: Each residence has a garage plus a parking apron sufficient to park at least two (2) vehicles, thus allowing for at least 3 vehicles per unit. In addition, 18 new parking spaces will be constructed to meet the needs of residents, guests, employees, and for the occasional gathering.
- Although the existing facility is zoned Agricultural, the proposed VDD District would provide a logical synergy among agricultural, residential and village development land uses.

Ms. Brown outlined the next steps the applicant would need to undertake if the rezoning is approved. An application for a conditional use permit will also be needed, pursuant to Section 106-534 (1), which is required for residential developments creating more than 25 dwelling units. A conditional use permit requires a professionally engineered, full site plan which the applicant intends to pursue once the rezoning process is finalized. Finally, a variance to Section 106-537 (d) will be required, which states that residential structure setbacks from boundaries of adjacent properties shall be a minimum of 200' from the boundary line of any adjacent tract that is zoned agriculture.

Staff also sent the proposed rezoning application to other agencies for review. The Virginia Department of Transportation (VDOT) had a number of comments that need to be addressed, particularly the location of access to the facility. It will be during the site plan development stage that all comments will be required to be addressed to the satisfaction of the County and VDOT and the final location of the entrance will be determined. All other comments were minor in nature. The Health Department did indicate and the applicants intend for this facility to be on public water and sewer.

Ms. Brown indicated staff's recommendation for approval is based on the following reasons:

- An existing senior adult facility is located directly across the street, which will provide similar services and shared amenities and facilities for the residents.
- The existing and proposed densities associated with the senior living facilities fits or is somewhat similar to the nearby Town of Onancock.
- The Hampton Roads Sanitation District (HRSD) owns and operates the wastewater treatment plant in the Town of Onancock and is currently pursuing the full ownership of the collection systems within the Town of Onancock and Accomack County. According to a letter dated December 20, 2022, the HRSD has capacity and looks forward to connecting the proposed development to the existing public sanitary sewer system.
- The County is in agreement that the Town of Onancock will provide water service via existing water lines. An appropriate MOU or other agreement can be accomplished once a site plan is finalized.
- Lastly, the Comprehensive Plan does provide overall support for the proposed development by encouraging economic development, adding jobs, allowing a mixture of housing uses and types, and an increase to the tax base.

Mr. Kevin Willis of MCAP Advisors on behalf of MCAP, the Eastern Shore Land, LLC, indicated he held a meeting with the neighbors prior to this evening's meeting and handful of attendees were present. Mr. Willis noted the Chandlers were out of town at that time during the neighborhood meeting, but he was able to correspond with them via email. Mr. Willis mentioned that a couple of focus groups were held to get a feel of what the interest might be from people in the area. Mr. Willis mentioned having to turn people away and being shocked at the amount of interest that was received from the community. Mr. Willis addressed the question regarding 80% percentage ownership, responding that percentage was in line with the definition of Federal programs for age restricted housing and that is where that figure came from. Mr. Willis stated that they are expecting that percentage to be a 100% in fact, as that is the type of tenant they are trying to attract. He noted the facility would provide a natural flow of aging in place with facilities offering low maintenance, single-level, accessible living options.

Commissioner Pettit raised a concern about the units being leased, noting there should be some type of control to ensure the units are well maintained. Mr. Willis responded that there is currently no plan to subdivide any of the property into lots, so there would be no ability to have a fee simple sale of a unit; rather the unit would be for lease or rental. Commissioner Pettit stated that from the presentation, the information indicates the units will be for lease or sale. Mr. Willis responded that it may have been and that they may explore that in the future depending on what the market tells them but for now, it is one parcel so there is no ability to sell anything other than the entire 11.5 acre parcel.

Ms. Brown noted that the word "sale" is in the proffer but condos may be a possible form of ownership that would not actually involve a traditional subdivision of land. Ms. Brown stated that she doesn't know if that was their intention and asked if they would be receptive to removing that language. Mr. Willis responded that they would prefer not to remove the language and that it was very intentional to say for sale or lease, but it cannot happen with the current structure of the land and the ownership. Mr. Willis stated that a subdivision would require action by the Board or the Planning Commission and Ms. Maxie Brown commented that a subdivision would not be allowed.

Commissioner Pettit questioned what level of clientele they are expecting to target, from an economic perspective. Mr. Willis responded that the typical vision is sort of a middle market vision and not intended to be low-income or a low priced product because of the amenities being offered and the crossover with the Assisted Living facilities across the road.

Commissioner Gayle asked Mr. Willis if he was aware that a similar facility was proposed, located behind Food Lion. Commissioner Tyler responded that those would be just rentals, not a senior or low-income facility. Mr. Willis stated that the focus for their market is an integrated community that brings opportunity with the assisted living facility next door.

Commissioner Hickman raised the question again regarding the 80/20 percentage of persons 55 years or older and stated that people who are generally looking to live in a senior community are looking to live there with other seniors and without the disturbance brought on by younger people. He stated if he was a neighbor, he would favor solely age 55 and over, or at least one person 55 years of age. Mr. Willis stated that percentage note is from the Federal guidelines. Mr. Willis indicated that marketing and pricing will dictate there not being very many twenty-year olds that would want to move there because there is going to be

more affordable apartment products somewhere. This project is very specifically priced to include the amenities and things that come along with the active adult lifestyle.

Commissioner Hickman asked about the living facility on Lankford Highway near Parksley and asked if it was strictly 55 and over or a senior living. Ms. McCain responded that it was a facility for senior living and disability, stating no matter the age you could live there with a disability. Commission Tyler added that the target was lower-income based as well.

Ms. Brown mentioned that the proffer statement was a voluntary offering of the applicant. Staff recommended a proffer statement but cannot change a proffer statement, because the law does not allow the Commission to change a proffer statement. Mr. Onley raised a question on selling individual lots and stated that it would seem to indicate that they would have to develop an HOA and asked what would that look like. He stated if individual lots were sold people could do with it what they pleased, but having a HOA would have some control over how the housing is maintained. Mr. Willis stated that there is no intent to sale right now but maybe at some point, the owners may explore that option.

Commissioner Gayle asked if the rezoning was just for the parcel in question and stated that in the past it included a larger area, like a region. He stated that it is important to know exactly what the Commission is dealing with and they would still need to revisit during a conditional use permit process. Commissioner Gayle stated the Planning Commission is hearing this tonight, March 8, 2023 and they will see it again. Ms. Brown responded, yes a Conditional Use Permit and a Variance will still be required.

Chairwoman Wingfield questioned whether there was a definition for senior living. Ms. Brown responded that she did not see a definition for senior living in the zoning ordinance but there is a definition in the State Code. Commissioner Tyler questioned how many acres would be taken out of farm production if the development is approved. Mr. Willis responded that the lot was 11.5 acres and roughly two-thirds is used for agricultural purposes. Commissioner Tyler asked who owns the field adjacent to the parcel in question, and whether it was put into a conservation easement. Commissioner Tyler also asked if the property next to the adjacent property was being used for hunting and questioned whether their hunting rights would be impacted by the proposed development. He stated that there is a rule about a residential building being 500 feet away before a gun can be fired.

Commissioner Tyler asked whether there would be a vegetative buffer between the patio homes and Hermitage Road. He questioned whether the road going into Town would need to be widened. He also questioned where the water and sewer lines would be located. He also questioned whether the farmland to the left would still be farmed. Commissioner Tyler stated that he is concerned with taking two-thirds of farmland out of farm production.

Chairwoman Wingfield opened the floor for public comment for the public hearing. Mr. William Chandler of Hermitage Road he was not opposed to what the applicant is proposing and felt there is a need for the facility. Mr. Chandler stated that his only concern whether the property could be leased or sold in part, without having a plan as to what the sale is, being specified more. Mr. Chandler stated that the zoning that MCAP is asking for does not allow for that, it would have to be townhouses and condominiums. Mr. Chandler stated that he thinks it should be known before allowing the rezoning whether they are going to be selling them in the future.

Mr. Kevin Daley of Hermitage Road in Onancock came up to speak. Mr. Daley asked if the subject property is currently owned by Commonwealth. Mr. Willis stated that MCAP owns both properties and hires Commonwealth to run the facilities.

Mrs. Connie Chandler of Hermitage Road in Onancock came up to speak. Mrs. Chandler asked if there was a plan to buy and build more units. Mr. Willis responded no.

Chairwoman Wingfield closed the public hearing with there being no one else signed up to speak.

***On a motion Commissioner Tyler, seconded by Commissioner Hickman and opposed by Chairman Roberts and Commissioner Pettit, the Planning Commission voted to table the request, REZ-000395-2022, to rezone Tax Map #85-2-2A from Agricultural to Village Development District. The following case is tabled until more information can be gathered on the following:***

- ***Hunting rights impacted; discharge of firearms***
- ***The sale of property as a whole or subdivision***
- ***The number homes***
- ***Restrictions of surroundings***
- ***Legal interpretation of the proposed proffer statement***

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

There was no report presented.

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

There are four (4) applications received and scheduled for the May 3, 2023 BZA meeting.

##### **A. SUSE-000480-2023: Annette Miller – Tax Map #42-A-102B**

A SUP for an accessory dwelling.

##### **B. SUSE-000481-2023: Don Grigsby, Jr. – Tax Map #102-A-43F**

A request for 2 SUP's; 1.) An accessory structure on an unimproved parcel, 2.) A request to use a travel trailer while he cleans/builds a house.

##### **C. SUSE-000483-2023: Stas Cynkar – Tax Map #120-A-96**

A SUP for wetlands restoration/wetland mitigation bank.

##### **D. VAR-000484-2023: Talia Taylor – Tax Map #100-A-67F**

A 150' variance for a parcel that was created without any road frontage.

#### **10. OTHER MATTERS**

Staff will update the Commission on possible ordinance amendments to allow non-conforming lots to be administratively approved, subject to conditions. Discussion ensued.

#### **11. NEXT MEETING**

The next Planning Commission meeting is Wednesday, April 12, 2023 at 7:00 p.m. in the Accomack County Board of Supervisors Chambers, Room 104

**12. ADJOURNMENT**

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

*The meeting was adjourned at 8:19 p.m.*

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Angela Wingfield, Chairwoman

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