

At a meeting of the Accomack County Planning Commission held on the 13th day of April, 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. Brantley Onley
Mr. Leander Roberts
Mr. C. Robert Hickman
Mr. John Sparkman

Planning Commission Members Attending Electronically:

Mr. Glen 'Adair' Tyler

Planning Commission Members Absent:

Mr. Kelvin Pettit

Others Present:

Mr. Rich Morrison, Deputy County Administrator of Building, Planning, and Economic Development
Mr. Paul Seltzer, Deputy Director of Building, Planning, & 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.

REMOTE PARTICIPATION

Mr. Tyler, located in Ashville, NC requested to participate in the meeting electronically due to being away with his family.

On a motion made by Mr. Hickman and seconded by Mr. Onley, the Planning Commission voted unanimously to allow Mr. Tyler to participate remotely.

2. ADOPTION OF AGENDA

Chairwoman Wingfield informed the Planning Commission that she was informed by Staff that the Dreamland Mobile Home Park Expansion request had been moved from the May Board of Zoning Appeals meeting to the June meeting. Chairwoman Wingfield inquired of the Commission if it would like to move that agenda item to the May 11, 2022 meeting.

On a motion made by Mr. Hickman and seconded by Mr. Gayle, the Planning Commission voted unanimously to move Agenda Item 10A – Advisory Review of Mobile Home Park Expansion Application to its May 11, 2022 meeting.

On a motion made by Mr. Hickman and seconded by Mr. Gayle, the Planning Commission voted unanimously to adopt the agenda with Agenda Item 10A removed.

3. PUBLIC COMMENT PERIOD

Chairwoman Wingfield opened the public comment period, and there were two people signed up to speak.

Mrs. Laura Twiford, from Wattsville, stated that she appreciated all the time, effort, and discussion the Planning Commission put into the Scout Energy/Jupiter Power projects. Mrs. Twiford stated she is still concerned with how the project may affect the surrounding area and safety issues. Mrs. Twiford spoke to the area of Wattsville and how it has grown over the years she has lived there, and stated she felt the Scout Energy/Jupiter Power project was not right for the area.

Mr. Ray Twiford, from Wattsville, stated that his wife, Laura Twiford, had said most of what he wanted to. Mr. Twiford stated that he was upset with the sound that was demonstrated at the last meeting, because that is not what they hear at their house on Fleming Road off of Chincoteague Road.

Chairwoman Wingfield asked if there was anyone else who would like to speak.

Mr. Robert Tittle, from Wattsville, stated that he feels the Scout Energy/Jupiter Power project isn't necessary for the area.

Mr. Nat Drucker with Scout Energy/Jupiter Power spoke, stating that he feels the company has accepted the discussion and adjusted their plan as necessary to appease the concerns presented. Mr. Drucker stated he feels this will be a good project for the County.

Mr. Scott Foster with Gentry Locke thanks Mr. Morrison for his assistance during this process and stated that the County is well protected as are the residents with the Proffers and conditions that have been put in place.

4. MINUTES

A. February 22, 2022 Meeting Minutes

On a motion made by Mr. Onley and seconded by Mr. Gayle the Planning Commission voted unanimously to approve the February 22, 2022 meeting minutes as presented.

B. March 9, 2022 Meeting Minutes

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

5. OLD BUSINESS

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

Discuss and make a recommendation to the Board of Supervisors 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 and vote on the Scout Energy/Jupiter Power applications.

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

Mr. Morrison stated he felt the applications were straight forward. Mr. Morrison called attention to items received from the applicant for the Commission. Mr. Morrison informed the Commission that Scout Energy/Jupiter Power would be updating the Landscape Plan to allow for the potential expansion of RT. 175. Mr. Morrison brought attention to the sound readings and findings presented by Chairwoman Wingfield, and stated if the Commission had any questions to direct them to her. Mr. Morrison identified the staff views on the ordinance requirements for the Commission, stating it is part of the proposed motion.

Mr. Morrison informed the Commission they would need to waive the requirement for receiving the final proffer statement 14 days prior.

On a motion made by Mr. Gayle and seconded by Mr. Sparkman, the Planning Commission voted unanimously, with Mr. Hickman abstaining, 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 April 6, 2022.

On a motion made by Mr. Gayle and seconded by Mr. Roberts, the Planning Commission voted 6-1, with Mr. Hickman abstaining, to approve the motion as included in the April 13, 2022 meeting packet, and included below, which is summarized by recommending approval of REZ-000267-2021 from Agricultural and General Business to Industrial conditioned on the April 6, 2022 proffer statement. Support for the rezoning includes six (6) findings of fact.

Ayes: Mr. Roberts, Mr. Sparkman, Mr. Gayle, Mr. Onley, Mr. Custis, Mr. Tyler

Nays: Chairwoman Wingfield

Absent: Mr. Pettit

Abstention: Mr. Hickman

The Planning Commission recommends approval by the Board of Supervisors of application REZ-000267-2021 (Scout Energy/Jupiter Power) for tax map # 27-A-103A conditionally rezoning the parcel from Agriculture and General Business to Industrial with the following condition:

1. The proffer statement dated April 6, 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 and rationale:

- 1. The majority of the property is zoned General Business which allows some intensive land uses by right. The conditional rezoning to Industrial will restrict the use of the property to a single use; lithium battery storage.*
- 2. The Accomack-Northampton Electric Cooperative (ANEC) Wattsville substation is directly across RT 175 from the project site. Access to high voltage 138kv and 69kv lines are readily accessible from the site.*
- 3. The 2008 Comprehensive Plan designated an area of Wattsville as Village Development Area. The current development pattern along RT 175 in Wattsville is a mix of business, residential, and other land uses. Given the ANEC substation location and high voltage electric lines on the west side of the property, an energy storage use is appropriate at this location.*
- 4. The Planning Commission finds that battery energy storage is an emerging technology which benefits the regional power grid.*
- 5. The Planning Commission finds that electrical power is an essential component of modern life and is critical to advancing the Comprehensive Plan.*
- 6. The Planning Commission finds that the lithium battery storage project is in general accord with the Comprehensive Plan of current adoption and compliant with Section 15.2-2232.*

Attachment:

1. April 6, 2022 Proffer Statement

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

Discuss and make a recommendation to the Board of Supervisors 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 and vote on the Scout Energy/Jupiter Power applications.

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

On a motion made by Mr. Gayle and seconded by Mr. Roberts, the Planning Commission voted 6-1, with Mr. Hickman abstaining, to approve the motion as included in the April 13, 2022 meeting packet, and included below, which is summarized by recommending approval of CUSE-000268-2021 for the construction and operation of a battery storage facility utilizing a site of more than ten (10) acres with 12 conditions. Support for the Conditional Use Permit (CUP) includes nine (9) reasons and findings of fact.

Ayes: Mr. Roberts, Mr. Sparkman, Mr. Gayle, Mr. Onley, Mr. Custis, Mr. Tyler

Nays: Chairwoman Wingfield

Absent: Mr. Pettit

Abstention: Mr. Hickman

If the property is first rezoned to Industrial Zoning District, the Accomack County Planning Commission then recommends that the Board of Supervisors approve CUSE-000268-2021 (Scout Energy/Jupiter Power Conditional Use Permit) for a battery energy storage facility at Tax Map # 27-A-103A pursuant to Section 106-128(1) of the Accomack County Code (Industrial Development District Regulations) with the following conditions:

- 1. All conditions outlined in the document titled Conditional Use Permit Conditions for “The Scout Energy Storage Facility” offered by the applicant, last dated April 6, 2022.*
- 2. The site shall be developed in substantial accord with the plans for an 80MW-1H/80MWH Scout Energy Storage Facility (listed below last dated 2/28/22) prepared by Ulteig:
 - a. Conceptual Site Plan**
- 3. The site landscaping shall be completed prior to commercial operation date in substantial accord with plans prepared by Norris Design and Ulteig last dated 3/01/2022; provided that the plans will be modified to accommodate the 30 foot right of way grant.
 - a. Overall Landscape Plan*
 - b. Landscape Schedules*
 - c. Landscape Enlargement (L4, L5, L6, &L7)*
 - d. Landscape Details**
- 4. The exterior appearance of the 16 foot sound wall enclosing the project shall be constructed in substantial accord with the Sound Wall Detail Sketch, dated 2/7/2022 prepared by Ulteig.*
- 5. Sound absorptive material as specified on page 9 of the Scout Energy Storage Facility Acoustic Impact Summary dated March 2, 2022 and prepared by DNV shall be installed prior to facility operation.*
- 6. That the 16 foot sound wall east and south sides shall be constructed prior to the installation of battery storage equipment, transformers and other items related to energy battery storage. The entire 16 foot sound wall shall be constructed prior to commencement of operations.*
- 7. The power transmission lines from the battery storage facility to the Delmarva Power substation be installed underground, unless otherwise approved by the Board of Supervisors.*
- 8. A Final Decommissioning Plan along with all required security, shall be provided to the County prior to the issuance of zoning and building permits. The Applicant shall not commence operations until the Final Decommissioning Plan has been approved by the County.*
- 9. Storm water permits, and all other required permits shall be obtained prior to site work or construction taking place on site.*
- 10. The Planning Commission recommends that the Board of Supervisors approve of the extension of expiration of the conditional use permit to three (3) 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 Conditions 2 & 3 above, as authorized by Section 106-234(4) of the Accomack County Code.*

11. *The Planning Commission recommends that the Board of Supervisors waive the Industrial District regulation requiring a fence or wall 20 feet from the abutting property line as part of the Scout Energy/Jupiter Power siting agreement.*
12. *In the event that a conflict arises between the conditions offered by the applicant and conditions 2-11 of this motion, the conditions of the motion shall prevail.*

The recommendation for approval is supported by the following findings of fact and rationale:

1. *The applicant has reduced the size and scope of the project to address noise and safety concerns raised by the Planning Commission and neighboring residents.*
2. *The Planning Commission has reviewed the documents submitted by the applicant to support the application, with particular attention given to the Acoustic Impact Summary prepared by DNV dated March 2, 2022 and the Community Risk Assessment prepared for the project by the Fire & Risk Alliance dated February 4, 2022 and finds that the documents satisfactorily address concerns with noise and safety.*
3. *The Planning Commission has reviewed the staff evaluation dated March 30, 2022 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.*
4. *The Planning Commission acknowledges the letters, emails, and individuals who spoke in opposition to the 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.*
5. *The Planning Commission finds that the proposed use of the property has been satisfactorily conditioned so as to be in general accord with nearby commercial uses and the current General Business zoning.*
6. *The Applicant has offered conditions which require a Final Decommissioning Plan and which insure that the infrastructure required to connect to the electric grid will be installed underground.*
7. *The Planning Commission finds that electrical power is an essential component of modern life and is critical to advancing the Comprehensive Plan.*
8. *The Planning Commission finds that the lithium battery storage project is in general accord with the Comprehensive Plan of current adoption and compliant with Section 15.2-2232.*
9. *The Planning Commission finds based on a sound demonstration provided at its March 9, 2022 meeting that the sound produced by the project is comparable to commercial uses and is acceptable given the 55dBA noise limit provided in the March 2, 2022 conditions offered by the applicant.*

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 are four applications set for public hearing for the May 4, 2022 BZA meeting:

- A Special Use Permit request by George Riefler pursuant to Accomack County Code Section 106-53(27) which allows for any 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. Riefler would like to place an 18' x 25' accessory structure on a parcel without a primary dwelling, to allow for the storage of his lawn care equipment. Mr. Riefler lives on the adjacent parcel and owns both parcels. The parcel is located at Tax Map # 28B-2-5 located adjacent to 7479 Wallops Mill Pond Rd, New Church, and is zoned Agricultural.
- A Special Use Permit request by Keith Kellam pursuant to Accomack County Code Section 106-78(12) which allows for any use of land and/or any permanent or temporary location of any type of building or facility thereon which is not specifically permitted within the residential district regulations chapter. Mr. Kellam would like to be able to keep his rollback vehicle on his property for his towing business. The property is located at Tax Map # 113B-1-3 located at 22128 Willis Street, Wachapreague, and is zoned Residential.
- A Special Use Permit request by Chris McCabe pursuant to Accomack County Code Section 106-78(11) which allows for the use of travel trailers, located outside of travel trailer parks, which are to be occupied for habitation. Mr. McCabe's clients Al and Julie Cicioni would like to use a travel trailer intermittently during the construction of a dwelling on their parcel. The property is located at Tax Map # 83B-2-D-3 located across from 15152 Russell Drive, Onancock, and is zoned Residential.
- A Special Use Permit request by MCAP Eastern Shore LLC c/o Commonwealth Senior Living pursuant to Accomack County Code Section 106-53(12) which allows for Health care facilities in the Agricultural District. MCAP Eastern Shore would like to expand the Commonwealth Senior Living Center, formerly known as The Hermitage, by adding 8 assisted living and 18 independent living units. The property is located at Tax Map # 85-2-2 located at 23610 North Street, Onancock, and is zoned Agricultural.

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.

The Planning Commission decided by consensus to move this item to the May 11, 2022 meeting.

11. NEXT MEETING

The next Planning Commission Meeting is Wednesday, May 11, 2022 at 7:00 p.m. in the Accomack County Board of Supervisors Chambers, Room 104.

12. ADJOURNMENT

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

The meeting was adjourned at 7:28 p.m.

Angela Wingfield, Chairwoman

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