

VIRGINIA: At a Regular Meeting of the Board of Supervisors for the County of Accomack held in the Cafetorium of Metompkin Elementary School in Parksley on the 18th day of November, A.D., 2009.

Members Present: Steve D. Mallette, Chair
Laura Belle Gordy, Vice Chair
Wanda J. Thornton
Ron S. Wolff
Grayson Chesser
Sandra Hart Mears
John Charles "Jack" Gray
Donald L. Hart, Jr.
E. Philip McCaleb

Others Present: Steven B. Miner, County Administrator
Yvonne N. Pennell, Administrative Assistant
Mark B. Taylor, County Attorney

Call to Order

The meeting was called to order by the Chair, with a Moment of Silence for the victims of the November 5, 2009 shootings at Fort Hood, Texas, and a prayer by Mrs. Thornton, after which the Pledge of Allegiance to the Flag was recited.

Adoption of Agenda

The Chair requested the following changes to the Agenda.

MOVE

Item 5 – Public Comment, to Item 6

Item 6 – Chair's Comments. To Item 5

ADD

Under Approval of Consent Agenda

Item 8d – Initiation of Consideration of the Zoning Ordinance Amendments to add Community Open Space and Community Improvement Regulation

Mr. McCaleb made a motion to adopt the Agenda as amended. Mrs. Mears seconded the motion. The motion passed unanimously.

Chair's Comments

The Chair commented on the following items:

- a. Aerospace Media Tour at Wallops Research Park
- b. Storm Response by Department of Public Safety
- c. Economic Activity
- d. Obesity Prevention Grant Leadership Meeting

Public Comments

The County Attorney read the rules governing Public Comment.

The following person expressed concern about the thirty-day appeal period for real estate assessment:

Toni Trepanier

The Chair requested the County Attorney to provide an explanation of the appeal period

Consideration of Minutes

Mrs. Mears made a motion to approve the Minutes of the October 21 and November 4, 2009, Meetings and the November 4 and November 6, 2009 Special Meetings. Mr. Hart seconded the motion. The motion passed unanimously.

Approval of the Consent Agenda

The Chair removed Item a and Item g for discussion.

Mrs. Mears made a motion to approve the Consent Agenda as amended. Mr. Hart seconded the motion. The motion passed unanimously.

- a. Approved scheduling a Public Hearing to receive public comments relating to the following Ordinance amendment for Board of Equalization,

**AN ORDINANCE TO AMEND CHAPTER 82, TAXATION,
ARTICLE III. REAL PROPERTY TAXES,
DIVISION 4. APPEALS AND EQUALIZATION OF ASSESSMENTS,
SEC. 82-140 THROUGH SEC. 82-146,
OF THE ACCOMACK COUNTY CODE**

WHEREAS, the Board of Supervisors of Accomack County finds that Chapter 82, Taxation, Article III, Real Property Taxes, Division 4, Appeals and Equalization of Assessments, Sec. 82-140 through Sec. 82-146, of the Accomack County Code needs to be amended to update said Ordinance to establish and set deadline appeal dates for the Accomack County Board of Equalization; and

WHEREAS, the Board of Supervisors is of the opinion that the Accomack County Code should be amended to establish and set deadlines for the Accomack County Board of Equalization effective immediately.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Accomack County Board of Supervisors this _____ day of _____, 2009, that Chapter 82, Article III, Real Property Taxes, Division 4. Appeals and Equalization of Assessments, Sec. 82-140 through Sec. 82-146, of the Accomack County Code are hereby amended as follows:

CHAPTER 82. TAXATION

DIVISION 4. APPEALS AND EQUALIZATION OF ASSESSMENTS

Sec. 82-140. Deadline for appeal of assessment to real estate assessor and board of equalization.

Upon receipt of a notice of assessment, any property owner or lessee of real property in the county shall have the right to appeal any assessment thereof to the county's real estate assessor. All such appeals shall be determined by the assessor prior to February 12 of the

year for which the assessment was made. Any appellant remaining unsatisfied with the action taken on appeal may further appeal to the board of equalization by making application at any time prior to March 15 of the year which the assessment was made. Any application for appeal received by the board of equalization after March 15 of the year for which the assessment was made shall not be heard or considered by the board of equalization. If no applications for relief are received by the deadline for appeal, the board of equalization shall be deemed to have discharged its duties for the year unless it deems it appropriate to meet on its own motion.

Sec. 82-141. Board of equalization established.

Pursuant to Section 58.1-3370 of the Code of Virginia, 1950, as amended, there is created in the County of Accomack a board of equalization which shall be called the Accomack County Board of Equalization. Such board shall consist of not less than three (3) nor more than five (5) members appointed by the Circuit Court for the County of Accomack for a term expiring one (1) year after the effective date of the assessment for which they were appointed.

Sec. 82-142. Same -- Qualification; appointment; organizational meeting.

Members of the Accomack County Board of Equalization shall meet the requirements set forth in Section 58.1-3374 of the Code of Virginia, 1950, as amended. Once appointed, the Accomack County Board of Equalization shall hold an organizational meeting prior to February 15, at which the said Board shall elect a chairman and a secretary from among its members and adopt its calendar of meetings.

Sec. 82-143. Same -- Compensation.

Each Accomack County Board of Equalization member shall receive as full compensation for services performed the sum of fifty dollars (\$50.00) per diem for each day that the said Accomack County Board of Equalization meets.

Sec. 82-144. Same -- Powers.

The Accomack County Board of Equalization shall have and may exercise the power to increase, decrease or affirm any assessment of real estate of which complaint is made, and to that end shall have all powers conferred upon boards of equalization by the Code of Virginia. In all cases brought before the board of equalization, there shall be a presumption that the valuation determined by the assessor is correct. The burden of proof shall be upon the taxpayer seeking relief to show that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. In order to receive relief, the taxpayer must produce substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in accordance with generally accepted appraisal practice. Mistakes of fact, including mistakes of computation, shall be deemed not to be in accordance with generally accepted appraisal practice. The said Board may go upon and inspect any real estate subject to adjustment or equalization by it.

Sec. 82-145. Same -- Completion of equalization.

All applications for relief timely filed shall be finally disposed of by the Accomack County Board of Equalization not later than April 15 of the year for which the assessment was made.

Sec. 82-146. Same -- Public notice of hearings.

Pursuant to Section 58.1-3378 of the Code of Virginia, 1950, as amended, public notice of each sitting of the board of equalization shall be given at least ten (10) days beforehand by publication in a newspaper having general circulation in the county and by posting the notice at the courthouse and at each public library, voting precinct, or both. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the Board

shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment or errors in acreage in such real estate assessments. The Board shall also hear complaints that real property is assessed at more than fair market value.

This Ordinance is effective immediately.

- b. Approved scheduling a Public Hearing to receive public comments on a proposed rezoning request by William Taylor to rezone approximately 6.75 acres of land located in Greenbush, VA, from Agricultural to Residential
- c. Approved scheduling a Public Hearing to receive public comments on proposed Regulations Governing Water Supply & Waste Discharge, and
- d. Approved the following Initiation of Consideration of the Zoning Ordinance Amendments to add Community Open Space and Community Improvement Regulation

**RE: INITIATE CONSIDERATION OF ZONING ORDINANCE
AMENDMENTS TO ADD COMMON OPEN SPACE AND
COMMON IMPROVEMENT REGULATIONS**

WHEREAS, the Board of Supervisors is authorized pursuant to § 15.2-2286 of the Code of Virginia to amend the County's zoning regulations from time to time whenever the public necessity, convenience, general welfare, or good zoning practice may so require; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require that the Accomack County Zoning Ordinance should be amended to provide a zoning ordinance to regulate future residential developments which include features proposed to be dedicated or conveyed for public use or to be held in common ownership by the persons residing in any such development in Accomack County; and

NOW, THEREFORE, BE IT ORDAINED that the Board of Supervisors of Accomack County does hereby initiate consideration of amendments to the Accomack County Zoning Ordinance to add zoning regulations for residential developments which include features proposed to be dedicated or conveyed for public use or to be held in common ownership by the persons residing in any such development in Accomack County.

Highway Matters

Monthly Report

Mr. Robert Isdell, Acting Residency Administrator, Virginia Department of Transportation (VDOT), reported on VDOT projects and activities, and responded to questions and comments from the Board.

Mrs. Mears made a motion to approve the following Resolution requesting the Transportation & Mobility Planning Division of the Virginia Department of Transportation to endorse a Federal Functional Classification modification to Routes 602 & 609. Mr. Hart seconded the motion. The motion passed unanimously.

**ACCOMACK COUNTY
BOARD of SUPERVISORS
RESOLUTION**

WHEREAS, the Accomack County Board of Supervisors is requesting the Transportation & Mobility Planning Division of the

Virginia Department of Transportation to endorse a request for Federal Functional Classification modification to the roadway systems in Accomack County and

WHEREAS, the 0.55 mile section of Route 602 from the Northampton County Line to Route 178 be upgraded from Rural Local Roadway to Rural Major Collector and

WHEREAS, the 2.47 mile section of Route 609 from the East Corporate limits of the Town of Onley to Route 13 Business be upgraded from Rural Local Roadway to Rural Major Collector;

NOW THEREFORE, BE IT RESOLVED by the Accomack County Board of Supervisors on this 18th day of November, 2009, that the above changes be and hereby are endorsed.

BE IT FURTHER RESOLVED that copies of this Resolution are forwarded to the Transportation & Mobility Planning Division and the responsible Residency Administrator.

Department of Economic and Community Development

County Division Director of Economic and Community Development Larry D.

Forbes reported on the following items, and responded to questions.

- Progress of new economic development initiatives
- Economic Development Authority Meeting
- Wallops spaceplex area bus tour – invited Board members to attend
- Study of a potential wind energy project
- Inquiries from a solarvoltaic power company concerning relocating to Accomack County
- A request from The Lower Somerset Energy Project for a meeting with the Board concerning a potential project in the northern area of the County
- Proposed Education Center at the Wallops Research Park

Director of Planning and Environmental Services

County Director of Planning and Environmental Services James M. McGowan reported that the Planning Commission had requested rescheduling the Joint Work Session of the Board of Supervisors and the Planning Commission, scheduled for November 12, 2009 was cancelled due to weather. By consensus, the Board directed Mr. McGowan to present December 2 and December 16, 2009 as preferred dates, and to report to the Board with the Planning Commission's preference for rescheduling.

Mr. McGowan presented a request from the County Administrator Steven Miner and the Director of Economic and Community Development that the Board schedule a tour of Planned Developments, similar to Planned Unit Developments (PUDs), in the Hampton Roads Area. The Mayors and Town Councils of Onley and Onancock would be invited to participate.

Mr. McGowan provided updates on the following:

- Rescheduling of the Public Hearing for the Proposed Taylor Rezoning to December 9, 2009 and request for the Board to schedule a Public Hearing for the same on December 16, 2009.
- Development Projects
 - Wal-Mart
 - Marine Science Consortium
 - Onley Community Health Center
 - Onancock Sewage Treatment Plant
- Department of Planning Projects

Director of Building and Zoning

County Director of Building and Zoning David Fluhart reviewed the Monthly Building and Zoning Report and responded to questions.

Space Needs Study Update

Mr. Howard Collins, AIA, of Waller Todd & Sadler Architects, Inc. provided an update on the progress of the Space Needs Study.

Discussion followed, with Mr. Collins, the County Administrator, and County Director of Finance Michael Mason responding to questions.

Float Barge

The County Administrator reported that he would be addressing the Board concerning the float barge in the absence of the scheduled Bay Coast Railroad representative Oral Lambert, CEO, Bay Creek Resort & Club. The County Administrator presented a proposal from Northampton County for a bi-county application for a loan of \$300,000, to be divided between and to be repaid by both counties, as a match to the Commonwealth Transportation funds, available through the end of December 2009, for the renovation of the existing rail float barge. The funds, awarded to the Accomack-Northampton Planning District Commission (A-NPDC) for a previously proposed project in the region, would be repaid to the A-NPDC and disbursed for future projects in the region.

The County Administrator expressed concerns, including the responsibilities of the Bay Coast Railroad, the current operator to maintain the operation of the float barge, and that the barge may be under-utilized and removed from service during the ten-year loan repayment period.

The Chair stated that the Accomack-Northampton Transportation District (A-NTDC) suggested that Bay Coast Railroad participate in cost sharing in the project.

Discussion followed.

County Administration Building HVAC System

Mr. McCaleb made a motion to support the Energy-Efficiency and Conservation Block Grant (EECBG) Application for improvements to the County Administration Building HVAC system in the amount of \$190,000 and authorize the County Administrator to execute the necessary documents. Mrs. Mears seconded the motion. The motion passed unanimously.

County Administrator's Report

Offshore Wind Leasing

The County Administrator reported a request from Elaine Meil, Executive Director of the Accomack-Northampton Planning District Commission that a Board member be appointed to a Regional Committee to study Offshore Wind Leasing.

Mr. Hart made a motion to appoint Mr. McCaleb to the Regional Committee on Offshore Wind Leasing. Mr. Wolff seconded the motion. The motion passed unanimously.

Project Updates

The County Administrator updated the Board concerning the following projects:

- An offer of a Community Block Recovery Grant from the Department of Housing and Community Development (DHCD) for the build-out of Eastern Shore Broadband fiber optic system
- The meeting facilitated by DHCD staff addressing regional water and sewer issues
- Community Services Board (CSB) FY2010 Budget and Performance Contract
- Request for use of the Fire Training Center for marine firefighting
- Release of Real Estate Reassessment notices
- Town of Onancock Sewer Study Meeting, Thursday November 18, 2009
- Nine bids were received for the County for water and sewer services

Recess

By consensus of the Board, the Chair called for a ten-minute recess prior to the start of the Public Hearings at 7:30PM.

Call to Order

The Chair called the meeting back to order.

Public Hearings

The County Attorney read the rules governing Public Hearings.

Intention to Sell Certain Real Estate Owned by Accomack County

The County Division Director of Economic and Community Development presented a background overview of the notice to signify the intention to sell certain real estate owned

by Accomack County pursuant to Virginia Code §15.2-734 and §15.2-1813., being property identified as Tax Map No. 28-1-A2A (3.1 Acres, located at the intersection of Kearsarge Circle and Yorktown Drive in Wallops Island, Accomack County, Virginia). to the Garrick Companies and Stellati Real Estate.

The Chair opened the Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the Continuation of notice to signify the intention to sell certain real estate owned by Accomack County at Kearsarge Circle and Yorktown Drive, Wallops Island, Virginia.

No public comments were offered and the Chair closed the Public Hearing.

Mr. Wolff made a motion to entertain and execute the sale of real estate owned by Accomack County at Kearsarge Circle and Yorktown Drive, Wallops Island, Virginia. Mrs. Thornton seconded the motion.

For purposes of clarification, the County Attorney requested that the motion be amended to authorize the County Administrator to execute the contract on the terms negotiated upon the submittal of the signed contract by the purchaser.

Mr. Wolff and Mrs. Thornton accepted the revision.

The motion passed unanimously.

Proposed Amendment to Accomack County Code, Chapter 82, Taxation

The Chair opened the Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning the following Proposed Amendment to Accomack County Code, Chapter 82, Taxation, to change date for filing of Tangible Personal Property Tax Returns from May 1 to February 15, change deadline for seeking real estate exemption from April 1 to March 1 and changing “elderly” to “senior citizen” and “handicapped” to “disabled”.

No public comments were offered and the Chair closed the Public Hearing.

Mr. McCaleb made a motion to approve the following Proposed Amendment to Accomack County Code, Chapter 82, Taxation, to change date for filing of Tangible Personal Property Tax Returns from May 1 to February 15, change deadline for seeking real estate exemption from April 1 to March 1 and changing “elderly” to “senior citizen” and “handicapped” to “disabled.” Mr. Wolff seconded the motion.

Discussion followed, with County Commissioner of Revenue Leslie Savage and the County Director of Finance responding to questions.

The motion passed unanimously.

**AN ORDINANCE TO AMEND CHAPTER 82, ARTICLE II,
PERSONAL PROPERTY TAXES,
DIVISION 1. GENERALLY, SEC. 82-37,
FILING ANNUAL RETURNS; PENALTY; INTEREST,
AND
CHAPTER 82, ARTICLE III, REAL PROPERTY TAXES,
DIVISION 2. SENIOR CITIZEN AND DISABLED
EXEMPTION, SEC. 82-100, APPLICATION FOR EXEMPTION,
OF THE ACCOMACK COUNTY CODE**

WHEREAS, the Board of Supervisors of Accomack County finds that Chapter 82, Article II, Personal Property Taxes, Division 1, Generally, Sec. 82-37, Filing Annual Returns; Penalty; Interest, and Chapter 82, Article III, Real Property Taxes, Division 2, Senior Citizen and Disabled Exemption, Sec. 82-100, Application for Exemption, of the Accomack County Code needs to be amended to update said Ordinance to amend the due date for filing for tangible business property/machinery and tools and to amend the due date for application for relief to the senior citizens and disabled to work the dates into the new billing software system; and

WHEREAS, the Board of Supervisors is of the opinion that the Accomack County Code governing Personal Property Taxes and Real Property Taxes should be amended so as to utilize the new billing software system and such amendments should become effective for the calendar year 2010.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Accomack County Board of Supervisors this 18th day of November, 2009, that Chapter 82, Article II, Personal Property Taxes, Division 1. Generally, Sec. 82-37, Filing Annual Returns; Penalty; Interest, and Chapter 82, Article II, Real Property Taxes, Division 2. Senior Citizen and Disabled Exemption, Sec. 82-100, Application for Exemption, of the Accomack County Code are hereby amended as follows:

ARTICLE II. PERSONAL PROPERTY TAXES

Division 1. Generally

Sec. 82-37. Filing annual returns; penalty; interest.

(a) The annual tax return of tangible personal property, machinery and tools in the county shall be filed on forms as prescribed by the commissioner of the revenue, no later than ~~May~~ February 15 of each year. The penalty for failure to file a return by ~~May~~ February 15 of each year shall be ten percent per annum or \$10.00, whichever is greater; however, the penalty shall in no case exceed the amount of the tax assessable. The tax and penalty shall be computed on the property assessable on such return and/or on the property that should have been included on any return required to be filed under this section.

(b) The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make return of taxable property as may be required by this section. Any such penalty and interest when so assessed shall become a part of the tax.

(c) Interest on all delinquent taxes shall be due and payable at a rate of ten percent per annum. Interest shall commence on the first day of the month following the month in which such taxes are due by ordinance to be filed.

(d) The commissioner of the revenue, at his discretion, may waive the penalty and interest for failure to file a return if such failure was not in any way the fault of the taxpayer.

(Code 1982, § 18.2(1)--(4))

State law references: Filing of annual returns of tangible personal property, machinery and tools, Code of Virginia, § 58.1-3916.

ARTICLE III. REAL PROPERTY TAXES

Division 2. Senior Citizen and Disabled Exemption

Sec. 82-100. Application for exemption.

(a) Annually after January 1 and before March 1 of the taxable year, the person or persons claiming an exemption shall file with the commissioner of the revenue, on forms supplied by such commissioner of the revenue, an affidavit setting forth the location and assessed value of the property; the names of all the related persons occupying such real estate; the total combined income of the persons as specified in subsection 82-99(3) above; and the net combined financial worth of the persons as specified in subsection 82-99(4) above. If such person is under 65 years of age, such form shall have attached thereto a confirmation by the Social Security Administration, the Veteran's Administration, or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, sworn affidavit by two medical doctors license to practice medicine in the Commonwealth, to the effect that such person is permanently and totally disabled, as herein defined. The affidavit of at least one of such doctors shall be based upon a physical examination of such person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the civil service commission which is relevant to the standards for determining permanent and total disability as herein defined. The commissioner of the revenue shall also make such further inquiry of persons seeking an exemption requiring therefore, including qualifications as permanently and totally disabled. The commissioner of the revenue is hereby authorized to require the production of certified tax returns to establish the income or financial worth of any applicant for exemption from tax hereunder.

(b) If, after audit and investigation, the commissioner of the revenue determines that the person or persons are qualified for exemption, shall so certify the same to the county treasurer who shall deduct the amount of the exemption from the claimant's real estate tax liability for the taxable year in question.

(Code 1982, § 24.3(5); Ord. of 12-20-2000, § 5)

This Ordinance is effective immediately.

Joint Public Hearing with the Planning Commission

Draft Amendments to the Accomack County Zoning District Ordinances

County Director of Planning James McGowan read the staff report for the Draft

Amendments to the Accomack County Zoning District Ordinances – Draft Rural Residential Zoning District.

Discussion followed, with the Director of Planning and County Planning Commission Chair E. Phillip Hickman responding to questions.

The Director of Planning read the staff report for the Draft Amendments to the Accomack County Zoning District Ordinances – Draft Village Residential Zoning District.

Discussion followed, with the Director of Planning and the Planning Commission Chair responding to questions.

The Director of Planning reported the following corrections to the Village Residential Zoning District text:

Sec. 106-543. Development standards.

~~(d) Septic drainfields and wells may be located on conservation lots, adjacent to the lot they serve, provided that such drainfield or well is located within the parent parcel of the proposed development, is approved by the Virginia Department of Health, and that an easement is established at the time of the final plat for such lot, which shall run to the benefit of the lot served. The responsibility for maintaining, repairing or replacing such drainfields or wells shall be borne by the lot owner served by such easement.~~

Sec. 106-544. Submission Requirements

In addition to the requirements for zoning map amendments as set forth in Article XIII of this chapter, the applicant shall submit the following as part of the application for rezoning to the Village Residential District:

(b) A concept development plan for the property, drawn at a scale of 1" = 200', unless an alternative scale is approved by the Director of Planning, which shall show the proposed development of the property, including the proposed general relationships of uses within and adjacent to the site, structures, uses, streets, parking areas, utilities, stormwater management facilities, open space areas, vegetation, sidewalks and trails, and means of access to the existing public road system.

The concept development plan must be prepared by using the following five-step process. The applicant must provide the evidence of the results of each of these five steps as part of the concept development plan or as an attachment thereto.

Step One. The applicant must identify Conservation Areas, which is land area that will be permanently protected by a conservation easement. Such land may include all or portions of major environmental features shown in the existing features map and as identified in the Accomack County Comprehensive Plan. The remaining land on the site is designated as Potential Development Areas.

Step Two. The applicant must locate sites for individual houses within the Potential Development Areas so that their views of the open space are maximized.

Step Three. The applicant must show streets and trails that will connect the house sites.

Step Four. The applicant must show lot lines for each individual lot that will encompass each house site.

*Step Five. The applicant must identify septic drainfield sites ~~sufficient to serve every house site identified. The septic field sites are not required to be located on the lot which they serve, in accord with the provisions of Sec. 105-113 (d).~~ **on conservation lots.***

The following person spoke in support of the Draft Amendments to the Accomack County Zoning District Ordinances:

Lois Cooper

The following person expressed concern about density control in the Draft Amendments to the Accomack County Zoning District Ordinances:

Toni Trepanier

Following the vote of the Planning Commission to recommend approval of the Draft Amendments to the Accomack County Zoning District Ordinances, in accordance with the Comprehensive Plan and the Board's Strategic Plan, with the stated changes to the Village

Residential Zoning District, the Board requested the opinion of the County Attorney concerning said changes.

The County Attorney stated that because of the changes to the Village Residential Zoning District, the Draft Amendment to the Village Residential Zoning District should be withdrawn and presented to the Board for consideration at the next Regular Board Meeting.

Discussion followed.

Mr. Chesser made a motion to approve the following Draft Rural Residential Zoning District Amendment to the Accomack County Zoning District Ordinance as presented. Mr. McCaleb seconded the motion. The motion passed unanimously.

ARTICLE XX. RURAL RESIDENTIAL DISTRICT “RR”

Sec. 106-501. Statement of intent.

The rural residential district is intended to allow low density and clustered rural residential development on relatively large tracts of land near the county’s existing villages and existing areas of residential development, as generally shown on the Future Land Use Map of the Comprehensive Plan, in order to conserve natural resources including open, agricultural and forest land, ground water, shellfish waters, and to preserve rural character by facilitating residential development that reflects and perpetuates Accomack County’s existing, historic land use pattern and appearance of the landscape as viewed from private land and the public road system.

Sec. 106-502. Uses permitted by right.

The following uses shall be permitted subject to all the other requirements of this chapter as a matter of right in the Rural Residential District "RR".

- (1) Single-family dwellings;
- (2) Manufactured homes, category II;
- (3) Professional offices within occupant's dwelling;
- (4) Home occupations conducted by occupant;
- (5) Private and noncommercial small boat docks;
- (6) Accessory uses as defined;
- (7) Recreational facilities which are to be used in connection with single-family dwellings and available only to the family of the householder and his private guests;
- (8) Public or private playgrounds, parks and similar community recreational facilities without outdoor lights for nighttime use;
- (9) Public utilities: poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, except for public water and sewerage facilities;
- (10) Recreational livestock, including horses, sheep, goats, rabbits, chickens and other poultry, on lots 3 acres or greater. Recreational livestock shall be permitted at a density of one animal unit per acre. One animal unit shall equal the following: One horse, two sheep, two goats, two dozen chickens or other poultry, or two dozen rabbits.
- (11) General agricultural and forestry uses on conservation lots, including pick-your-own fruit, vegetable, and Christmas tree farms, but not intensive agriculture, as defined herein.
- (12) Small wind energy systems, as defined, on lots three acres or greater in size.

Sec. 106-503. Uses permitted by special exceptions – special use permits.

The following uses shall be permitted in the Rural Residential District "RR", subject to all

the other requirements of this chapter, only upon obtaining a special exception-special use permit from the board of zoning appeals:

- (1) Dwelling, two-family, on lots with a minimum of 30,000 square feet (see section 106-230 “off-street parking”);
- (2) Dwelling, accessory, up to 650 square feet, on lots with a minimum area of 30,000 square feet. Accessory dwellings shall be 1) limited to one per lot and 2) permitted with an occupied main dwelling (see section 106-230 “off-street parking”);
- (3) Schools;
- (4) Churches;
- (5) Post Offices;
- (6) Public Safety Facilities;
- (7) Farm stands and seafood stands;
- (8) Bed and Breakfast Inns with up to 5 guest rooms;
- (9) Small wind energy systems, as defined, on lots one acre or greater in size.

Sec. 106-504. Uses permitted by conditional use permits.

The following uses shall be permitted in the Rural Residential District "RR", subject to all the other requirements of this chapter, only upon obtaining a conditional use permit from the board of supervisors, in accordance with Sec. 106-234 of this chapter.

- (1) Apartment houses, with up to four dwelling units, on lots with a minimum area of one (1) acre (see section 106-230 “off-street parking”);
- (2) Retail stores and shops up to 3,000 square feet of internal floor area;
- (3) Restaurants with up to 3,000 square feet of internal floor area;
- (4) Farm markets and seafood markets;
- (5) Public or semi-public recreational facilities, including main and accessory buildings and parking areas with or without outdoor lights for nighttime use;
- (6) Waterfront businesses, such as wholesale and retail marine activities, commercial marinas, yacht clubs and servicing facilities for the same;
- (7) Public or community water or sewerage facilities.

Sec. 106-505. Area and density regulations.

- (a) Total Site Area; Permitted Lots. The minimum initial contiguous land area required to qualify for rezoning to the Rural Residential District "RR" is twenty (20) acres.
- (b) Minimum Lot Area: The minimum lot area in the district shall be three acres, unless the cluster option is used, as set forth in subsection 106-505(d). Every lot in the RR District must be a conventional lot as set forth in Section 106-505 (c), a cluster lot as set forth in Section 106-505 (d) (1), or a conservation lot as set forth in Section 106-505 (d) (2). Tidal wetlands, non-tidal wetlands, resource protection area, velocity flood zones, and slopes 25 percent or greater shall not be counted toward the calculation of the minimum lot area for the purposes of meeting the density requirements set forth herein.
- (c) Conventional Lots: The minimum lot area for conventional lots is three (3) acres. The maximum length/width ratio of a conventional lot is 5:1, as measured by the average length and average width of the lot.
- (d) Cluster option: Lots may be clustered at a maximum density of one lot per two acres. A 50-foot vegetative buffer, consisting of existing woods, hedgerows, or fields, shall be provided abutting all existing public roads. Any existing indigenous woody vegetation within this buffer must be preserved.
 - (1) Cluster lots. A maximum of forty percent (40%) of the total initial tract area may be established as cluster lots, as defined herein, including all internal roads, streets and alleys. The minimum lot area for each cluster lot is 20,000 square feet. The maximum lot area for each cluster lot is two (2) acres.

(2) Conservation Lots. A minimum of sixty percent (60%) of the initial tract area must be established as one or more conservation lots, as defined herein. The minimum lot area for a conservation lot is ten (10) acres. At least eighty (80) percent of the existing public road frontage of the initial tract must be fronted by one or more conservation lots. The maximum length/width ratio of a conservation lot is 5:1, as measured by the average length and average width of the lot. The 5:1 length/width ratio shall not apply to the part of a conservation lot that is required as a vegetative buffer along an existing public road, is tidal wetlands or non-tidal wetlands, or is resource protection area.

(e) Cluster lots adjacent to Resource Protection Area (RPA) shall have a minimum of 30,000 square feet outside of the RPA.

(f) Notwithstanding the foregoing provisions, the minimum lot area for any lot created pursuant to a family subdivision under section 78-12 of the Subdivision Ordinance shall be 30,000 square feet.

Sec. 106-506. Frontage regulations.

(a) Conventional Lots

The minimum frontage (lot width) shall be one-hundred fifty (150) feet at the "setback line"; however, conventional lots may front either on a public or private street right-of-way or another lot line. If fronting on a lot line, an access easement of at least twenty (20) feet in width must be provided from the lot to a public street right-of-way.

(b) Cluster Lots

The minimum frontage (lot width) shall be one-hundred (100) feet at the "setback line." At least eighty (80) feet of the front lot line of a cluster lot must front on a public street right-of-way.

(c) Conservation Lots

The minimum frontage (lot width) shall be three-hundred (300) feet at the "setback line", however, conservation lots may front either on a public or private street right-of-way or another lot line. If fronting a lot line, an access easement of at least twenty (20) feet in width must be provided from the lot to a public street right-of-way.

Sec. 106-507. Setback regulations.

(a) Conventional Lots

The minimum setback for structures is fifty (50) feet from the front lot line or right-of-way.

(b) Cluster Lots

The minimum setback for structures is thirty (30) feet from the front lot line or right-of-way.

(c) Conservation Lots

The minimum setback for structures is fifty (50) feet from the front lot line.

(d) Residential structure setbacks from boundaries of adjacent properties.

All residential structures in a Rural Residential District must be set back a minimum of two-hundred (200) feet from the boundary line of any adjacent tract that is zoned agriculture.

Sec. 106-508. Yard regulations.

(a) Conventional lots.

(1) *Side.* The minimum side yard for each main structure is thirty (30) feet. The

minimum side yard for accessory structures is fifteen (15) feet. On conventional lots that include Resource Protection Area (RPA), side yard setbacks for main structures shall be measured from the landward side of the 100-foot RPA buffer.

- (2) *Rear.* Each main structure shall have a rear yard of at least thirty-five (35) feet. Each accessory structure shall have a rear yard of at least ten (10) feet. On conventional lots that include Resource Protection Area (RPA), rear yard setbacks for main structures shall be measured from the landward side of the 100-foot RPA buffer.

(b) Cluster Lots.

- (1) *Side.* The minimum side yard for each main structure is fifteen (15) feet. The minimum side yard for accessory structures is five (5) feet. On cluster lots that include Resource Protection Area (RPA), side yard setbacks shall be measured from the landward side of the 100-foot RPA buffer.
- (2) *Rear.* The minimum rear yard for each main structure is thirty-five (35) feet. The minimum rear yard for accessory structures is five (5) feet. On cluster lots that include Resource Protection Area (RPA), rear yard setbacks shall be measured from the landward side of the 100-foot RPA buffer.

(c) Conservation Lots.

- (1) *Side.* The minimum side yard for each main structure is thirty (30) feet. The minimum side yard for accessory structures is fifteen (15) feet. On conservation lots that include Resource Protection Area (RPA), side yard setbacks for main structures shall be measured from the landward side of the 100-foot RPA buffer.
- (2) *Rear.* Each main structure shall have a rear yard of at least thirty-five (35) feet. Each accessory structure shall have a rear yard of at least ten (10) feet. On conservation lots that include Resource Protection Area (RPA), rear yard setbacks for main structures shall be measured from the landward side of the 100-foot RPA buffer.

Sec. 106-509. Height regulations.

Buildings may be erected up to thirty-five (35) feet in height except that:

- (1) Dwellings may be erected to a height of forty-five (45) feet provided that both required side yard setbacks are increased one foot for each foot in height by which the dwelling exceeds thirty-five (35) feet.
- (2) A public or semi-public building such as a school or church may be erected to a height of sixty (60) feet from grade provided that required front, side and rear yards shall be increased one foot for every foot in height by which the building exceeds thirty-five (35) feet.
- (3) Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt from these height regulations. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (4) No accessory building which is within thirty (30) feet of any lot line shall be more than one-story or twelve (12) feet high.
- (5) Small wind energy system towers shall not exceed a height of 65 feet on a parcel of less than 5 acres, or a maximum height of 80 feet on a parcel of five acres or more. Small wind energy system towers shall be set back one foot from adjacent property lines for every one foot of tower height.

Sec. 106-510. Special provisions for corner lots.

Of the two sides of a corner lot, the front is the shorter of the two sides fronting on streets.
See Sec. 78-8-C-3.

Sec. 106-511. Sign regulations.

Sign regulations shall conform to article VIII of this chapter.

Sec. 106-512. Off-street parking regulations.

Off-street parking regulations shall conform to section 106-230 of this chapter.

Sec. 106-513. Development standards.

- (a) Any residential subdivision creating fifty (50) or more lots is subject to resource quality protection plan requirements as specified in section 106-235 of this chapter.
- (b) Accessory structures shall be subject to the following limitations.
 - (1) The total Floor Area Ratio (FAR) of accessory structures shall not exceed 0.05 FAR.
- (c) Accessory dwellings are subject to the following limitations.
 - (1) The maximum size of the accessory dwelling unit is six hundred fifty (650) square feet of total floor area.
 - (2) Only one (1) accessory dwelling unit or apartment is permitted on any single lot, unless allowed by Conditional Use Permit.
 - (3) An accessory dwelling unit may be located as an accessory building, within an accessory building or agricultural structure, or in the principal structure.
 - (4) An accessory unit may not, in any manner, be subdivided from the lot on which the principal or main dwelling is located, either by subdivision, boundary line adjustment or vacation of a lot line.
- (d) Septic drainfields and wells may be located on lots adjacent to the lot they serve, provided that such drainfield or well *is located within the parent parcel of the proposed development*, is approved by the Virginia Department of Health, and that an easement is established at the time of the final plat for such lot, which shall run to the benefit of the lot served. The responsibility for maintaining, repairing or replacing such drainfields or wells shall be borne by the lot owner served by such easement.
- (e) A conservation lot may not have total development, including main structures and accessory structures, in excess of 0.075 Floor Area Ratio (FAR). The open space conservation easement required in Section 106-515 must establish such limitations on each conservation lot.
- (f) General agricultural and forestry uses are permitted only on conservation lots. Intensive agricultural uses, as defined herein, are not permitted in the Rural Residential "RR" district.

Sec. 106-514. Submission Requirements

In addition to the requirements for zoning map amendments as set forth in Article XIII of this chapter, the applicant shall submit the following as part of the application for rezoning to the Rural Residential District:

- (a) A map of existing features, at a scale of 1" = 200', unless an alternative scale is approved by the Director of Planning, which shall show the major environmental features of the site, including but not limited to existing conservation easements, tidal wetlands, non-tidal wetlands, perennial streams, floodzones, slopes 25 percent or greater, vernal pools, resource protection areas, groundwater recharge areas, soil types (including prime agricultural soils), agricultural fields, woodlands, agricultural and forestal districts, hedgerows, fences, existing buildings, historic and cultural features (including cemeteries and military earthworks), power lines, underground pipes, geologic features, and areas of the property that are visible from any adjacent public right-of-way.
- (b) A concept development plan for the property, drawn at a scale of 1" = 200', unless an alternative scale is approved by the Director of Planning, which shall show the proposed development of the property, including the proposed general relationships of uses within and adjacent to the site, structures, uses, streets, parking areas, utilities, stormwater management facilities, open space areas, vegetation, sidewalks and trails, and means of access to the existing public road system.

The concept development plan must be prepared by using the following five-step process. The applicant must provide the evidence of the results of each of these five steps as part of the concept development plan or as an attachment thereto.

Step One. The applicant must identify Conservation Areas, which is land area that will be permanently protected by a conservation easement. Such land may include all or portions of major environmental features shown in the existing features map and as identified in the Accomack County Comprehensive Plan. The remaining land on the site is designated as Potential Development Areas.

Step Two. The applicant must locate sites for individual houses within the Potential Development Areas so that their views of the open space are maximized.

Step Three. The applicant must show streets and trails that will connect the house sites.

Step Four. The applicant must show lot lines for each individual lot that will encompass each house site.

Step Five. The applicant must identify septic drainfield sites sufficient to serve every house site identified. The septic field sites are not required to be located on the lot which they serve, in accordance with the provisions of Sec. 106-513 (d).

- (c) Applications proposing to create 50 or more lots shall submit a resource quality protection plan, in accordance with the requirements set forth in Sec. 106-235 of this ordinance.
- (d) Applications proposing to create 50 or more lots shall submit a traffic impact study to determine the proper design and configuration of new streets and public road entrances, which shall include the following:
 - (1) Clearly stated assumptions.
 - (2) A summary table or tables listing each type of land use, the number and type of dwelling units proposed, the trip rates used (daily as well as peak periods), and the resultant trip generation.
 - (3) A site map showing the location within the site of each type of proposed land use and of all dwelling units.
 - (4) Existing and projected traffic volumes (including turning movements), facility geometry (including storage lengths), and traffic controls where appropriate, including A.M. and P.M. peak hour site traffic, A.M. and P.M. peak hour total traffic, total daily traffic, distribution and assignment of trips generated by the

project, and projected level of service (LOS) and warrant analyses, including existing conditions and cumulative conditions at build-out. Projections will be for five (5) years following the date of proposed project build-out. The base volume for non-site traffic shall be the latest forecasts available from the Virginia Department of Transportation. The source for trip generation rates shall be "Trip Generation" published by the Institute of Transportation Engineers (ITE), most recent edition.

- (5) Mitigation phasing plan including dates of proposed mitigation measures.
- (6) All final submittals for traffic impact studies must be signed and sealed by a Virginia Registered Civil Engineer.

Sec. 106-515. Restrictions on Conservation Lots.

Any conservation lot created under the provisions of this district must be prohibited from any future subdivision or development in excess of that permitted by these regulations, by the establishment of a permanent open space conservation easement, containing terms satisfactory to the Board of Supervisors, including those required in Section 106-513 (e) and which must be recorded at the time of final subdivision plat approval.

The County shall enforce the permanent open space conservation easement required herein. Such easement shall be in a form approved by the County, and shall provide that, notwithstanding such easement, the eased portion of conservation lots shall be maintained by the owners of such lots, and that the County should bear no responsibility or liability for such maintenance. However, nothing contained herein shall require that such easement allow public access nor prevent such landowners from leasing such open space for agricultural or other purposes in accordance with the permitted uses of the district.

Sec. 106-516. Road Requirements.

- (a) All new public roads and streets in the district, including entrances to private roads, alleys, and driveways, shall be constructed by the applicant, and shall conform to VDOT standards for acceptance into the VDOT public road system. All new private roads and alleys shall be constructed by the applicant and conform to Accomack County standards. All roads shall be interconnected in a loosely formed grid pattern in keeping with the adjacent existing traditional pattern of development.
- (b) Roads which will serve a combined traffic loading exceeding 250 vehicles per day, shall generally have two (2) access points to the existing public road network.
- (c) The Board of Supervisors may, after receiving a recommendation from the Planning Commission, waive the two (2)-access point requirement upon finding special topographic or other circumstances which preclude implementation, but may in such case require alternative configurations of road design.

Secs. 106-517--106-530. Reserved.

Definitions added to Article I of Chapter 106:

Agriculture, intensive:

The commercial raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep, goats; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep, goats, and other animals. Commercial vegetable plasticulture, including staked tomatoes. Livestock markets and pet farms.

Farm Stand:

A temporary open air stand or place for the seasonal selling of agricultural products produced on the premises. A farm stand is portable and capable of being dismantled or removed from the sales site.

Farm Market:

A permanent building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and home-made handicrafts. The floor area devoted to the sales of these accessory items shall not exceed 50 percent of the total sales area.

Floor Area Ratio:

The ratio of the total building floor area on a lot to the total lot area of the lot: Total floor area divided by total lot area equals Floor Area Ratio.

Inn, bed and breakfast:

An owner-occupied residence which has a maximum of five guest rooms within a single-family dwelling, the owners of which serve breakfast to paying guests.

Lot, cluster:

A residential building lot within a rural cluster development that is smaller than the average lot size of the development, so as to allow a majority of the tract to be preserved in conservation lots and/or open space.

Lot, conservation:

A residential building lot within a rural cluster development that is larger than the average lot size of the development and is permanently preserved for agricultural and/or open space uses.

Lot, conventional:

A residential building lot that is the same size or greater than the minimum permitted lot.

Lot, double-frontage (also "through lot"):

A lot that has road frontage at both the front and rear lot lines; a double-front lot. Such lots shall be deemed to have two fronts, subject to setback requirements as defined in the district.

Open Space: An area of land that is valued for natural processes and wildlife, for agricultural and silvicultural production, for active and passive recreation, and/or for providing other public benefits.

Seafood Stand:

A temporary open air stand or place for the seasonal selling of fresh seafood products. A seafood stand is portable and capable of being dismantled or removed from the sales site.

Seafood Market:

A permanent building or structure used for the retail sales of fresh or frozen seafood. May also involve the accessory sales of other items and foodstuffs needed for the preparation of seafood. The floor area devoted to the sales of these accessory items shall not exceed 50 percent of the total sales area.

Wind Energy System, Small: A private wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a maximum power of not more than 50kW, which will be used primarily to reduce on-site consumption of utility power.

Rescheduling Joint Work Session with the Planning Commission

The Planning Commission Chair asked that the Board select a date for rescheduling the Joint Work Session cancelled due to inclement weather.

The Planning Commission adjourned at 8:45PM

County Attorney's Report

The County Attorney updated the Board concerning the following:

- Proposed amendment to Code of Virginia for the minimum littering fine
- Proposed Stormwater Management Ordinance Amendments

Board of Supervisor's Comment Period

Mrs. Thornton questioned the lack of Board member attendance at the Special Meeting held at Shore Financial Center.

Mr. Gray asked if Wal-Mart intended to build a strip mall similar to the Pocomoke City, Maryland location. The Chair stated that no such ancillary development plans had been submitted.

Mr. Chesser thanked the Planning Commission for the work on the Zoning Ordinance.

Mrs. Mears echoed Mr. Chesser's praise of the Planning Commission, and added her appreciation of the Department of Planning Staff.

Mr. Wolff thanked the County Attorney for assisting at the E.D. 2 Constituent Meeting, with a standing room only crowd in excess of 70 citizens. The topic was the possible annexation of the Wallops area by the Town of Chincoteague. Mr. Wolff stated that no one at the meeting was in support of the annexation.

The Chair added to Mr. Wolff's comments concerning the proposed annexation, expressing his desire to maintain open communication and to expand mutual economic development goals.

Mrs. Thornton responded to the Chair's comments, negating the reports of a hostile move by the Town of Chincoteague against the County of Accomack by seeking annexation.

Payables

Mrs. Mears made a motion to authorize the payment of invoices. Mr. Hart seconded the motion. The motion passed unanimously.

Adjournment

Mr. Gray made a motion to adjourn. Mr. Wolff seconded the motion. The motion passed unanimously. The meeting adjourned at 9:15PM

Chair