

At a meeting of the Accomack County Planning Commission held on the 9th day of March, 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. Roy Custis, Vice Chairman
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:

Others Present:

Mr. Rich Morrison, Deputy County Administrator 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 7:02 pm.

2. ADOPTION OF AGENDA

On a motion made by Mr. Hickman and seconded by Mr. Gayle, the Planning Commission voted unanimously to adopt the agenda as presented.

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. January 25, 2022 Meeting Minutes

On a motion made by Mr. Onley and seconded by Mr. Roberts the Planning Commission voted unanimously to approve the January 25, 2022 meeting minutes as presented.

B. February 9, 2022 Meeting Minutes

On a motion made by Mr. Roberts and seconded by Mr. Hickman the Planning Commission voted unanimously to approve the February 9, 2022 minutes as presented.

5. OLD BUSINESS

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

Recommendation to the Board of Supervisors 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.

Mr. Morrison reviewed staff prepared action items for this and the Conditional Use Permit requests.

On a motion made by Mr. Hickman and seconded by Mr. Roberts the Planning Commission voted 8-1 to waive the requirement that final proffers be submitted to the Planning Commission at least 14 days prior to this meeting, in accordance with Section 106-236 of the Accomack County Code. The Commission will accept final proffers filed on March 3, 2022.

Aye: Chairwoman Wingfield, Mr. Roberts, Mr. Hickman, Mr. Gayle, Mr. Pettit, Mr. Onley, Mr. Custis, Mr. Tyler

Nay: Mr. Sparkman

On a motion made by Mr. Roberts and seconded by Mr. Gayle the Planning Commission voted 6-3 to approve the motion as included in the packet, and included below, which is summarized by recommending approval of REZ-000218-2021 from Residential to Village Development conditioned on the March 3, 2022 proffer statement. Support for the rezoning includes six (6) findings of fact.

Aye: Mr. Roberts, Mr. Hickman, Mr. Gayle, Mr. Pettit, Mr. Onley, Mr. Tyler

Nay: Chairwoman Wingfield, Mr. Custis, Mr. Sparkman

The Planning Commission recommends approval by the Board of Supervisors of application REZ-000218-2021, (CCG Note LLC) of parcel 5-A-1; conditionally rezoning the parcel from Residential to Village Development with the following condition:

- 1. The proffer statement dated March 3, 2022 which becomes part of the Accomack County Zoning Ordinance, including the proffer that ties the rezoning to the site plan.*

Approval is supported by the following findings of facts:

- 1. The Village Development District regulations and the current zoning Residential District regulations are similar in terms of by right uses, setbacks, height and similar regulations. As such the Village Development District zoning is appropriate for this property.*
- 2. The 2008 Comprehensive Plan designated an area adjacent to Captains Cove as Village Development Area, signifying the appropriateness for Village Development type growth adjacent to Captains Cove. The property subject to the rezoning is*

- approximately 1,600 feet east of the land designated as Village Development Area in the 2008 Comprehensive Plan.*
- 3. The Village Development Section of the Comprehensive Plan (Future Land Use) states on page 6-22 “The County’s target outcome for Village Development Areas is for the vast majority of future residential development to be located there, and that they be the major location of future neighborhood commercial and institutional development.” Captains Cove is one of the fastest growing areas of the County and the property subject to the rezoning is surrounded by Captains Cove on three sides.*
 - 4. A proffer statement has been provided to provide certain assurances related to the development of the property as well as provisions for a donation to the Accomack County Public Schools and contributions to the Greenbackville Volunteer Fire Department for ambulance and EMS station.*
 - 5. Aqua has stated in writing and at the public hearings its intent to provide water and sewer service to the subject property.*
 - 6. The rezoning of the property is consistent with the Comprehensive Plan and improves the public health, safety and welfare by providing single-family housing and commercial retail development in accord with the current and future needs of the County; by contributing to schools and emergency medical services; by taking into consideration the concerns of the United States Navy and NASA for adequate housing for its service members and employees, and by providing streets, utilities, enhanced landscaping, and recreational facilities to serve the development.*

Attachment:

1. March 3, 2022 Proffer Statement

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

Recommendation to the Board of Supervisors 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.

Mr. Morrison informed the Planning Commission that the applicant has submitted an updated concept rendering for the materials for the project. Mr. Morrison stated that the Planning Commission will need to vote on which concept rendering they would prefer to accept with the request.

On a motion made by Mr. Pettit and seconded by Mr. Roberts the Planning Commission voted 7-2 to accept the updated concept rendering submitted February 28, 2022 by Fisher Architecture for the project.

Aye: Chairwoman Wingfield, Mr. Roberts, Mr. Gayle, Mr. Pettit, Mr. Onley, Mr. Custis, Mr. Tyler

Nay: Mr. Hickman, Mr. Sparkman

On a motion made by Mr. Roberts and seconded by Mr. Gayle the Planning Commission voted 6-3 to approve the motion as included in the staff prepared packet, and included below, which is summarized by recommending approval of CUSE-000219-2021 for a Mixed Use Development with 13 conditions. Support for the Conditional Use Permit includes 12 reasons and findings of fact.

*Aye: Mr. Roberts, Mr. Hickman, Mr. Gayle, Mr. Pettit, Mr. Onley, Mr. Tyler
Nay: Chairwoman Wingfield, Mr. Custis, Mr. Sparkman*

If the property is first rezoned to Village Development District, the Accomack County Planning Commission then recommends that the Board of Supervisors approve CUSE-000219-2021 Conditional Use Permit for a Mixed Use Development pursuant to Accomack County Code Section 106-534(12) of the Accomack County Code (Village Development District Regulations) with the following conditions:

- 1. The site is developed in accord with the plans (listed below last dated 2/24/22) prepared by ORBIS Landscape Architecture.
 - a. Conceptual Site Layout Plan*
 - b. Community Common Area Delineation*
 - c. Commercial Area Delineation*
 - d. Conceptual Landscape Plan*
 - e. Enlarged Detail Plans*
 - f. Typical Townhouse Layout*
 - g. Community Management Office and Commercial Lot**
- 2. The exterior appearance of the Townhomes are constructed in accord with the architectural rendering in Attachment A of this document, which was prepared by Fisher Architecture submitted on February 28, 2022.*
- 3. That a subdivision plat is submitted and approved prior to the issuance of any building permit.*
- 4. That the private roads shown on the plans are constructed to VDOT standards as noted in a memo from MSA dated February 3, 2022. (See Attachment B)*
- 5. That all dedications of infrastructure and common areas shown on the plans be accomplished prior to the issuance of the first certificate of occupancy for any residential or non-residential building on the site.*
- 6. That the 10,000 square foot building as shown on the plans will be submitted for review by the Planning Commission and approval by the Board of Supervisors.*
- 7. That storm water permits, and all other required permits are obtained prior to site work or construction taking place on site.*
- 8. That no building permits be issued until the entrances on Captains Corridor are deemed to be lawfully established after review and approval by the County Administrator in consultation with the County Attorney.*
- 9. Mixed use developments are required to be serviced by water and sewer service (Section 106-548(B)(1)(b) of the Accomack County Code). In the event that Aqua refuses to provide, or is unable or precluded from providing water and sewer service to the development, the conditional use permit shall be null and void.*
- 10. The Planning Commission has reviewed and evaluated the waivers as requested by the applicant for frontage, front setback and rear and side yard requirements and recommends the Board approve the waivers for the 140 Townhome lots as authorized in Section 106-548(B)(1)(d) of the Accomack County Code.*
- 11. The Planning Commission recommends approval to allow one of the two required points of access (Section 106-546(b) of the Accomack County Code) to be located on a private street as depicted on the site plan.*

12. *The Planning Commission recommend approval of the request for private streets in a village development as authorized by Section 78-6(c)(1) of the Accomack County Code.*
13. *The Planning Commission recommends that the Board of Supervisors approve of the extension of expiration of the conditional use permit to two (2) years from the date of issuance unless substantial construction or use has actually commenced and is progressing toward completion in accordance with the plans listed in Condition 1 above, as authorized by Section 106-234(4) of the Accomack County Code.*

The following findings of fact and reasons support the Planning Commission's recommendation:

1. *Mixed Use Developments are authorized in the Village Development District by Section 106-534(12) of the Accomack County Code.*
2. *The Planning Commission has reviewed the staff evaluation (dated February 17, 2022 and distributed at the February 22, 2022 work session) of the Conditional Use Permit standards (Section 106-234 of the Accomack County Code) and concurs that the findings are accurate and accepts them as the Commission's findings.*
3. *The Planning Commission has evaluated the mixed use development in light of the requirements of the mixed use development found in Section 106-548 of the Accomack County Code and determined that the ordinance requirements and standards are satisfied, subject to the provision of water and sewer services, the establishment of adequate ingress and egress on Captains Corridor, and the approval of waivers under Sections 106-548(B)(1)(d), 106-546(d), and 78-6(c)(1) of the Accomack County Code.*
4. *A traffic study was prepared by The Traffic Group dated December 22, 2021. The conclusion of the traffic study was "No off-site improvements are therefore required". The traffic study was reviewed by VDOT and only minor suggestions were offered.*
5. *The County DPS Director has reviewed the site plans and streets pursuant to Section 106-548(B)(1)(e)(1) of the Accomack County Code and has approved the streets as they will be private streets built to VDOT standards.*
6. *The 2008 Comprehensive Plan designated an area adjacent to Captains Cove as Village Development Area, signifying the appropriateness for Village Development type growth adjacent to Captains Cove. The property subject to the rezoning is approximately 1,600 feet east of the land designated as Village Development Area in the 2008 Comprehensive Plan.*
7. *The Village Development Section of the Comprehensive Plan (Future Land Use) states on page 6-22 "The County's target outcome for Village Development Areas is for the vast majority of future residential development to be located there, and that they be the major location of future neighborhood commercial and institutional development." Captains Cove is one of the fastest growing areas of the County and the property subject to the rezoning is surrounded by Captains Cove on three sides.*
8. *The Comprehensive Plan states "It calls for a strategy of focusing growth in and around existing communities and away from the shorelines and farmland in order to conserve important agricultural and natural resource." (Page vi). Captains Cove is one of the fastest growing area of the County and is an appropriate area for new growth.*

9. *The Comprehensive Plan (page 6-22) states that Townhomes are welcomed in the Village Development Area.*
10. *NASA and the NAVY have indicted support for additional rental housing in letters both dated January 12, 2022.*
11. *Aqua has provided a letter dated November 17, 2021 and stated at the public hearings that it intends to provide water and sewer service to the mixed use development. There are very few places in Accomack County where water and sewer service is currently available and suitable for mixed use development.*
12. *The Planning Commission acknowledges the letters, emails, and individuals who spoke in opposition to the rezoning/mixed use project and believes that many of their concerns have been addressed and that the development as presented will serve the public health, safety and welfare.*

Attachments

1. Attachment A – Townhome Exterior Rendering prepared by Fisher Architecture submitted on February 28, 2022.
2. Attachment B – Memo from MSA dated February 3, 2022

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

Discuss and provide staff with direction on a recommendation on a 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 recused himself from the discussion on the Scout Energy/Jupiter Power applications.

This agenda item was discussed in tandem with Item 5D.

Mr. Justin Puggioni, a sound engineer with DNV Group, was invited to speak. Mr. Puggioni reviewed the fundamentals of acoustics, and the sound modeling methodology that was used for the acoustic assessment. Mr. Puggioni informed the Commission of the sound modeling results in the acoustic assessment and the summary of potential impacts. Mr. Puggioni reviewed the decibel levels that were recorded on site and the times when they were recorded. Chairwoman Wingfield inquired about the frequency used for the assessment. Mr. Puggioni stated the assessment covers a broadband frequency system, and that a louder model fan was used for the assessment than will be used on site. Chairwoman Wingfield inquired about the frequency of the equipment on site. Mr. Puggioni reviewed how sound is absorbed and how that can affect frequency levels.

Mr. Custis inquired if sound is cumulative. Mr. Puggioni stated that sound is an algorithmic equation which determines the decibel level when multiple sounds are present at the same time, and that the presence of two 50 decibel level sounds at once, does not equal a 100 decibel level sound. Mr. Gayle inquired about the sound at the substation across the street and if that would be comparable to the sound on site. Mr. Puggioni stated that it should be at a 40-50 decibel range like the substation. Mr. Gayle inquired about the vegetative buffer and if that was part of the sound modeling. Mr. Puggioni stated that a vegetative buffer is not typically included in the modeling.

Mr. Gayle inquired if Mr. Puggioni was able to speak to the existing sound environment on site and how that would affect the sound. Mr. Puggioni stated the sound demonstration they will give later will show that the traffic sound at the sight will mask the sound of the project. Mr. Pettit inquired about the duration of the sound. Mr. Puggioni stated that they modeled the sound with a constant sound. Mr. Tyler inquired about sound bending. Mr. Puggioni stated there will be possible deflection effects on site. Mr. Tyler inquired as to when the max sound capacity would be. Mr. Puggioni stated during the hottest portion of any day which would cause the fans to run more often.

Mr. Bill Mahar, Landscape Designer with Norris Design, was invited to speak to review the updates made to the landscape plan. Mr. Mahar informed the Commission that they added more materials to the perimeter of the site. Mr. Sparkman inquired about mowing. Mr. Mahar stated that they are going to do more of a natural planting with prairie flowers and rapeseed, and therefore the landscaping will have a different type of maintenance. Mr. Tyler inquired if it is a possibility to plant more mature trees so it doesn't take as long for them to fully mature. Mr. Scott Foster stated that the survival rate of larger plantings is lower than planting small trees.

Mr. Onley inquired if the gate access to the facility along the sound wall would cause sound to escape. Mr. Foster stated that the gate will be part of the wall that will open to keep a full sound barrier. Mr. Tyler inquired if a sign will be posted. Mr. Foster stated that though a big commercial sign will not be posted, an informational one and any others required by code will be.

Mr. Puggioni and Mr. Nat Drucker provided a sound demonstration, first presenting an ambient sound like what would be on site, and then a recording of the sound already on site. Mr. Drucker then played both sounds at once, bringing them to the proper decibel levels per Mr. Puggioni's measurements, demonstrating the overlapping and cancellation of noise. After the presentation was completed, Mr. Foster explained where and when he made the recordings at this property, which were used for the demonstration. At that time Mr. Tom and Mrs. Cherron Davis interrupted the meeting to comment about the sound and it being inaccurate. Chairwoman Wingfield informed Mr. and Mrs. Davis that they elected to not speak during the public comment period, and that this was not the time for public comments. The Davis' continued to make several comments before leaving the meeting area.

Mr. Tyler inquired about how much of the project is within the General Business zoning currently on the parcel. Mr. Foster reviewed the site plan showing how much of the facility is in the currently General Business zone portion of the parcel and how much falls into the currently Agricultural zone portion of the parcel. Mr. Foster stated that they can request to only rezone the 600 square feet necessary for the facility if that is what the Commission prefers. Mr. Foster stated they can't move the site any further West due to an easement, or further North due to the potential expansion of Rt. 175.

Chairwoman Wingfield stated she felt that the zoning in the area is not consistent with what has been built in the area, and is concerned about putting an industrial zone in there. Mr. Foster stated that the facility should not have a great impact on the area as it will have good landscaping, the sound wall, and no increase in traffic. Chairwoman Wingfield inquired if the Commission had a recommendation for staff for the requests by Scout Energy/Jupiter Power. Mr. Roberts stated he would like to see the project move forward. Mr. Gayle stated

the sound assessment shows that the ambient sound in the area is pretty significant as it is, and feels it should move forward. Chairwoman Wingfield stated she is against the project due to the residents in the area. Mr. Pettit stated he feels it will not make a big impact on the community with sound, and is leaning toward recommending approval. Mr. Onley stated his agreement with moving forward as did Mr. Custis. Mr. Tyler stated his concern over the amount of property to be rezoned but felt it should move forward. Mr. Sparkman commented on the potential public impact, and that he is opposed to moving it forward. Mr. Morrison reiterated to the Commission that this is just a recommendation to the Board of Supervisors, and that the Board will hold a public hearing as well.

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

Discuss and provide staff with direction on a recommendation on a 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.

Mr. Hickman recused himself from the discussion on the Scout Energy/Jupiter Power applications.

This agenda item was discussed in tandem with Item 5C. Please see minutes recorded above.

6. NEW BUSINESS

There was no new business discussed at this meeting.

7. PUBLIC HEARING

There were no public hearings held during this meeting.

8. SUBDIVISION AGENT REPORT

There was no report presented.

9. REPORT ON BOARD OF ZONING APPEALS UPCOMING HEARINGS

There is currently one application set for public hearing for the April 6, 2022 BZA meeting.

- A Special Use Permit request by Patsy Goard pursuant to Accomack County Code Section 106-53(22) which allows for an accessory dwelling to be placed on the property. Ms. Goard would like to build the accessory dwelling to allow her to continue to live close to her daughter's family so she can aide with child care. The parcel is located at Tax Map # 54-A-200 located at 28140 Groton Town Rd, Hallwood, and is zoned Agricultural.
- A variance request by Laura Twiford pursuant to Accomack County Code Section 106-55(a) stating the minimum lot area in the Agricultural District shall be five (5) acres. Ms. Twiford is seeking a variance of 1.75 acres to allow for the creation of a family subdivision in the Agricultural District. The parcel is located at Tax Map # 13-A-50 located at 6002 Pinewood Lane, New Church, and is zoned Agricultural.

Mr. Morrison informed the Board that there was potentially an additional case to be added to the BZA meeting, but that it may not move forward until the May meeting.

10. OTHER MATTERS

A. Advisory Review of Mobile Home Park Expansion Application

The Board of Zoning Appeals has requested the Planning Commission's review of large projects.

Due to time constraints on the meeting, it was decided this will be discussed at the April 13th meeting.

B. The Planning Commission informed staff they felt it would be best to host the April meeting at Metompkin Elementary as well.

11. NEXT MEETING

The next Planning Commission Meeting is Wednesday, April 13, 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 8:34 p.m.

Angela Wingfield, Chairwoman

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