



# 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  
Berran Rogers., District 9

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2 County Administration Building, Board Chambers, Room 104, 23296 Courthouse Avenue, Accomac, VA  
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## 4 Minutes for Wednesday, September 11, 2024 at 7:00 PM

### 5 6 7 **1. CALL TO ORDER**

#### 8 **MEMBERS PRESENT AND ABSENT**

##### 9 10 **Planning Commission Members Present:**

11 **Mrs. Angela Wingfield, Chairwoman**

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

13 **Mr. Robert Hickman**

14 **Mr. Kelvin Pettit**

15 **Mr. Adair Tyler**

16 **Mr. Brantley Onley**

17 **Mr. Lynne Gayle**

18 **Mr. John Sparkman**

##### 19 20 **Planning Commission Members Absent:**

21 **Mr. Berran Rogers**

##### 22 23 **Others Present:**

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

25 **Chontese Ridley, County Planner I**

26 **Pamela Dix, Administrative Assistant II**

#### 27 28 **DETERMINATION OF A QUORUM**

29 There being a quorum Chairwoman Wingfield called the meeting of Accomack County  
30 Planning Commission to order at 7:00 p.m.

#### 31 32 **REMOTE PARTICIPATION**

33 None

### 34 35 **2. ADOPTION OF AGENDA**

36 *On a motion by Commissioner Sparks and seconded by Commissioner Onley, the Planning*  
37 *Commission voted unanimously to adopt the agenda.*

### 38 39 **3. MINUTES**

40 On a motion made by Commissioner Hickman seconded by Commissioner Onley to adopt  
41 August 14, 2024 minutes as written.

42 On a motion made by Commissioner Roberts seconded by Commissioner Tyler to adopt July  
43 10, 2024 minutes as written.

45 **Chairwoman Wingfield**  
46 We're moving on to the public comment period. Is there anyone signed up?

47  
48 **4. PUBLIC COMMENT PERIOD**

49 No public comment.

50  
51 **5. OLD BUSINESS**

52 **Mr. Lee Pambid**

53 It's not going to take very long unless you guys have some discussion.

54 Thank you. Madam Chair, members of the commission.

55 Lee Pambid, Deputy County Administrator for Community and Economic Development.

56 The purpose of tonight's presentation is essentially to just get the language in your hands.  
57 We've been looking at this for several months, but we wanted to spread out the workload with  
58 the several developments that you all have reviewed and acted on over the past several months,  
59 in the spring, we had two other ordinance amendments earlier this summer. These are the other  
60 two of the four we presented earlier this year. You've already done the CAPA Ordinance  
61 revisions and the Poultry Ordinance revisions, the Board of Supervisors will be having their  
62 public hearings on the CAPA and Poultry next month. Notices did not go out for the Board of  
63 Supervisors public hearing, so that's deferred to next month so we can properly advertise.  
64 What's left is going to be the definition of subdivisions, and certain subdivision actions, and  
65 then we also have these terms of validity, which is essentially how long is a certain action or  
66 plan good for. And that's why the language was put in your packet. Again. All I wanted to do  
67 tonight was to get the draft ordinance finally in your hands for your review and then the staff  
68 will probably take, some additional time and make some tweaks. When you come back next  
69 month, there may be some tweaks that you may have, but this is an iteration, and once  
70 everybody is satisfied with the language, then we can go ahead and request public hearings,  
71 but the staff is not requesting public hearings tonight. As you look through the materials over  
72 the next few weeks, and if have any questions, you don't have to wait till the meeting to ask  
73 me those. You can always give me a call or drop me an email, and I'd be more than happy to  
74 talk with you about those. So that concludes my presentation, and I can field any questions at  
75 this time,

76  
77 So with that being said for next month, if you recall, there was a battery storage public hearing  
78 from August, and the applicant had requested deferral for 60 days, which means that they will  
79 be coming to you in October. In addition to these items here, and this is just a discussion, you  
80 will be having a public hearing next month if all continues on its current path. We haven't heard  
81 from the applicant that they want an additional deferral, so we're assuming that we're going to  
82 have a public hearing in October.

83  
84 **6. NEW BUSINESS**

85 No new business.

86  
87 **Chairwoman Wingfield**

88 Thank you. Open the public hearing on Conditional Use 000665-2024 David Jordan,  
89 Guard Shore wetland restoration.

90  
91 **7. PUBLIC HEARING**

92  
93

94 **Ms. Chontese Ridley**

95 Good evening, everyone. So again, this is Guard Shore wetland restoration, CUSE-000665-  
96 2024

97 The background information, the applicant is Mr. David Jordan. Property owners, Madeleine  
98 Colburn and Brian Roberts, the location is 53-A-149A and 53-A-149-A1. It's election district  
99 four Supervisor Parks and Commissioner Pettit, the total acreage for both parcels is 24.8 and  
100 the bank area will be 2.89. It is zone agricultural, and future land use recommendation is a  
101 conservation area. The request is for a, conditional use permit or a wetlands off-site,  
102 compensatory mitigation site. The overlays are in the Chesapeake Atlantic Preservation Area  
103 in the Special Flood Hazard Area nine BFE. The adjoining parcels are also zoned agricultural  
104 and the adjacent uses are a single family, residential, vacant agricultural, and agricultural  
105 undeveloped. Some more background on the parcel. They are located at 23519, Guard Shore  
106 Road. This is the location where most of the bank will be. There was a home located on the  
107 property that burned down earlier this year in April. All that construction predated the 1989  
108 Bay Act, and the site pad and driveway were constructed by dredging tidal wetlands. This slide  
109 here is just a breakdown of that 24.8 acres for the project. The proposed easement is 10.78  
110 acres, again, with 2.89 of that being the bank, and then the rest will be wetlands preservation  
111 and the buffer. All wetlands mitigation banks have to be approved and reviewed by the US  
112 Army Corps of Engineers and their IRT review team. The applicant has been in touch with the  
113 Corps and has been told before they will review his application but he has to gain approval  
114 from Accomack County. What we have here at the top when we first had a project last year  
115 that went before the BZA, which now has to come before the Planning Commission this is how  
116 that process went. Pre-application, application, the IRT review, and the county's review usually  
117 went hand in hand, but now that it's changed, so what you see going across the bottom is how  
118 that process is now, and this is where we are in that process. Once this process has been  
119 completed, if the applicant gains approval from the Board of Supervisors, he would then move  
120 into the IRT review, which then goes to the JPA application, which will go before the  
121 Accomack County's Wetlands Board, and so on. Plans and exhibits, all these maps were in  
122 your staff report. The normal ones you're used to seeing. This is the aerial. This parcel is where  
123 most of the bank creation will be and, the location of the home. Zoning map, showing that it's  
124 in the agricultural district, future land use, conservation area, location of where the RPA is on  
125 the property and around the property, flood map, soil map. This one may take a minute, so  
126 while that's loading, I'll explain what it is. This is the proposed site plan. Once it does come  
127 up, it's taken its time. I'll get Lee to zoom in, and then you can see the breakdown that I gave  
128 earlier.

129  
130 Well, it was your staff report. It shows the breakdown in the area and it shows the 2.89 bank  
131 creation. There's another little over seven acres of preservation area, and then the buffer. So  
132 we might come back and try it again later. The next few slides are some historical images from  
133 the applicant. This is the 2024 aerial, here we have the 2010 aerial. Not much difference  
134 between the two besides the fact that the home did burn down this year. And here we have an  
135 aerial from 1967 before any dredging was done. And here's 1982 which is where the dredging  
136 was done to create the driveway and the site pad. These were also submitted by the applicant.  
137 These are some aerials after the home was destroyed by fire. And this is the home on fire.  
138 Okay, so the next few images you will see are from our site visit. The condition of the home  
139 that was there; showing from the road back to where that home once stood. The ponds that you  
140 see here are in the dredge area. There are a few pictures of that area in here. These three  
141 pictures are the front, left side, and right side which show the water in the ditches. This is the  
142 beginning of one of the dredge ponds, and these ponds go back almost to where the home was

143 located. And there's a better image of how large one of those ponds is. This shows the driveway  
144 from the house back out to the road.

145  
146 And these images are the road on both sides, and this one is located directly across, so there  
147 are no homes adjacent. Zoning Ordinance considerations, section 106-51 agricultural district  
148 A, a statement of intent that the proposed location and proposed project are compatible with  
149 our zoning ordinance. This slide you saw this last month when I requested the public hearing.  
150 These are sections 106-5111 and the definition for wetlands off-site, compensatory mitigation  
151 site, and section 1061 these amendments were added to the zoning code May of 23 by the  
152 Board of Supervisors. It was heard by the BZA, now heard by the Planning Commission's.  
153 Several sections in our comp plan support this project. I'm going to call out a few of those,  
154 chapter four issues and concerns, soils. Chapter four issues and concerns, watershed resources,  
155 and chapter five, goals, objectives, policies, and recommended actions. The soil condition on  
156 the property is 100% hydraulic, it's not good for farming. The potential of growing any crops  
157 there would not be viable. The applicant's goal is to restore the property back to its previous  
158 natural state. More comprehensive plan recommendations, chapter six, future land use plan,  
159 page 282, the county's target outcome for the conservation area in the long term is to have no  
160 new development through regulations and conservation easements. The soil characteristics of  
161 the property would not allow for farming, and the property has never been farmed, so that is  
162 not something we see as an issue here. As always, this was advertised in the local newspaper,  
163 we did have to expand our buffer about 1000 feet before we reached a household and we did  
164 not receive any comments back positive or negative, so that's a good thing, and no zoning or  
165 code enforcement violations are pending for either parcel. Staff findings are the proposed  
166 mitigation bank is compliant with the provisions of both sections 106234 and section 1065411  
167 this details the conditional use process and also the wetlands off-site compensatory mitigation  
168 sites. The site has never been farmed due to its flood elevation and being 100% composed of  
169 hydraulic soils. The Comprehensive Plan provides an overall statement in support of the  
170 preservation of agricultural farmlands, wetlands, and environmentally sensitive areas. The  
171 future land use recommendation also stated the conservation area in the proposed use is  
172 compatible with that designation. Staff recommends approval of CUSE-000665-2024, a  
173 conditional use permit for all off-site compensatory mitigation sites, as presented pursuant to  
174 Accomack County code section 1065411, with the eight recommended conditions by staff. All  
175 eight of these were in your staff report, if you need me to, I can go down all eight. Are there  
176 any questions about those conditions?

177  
178 **Commissioner Hickman**

179 I was a little confused and started in addition to the three already mentioned, I don't have that  
180 in front of me, there were eight. These eight were added statements.

181  
182 **Ms. Chontese Ridley**

183 I'm not sure. Here is the proposed motion, and I'll go on and read that into the record, the  
184 Accomack County Planning Commission recommends that the Board of Supervisors approve  
185 CUSE-000665-2024, a conditional use permit to construct an approximately 2.89 acre wetland  
186 off-site, compensatory mitigation site, pursuant to Accomack county code section 1065411 for  
187 tax map numbers, 53-A-149A and 53 A-149A1 with the eight conditions recommended by  
188 staff.

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192 **Commissioner Pettit**  
193 Just to be clear, you made a statement earlier that the applicant was going to return the property  
194 to its original state. Did that include the dredging and driveway and parking and the site plan  
195 that was probably not allowed now, what was included in the return to the original state?  
196

197 **Ms. Chontese Ridley**  
198 The site plan that we couldn't get to come up, In that site plan, it showed in detail what was  
199 being done in what acres. There's a portion where the house was he plans to restore the title  
200 wetlands there and the rest of it is going to be preserved.  
201

202 **Commissioner Tyler**  
203 Are you pulling up the same thing?  
204

205 **Ms. Chontese Ridley**  
206 There it is. Okay, so this portion here is where the dredging was done, where the home was  
207 located, and where the driveway once was. The applicant is proposing to restore this area, and  
208 this is the bank location, and then the rest is going to be preserved, here in the orange is the  
209 buffer. Did that answer the question?  
210

211 **Commissioner Pettit**  
212 I just want to define what you said, restore the era. Does that mean removing the debris, the  
213 driveway, and the parking pad, and restoring it to the original is what I am trying to get at?  
214

215 **Ms. Chontese Ridley**  
216 I believe so, Mr. Jordan is here, so I'm sure he'll be able to go a little more into detail in that  
217 question for you. But from what was explained to me, yes.  
218

219 **Commissioner Sparkman**  
220 Is that the compass with 2.88 as the number?  
221

222 **Ms. Chontese Ridley**  
223 Yes, Okay, let's see. The 2.8 is the area that he is going to restore and which will also be the  
224 bank. The same area that was dredged, where the driveway, the pad for the home, and where  
225 the previous home that burned down was.  
226

227 **Commissioner Hickman**  
228 The other seven were natural anyway,  
229

230 **Ms. Chontese Ridley**  
231 Yes.  
232

233 **Commissioner Hickman**  
234 Thank you.  
235

236 **Ms. Chontese Ridley**  
237 Welcome. Any other questions?  
238  
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240

241 **Commissioner Onley**  
242 Correct me if I'm wrong, I'm sure you will. I thought I remembered that any credits, wetland  
243 credits had to be utilized within the county. Is that correct? That's correct.  
244

245 **Lee Pambid**  
246 Lee Pambid, Deputy County Administrator, it was determined that restriction was not legal, so  
247 the language in the zoning ordinance does not restrict the location of where those credits can  
248 be applied. It was discussed. You're correct, it was discussed, but it was not implemented.  
249

250 **Commissioner Gayle**  
251 Is it in the same watershed?  
252

253 **Commissioner Onley**  
254 Say that again Lynne.  
255

256 **Commissioner Gayle**  
257 The credits are applicable only in the same watershed. I assume would be Chesapeake Bay,  
258 right?  
259

260 **Commissioner Onley**  
261 But that answers my question.  
262

263 **Commissioner Gayle**  
264 In other words, the western shore.  
265

266 **Commissioner Tyler**  
267 That was the argument in Northampton County. They were upset that people from across the  
268 bay were going to be able to use land over here. It's cheap land so they can come here and buy  
269 cheap land and turn them into wetlands banks.  
270

271 **Lynne Gayle**  
272 The underlying factor on that one was the fact that it was farmland taken out of production.  
273

274 **Commissioner Tyler**  
275 I still contend it should be a by-right use.  
276  
277

278 **Ms. Chontese Ridley**  
279 So that's one good thing we have here. This was never in farm production. It will never be farm  
280 production.  
281

282 **Commissioner Gayle**  
283 This is Frank Blake's home.  
284

285 **Chairwoman Wingfield**  
286 All right, does anyone have more questions for the staff? Does the applicant have a presentation  
287 or would he like to speak?  
288  
289

290 **Chairwoman Wingfield**

291 You have ten minutes. State your name and where you live.

292

293 **Mr. David Jordan**

294 My name is David Jordan. I'm a professional engineer in Virginia. I have 14 wetland banks in  
295 Virginia. This is my first time doing tidal wetlands. And to answer some of your questions  
296 about how things are broken up into watersheds. Hydrologic unit codes are called but even in  
297 Accomack County, someone doing disturbances over here can't sell credits to the eastern part  
298 of the county. So, you can't impact wetlands on the eastern part of Accomack and sell over to  
299 Wallops Island, for instance. But in this case here, this site was originally part of about 220-  
300 acre parcel on the north side of Guard Shore Road. They carved out 10 acres, they built a house,  
301 or they built the property back in 1982 they dredged the material to build up the pad and the  
302 driveway it probably should have never been allowed. It wouldn't have been allowed in 1985  
303 after the Bay act, but in doing so, they filed a permit for a two-bedroom conventional drain  
304 field. I was told it was a hunting lodge. They built an eight-bedroom house on a two-bedroom,  
305 conventional drain field. The house was on the market for a while but didn't sell. Don't know  
306 what happened, but it burned down in April. I'm interested in doing it, I want to restore it.  
307 That's what I do for a living. I want to restore it back into the wetlands it needs to be. It should  
308 always be a tidal wetland. It should never have been what it was it was probably a neat little  
309 house. But if you go out there today, those standing pools of water are they're brackish. If have  
310 to go out there and you're covered with these big green one-inch flies on your body about 20  
311 seconds after you go out there in the site. There should never have been a house, it should  
312 never have a drain field. There are houses, cute little houses on the water. They're beautiful,  
313 but they don't have the pools of water standing and I want to convert it back to where it needs  
314 to be. And I think that it wants to be a wetland. There was no dirt taken, put on the property,  
315 or taken off. The material was all brought out of these pools to bring up these lots, the lot to  
316 build the house. I'll grade the area back. I'll fill in these pools and restore the vegetation like it  
317 needs to be. So anyway, any more questions I'd love to answer more questions about what I  
318 do, but I appreciate your approval on this, so thank you.

319

320 **Chairwoman Wingfield**

321 Thank you. Any questions about that?

322

323 **Commissioner Hickman**

324 I have a strange question. This thing is not directly related. I apologize for that. Is there a farm  
325 there, like, across that is raising cypress trees?

326

327 **Mr. David Jordan**

328 There's a development that was before this development. There's something to the south on  
329 Guard Shore Road. And that was, I looked at aerials. And that was done back in the 60s. On  
330 those, there are probably like 15 lots. I want to say there are only two houses on the 15 lots.  
331 The rest of them are vacant. I think someone owns most of those lots. But the weird thing is if  
332 you look at that road across there. It goes to the west and then wraps around to the south, and  
333 then the east at the end there's a dock with a small little boat house. I met the neighbor there's  
334 actually one house. The house is the fourth lot down on the right-hand side of that road, Herb  
335 and Stephanie. I met them. They were actually looking at this house before it burned down.  
336 And they're the ones that I spoke with they couldn't be here tonight, but they're fully supportive  
337 of what I want to do. They were all excited when I met them, about what I want to do to restore  
338 this area, so I don't know anything about the cypress trees down

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**Commissioner Hickman**

There that just looks like cypress trees growing in it. Just past you this way, the south side.

**Mr. David Jordan**

I mean, it's a neat little road going back there. And if you've been to guard shore beach at the end, it's a neat little place, but it's not really a place for a house amongst all those wetlands. So thank you.

**Chairwoman Wingfield**

Thank you. Do we have anybody sign up for public comment? All right,

**Chontese Ridley**

before moving on to a motion. I did want to go back to this slide. So again, right now, we are at this step in the process. So the applicant, Mr. Jordan, still has a ways to go. Even after a decision is made here tonight, there is still the Board of Supervisors, and once they make their decision, hopefully for approval, he still has to go through an extensive review with the Army Corps of Engineers, then he'll go before the Wetlands Board, and they'll have to make a decision as well before he gets to start any type construction. With that being said, were there any other questions or anything that you all might have wanted explained?

**Commissioner Onley**

Will there be any positive or negative tax to the county?

**Lee Pambid**

I would say that it has to be reassessed for some sort of conservation or, quote, unquote, agricultural use, even though this is not agricultural, I fully acknowledge that it's very possible it's being currently assessed for residential.

**Commissioner Onley**

I understand would be very minimal, but in the process of setting a precedent for the future, there was a lot of controversy down at Exmore, it took a farm and turned it into a wetland, and the county got no could get no taxes from it. Is that correct?

**Lee Pambid**

I couldn't tell you exactly, how Northampton viewed the shift in use as it pertains to, as it pertains to Real Estate Assessment and the real estate taxes that we would garner from that. But what I can say is that this is a different situation that, you know, again, it's compatible with the future land use designation for conservation.

**Commissioner Onley**

I agree to all of that, except for the fact that somebody might come in here with a 25-acre thing, and credits are sold with somebody in Virginia Beach, and our county doesn't get any income from it.

**Lee Pambid**

This the entire purpose behind reviewing and deciding on these through the conditional use permit process, which was not done from what I understand in Northampton. So that is a lesson learned for Accomack County that we wanted to basically implement a process that involved

388 a lot of scrutiny, a lot of processes, a lot of review so that that kind of thing wouldn't happen  
389 here. So again, there was no process in place, from what I understand, and I could have  
390 misunderstood the situation in Northampton. But here we have a process by which it's got to  
391 go through, first of all, a staff review, then it goes through a Planning Commission review,  
392 then it goes through a Board of Supervisors decision that would be the extent of the land use  
393 decision. The technical aspects of whether or not the wetland is actually going to work as a  
394 force for good, for nature, we'll leave that up to the Corps of Engineers. But from a land use  
395 perspective, we have implemented a process that involves several gates through which an  
396 applicant has to step through in order to get that. The Board of Supervisors is the ultimate  
397 decision maker, if they decide that it is not appropriate, then the conditional use permit will  
398 most likely be denied. I'd like to think that the staff would identify that early on, as a factor in  
399 its review and its recommendations. If it's decided, or if the staff feels like it is not an  
400 appropriate thing to do, then you will most likely get a recommendation for denial of a  
401 conditional use permit for an off-site wetlands mitigation site, setting.

402  
403 **Commissioner Onley**  
404 I'm concerned about setting a precedent that somebody could come back and say well you've  
405 done it once why can't I?

406  
407 **Lee Pambid**  
408 I'll repeat my little speech about precedent. All of our cases are reviewed on a case-by-case  
409 basis. What happened in the past on one site is not always going to be applicable currently for  
410 a different site. You're welcome.

411  
412 **Commissioner Gayle**  
413 I will comment that this is a prime example of what we were trying to achieve. This is what  
414 needs to be used for that purpose, not farmland.

415  
416 **Ms. Chontese Ridley**  
417 Yes. This property was never used for farming in most likely, can never be used for farming  
418 because of the hydraulic soil.

419  
420 **Chairwoman Wingfield**  
421 Any more questions?

422  
423 **Commissioner Tyler**  
424 I have several comments, but I'll reserve the right now.

425  
426 **Chairwoman Wingfield**  
427 You want to make a motion. Anyone like to make a motion?

428  
429 **Commissioner Tyler**  
430 You got a question?

431  
432 **Commissioner Roberts**  
433 Can I hear your question?

434  
435 **Commissioner Tyler**  
436 No, it's just a comment.

437 **Commissioner Roberts**

438 Comment then.

439

440 **Commissioner Tyler**

441 The number of steps it takes for a citizen to grow marsh grass is absurd.

442

443 **Commissioner Pettit**

444 I move that we accept the motion from the staff as presented by the staff. The Accomack  
445 County Planning Commission recommends that the Board of Supervisors approve CUSE-  
446 000665-2024, that's a conditional use permit to construct an approximately 2.89 acres wetland  
447 off-site compensatory mitigation site, pursuant to Accomack County code section 106-5411 to  
448 tax map number 53-A-149A and 53-A-149-A1 with eight conditions recommended by staff.

449

450 **Chairwoman Wingfield**

451 I motion, second and a second, all in favor. Say aye. Aye. All opposed.

452

453 **Chontese Ridley**

454 Thank you.

455

456 **Chairwoman Wingfield**

457 Moving on to other matters, would the planning commission roster? There we go.

458

459 **8. OTHER MATTERS**

460 **Lee Pambid**

461 This is just an informational item we had mentioned last month about whose terms were going  
462 to expire at the end of the year, December 31<sup>st</sup> that of course is the same information from last  
463 month. I won't bother repeating that but our primary request is that if you do anticipate any  
464 kind of changes in your status, if you don't want to be reappointed, or what have you, or if you  
465 want to be reappointed, then we'll need to let the Board of Supervisors know. And what the  
466 staff wanted to do, was to give them more heads up than had been afforded in the past. So  
467 it may seem a little bit early, but in mid-October, let us know in writing, and we'll give the  
468 Board of Supervisors some time, the individual supervisors for your various districts to get the  
469 ball rolling on reappointments or get the ball rolling on identifying successors. So again, not a  
470 whole lot to mention about that. It's the same information from last month. This is just the  
471 second month of that two-month period that I had mentioned. And if you've got any questions,  
472 I'd be happy to field them at this time.

473

474 **Chairwoman Wingfield**

475 All right, yeah, staff report.

476

477 **9. STAFF REPORTS**

478 **Mr. Lee Pambid**

479 **Subdivision Agent**

480 No report for Subdivison Agent.

481

482 **Zoning Administrator**

483 In the month of September, there was one variance case for a single-family dwelling in the  
484 Onancock area, that variance was approved. It was a front yard setback variance, and there  
485 were several environmental constraints there, primarily RPA and floodplain, and then they also



