

At a meeting of the Accomack County Planning Commission held on the 9th day of February, 2022, at the Metompkin Elementary School Cafetorium, 24501 Parksley Road, Parksley, VA 23421.

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

Planning Commission Members Attending Remotely:

Mr. C. Robert Hickman

Mr. John Sparkman

Mr. Roy Custis

Planning Commission Members Absent:

Others Present:

Mr. Mike Mason, County Administrator

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

Mr. Paul Seltzer, Deputy Director of Building, Planning, and Economic Development

Mrs. Stephanie Woods, Administrative Assistant of Building, Planning, and Economic Development

DETERMINATION OF A QUORUM

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

ELECTRONIC PARTICIPATION

Chairwoman Wingfield inquired as to the reason Mr. Custis needed to attend remotely and his location. Mr. Custis stated he needed to attend remotely due to the current numbers of the Coronavirus pandemic, and that he is at his home in Nandua near Pungoteague.

On a motion made by Mr. Roberts and seconded by Mr. Gayle, the Planning Commission voted unanimously to accept Mr. Custis’ reason for not being in attendance and to allow him to participate electronically.

Chairwoman Wingfield inquired as to the reason Mr. Sparkman needed to attend remotely and his location. Mr. Sparkman stated he would like to attend remotely, as he is currently in Orange County Florida.

On a motion made by Mr. Pettit and seconded by Mr. Gayle, the Planning Commission voted unanimously to accept Mr. Sparkman's reason for not being in attendance and to allow him to participate electronically.

Chairwoman Wingfield inquired as to the reason Mr. Hickman needed to attend remotely and his location. Mr. Hickman stated he would like to attend remotely, as he is currently in Monroe County Florida.

On a motion made by Mr. Roberts and seconded by Mr. Gayle, the Planning Commission voted unanimously to accept Mr. Hickman's reason for not being in attendance and to allow him to participate electronically.

Chairwoman Wingfield made an announcement informing those in attendance as to how the meeting would proceed.

2. ADOPTION OF AGENDA

Mr. Morrison requested to have Item 5A removed, and to add two (2) items to Other Matters. One (1) to review the site for the CCG Note LLC and Scout Energy/Jupiter Power applications on Google Earth, and two (2) to consider scheduling a Work Session.

On a motion made by Mr. Gayle and seconded by Mr. Roberts, the Planning Commission voted unanimously to adopt the agenda with the requested changes.

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. December 8, 2021 Meeting Minutes

On a motion made by Mr. Onley and seconded by Mr. Pettit the Planning Commission voted unanimously to approve the December 8, 2021 meeting minutes as presented.

B. January 12, 2022 Meeting Minutes

Mr. Hickman requested that it be added that he recused himself from the Scout Energy/Jupiter Power conversation.

On a motion made by Mr. Gayle and seconded by Mr. Pettit the Planning Commission voted unanimously to approve the January 12, 2022 meeting minutes with requested edits.

5. **OLD BUSINESS**

There was no old business discussed at this meeting.

6. **NEW BUSINESS**

There was no new business discussed at this meeting.

7. **PUBLIC HEARING**

A. 2022 Capital Improvement Plan

Public hearing on the Capital Improvement Plan, which is a long-range 5 year planning tool used to schedule anticipated Capital Projects lasting longer than 3 years and costing more than \$50,000 and to coordinate how they will be funded.

Mr. Morrison stated that the Capital Improvement Plan (CIP) presentation was made by the County Finance Director, Margaret Lindsey, at the January 12, 2022 meeting and that unfortunately she was not able to be in attendance during the night's public hearing. Mr. Morrison stated he would answer questions, if any, in her place. Chairwoman Wingfield inquired if there was any public comment for this public hearing, there being none Chairwoman Wingfield closed the public hearing.

On a motion made by Mr. Roberts and seconded by Mr. Gayle the Planning Commission voted unanimously to find that the proposed FY 2023-2027 Capital Improvement Plan is in conformance with the Comprehensive Plan of current adoption and recommends its approval to the County Board of Supervisors.

B. REZ-000218-2021: CCG Note LLC – Tax Map # 5-A-1

Continuation of the public hearing opened on January 12, 2022 on a request from CCG Note LLC to conditionally rezone 24.41 acres of land from Residential to Village Development. The property is located at 37332 State Line Road, Greenbackville, VA, and is currently zoned Residential. The conditional rezoning application is being sought to construct a 140 townhome mixed use development with future commercial development.

Chairwoman Wingfield reopened the public hearing.

Mr. Mark Baumgartner was invited to speak on behalf of CCG Note LLC. Mr. Baumgartner restated from the January 12, 2022 meeting that this applications if for a townhome project, not apartment lots. Mr. Baumgartner reviewed the list of requested waivers related to setback and area requirements. Mr. Baumgartner informed the Commission that they have submitted additional information concerning the private roads within the proposed development. Mr. Baumgartner stated that they have updated the proffer statement, informing the Commission that they initially proffered to donate the land for the Greenbackville Fire Department to place a building closer to Captains Cove and the proposed Development. Mr. Baumgartner stated they are now proffering to

provide a half acre of land and agreed to provide financing for the new fire station at approximately \$430,000 to be paid over time. Mr. Onley inquired as to the location of the new fire station. Mr. Baumgartner stated it will be along Fleming Road to allow the Fire Department quicker access to the County.

Mr. Custis inquired as to additional parking for guests. Mr. Baumgartner stated there is additional parking within the development, as well as parking garages and driveways for each townhome. Mr. Hickman inquired about the zero backyard for the townhomes. Mr. Baumgartner stated that there is no specific backyard per townhome, however each townhome abuts to common area within the proposed development. Mr. Baumgartner stated that the area is open to allow for common area that will be maintained by the property owner association.

Mr. Gayle inquired if Mr. Baumgartner felt that the application fulfills the Comp Plan statements. Mr. Baumgartner replied yes, along with the Village Development District requirements, to find areas that are already dense and away from Agricultural area and near a water and sewer facility. Mr. Roberts stated his concern with water and sewer where Captains Cove is not fully developed and adding this project to it. Mr. Roberts inquired if the system is capable of adding this project to it or will there be permits at a later date requesting an update to the treatment plant. Mr. John Aulbach from Aqua was invited up to speak and respond to Mr. Roberts's inquiry. Mr. Aulbach stated that they have reviewed all the information and that there is capacity for the Captains Cove system and the proposed development. Mr. Tim Hearn stated that 3,200 lots in Captains Cove have lines to them and that there is only 1,200 homes currently in Captains Cove, so there is additional capacity for 2,000 lots.

Chairwoman Wingfield opened the public comment period.

Mr. Barry Magrogan was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Magrogan stated that the proposal has two (2) right of ways onto Captains Corridor and that Captains Corridor is a private road owned and maintained by the residents of Captains Cove. Mr. Magrogan spoke to the density requirements within the code, stating he is opposed to the project.

Mr. Jim Hayes was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Hayes stated that the Village Development District requires a central water and sewer system, and that the applicant did not include one within the proposed development. Mr. Hayes spoke to the waivers requested and how the application therefore does not meet zoning requirements. Mr. Hayes stated he is opposed to the project.

Mr. Tim Getek was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Getek stated he is addressing the Planning Commission as a

member of the Captains Cove Home Owners Association. Mr. Getek spoke to the Comp Plan and how this application does not meet the Comp Plan requirements. Mr. Getek stated that should this project be recommended for approval the members of Captains Cove will file an appeal with the Court.

Ms. Aileen Dodge was invited up to speak and stated that she is a resident of Captains Cove in Greenbackville, specifically on Jolly Rodger Drive adjacent to the proposed parcel. Ms. Dodge stated several reasons that she is opposed to the application.

Chairwoman Wingfield inquired if there is anyone else that would like to speak, with there being none Chairwoman Wingfield closed the public comment period. Chairwoman Wingfield invited the applicant back up to speak.

Mr. Baumgartner stated that the recorded plat (plat book 18, page 12) shows that the property line between Captains Cove and the Mariner Proposed Parcel runs down the Middle of Captains Corridor with easements on each side. Chairwoman Wingfield inquired if a survey was created. Mr. Baumgartner stated yes and that the survey confirms what is shown on the plat and the split of Captains Corridor.

Mr. Gayle inquired about the use of the sewage treatment system. Mr. Baumgartner stated that he felt Mr. Morrison addressed this satisfactorily and that this counts under the County definition as a central water system, and complies because it is adjacent to the proposed development. Mr. Baumgartner informed the Commission that this is a public utility regulated under state law.

Mr. Tyler inquired if the townhomes would strictly be one (1) year leases. Mr. Baumgartner stated that they are currently set for one (1) year leases but that they are in talks with the Navy to potentially rent a section for longer term rentals for employees. Mr. Tyler inquired about rentals within Captains Cove. Mr. Tom Hearn stated that of the 1,200 homes in Captains Cove, 200 of them are rentals, and of those 200, 50 are BNB type listings at this time. Mr. Hearn stated that there is security in place for the residents of Captains Cove in relation to these rentals.

Chairwoman Wingfield closed the public hearing.

Chairwoman Wingfield stated that due to the other public hearings to be held the Planning Commission would not be making a vote on application REZ-000218-2021 by CCG Note LLC at this time.

C. CUSE-000219-2021: CCG Note LLC – Tax Map # 5-A-1

Continuation of the public hearing opened on January 12, 2022 on a request from CCG Note LLC for a Conditional Use Permit pursuant to Accomack County Code Section 106-534(12) for construction of a 140 Townhome and Commercial Mixed Use

Development on parcel number 5-A-1 located at 37332 State Line Road, Greenbackville, VA.

This item was discussed in tandem with Item 7B. Please see minutes above.

Chairwoman Wingfield reopened the public hearing. Mr. Baumgartner stated he would like his comments made during the public hearing for REZ-000218-2021 to stand on record for this public hearing as well.

Chairwoman Wingfield opened the public comment period.

Mr. Jim Hayes was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Hayes made a point to state that the applicant noted in a report that the townhomes would be rentals to begin with and inquired as to what that meant.

Mrs. Sam Woodums was invited up to speak and stated that she is a resident of Captains Cove in Greenbackville. Mrs. Woodums stated that she has had various issues with her water and that she feels Aqua will be unable to keep up with the proposed development.

Mr. Robert Taylor was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Taylor stated he has heard comments that there is a potential for this development to be considered for Section 8 housing, and inquired if this was true.

Mr. Barry Magrogan was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Magrogan stated that the Greenbackville Fire Department cannot currently manage the area now, and feels that a new building and ambulance will not make a difference.

Mr. Lawrence Burger was invited up to speak and stated that he is a resident of Captains Cove in Greenbackville. Mr. Burger stated that all of the members of Captains Cove coming before the Commission are categorically against this proposed development. Mr. Burger spoke to several reasons as to why he feels this application should not be approved. Mr. Burger stated he would like to offer a solution, stating that CCG Note LLC owns hundreds of lots in the Cove and that they could build those and rent them out at market rate.

With there being no more comments, Chairwoman Wingfield closed the public comment period.

Chairwoman Wingfield inquired if the applicant would like to come back up and speak to address any comments. Mr. Baumgartner stated that there were no additional comments at this time.

Chairwoman Wingfield closed the public hearing.

Chairwoman Wingfield inquired if the road maintenance funds set aside will pay for upkeep of Captains Corridor as well as the private roads within the proposed development. Mr. Hearn stated that the Mariner project would upkeep half of Captains Corridor and Captains Cove would upkeep the other half. Mr. Hearn stated that the \$30,000 does include that.

Chairwoman Wingfield stated that due to the other public hearings to be held the Planning Commission would not be making a vote on application CUSE-000219-2021 by CCG Note LLC at this time.

D. REZ-000267-2021: Scout Energy/Jupiter Power – Tax Map # 27-A-103A

Continuation of the public hearing opened on January 12, 2022 on request from Scout Energy/Jupiter Power to rezone 11.6 acres of land from General Business and Agricultural to Industrial. The property is located at Tax Map # 27-A-103A located across from 32533 Chincoteague Road, Wattsville, VA. The application seeks rezoning to construct a battery storage facility.

Mr. Hickman stated that he is recusing himself from the public hearings for the Scout Energy/Jupiter Power applications.

Chairwoman Wingfield reopened the public hearing.

Mr. Nat Drucker with Jupiter Power was invited up to speak on behalf of the applications submitted by Scout Energy/Jupiter Power. Mr. Drucker reviewed the site plan updates as the application has shifted from 104 storage containers to 52 storage containers. Mr. Drucker informed the Planning Commission of the benefits this project would provide to the local power supply. Mr. Drucker invited Mr. Bill Norris with Norris Design Landscaping Firm to review changes made to the landscape plan with the reduction in containers. Mr. Norris stated that they are taking advantage of the fact that the site plan has decreased the number of units and spoke to the screen and sound masonry wall design.

Mr. Scott Foster was invited up to speak and spoke to how the application conforms to the Comprehensive Plan. Mr. Foster stated that the current zoning of the parcel is primarily General Business and gave a brief list of items that are allowed by right in the General Business District. Mr. Foster expressed that with the rezoning and the presented proffers there will only be the one use allowed on the parcel.

Mr. Gayle inquired about the decibel sound, stating it is one thing to hear a car go by and another to have a constant humming sound. Mr. Shawn Taylor, project engineer, was

invited up to speak and stated that the acoustic assessment was modeled to the maximum sound possible. Mr. Taylor stated that it will not be a constant sound, but a cyclical one as the fans turn on and off. Mr. Tyler inquired if the sound measurement changes within five (5) years, how Scout Energy plans to deal with that. Mr. Foster stated they will do what needs to be done on site to bring the sound into compliance.

Chairwoman Wingfield opened the public comment period.

Ms. Debra Dennis was invited up to speak and stated she lives in Pocomoke City but she works at the nursery on Fleming Road across from the project. Ms. Dennis stated that she feels this project should not be built so close to residents, as they don't know how it is going to effect the environment or how it will be removed.

Mr. Tom Davis was invited up to speak and stated he lives in New Church. Mr. Davis stated he is happy about the possible reduction of brown outs and black outs, but that his concern is with the potential noise. Mr. Davis stated his experience with the peaker plant many years ago and that he feels this should not be near residential housing.

Ms. Mabel Dickerson was invited to speak, but stated she did not want to speak.

Mr. Robert Tittleman was invited up to speak and stated he is speaking on behalf of Ms. Mabel Dickerson, inquiring as to how much this is going to cost the citizens of the County.

Mr. Shawn Hildebran was invited to speak, and stated he did not want to speak at this time.

Ms. Sharone Corbin was invited up to speak and stated she lives on Dream Park Drive in New Church. Ms. Corbin stated that she doesn't want this in her back yard. Ms. Corbin stated she heard there is a possibility of this being explosive as well as the potential noise issue affecting her and her family.

Ms. Jessica Tayler was invited up to speak and stated she lives on Hillcrest Drive in New Church. Ms. Tayler expressed her concern with noise as residents in her area already deal with a lot of noise from NASA.

Mr. Ray Twiford was invited up to speak and stated he lives on Fleming Road in New Church. Mr. Twiford inquired about when the sound wall would be built and if the sound is a constant sound or temporary.

Ms. Sharon Davis was invited up to speak and stated she lives in New Church. Ms. Davis stated she is a co-owner of rental properties in the Wattsville area. Ms. Davis

expressed her concerns about the potential for the units to explode stating it has happened at other similar locations.

Mrs. Laura Twiford was invited up to speak and stated she lives on Fleming Road in New Church. Mrs. Twiford stated she did some research on the possibility of explosion and listed some of the potential gases that could be emitted in the event of an explosion.

With there being no more public comments, Chairwoman Wingfield closed the public comment period.

Mr. Foster informed the Planning Commission that they intend to have the sound expert available to present at the next meeting. Mr. Foster stated that the sound wall will be built prior to the units being placed. Mrs. Foster introduced a public safety expert, Mr. Noah Ryder from Fire Risk Alliance. Mr. Ryder informed the Planning Commission as to what safety measures they look at when putting a plan together and reviewed the fire protection system within each unit. Mr. Ryder informed the Planning Commission that he is aware of the explosion at a different facility that residents had mentioned, and stated that it happened many years ago before the current safety regulations were put into place.

Mr. Onley stated that there is potential for RT. 175 to be widened and inquired if that happens will the storage facility have to be moved. Mr. Drucker stated that the wall is 100 ft. from the road, which would allow for sufficient space for the potential widening. Mr. Pettit inquired about the business model, and Mr. Drucker reviewed the business model for the Commission. Mr. Pettit inquired if they will be bidding into the grid to provide capacity, and Mr. Drucker stated yes they will. Mr. Pettit inquired about the discharge time for a battery. Mr. Drucker stated it takes one (1) hour to discharge a battery.

Mr. Custis listed several items and their decibel levels to give an idea of the noise possibly created by the project. Mr. Tyler inquired about potential bonds. Mr. Foster stated there will be a \$25,000 bond for landscaping and wall maintenance, and a decommissioning bond as well. Mr. Tyler inquired about surveillance and the potential for trespassing. Mr. Drucker stated there will be surveillance and a locked gate.

Chairwoman Wingfield inquired if the reduced footprint does would reduce the output as well. Mr. Drucker stated no it will still have the same output. Chairwoman Wingfield inquired as to how they chose the temperature and humidity for the noise test. Mr. Drucker stated that it was to get the loudest results possible. Chairwoman Wingfield inquired if the safety sensors were single point sensors. Mr. Ryder stated that they are monitored 24 hours a day seven (7) day a week and that if a sensor goes bad they would receive a notification and explained other redundant measures they are taking. Chairwoman Wingfield inquired if they can put the sound limit at a residential level regardless of the zoning.

Chairwoman Wingfield closed the public hearing stating that the Planning Commission would not be voting on this item at this meeting.

E. CUSE-000268-2021: Scout Energy/Jupiter Power – Tax Map # 27-A-103A

Continuation of the public hearing opened on January 12, 2022 on request from Scout Energy/Jupiter Power to request a Conditional Use Permit pursuant to Accomack County Code Section 106-128(1) for the construction and operation of a battery storage facility utilizing a site of more than ten acres located at Tax Map # 27-A-103A located across from 32533 Chincoteague Road, Wattsville, VA.

This item was discussed in tandem with Item 7D. Please see minutes above.

Mr. Hickman stated that he is recusing himself from the public hearings for the Scout Energy/Jupiter Power applications.

Chairwoman Wingfield opened the public hearing. With no additional comments from the applicant Chairwoman Wingfield opened the public comment period.

Mr. Tom Davis was invited up to speak and stated he is from New Church. Mr. Davis requested that the Planning Commission consider that this is near a residential area.

With there being no other public comments, Chairwoman Wingfield closed the public comment period.

Chairwoman Wingfield closed the public hearing stating that the Planning Commission would not be voting on this item at this meeting.

8. SUBDIVISION AGENT REPORT

There was no report presented.

9. REPORT ON BOARD OF ZONING APPEALS UPCOMING HEARINGS

There are four applications that have been received for the March 2, 2022 BZA meeting.

- A variance request by Jane Hall pursuant to Accomack County Code Section 106-82 which states the minimum frontage for permitted uses shall be 100 feet at the setback line in the Residential Zoning District. Ms. Hall is requesting a variance of 100 feet in order to build a new residence on the lot. The parcel is located at Tax Map # 100B-1-A located next to 14291 Tobes Lane, Painter, VA and is zoned Residential.
- A variance request by John & Clara Chandler pursuant to Accomack County Code Section 106-81 which states that when a structure is to be built in an area where there are existing structures, the minimum setback may be waived and the setback line may be the average of the structures on either side. The Chandlers would like to have the minimum setback requirement of 50 feet be waived to the average of structures on either side 23 feet to assist in adhering to the 50 foot Chesapeake Bay requirement. The parcel is located at Tax Map # 83B-1-6 located adjacent to 15259 Russell Drive, Onancock and is zoned Residential.

- A Special Use Permit request by Charles River Laboratories, Inc. pursuant to Accomack County Code Section 106-53(7) which allows for light industry in the Agricultural Zoning District. Charles River Laboratories, Inc. would like to use the facilities on the premises for a processing, storage, and warehouse facility. The parcel is located at Tax Map # 41-A-144 located at 10073 Lankford Highway, Temperanceville, and is zoned Agricultural.
- A Special Use Permit request by Angelika Cook pursuant to Accomack County Code Section 106-53(14) which allows for the use of a travel trailer for habitation outside of travel trailer parks. Ms. Cook would like to use a 32' x 8' travel trailer for temporary habitation while a permanent dwelling is constructed. The parcel is located at Tax Map # 83C-1-30 located on Tall Pines Dr, Onancock and is zoned Agricultural.

10. OTHER MATTERS

- Staff showed the Planning Commission the sites for both the CCG Note LLC and Scout Energy/Jupiter Power applications by utilizing Google Earth. This allowed the Planning Commission to fully see and inspect the site and surrounding area.
- Staff and the Planning Commission discussed scheduling a Work Session for the month of February to allow further discussion of the CCG Note LLC and Scout Energy/Jupiter Power applications, and to allow the Planning Commission to provide staff with some direction.

On a motion made by Mr. Roberts and seconded by Mr. Gayle the Planning Commission voted unanimously to schedule a Work Session for February 22, 2022.

11. NEXT MEETING

The Planning Commission Work Session was scheduled for Tuesday, February 22, 2022 at 7:00 p.m. in the Accomack County Board Chambers, Room 104, Administration Building, Accomac.

The next Planning Commission Meeting is Wednesday, March 9, 2022 at 7:00 p.m. in the Metompkin Elementary Cafetorium, 24501 Parksley Road, Parksley.

12. ADJOURNMENT

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

The meeting was adjourned at 9:45 p.m.

Angela Wingfield, Chairwoman

Stephanie Woods, Administrative Assistant of Building, Planning, & Economic Development