



Accomack County Planning Commission

Angela Wingfield, Chair, District 2
Leander Roberts, Jr. Vice-Chair, District 8
John Sparkman, District 1
C. Robert "Bob" Hickman, District 3
Kelvin Pettit, District 4
Brantley "Pete" Onley, District 5
Glen "Adair" Tyler, District 6
Lynn Gayle, District 7
Larry Giddens, Sr., District 9

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2 County Administration Building, Board Chambers, Room 104, 23296 Courthouse Avenue, Accomac, VA
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Minutes for Wednesday, May 8, 2024 at 7:00 PM

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6 **1. CALL TO ORDER**

7 **MEMBERS PRESENT AND ABSENT**

8 **Planning Commission Members Present:**

9 **Mr. Leander Roberts, Jr., Vice Chairman**

10 **Mr. Kelvin Pettit**

11 **Mr. Adair Tyler**

12 **Mr. Larry Giddens, Sr.**

13 **Mr. Robert Hickman**

14 **Mr. John Sparkman**

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16
17 **Planning Commission Members Absent:**

18 **Mrs. Angela Wingfield, Chairwoman**

19 **Mr. Brantley Onley**

20 **Mr. Lynn Gayle**

21
22 **Others Present:**

23 **Mr. Leander "Lee" Pambid, Deputy County Administrator**

24 **Chontese Ridley, Planner I**

25 **Vivian Ramsay, Administrative Assistant II**

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27 **DETERMINATION OF A QUORUM**

28 **There being a quorum, Vice Chairman Roberts called the meeting to order at 7:00 p.m.**

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30 **REMOTE PARTICIPATION**

31
32 **2. ADOPTION OF AGENDA**

33 ***On a motion made by Commissioner Tyler and seconded by Commissioner Hickman, the***
34 ***Planning Commission voted unanimously to adopt the agenda.***

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36 **3. MINUTES**

37 ***On a motion made by Commissioner Tyler and seconded by Commissioner Pettit, the***
38 ***Planning Commission voted unanimously to approve the January 23, 2024, Planning***
39 ***Commission Work Session Minutes as stated.***

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41 ***On a motion made by Commissioner Tyler and seconded by Commissioner Giddens, the***
42 ***Planning Commission voted unanimously to approve the February 14, 2024, Regular***
43 ***Planning Commission Minutes.***

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4. **INTRODUCTION OF NEW STAFF**

Commissioner Roberts

Introduction of new staff member.

Mr. Lee Pambid

Thank you, Mr. Vice Chair, Members of the Commission. It gives me great pleasure to introduce a new staff member today. So, we have actually hired an Administrative Assistant to replace Shawnta McCain who is and that position has been vacant for close to four months now. So, with that being said, I'd like to introduce Vivian Ramsay as the Administrative Assistant II to the Deputy County Administrator.

She does come to us with a variety of experience that includes local government, school guidance and counseling and language instruction. She is bilingual in Chinese and English and she holds a Master of Business Administration from Oakland City University in Indiana. Her worksite is in the house right next to us. And that's where my office is, as well. But I just wanted to give a brief introduction to Ms. Ramsay. And this is her actually her first week she started on Monday. And she's been thrown right into the breach with the Planning Commission tonight. Very nice to have you on board.

Commissioner Roberts

Nice to have you.

Ms. Ramsay

Thank you!

5. **PUBLIC COMMENT PERIOD**

None.

6. **OLD BUSINESS**

None.

7. **NEW BUSINESS**

Mr. Lee Pambid

We'll go on to new business. Thank you, Mr. Vice Chair.

Tonight, is basically going to be an introduction and an overview to some ordinance amendments that the Board of Supervisors has requested the Planning Commission take a look at. I know we've got four agenda items under New Business A, B, C and D but I'm going to take all of these in one fell swoop. And I'll probably talk between five and ten minutes on each if that.

To go ahead and started, and we've got four ordinance amendments that I want to introduce to you tonight. I had mentioned these back in March, but we're looking at ordinance amendments to both the zoning and subdivision ordinances. Zoning is Chapter 106 and subdivision is Chapter 78 for those who are listening to us online. This right here is the overview for the next few minutes.

The first one that we're looking at is to amend the subdivision ordinance, particularly with regards to the definition of what a subdivision is. And then there are also certain subdivision actions that we want to take a closer look at. There are going to be several code sections that are involved in this. But generally, the description is this, we want to change the number of lots for subdivision review from three to two.

95 Technically, if you're splitting a lot, you know one line into two lots that's not a subdivision here in
96 Accomack County, but we want to try to fix that, because that has caused us some issues with certain
97 subdivisions falling into a gray area. And we also want to clarify requirements and processes for routine
98 subdivision requests, like family subdivisions, lot line vacations, and minor splits like that.
99

100 The second one is the Chesapeake Atlantic Preservation Area or the CAPA Ordinance. This is the
101 Chesapeake Bay Preservation ordinance and the entirety of Article 16 in the zoning ordinance is our
102 capital ordinance. And basically, all of those are going to be housekeeping items. We're trying to do is
103 keep pace with some changes at the state level. And I'll present a little bit more on that later.
104

105 This third item, the amendment theme for this third item is "Terms of Validity". And what that means
106 is how long is an approval good for, and we've got several types of cases that the ordinance is silent on.
107 When someone comes to us and they've received an approval for a site plan, we don't say how long that
108 site plan is good for. And that end of itself is not good, we need to specify an expiration for that site
109 plan.
110

111 The fourth one is one that we spent several months on and that was the poultry ordinance. So, your
112 recommendation was forwarded to the Board of Supervisors. They took a look at that. And they agreed
113 with the Planning Commission that at least one public hearing would be required to reactivate a non-
114 conforming confined poultry operation or in vernacular, a chicken house that's been inactive for two
115 years or more. And again, that is a non-conforming chicken house.
116

117 We'll go ahead and get right into the first ordinance revision or amendment. And that is the definition
118 of a subdivision. The Board of Supervisors passed three Resolutions on February 21. And they did pass
119 a Resolution for amending the subdivision and zoning ordinances as pertaining subdivisions.
120

121 The definition of a subdivision going from splitting one lot into three lots where we're skipping over
122 the two lots. And what we have found is that this caused a great deal of confusion in the legal
123 community, in the surveyor community where they are going straight to the Circuit Court to record
124 certain subdivision plats. And we want to be able to take a look at those.
125

126 By amending the subdivision or the definition of a subdivision to mean splitting one lot into two lots
127 as opposed to what it currently says one lot into three lots, we should be able to capture a lot more of
128 those before they go to recordation. What the Planning Commission had also looked at in the past was
129 and you all recommended approval of an ordinance amendment to validate certain lot splits that were
130 done illegally. And that was back in June and July of 2023.
131

132 That ordinance amendment was sort of related to this one where we're trying to clean up certain things
133 retroactively but on the front end as we are explaining what types of applications need to come into the
134 staff to take a look at. Those lot splits of going from one to two lots. We still have some confusion there
135 and we want to clean that up.
136

137 Subdivision approval. The same thing goes for the boundary line adjustments, vacation of lot lines,
138 family subdivisions. What we want to do is to formalize those processes and we need to have some
139 ordinance amendments in order to do that.
140

141 I just explained some of this again. Subdivision is currently defined as a split one lot into three lots. We
142 want to reduce the number of lots redefine that as a split into two or more lots. The definition is lengthy.
143 We want to try to do is to look to see if there is anywhere that we can streamline that definition. And

144 as I had mentioned before, gaining better clarity for lot line vacations, boundary adjustments and family
145 subdivision. This is an intro. We'll provide more in-depth explanations next month.

146
147 **Commissioner Pettit**

148 Question on just clarification for me. Read subdivisions that are currently in residential or agriculture.
149 Are they treated differently with this? Talking specifically about the five-acre requirements in
150 agriculture, and the 20,000 square feet in residential? Are we treating this differently? Or how are we
151 dealing with that?

152
153 **Mr. Lee Pambid**

154 We are not treating that differently. All we're trying to do is to formalize the process and to specifically
155 say that they have to come to us for a review right now. A lot of that in the past had been treated as a
156 "free split" that didn't require a staff review. And we have found that to be problematic, but we're not
157 changing the bulk regulations, the sizes or anything like that.

158
159 Did that answer your question?

160
161 **Commissioner Pettit**

162 Yes. Thank you.

163
164 **Commissioner Hickman**

165 Does this apply in agricultural land? Now, if a farmer has 100 acres and wants to split 50/50. Is that
166 considered a subdivision?

167
168 **Mr. Lee Pambid**

169 Yes.

170
171 **Commissioner Hickman**

172 Just so I mean, even it's not being developed. That way you get the information you need to know.

173
174 **Mr. Lee Pambid**

175 That is correct.

176
177 We've gone through those bullet points here. This right here is the definition of subdivision. And as
178 you can see, it's pretty lengthy. It really starts up here. You can't see that, but that's probably the most
179 problematic part of this in addition to its length, and its formatting but right here, where it says
180 subdivision means a division of any tract, lot or parcel of land into three or more parts, or any division
181 of a tract, lot or parcel of land in which a new street is created, regardless of whether the individual
182 parts are sold, leased or rented.

183
184 And of course, there is more than half a page of additional text for those who are listening online. But
185 this is in the subdivision ordinance in Chapter 78 at the very beginning of the ordinance. But what I
186 wanted to do was to just illustrate the issue that we're having. Number one with the length, but also
187 from a process standpoint that, if you're dividing one piece of property into two, that's a subdivision
188 pretty much anywhere else.

189
190 That concludes the introduction for the subdivision ordinance. I'm going to pause here and see if there
191 are any other questions about this.

192
193 **Mr. Lee Pambid**

194 Okay, moving on to our second of four ordinance amendments that we're looking at tonight, the CAPA
195 amendments. This is the Chesapeake Atlantic Preservation Area. Again, Board of Supervisors passed
196 a Resolution on February 21. And this is probably going to be the easiest one to do, because all we're
197 doing is trying to keep pace with state law changes. The staff considers this a routine housekeeping
198 item. Just for reference, the Chesapeake or the capital ordinances in the zoning ordinance Chapter 106
199 zoning Article VXi. And that starts with section 106-376. And that's just for the record.

200
201 The County Attorney has already reviewed this one and we're finalizing the language now. But to quote
202 the County Attorney early adoption of these amendments prior to the comprehensive review of the
203 zoning ordinance is strongly recommended, as some of these provisions are not in compliance with
204 current laws and regulations. And what she's saying is that for the past several months, basically I've
205 been saying that, at some point in the next year, we're going to take a look at our comprehensive plan
206 and our zoning and subdivision ordinances more thoroughly and from cover to cover. But what we're
207 trying to do here is to expedite this amendment so that we can in fact keep pace with the changes in
208 state law that have already been enacted.

209
210 The current definition of the Chesapeake Atlantic Preservation Area or CAPA, for those who might not
211 know, means any land designated by the Board of Supervisors pursuant to part three of the Chesapeake
212 Bay Preservation Area designation and management regulations, Virginia Administrative Code 10-20.
213 And the Code of Virginia section 10.1-2107. A. The CAPA or the Chesapeake Atlantic Preservation
214 Area shall consist of a resource protection area and a resource management area. We will explain to
215 you a little bit more about what that means what that looks like from a mapping standpoint next month.

216
217 The primary reason for doing this now, as opposed to waiting is number one, state law has already been
218 changed with regards to this and we need to keep pace, number two, the County Attorney is highly
219 recommending that we do this on an expedited basis.

220
221 Amendment number three is the terms of validity. Again, Board of Supervisors passed a Resolution on
222 February 21. And for whatever reason, our ordinance is silent on for how long certain approvals are
223 valid. And that is problematic for people who are asking us. If they don't start within a certain amount
224 of time, then how long do they actually have to start? And that is an actual scheduling and dollars and
225 cents boots on the ground, you know, equipment mobilization issue. We need to be definitive on how
226 long site plans are good for. Major site plans or development plans are in a gray area because the
227 ordinance is silent. And some approvals actually have a short term of validity, which we also want to
228 take a look at those as well. We'll be looking at both the zoning and subdivision ordinance as with
229 regards to that.

230
231 Then we'll review our local codes in conjunction with the Code of Virginia, and more specifically,
232 section 15.2-2209.1. There are two other codes sections 2209.1, subsection one, and then another one,
233 subsection two. We've got those linked if you want to take a look at them.

234
235 Staff contends that approvals really do have to specify a term of validity or how long that plan is good
236 for, when they're going to expire. And what we've been doing is issuing approval letters. Just to put a
237 bow on the review and the approval of land disturbance permits or site plans. But the missing piece
238 there is how long the plan is good for.

239
240 **Commissioner Sparkman**
241 I thought it was one year.

242
243 **Mr. Lee Pambid**

244 It depends.

245
246 Yeah, it really depends. I've got a chart here that will show you all of the different kinds of plans that
247 we have in the zoning ordinance or the subdivision ordinance.

248
249 As you can see, site plans, we don't have a term of validity. A site plan is going to be basically anything
250 that's not a single-family dwelling and agricultural building, a duplex or anything more than that, you
251 know, in addition wouldn't require a fully engineered site plan, for example. When we're talking about
252 site plans in the zoning ordinance, we typically mean an engineered site plan, although the zoning
253 ordinance is used as multiple terms for the same thing. So that's another thing that we need to clean up
254 as well.

255
256 The zoning ordinance makes reference to what's called a minor site plan and a minor site plan is
257 anything that a major site plan would not be required for. Major site plan would be for some major land
258 disturbance and larger projects that are anything more than a duplex, for example. A site development
259 plan is unfortunately used interchangeably in the zoning ordinance with a site plan then we need to take
260 a look at separating the two.

261
262 We don't have a term, what I'm calling a subdivision construction plan. But what the zoning ordinance
263 probably means is a site plan. A lot of this is subject to interpretation, unfortunately, and we want to
264 take that clear. We want to take that gray area out. I've got red asterisks next to the site plan, site
265 development plan and subdivision construction plan. They've all been interpreted to mean the same
266 type of approval.

267
268 For those four types of plans, section 106-226(C) is the Code section.

269
270 As we go down the list, we also have a term of validity for a confined poultry or fish operation that's
271 section 106-232. Right now, that's good for one year. They have basically one year to start construction
272 and make substantial progress on site. And again, that's what all this means is that if they haven't started
273 within whatever the expiration is in the zoning ordinance, then they would have to come back and
274 reapply for their approval.

275
276 Confined poultry and fish operation one year. We're not proposing a change to that. That wasn't
277 something that we felt was particularly troublesome at this point. The conditional use permit section
278 106-234(4) for right now is set at one year. And if you recall, one of the conditions that I had requested
279 for the major development that was heard last month was to extend that out to five years for them. And
280 that was recommended.

281
282 These major types of approvals are typically longer. First of all, they're usually specified, and they're
283 typically longer than just one or two years. A special use permit that's something that goes through the
284 Board of Zoning Appeals. For that is specifically mentioned in the zoning ordinance as being good for
285 two years, before they have to come back to the Board of Zoning Appeals and reapply if they have not
286 done anything.

287 The capital ordinance that we just mentioned in the previous amendment also mentions a major
288 development and they are specifying a 12-month period. I guess there really is no difference between
289 one year and 12 months, but we're using these different units of time as well in the zoning ordinance.
290 But we want to take a look at that as well.

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292 For the subdivision ordinance, we've got two types of reviews that we do at the subdivision level. And
293 that's a preliminary subdivision plat and a final subdivision plat.

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Just very briefly, what a preliminary plat is a first look or a conceptual look at a larger subdivision. I want to say maybe 10 lots or more. I can be more specific next month. But if you've got a subdivision that entails a lot of parcels or several lots, then it might not be advantageous for the developer to record all of those lots or to proceed with all of those lots at the same time. But the preliminary subdivision plan is intended to give us an overview of the entire subdivision, what that's going to look like and how that's going to be laid out.

Currently, the subdivision ordinance says that the developer or the applicant has to come back to us within 12 months to file a final plat. What a final plat is or a final subdivision plat is a more detailed look at a specific section of the preliminary subdivision plat. For instance, if a subdivider comes in, and they want to subdivide a parcel into 100 lots, but they don't intend on building all 100 or providing infrastructure to the entire site, then they can come in and do a final plat for a smaller number of lots. Let's just say, they want to do section one would be 15 lots, and then they can do engineering for that 15 lots, and they would just be on the hook for bonding or building the infrastructure for those 15 lots.

But getting back to the preliminary subdivision plat, 12 months to file that final plat. And just on the face of it, we believe that an increase would be advantageous for developers without really doing any major. You know, we wouldn't lose control over the process. And I don't think that we would, that we'd really lose a whole lot if we increased that. But we'll take a look at that next month.

Again, the final subdivision plat. I had just explained what a final subdivision plat is. And after we approve a final subdivision plat, the applicant has 60 days to record that after approval. Usually, a developer is in a hurry to record something that they've gotten approval for. But we want to take a look at that 60-day recordation. There's a 60-day limit that they have to record by or else the final plat approval is void.

So those are the different types of plans or approvals that we want to look at. And as you can see, four of them, we don't have anything on the books for how long they're good for.

Commissioner Tyler

What does that mean? So, across the street, or across the highway from the YMCA, there was some development next to the fish house. And all they did was dig up a bunch of dirt and make a pile. And that constituted them saying we're moving forward to this or I mean, is that what we're talking about here? Is that kind of where we have an issue?

Mr. Lee Pambid

Yes.

The definition of what substantial improvement is there is no definition for that. So that could potentially be one of the things that we define in the zoning and subdivision ordinances. What we don't want is this gray area. If they're just going to come in, dig up a bunch of dirt, stockpile it and not do anything with that. I don't know that they have really done themselves or the community any good by just leaving the site as is.

And in the meantime, let's say that they got their approval 15 years ago, and I don't know how long ago they got their approval. But it's almost as if that if they've taken that long, then we could say that they've abandoned the project. But in the meantime, other ordinances have changed. Other state laws have come into play.

344 One of the big ones that we're kind of looking at in terms of the effect of state law on local development
345 is the stormwater ordinance which went through a major overhaul in 2014. And there was a lot of
346 discussion about what set of regulations from an approved local site plan standpoint was. If they haven't
347 started that, prior to the stormwater laws changing then are they still subject to the old stormwater laws?
348 Are they going to have to come back and redesign the plan for the new stormwater laws? So that's just
349 one example of why it's important that we clear this up.

350
351 **Commissioner Sparkman**

352 I'm sorry, Lee. Can it be like a percentage of the project? Can we do that or something like that?

353
354 **Mr. Lee Pambid**

355 It could potentially be

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357 **Commissioner Sparkman**

358 The problem with digging a hole and piling with dirt.

359
360 **Mr. Lee Pambid**

361 That probably just took one piece of equipment and they probably didn't do any major mobilization as
362 a result.

363
364 **Commissioner Sparkman**

365 That's what I'm saying. A percentage of the project or something.

366
367 **Mr. Lee Pambid**

368 When we go to research this a little bit more, we can kind of, we can show you how other localities
369 define major or substantial improvement to the site. The other thing that they could use in order to
370 "extend" an approval is to bond. So, it depends on if we require bonds, then a bond in this case would
371 be just as good or valid as the actual street or sewer line or whatever going into the ground.

372
373 **Commissioner Tyler**

374 Does this affect things like, you know, my neighbor got a permit for a pool in 1993 or 4. He's never
375 built it. But he apparently seems to think that that permit is still valid, he can build a permit pool
376 anytime.

377
378 **Mr. Lee Pambid**

379 No, sir, that's a different kind of permit different thing. For a pool that would not reach the level as of
380 a major site plan. He could have probably drawn that plot plan himself and that would require a building
381 permit, if he got his zoning permit, zoning permits usually have much shorter time limit associated with
382 that, as well as the building permit that he would have needed in order to do that. If he pulled a zoning
383 permit, and he also pulled a building permit back in 93, those have been long expired.

384
385 **Commissioner Tyler**

386 These are just for the big stuff?

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389 **Mr. Lee Pambid**

390 This is for the big stuff.

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392 **Commissioner Tyler**

393 Is there a standard across the state? Are you going to look that up or figure that out?

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Mr. Lee Pambid

I think it really depends on the locality, but most of what I've seen is around the five-year extent for site plans, and other major plans such as preliminary plat is another one that we see quite often.

Commissioner Tyler

And do they designate in years, months or days? Or do they mix and match?

Mr. Lee Pambid

It's years usually.

Commissioner Tyler

So that 12 months is an odd ball.

Mr. Lee Pambid

The 12 months is an odd ball. Yeah.

Commissioner Sparkman

Would be from what time to start too, you know. We probably should look at when does the clock start.

Mr. Lee Pambid

For things like conditional use permits and special use permits, that's going to be the date that the approval body or the approval authority basically voted to approve that. The Board of Supervisors, or the Board of Zoning Appeals, depending on the conditional use permit for the Supervisors, and a special use permit for the BZA.

Now, with the rest of the stuff, it's when the staff signs the plan. Let's take Rocket Lab for example. They have started construction out there off of Wallops Island Road just outside of the gate to the island. And I signed that plan earlier last year over the summer. If I sign a plan, then what I also want to have on the cover sheet of the set of plans is how long that plan is good for. And that part was missing.

But if we had this enacted, then I would basically put that right on the cover sheet of the plan. Your plan is good for five years pursuant to this Code Section and I signed it on this day. And then I just basically fast forward five years and say, you know, that's when it expires. If they have started, which they already have, then the plans not going to expire. They've already started that.

Commissioner Hickman

They're on the bottom. After 60 days, but after 60 days, the final sign plan is recorded. But nothing has to happen. We the County has been burned and I'm sure you're aware. We've got many forms around here that are subdivided and that happened at a specific time for a specific reason, but had been subdivided with no intention, of foreseeable development on them. Now some of them, because of demand are actually a few places on them. But there's still a lot of farmlands that's just sitting there. And there's been controversy over the years about taxation for those. They're still being taxed and farmland to be taxed as farmland, but they've been subdivided into farms or house sites, I don't like that you can do that. If you're serious about putting in a sub development, you do it in a reasonable amount of time. You don't just get approval to do it. But like, this looks like it lets you do record it now and sit until maybe, you know, you're covering yourself is what you're doing.

Commissioner Tyler

This would change, correct?

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Commissioner Hickman
Change that bottom line.

Mr. Lee Pambid

So what Mr. Hickman is talking about is this final plat right here. And basically, what the final plat allows somebody to do is once the staff says that the final plat matches what they showed us with the preliminary plat, the final plat complies with all of the ordinances, and so on and so forth. They're also supposed to have a subdivision construction plan that's under review at the same time.

Let's talk about the distinction between the final plat, which all that does is just talks about the lots. It doesn't talk about the infrastructure, how much stormwater they're supposed to have, and so on and so forth. That is with the subdivision construction plan, or what the zoning ordinance calls a site plan.

Commissioner Hickman
But they never file one.

Mr. Lee Pambid

I can't speak to how the subdivision ordinance was administered in the past. But according to the ordinance, you're supposed to submit a construction plan or a site plan at the same time that you submit a final plat. And what we do at that time is, at some point, we're going to ask them to provide us with a bond amount based of what's shown on the site plan for erosion and sediment control, for the streets, water and sewer. If there's municipal, water and sewer. If there's going to be some sort of shared drain field, if the Department of Health allows those kinds of things.

And then it would say, you're not allowed to record until number one, you assure us with a bond that you're going to put this stuff in, or you put the stuff in yourself. I don't know if you know, and I may be speaking out of turn here, but I don't know if that was the County being nice saying we're going to let you record but we're not going to require you to submit a site plan or a bond or to put in the roads in the ditches and all that other stuff. But that's why we're in the situation that we're in now that you're talking about, because we didn't require that.

Commissioner Hickman
What is done is done. I think we should just make sure in this review, that we do something that doesn't happen to us anymore.

Mr. Lee Pambid

Recordation. We'll say that the platting process down here is a separate process than the site development process. But they are joined at the hip and they cannot be separated.

Commissioner Hickman
That's the key. I think what you just said they might be separate, but they've got to be joined because this thing doesn't have any termination date on it down here.

Mr. Lee Pambid
Correct.

Commissioner Tyler
And that doesn't affect family subdivisions.

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Mr. Lee Pambid

No, it does not affect family subdivisions.

Commissioner Tyler

So, if I had 100 acres and five kids and I wanted to go ahead and plot them out now and bequeath them to him, but they may not build on them ever or they may. That's a totally different animal.

Mr. Lee Pambid

That is a totally different animal. Yes, sir. Yeah. And the standards are lower for family subdivision as opposed to like a Coastal Square and Residences, for example, or a Captain's Cove or something like that. Those are the kinds of situations that we really need to fix moving forward is not separating the site development process from the plat approval and recordation process. It happens all over the state all over the country. And there's a really easy fix for that and that is do not allow recordation without bond or without infrastructure in place.

Commissioner Roberts

Heard back from some of the Coastal that we were talking about putting like a time limit on from which they can you know, by such and such a time you should have completed XYZ portion of your request.

Mr. Lee Pambid

As we mentioned over the past couple of months, deliberating that rezoning in that conditional use permit. A question come up multiple times, not just from the Commission, but also from the community. If this is approved, how long do they have to get started? Or can we force them to stay on pace by providing a certain number of units, and the associated utility and traffic infrastructure, stormwater infrastructure, and we can't force them to build.

What we can do is prod them along with these expiration dates. The development process, there is a certain amount of market driven activity there. But if they're bumping up against an expiration date, then that's their cue that they either need to move, or they need to come back and start talking to us about getting a renewal or an extension of that approval.

Commissioner Pettit

If I'm a citizen group, and want to forestall an approval process by going through an appeal. Do you stop the clock when an appeal is recorded, or how do you deal with that? And I think at some cases is done just for that? I mean, how are we going to deal with that, so that you can use that appeal process to drive a developer into his two-year process?

Mr. Lee Pambid

They would have to dig fairly deep into the legal process, into the judicial process, because I think the only thing that can really stop the process, I'm thinking of a couple of different things, and I'm not an attorney. But number one is that the approval authority for certain things, for certain types of plans, would just deny the project or just to keep deferring it until the approval authority has run out of time, because as we all know, decisions have to be made on applications within a certain amount of time. The number two, the other thing could be just some sort of injunction from the court system. Again, I'm trying to understand the question a little bit more. But I don't think that someone could just come out and say, you know, we don't want this, somebody has to, you know, a review authority, like the Planning Commission, or deciding authority, like the Board of Zoning Appeals or the Board of Supervisors would have to kind of put the brakes on the process.

544 **Commissioner Hickman**
545 Isn't the Greenbackville right now in that situation? You know, they've got approval. They're not
546 moving forward because they're in litigation.
547

548 **Commissioner Tyler**
549 We just extended that though.
550

551 **Mr. Lee Pambid**
552 The Planning Commission recommended your question.
553

554 **Commissioner Hickman**
555 Do you just rely on the Board to extend it? Or is there a policy that says, date goes to court or they filed
556 and the clock stops and doesn't start again until it's resolved?
557

558 **Commissioner Tyler**
559 That would be separate. Yeah, that would be separate. I mean, we can't rely on.
560

561 **Commissioner Hickman**
562 They should be able to come in and reapply free in till the Board.
563

564 **Commissioner Tyler**
565 Not free.
566

567 **Mr. Lee Pambid**
568 But to take that example in Greenbackville with Mariner Hastings project which coincidentally is going
569 to be heard by the Board of Supervisors next week. And they will decide on whether or not that will be
570 extended. Even when that project was first introduced and was being first heard by the Planning
571 Commission of the Board of Supervisors. They came out in litigation immediately with regards to the
572 road but the Board of Supervisors put a condition on there that said that, we're going move forward and
573 approve these the rezoning and the conditional use permit. They can't start anything else contingent on
574 the outcome of that litigation.
575

576 I think that's how I understand that, they went ahead and approved everything, but they put a stipulation
577 in there that said that everything has to be finished or settled before they can actually move forward.
578 But that's one way to do.
579

580 **Commissioner Hickman**
581 Their date won't start then until because of where it was worded maybe start until the litigations has
582 finalized?
583

584 **Mr. Lee Pambid**
585 They've been in litigation. They've had other things happening internally, the LLC changed. You still
586 have a couple of the same players in that LLC. But you've got a brand-new LLC that's involved from
587 an ownership standpoint.
588

589 **Commissioner Tyler**
590 But the plants didn't materially change.
591

592 **Mr. Lee Pambid**

593 The plans didn't, the concepts did not change at all. They didn't change the number of units or anything
594 like that. The only thing that they were asking for was extend us out two more years. Everything else
595 was staying the same.

596
597 **Commissioner Tyler**

598 If they wanted to make the change that it would be a good thing for it to come back to us. If they wanted
599 to change it, they could do it all at the same time.

600
601 **Mr. Lee Pambid**

602 Right.

603
604 **Commissioner Tyler**

605 Okay.

606
607 **Commissioner Sparkman**

608 Insurance companies are masters at that kind of thing, what you're talking about, delay, delay, and
609 there's so many ways they can get around that requesting additional studies, stormwater and all that
610 stuff.

611
612 **Commissioner Tyler**

613 The question becomes for us on this is how many years do you want to extend and make us review it?
614 And you're coming back with us with some ideas?

615
616 **Mr. Lee Pambid**

617 We'll come back to you with some ideas. Yes, sir.

618
619 **Commissioner Tyler**

620 Because I know, a lot of it wouldn't be the same, you know, two years, three years, five years. I get the
621 60-day recording. That makes sense. I think five years is a little long. That's fine.

622
623 **Commissioner Hickman**

624 I think so too. I try to think of what, what could happen it okay, if you're a neighbor, let's take those
625 people that are living in the middle of the new development down there. You know, it's pretty easy for
626 them to say, we're selling, you know, we're just getting out of here. We're not going to live here in the
627 middle of this. But if, if they only had one year to get started, and if people were willing to say, well,
628 we'll wait and see what happens in this first year, if they do anything or not. That's little easier for them
629 than they say, well, they've got five years to do it.

630
631 **Commissioner Tyler**

632 Well, especially like chicken house or something like that.

633
634 **Commissioner Hickman**

635 Yeah, yeah. You got to consider the neighbor and neighborhood, I guess. They're in insecurity or in
636 lack of knowing what's going on.

637
638
639 **Mr. Lee Pambid**

640 Okay. The main thing here is making sure that we say definitively how long certain plans are good for.
641 And if at the end of the day, you feel like that the rest of this is good. Like I said, we're just going to
642 take a look at all of it, and then you guys decide, but this is a really big hole for us on staff.

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Commissioner Tyler

Oh, yeah, I agree. Yeah, that doesn't make good sense.

Mr. Lee Pambid

Not at all.

Any other questions on this slide? All right. I'm not going to talk too much about the poultry because we all know what's happening here. But I will go through these slides really quickly.

Board of Supervisors passed a Resolution on March the 20th. That was after it heard the Planning Commission's recommendation. We have been working on this dating back to September of 2023, when the Board of Zoning Appeals heard a variance case to reactivate six chicken houses off of Gaskins Road. And that did go through but it did prompt additional discussion afterwards. And this whole process was initiated at the behest of the Board of Supervisors, because they had received some citizen comment at their October 2023 Meeting.

At that meeting, they had asked the staff and the Planning Commission to take a look at that specific provision of what happens to a chicken house that's not conforming with the ordinance, but has been inactive for more than two years. The two years is basically grounded in state code, where the grandfathering or the vested right with the legal term is handed down to us from state code.

But in the ordinance, it didn't say what happens after that two-year period expires for a non-conforming chicken house. The Board of Supervisors took your recommendation under advisement and agreed that at least one public hearing was needed and that the Board of Zoning Appeals was the correct body to review and decide these applications. It came back saying special use permit. But the Resolution we believe is worded in such a way that it could also mean variance or to vary the requirements through the special use permit process. I know that's a lot of very technical speak there. But we'll get more into that next month.

One of the other things that we want to bring to the Planning Commission's attention is this issue of certain chicken houses existing in the floodplain. Do we want those reactivated? That's going to be an overarching question that we want to bring back to you next month. And you might want to start thinking about that specifically, because it was not addressed over the past several months. I think we might have mentioned it once or twice. But now that the rubber is about to meet the road on changing the ordinance here. Let's take a look at whether or not it is appropriate to reactivate chicken houses in the floodplain.

And I think that you all can imagine what kind of environmental impact that would have to have an active chicken house or chicken houses and then the floods come in. That's going to be a big mess.

So that concludes the staff's presentation, the introduction these four ordinance amendments that could be in the zoning or the subdivision ordinance. But I'm going to conclude the presentation. And I can field additional questions at this time.

Commissioner Roberts

Any questions for Lee?

Commissioner Hickman

693 Wish we had more options or opportunities.

694
695 **Mr. Lee Pambid**
696 I thought that I had a slide in here over how this is going to play out over the next few months. I must
697 not have put it in the slide deck. But let me just describe the next few months to you. Tonight, is May
698 8, and we're re "reintroducing" some of these to you. We had mentioned these to you back in March
699 just very briefly. So now we've gotten a little bit more information, we'll bring some language to you
700 next month.

701
702 What I will say is that we already have language in hand for the CAPA ordinance amendment, because
703 that's all based off the state code. And then we also have some for the poultry ordinance amendment.
704 But we can bring that language to you next month. And we can potentially expedite that over the next
705 couple of months.

706
707 But what I had laid out was a six-month process, with the first two months being discussion at the
708 Planning Commission level. And then we'll say months, months one and two are discussion, months
709 three and four are going to be really getting into the language. And you have the opportunity to expedite
710 a couple of these, like I said the CAPA ordinance and the poultry ordinance we already have language
711 developed for. So just because these were presented as a package doesn't mean that they all have to go
712 through together as a package.

713
714 But we're looking at completing the process in the September, October timeframe, especially with the
715 other two ordinances like the terms of validity and the definition of subdivision. We do not have
716 language prepped for that yet. So that's going to take a little bit of time. And you guys are going to be
717 exposed to the draft language for the other two amendments sooner than you will for the subdivision
718 definition and for the terms of validity. So, we're looking probably around September, October to
719 complete this all the way through to Board of Supervisors. Your role is going to be about the first three
720 or four months through to the end of summer.

721
722 **Commissioner Roberts**
723 Lee, Mr. Hickman. Didn't chicken house's floodplain description of where floodplain change some
724 time ago when they when there was a glaring flip and then all of a sudden it changed; yeah, but some
725 people in that were not and some people who were not in.

726
727 **Commissioner Hickman**
728 It put Chincoteague out of the floodplain

729
730 **Commissioner Sparkman**
731 Well, they've changed it to a three.

732
733 **Commissioner Tyler**
734 Is that different than the flood maps? Because my house has been in and out of the flood maps 4 times.

735
736 **Commissioner Sparkman**
737 That's probably thinking about some of these chicken houses. Previously, when they were initiated,
738 probably never in them. Now suddenly they're in them.

739 **Commissioner Roberts**
740 Who determines that?

741
742 **Commissioner Tyler**

743 Yeah, that's my next question. Who decides the floodplain?

744

745 **Mr. Lee Pambid**

746 Federal government. FEMA is the one.

747

748 **Commissioner Tyler**

749 Well, they changed my house four times. And I just keep paying the flood insurance.

750

751 **Commissioner Hickman**

752 It goes up and down. It's based on 100-year plan or something.

753

754 **Commissioner Tyler**

755 So, if chicken houses were in, what you're saying is as if it was built and not in the floodplain, went
756 into the floodplain came out of the floodplain, or if it went into the floodplain, we need to figure that
757 out.

758

759 **Commissioner Hickman**

760 So, you can do is look at the best available whatever it is at that time.

761

762 **Commissioner Tyler**

763 Well, I mean, I think there ought to be some discussion of it was it wasn't it was.

764

765 **Commissioner Hickman**

766 Then it will be again.

767

768 **Commissioner Tyler**

769 You know, I think we should question whether FEMA is correct or not.

770

771 **Commissioner Sparkman**

772 Well, he made the chicken house investment right. And he had initially believed that,

773

774 **Commissioner Tyler**

775 But if he let it lay fallow for two years.

776

777 **Commissioner Sparkman**

778 That's a different argument.

779

780 **Commissioner Hickman**

781 Where he goes on flood, I don't think he'd be buying it now. We're worried about more than the dead
782 chickens, but he's worried about dead chickens.

783

784 **Commissioner Tyler**

785 I have nothing else.

786

787 **8. PUBLIC HEARING**

788 No public hearings scheduled.

789 **9. OTHER MATTERS**

790 None.

791

792 **10. STAFF REPORTS**

793 **Mr. Lee Pambid**
794 Item number 10 on staff reports, Subdivision Agent that really don't have a whole lot to report on
795 subdivision agent. You know, we continue to do a lot of these smaller lot splits and lot line vacations
796 and that kind of thing. Those aren't really noteworthy in terms of impact, but we can certainly look
797 forward to should the Board of Supervisors approve the Coastal Square Residence that's going to keep
798 us busy, and also Mariner Hastings, the 140 townhouses up there would require subdivisions, just like
799 we were talking about preliminary plats and final plats.
800

801 From a Zoning Administrator standpoint, the Board of Zoning Appeals met last week and approved
802 one variance and two special use permits.
803

804 The variance was for an accessory building, that was a height variance.
805

806 There was also a special use permit to allow for an RV on an individual piece of property that was
807 approved.
808

809 And then the third special use permit was to swap single wide, a post 1976, single wide with a pre-1976
810 single wide. If you're single, it was built before 1976. It was built to a different standard per the federal
811 government. And according to our ordinance, if you want to have an older unit like that, then you have
812 to have a special use permit. So that was what's happening with the Board of Zoning Appeals.
813

814 We don't have any cases for the Board of Zoning Appeals for June, so they get a month off. The as far
815 as Deputy County Administrator, we've already introduced one staff member, one new staff member,
816 we have two more starting on Monday, and we'll release their names later on. Other than that, we just
817 continue to make do with who we have and what we have.
818

819 **Commissioner Tyler**

820 Is the building inspector opening going to be a problem?
821

822 **Mr. Lee Pambid**

823 The building inspector opening is not going to be an issue for the time being given the workload. So
824 right now, we have one building official who is on contract and his contract ends at the end of this
825 month. That's Art Berkeley and he's worked for us before.
826

827 Besides that, we have three building inspectors who are paid staff who are on staff and they're with us
828 full time. We have a fourth building inspector position that has been left open by the resignation of
829 Bruce Herbert, who was promoted to the Airport Manager position and we certainly wish him well
830 there.
831

832 But our "authorized strength" for full time employees with the building inspectors is four. So, before
833 Bruce left, we had five, one on contract. But we really need Art's experience and that state hand at that
834 position. But moving forward, we will be designating somebody to be the actual building official who
835 is on staff not contract. And if they don't have the credentials, they have 18 months to obtain the
836 credentials.
837

838
839 **Commissioner Tyler**

840 Did the board authorize consultant for the comprehensive plan? Not yet. So that's on the future map
841

842 **Mr. Lee Pambid**

843 That's on the future.

844

845 **Commissioner Tyler**

846 I just got through with the class.

847

848 **Mr. Lee Pambid**

849 How'd you like it?

850

851 **Commissioner Tyler**

852 That part I didn't like. The comprehensive plan book that they give you is thick, and detailed. And oh,
853 by the way, when you take that class, they give you tests every week. You got to take a test or week.
854 The older you get, the harder that is. You got to retain information for more than a few minutes.

855

856 But it was a very good class. And I will say I was in breakout sessions with people in Northern Virginia
857 and in other smaller communities. And we meet once a month. Some of those communities meet twice
858 a week. It's kind of blessings here in Accomack County.

859

860 **Mr. Lee Pambid**

861 So that concludes the staffs report item number 10.

862

863 **Commissioner Roberts**

864 Any other Commissioner have a question or any concerns?

865

866 **11. NEXT MEETING**

867 Next meeting will be June 12. We're going to bring you some additional information on the
868 stuff that we've presented tonight. Other than that, staff doesn't have anything else for the
869 Commission.

870

871 **12. ADJOURNMENT**

872 *On a motion made by Commissioner Tyler and seconded by Commissioner Sparkman, the*
873 *Planning Commission voted unanimously to adjourn the meeting at 8:02 pm.*

874

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877

878

879  Leander Roberts, Jr., Vice Chairman

Date 8-14-24

880

881

882

883

884 _____
Pamela Dix

Date

885 Administrative Assistant II, Planning & Economic Development

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