



PLANNING DEPARTMENT

**NEW KENT COUNTY PLANNING COMMISSION
REGULAR MEETING
MONDAY, MARCH 15, 2021, AT 6:30 PM
TRAINING ROOM OF THE NEW KENT COUNTY SHERIFF'S OFFICE
APPROVED MINUTES**

THE REGULAR MEETING OF THE NEW KENT COUNTY PLANNING COMMISSION WAS HELD ON THE 15TH DAY OF MARCH IN THE YEAR TWO THOUSAND TWENTY-ONE IN THE TRAINING ROOM OF THE NEW KENT COUNTY SHERIFF'S OFFICE AT 6:30 PM.

IN RE: 1. CALL TO ORDER

The 2021 Chairwoman, Ms. Rose, called the meeting to order at 6:30 pm.

IN RE: 2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

The Chairwoman led the Moment of Silence and Pledge of Allegiance.

IN RE: 3. ROLL CALL AND DETERMINATION OF A QUORUM

Attendance:	Ms. Patricia Townsend	Present
	Ms. Katherine Butler	Present
	Mr. John Moyer	Present
	Ms. Amy Pearson	Present
	Ms. Curtisa Thomas	Present
	Mr. Gary Larochele	Present
	Dr. Joanne Schmit	Present
	Mr. Joseph Davis	Present
	Mr. V. Marc Bennett	Present
	Mr. Clarence "Tommy" Tiller	Present
	Ms. Laura Rose	Present

A quorum was established.

Also Attending: Mr. James Wooten, Applicant
Mr. & Mrs. Tanner & Shannon Rust, Applicants
Mr. David A. Adams, Applicant
Mr. Brendan Hefty, County Attorney
Ms. Kelli L. Z. Le Duc, Planning Director
Ms. Sheri Adams, Recording Secretary

IN RE: 4. APPROVAL OF MINUTES

A. FEBRUARY 16, 2021 – PLANNING COMMISSION REGULAR MEETING MINUTES

The Chairwoman asked if there were any comments about the meeting minutes but there were no comments.

Ms. Townsend made a motion to approve the February 16, 2021 Planning Commission Meeting Minutes as presented.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Mr. Clarence "Tommy" Tiller	Abstained, was absent on 02/16/21
Mr. Marc Bennett	Aye
Mr. Joseph Davis	Aye
Dr. Joanne Schmit	Aye
Mr. Gary Larochelle	Aye
Ms. Curtisa Thomas	Aye
Ms. Amy Pearson	Aye
Mr. John Moyer	Aye
Ms. Katherine Butler	Aye
Ms. Patricia Townsend	Aye
Ms. Laura Rose	Aye

The motion to approve the February 16, 2021 minutes as presented carried with a roll call vote of 10:0:1.

IN RE: 5. CITIZEN COMMENT PERIOD

Comments are limited to those on planning related issues that are not scheduled for public hearings later on the agenda. The comment sign-up sheet is located at the back of the room and citizens are required to sign up prior to the start of the meeting.

The Chairwoman acknowledged no one was signed up or present to give Citizens Comments.

IN RE: 6. PRESENTATION

None

IN RE: 7. UNFINISHED BUSINESS

None

IN RE: 8. PUBLIC HEARINGS

The Chairwoman, Ms. Rose, turned the floor over to the 2021 Public Hearing Chairwoman, Ms. Butler, to explain the hearing procedures and open the first public hearing.

A. APPLICATION ZM-01-21, WOOTEN REZONING

Ms. Butler, the Public Hearing Chairwoman, explained the public hearing procedures and opened the public hearing of application ZM-01-21, Wooten Rezoning.

Ms. Le Duc stated James and Timothy Wooten requested a rezoning of approximately 78 acres of land from C-1 to A-1 and the property was located just north of 18140 Polish Town Road which was accessed off Woody Lane, a private road. She stated the request was to allow the property to be evenly subdivided between the two brothers. She reported the land was being used for timber production as was most of the land in the surrounding area. She said the C-1 Zoning classification didn't allow subdivisions of any kind. She reported the future land use map designated the parcel as Rural Lands which was the most extensive designation and contained the majority of land within the County. She said Rural Lands were intended to include low density cluster housing and cluster open space developments and was not intended

to be served by public utilities. She reported all the adjacent properties were zoned A-1. She said the application was reviewed by VDOT, the Sheriff's Department, Fire & Rescue and the Environmental Division and there were no comments. She said the application wouldn't negatively impact County services.

Staff found the application was not prejudicial to the character of the neighborhood, the proposed plans wouldn't interfere with the physical development of the County and the proposed use wouldn't be detrimental to the use or development of the adjacent properties or the general neighborhood nor would it impair the value of buildings on property in surrounding areas. Staff recommended approval of application ZM-01-21 through the adoption of resolution PC-03-21. Ms. Le Duc then introduced Mr. James Wooten to address the Commissioners.

Mr. James Wooten, of 18231 Polish Town Road, stated he lived across the street from the subject property and he appreciated the opportunity to speak although, he didn't want to mess up the nice recommendation Ms. Le Duc presented to them. He said his family had been there since 1956 and two of his daughters lived on the same property. He said his father swapped a piece of land with Chesapeake Corporation in 1979 and he suspected, since the transaction went through a realtor, no one caught that it was zoned C-1. Mr. Wooten then recited some minutes from the June 13, 2005 Board of Supervisors meeting about his brother's property which was divided twice since 1979. He said his brother was given a piece in 1989 and built a home on it and later built a garage. He stated his brother was given another 30 acres of the property in 1999 and then he applied for a home equity loan in 2005. He stated it was then when the title company notice the property was zoned C-1 which triggered his brother to re-zone the property to A-1 to obtain the loan. He read ordinance O-19-05 and quoted the minutes where Mr. Homewood stating:

'the Board could choose to sponsor a resolution to rezone the C-1 property and he (Mr. Homewood) suspected it was not a result of an error in zoning but rather an error in perception over the years and Chesapeake had much of their land in C-1 in the late 1960's to enjoy much lower taxes. He suspected not all the parcels Chesapeake sold off were rezoned (to A-1) and people didn't pay attention that some remained zoned as C-1. From what he could tell, after reviewing the records, people made assumptions that if it wasn't R-1, R-0 or one of the B categories, then it must have been A-1 and not everyone realized that a C-1 zoning classification existed. He indicated a good way to fix the mistake was to have the Board sponsor an application to rezone it to A-1 and the Planning Commission could draft the zoning ordinance along with the zoning map a week from now (June 13, 2005).'

Mr. Wooten when on reading the minutes and quoted the then Commissioner of Revenue, Mr. John Crump, as stating:

'the C-1 designation was not recognized by his department at the time which prompted Chesapeake to go before the Board of Equalization to have the zoning changed and triggered the sell-off of the Chesapeake land. He said there was no difference in tax rates between C-1 and A-1.'

Mr. Wooten stated their family never received any advantage from the C-1 zoning and it had only been an impediment to them. He said his deceased mother left the property to him and his brother and they needed to put the parcel into two separate pieces in each brother's separately name and that required a rezoning to A-1 in order to divide it. He said, not only that, he had to put each piece into one brother's name then undo it to create separate deeds for each brother. He said it was going to be expensive to achieve and he felt the Commissioners would feel the same way if they inherited a piece of property with one of their siblings. He said they forested the property and they would continue harvesting timber and re-planting the property the same way they have done for the past fifty years. He thanked the Commissioners for listening and considering his request.

The Public Hearing Chairwoman opened the citizens comment portion of the public hearing. No one was signed up to speak and she closed the citizens comment portion of the public hearing then closed the public hearing of application ZM-01-21 and turned the floor back over to the Commission Chairwoman.

The Chairwoman, Ms. Rose, asked if there were any questions from the Commissioners.

Ms. Rose asked Ms. Le Duc if the application fee for a family subdivision was less than a large lot subdivision application fee and Ms. Le Duc stated it was less. She noted the surveying and the legally costs would be the same no matter what kind of subdivision it was.

Mr. Tiller asked if a boundary line adjustment could be done and Ms. Le Duc said she looked at that option with the applicants but found it would not work for them because of the way they wanted to divide it.

Ms. Townsend noted a boundary line adjustment would not change the C-1 zoning status.

Ms. Le Duc stated she wished the Board of Supervisors had rezoned this piece along with the others they did at that time as it would have spared these applicants from going through this now.

Mr. Tiller asked why this parcel wasn't included in the last County-wide sweep to rezone parcels and Ms. Le Duc stated the last County-wide sweep included just business, industrial and economic opportunity zoned parcels and did not include conservation zoned parcels. She said the residential, agricultural and conservation zoned parcels didn't get looked at.

Ms. Le Duc said she had the authority, as the Subdivision Agent, to waive the holding period for the applicants and when you do a family subdivision, you can't give land to yourself. She stated since both their names were on the deed, the property had to get transferred to one sibling so they would be able to gift it to their other sibling. She said typically, the rule was they had to hold the property three years before doing a family subdivision but she could waive that as a way to help alleviate the situation for the applicants.

The Chairwoman asked if the Commissioners if they were ready to make a motion.

Ms. Pearson moved to adopt resolution PC-03-21, to forward application ZM-01-21 to the New Kent County Board of Supervisors with a favorable recommendation.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Mr. Gary Larochele	Aye
Ms. Amy Pearson	Aye
Ms. Curtisa Thomas	Aye
Ms. Patricia Townsend	Aye
Mr. Joseph Davis	Aye
Mr. Clarence "Tommy" Tiller	Abstained
Ms. Katherine Butler	Aye
Mr. John Moyer	Aye
Dr. Joanne Schmit	Aye
Mr. Marc Bennett	Aye
Ms. Laura Rose	Aye

The motion to adopt resolution PC-03-21 carried with a roll call vote of 10:0:1.

The Chairwoman thanked everyone for their presentations and asked for the Public Hearing Chairwoman to open the next public hearing.

B. Application ZM-02-21/CUP-02-21, D. Adams and T. Rust Rezoning and Conditional Use Permit

The Public Hearing Chairwoman opened the public hearing of application ZM-02-21/CUP-02-21 and turned the floor over to Ms. Le Duc.

Ms. Le Duc stated the applicants were present tonight and she would invite them to speak after her staff report.

She stated the property owner was Mr. David Adams and Mr. and Mrs. Rust were the applicants that requested a rezoning from Economic Opportunity to Agricultural of thirty-seven acres of land. She said they also requested a conditional use permit on the same parcel of land in order to construct a future equestrian facility on the property. She reported the property was located just north of 7210 Olivet Church Road, was surrounded by agricultural properties and the Farms of New Kent Planned Unit Development was across the ravine the west. She said the applicants wanted to build their home first then the barns and equestrian amenities later. She said their plans were to convert some land to pasture, to board horses and to build a riding arena. She reported the future land use designation as Rural Lands and that was the most extensive designation on the land use map which represented the majority of land contained within the County. She said Rural Lands incorporated traditional rural development patterns which included agricultural. She said the reviewing agencies looked at the application and stated any comments would be addressed at the time of site plan submittal for the equestrian facility. She said it would be difficult to market the property for economic development given it was not in a prime location and was accessed by Olivet Church Road which was a local sub-standard road with inadequate right-of-way. She explained the property had been sitting vacant and a house, barns and equestrian facility would benefit the County with the addition of real estate tax revenue and the equestrian facility would eventually generate sales tax revenue. She noted the Standard for Review found in County Code Section 98-744 which was listed in her staff report.

Staff reviewed the application and found it was not prejudicial to the character of the neighborhood, it did not adversely affect the general plans for the physical development of the County as embodied in the Comprehensive Plan and it was not detrimental to the use or development of adjacent properties or the general neighborhood nor did it impair the value of buildings or property in surrounding areas.

Ms. Le Duc stated the Commissioners could find the suggested conditions the resolution PC-04-21 which she felt would assist in addressing, protecting and promoting the health, safety and general welfare of New Kent County citizens and staff recommended approval of both the rezoning and the conditional use permit.

Mrs. Shannon Rust stated they planned to build a residence as well as a horse farm and she knew the definition of an equestrian facility was a little bit different as it referenced rodeos and events which they did not plan to hold. She realized the economic opportunity zoning classification would not allow them to have a residence with private horse boarding and riding facilities so they applied for the rezoning.

Mr. Bennett asked how much of the land would be designated to the horse riding, boarding and pasture land and Mrs. Rust said they would use about twenty acres of the thirty-seven acres for the horses. She said they would keep the areas near the river undisturbed as a natural buffer and they would keep a tree buffer to surround the property.

Mr. Bennett asked how many horses they would have on the property and Mrs. Rust stated she didn't have a total number at this time but her plan was to build a fourteen-stall barn.

Mr. Moyer asked if she was aware of an industrially zoned property across Route 60 and Mrs. Rust said that was not something she considered. She said it would have to be a chemical plant or a papermill to discourage her from considering this as their future forever home.

Ms. Rose asked Ms. Le Duc why there was an agricultural parcel separated by two economic opportunity zoned parcels on her presentation map and Ms. Le Duc stated, historically, the parcels were originally part of the Farms of New Kent and when they went bankrupt, they sold this parcel to Mr. Adams. She said when the County did it's rezoning, the parcel was changed to economic opportunity. Ms. Rose asked why Farms of New Kent didn't keep it and Ms. Le Duc stated there were extreme environmental conditions there including a deep ravine which would have required a stream crossing. She said the original intent was to include it as some type of amenity for landbay five but to get there was very challenging.

Mr. Tiller asked if Mr. Shaia owner the property across the street and Ms. Le Duc confirmed he did. He also asked if water and sewer was available there and Ms. Le Duc stated the waterline came down Olivet Church Road but there was no sewer which would make it hard for commercial development.

Ms. Townsend asked if there would be an expiration date on the completion of the conditional use and Ms. Le Duc stated it was condition number five in the resolution which set it at the fifth-year anniversary of its approval.

Mr. Bennett asked Ms. Le Duc if there was a limit on how many horses could be kept on the property and Ms. Le Duc stated on A-1, Agricultural zoned properties, there was no restriction on the number of horses. She said she didn't think a restriction would be included on the equestrian facility either since they were not intending to hold rodeos or public events. She didn't see anything about it in the Standards for Review either.

Mr. Bennett continued to express his concerns about the health and safety of horses that may or may not be over crowded with inadequate pasture land.

Mrs. Rust stated the horses would not be out to pasture full time and they would not be in the barn all of the time. She intended to protect the pasture land and the horses. She stated it was a lot harder to maintain horses that were pastured full time and that was not a practice she was in favor of. She also stated they intended to work with a professional on the appropriate land layout.

Ms. Townsend stated they could also request a horse management plan from the Virginia Cooperative Extension.

Ms. Le Duc stated she put the applicants in touch with the Virginia Cooperative Extension to work with them on converting land to suitable pasture grasses to make sure it would be beneficial to the operations.

Mrs. Rust said she was more than willing to get a horse management plan from the Cooperative Extension at the time of the site plan application.

Ms. Le Duc announced Mr. Davis Adams, the property owner, had just arrived and gave him the opportunity to speak.

Mr. Davis Adams stated he lived at 5101 Sturgeon Point Road in Providence Forge and he owned the proposed property since 2011 when he got home from Iraq. He said he used it for recreational purposes and he was waiting for a buyer like the Rust family to move to the property. He felt their plans fit into the rural atmosphere of the County and met the objective of the Comprehensive Plan. He said he highly recommended letting them proceed with their proposal.

Mr. Bennett asked if the fifth anniversary of approval listed in condition five made reference to the single-family home being built or the equestrian center and Ms. Le Duc stated that was a good question.

Mr. Bennett thought it should be for the equestrian center.

Ms. Le Duc asked the applicants when they thought they would build the equestrian center and Mrs. Rust stated they intended to try to build both the home, the barn and riding arena all at the same time but it would depend on the financial environment. She felt five years was a reasonable amount of time to complete all of it.

Ms. Le Duc told the Commissioners they could specify the permitting of the equestrian center within five years of use approval when someone made a motion and she could update the paperwork.

The Public Hearing Chairwoman closed the public hearing of ZM-02-21/CUP-02-21 since there were no citizens comments and turned the floor back over to the Commission Chairwoman, Ms. Rose.

The Chairwoman asked if there were any other comments, suggestions or a motion.

Mrs. Pearson moved to adopt resolution PC-04-21, to forward application ZM-02-21/CUP-02-21 to the New Kent County Board of Supervisors with a favorable recommendation with an amended condition number five that would require the applicants to obtain a building permit for the equestrian center within five years of Board approval.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Dr. Joanne Schmit	Aye
Mr. Gary Laroche	Aye
Ms. Katherine Butler	Aye
Mr. John Moyer	Aye
Ms. Curtisa Thomas	Aye
Mr. Clarence "Tommy" Tiller	Abstained
Ms. Amy Pearson	Aye
Ms. Patricia Townsend	Aye
Mr. Marc Bennett	Aye
Mr. Joseph Davis	Aye
Ms. Laura Rose	Aye

The motion to adopt resolution PC-04-21 with the stated amendment carried with a roll call vote of 10:0:1.

IN RE: 9. NEW BUSINESS

None

IN RE: 10. CHAIRWOMAN'S REPORT

Ms. Rose stated the Strategic Plan was moving forward and the Comprehensive Plan was scheduled for review soon and the year ahead would be challenging for them. She asked everyone to get engaged with the two items and asked the Commissioners to start thinking about any adjustments they felt were need for their districts. She asked THE Commissioners to request a hard copy of the Comprehensive Plan from staff if they didn't already have one.

Ms. Rose also noted the United States Postal Service (USPS) was failing to get mailed meeting packets out to them in a timely manner and suggested the meeting packets be emailed or available for download on the County Website since the post office was experiencing lengthy delays. She said she checked the bylaws and there was nothing that would prohibit staff from providing it electronically. She asked that the Commissioners contact staff if they needed a hard copy printed for pick up. She said relying on the post office was going to be untenable. She asked that staff continue to send an e-mail asking what the preferred method of deliver was for them.

IN RE: 11. PLANRVA REPORT

Mr. Moyer said PlanRVA was putting together their budget and figuring out how they were going to distribute funds that were collected through gasoline tax and that was all done based on population. He said they were also putting together narratives for 2021 on how to stabilize their financial position and drive new initiatives like Covid response funds, some emergency management items and some environmental funds. He said they also reviewed a leased space out in Stony Point and were looking to see if they could find someplace more centrally located for the Commission to meet.

IN RE: 12. COMMISSIONER'S REPORTS

Ms. Pearson said it was very helpful of staff to let them know by e-mail the meeting packets were posted online and available for download.

Mr. Tiller stated it may be easier to read large documents like the Comprehensive Plan online than it would be trying to get all that information in a paper format. Mr. Tiller suggested the Sheriff's Department could assist in delivering meeting packets.

Mr. Bennett indicated he needed a hard copy of the Comprehensive Plan from staff.

Mr. Moyer reported the consultant, Erin, reviewed much of the Strategic Plan at the Board work session last week and a lot of time was spent talking about the County mission statement. He said the Supervisors gave a lot of input and many of them had not seen it before. He said he was impressed with the company handling it and they were going to figure out how best to present it during the Covid -19 pandemic restrictions which could include webinars and posters placed at the schools and the visitors center so people could look at the plan and see how it related to them. He said, once people see the draft, the County and the consultant would try to get as much feedback as possible to prepare the next presentation.

He reported previous surveys yielded about one thousand responses which Mr. Moyer thought was a good response for a population of twenty-three thousand. He said zoom meetings have done well getting the information out to people as well as getting candid comments from participants and he felt zoom meetings were making people feel more comfortable sharing ideas as opposed to in person interactions. He said a lot of that was dependent on how well participants were prepared for the electronic meetings and if they had their own agendas.

Ms. Rose asked if the draft was being disseminated now and Mr. Moyer said twenty-minute bits of information would be given out in the webinars and they would be talking about what the draft is. He said they would also be on Facebook and have an Envision YouTube video presentation and advertise in the newspapers again. He said postcards did not get a lot of response. He said it has been going on for little over a year now and he felt it was appropriate to have it continue an extra four or five months since Erin and his group have only been able to meet with us once before.

Mr. Bennett asked when the webinars would be available and Mr. Moyer stated they had not been established yet but they will be in the next month.

Ms. Rose asked how long after the draft release would they be taking feedback and Mr. Moyer said about one month.

Mr. Moyer said they would also try to hold another meeting with maybe special interest groups and clubs and he encouraged his fellow Commissioners to go to Envision New Kent on the County Website to see what has been posted.

Ms. Townsend said if any one needed a Covid vaccine to call her at 804-966-9677 and she would help get you registered. She said there were 5,383 calls into the call center and New Kent was holding their own vaccine clinics now.

Ms. Rose asked what vaccine was being used and Ms. Townsend said it was which ever vaccine the State decided to send to the County and she said they didn't know which one they were getting until basically the week of the clinic.

IN RE: 13. STAFF REPORTS

Ms. Le Duc stated they have had to hand deliver meeting packets in the past if they were running behind but would do all they could to help deliver the information in a timely manner.

She also said she had two applications in talks but not delivered to her department yet and they were the solar project that was presented by Energix Group and Liberty Landing was having talks with staff about reviving their old project. She said this group owned a lot of land along Route 60 across from Patriot's Landing that came to the County back in 2014 that proposed some mixed-use development, apartments, single-family housing and commercial retail but now they were focusing more on single-family.

Mr. Moyer stated the problem with the Liberty Landing idea was the land was zoned business. Ms. Le Duc stated they want to put single-family in behind the business zoned portion. She said nothing was official yet but they were working on putting together a presentation per her request.

Ms. Le Duc said she had nothing in the way of public hearings for next month but if they did meet for any presentations, the meeting would be held in this room again (Sheriff's Office Training Room) as the Administration Building was still under construction.

Ms. Adams stated people with slow internet may experience problems downloading large files but to contact her if they had any issues.

She also reminded the Commissioners about the deferred York River and Diascund Creek Agricultural and Forestal Districts and said they would come before the Commissioners for renewal this summer. She listed her tentative schedule for those public hearings with staff reviews during April, AFD Advisory Committee meeting in May, Planning Commission meeting in June and the Board in July. She said she also had additions to districts that were delayed because of the moratorium that were paid for last year and she would be presenting those as well. She said that consisted of about five parcels from three applicants.

IN RE: 14. MEETING SCHEDULE

The Chairwoman stated the next regular meeting of the Planning Commission would be held on Monday, April 19, 2021 at 6:30 PM in the Sheriff Annex Training Room.

IN RE: 16. ADJOURNMENT

A motion to adjourn was made by Mr. Moyer and all agreed. The meeting was adjourned at 7:30 PM.

Respectfully, Sheri L. Adams, Recording Secretary