

Virginia: At a regular scheduled meeting of the Essex County Board of Supervisors held on Tuesday, October 11, 2022, at 7:00 p.m., in the School Board meeting room, 109 Cross Street, Tappahannock, Virginia.

Present: Robert Akers, Chairman
Ronnie G. Gill, Vice Chairman
Edwin Smith, Jr., Supervisor
Sidney Johnson, Supervisor

Present: April Rounds, Assistant County Administrator, Deputy Clerk
Attorney Andrew McRoberts, Legal Counsel

Absent: John C. Magruder, Supervisor
Michael Lombardo, County Administrator, Clerk

CALL TO ORDER

Chairman Akers called the meeting of Tuesday, October 11, 2022, to order at 7:00 p.m.

ROLL CALL

The Chairman asked the Assistant County Administrator to call out the roll; a quorum was met.

INVOCATION AND PLEDGE OF ALLEGIANCE

Supervisor Smith led the Invocation and the Pledge of Allegiance.

AGENDA APPROVAL

Chairman Akers asked the Board if anything else needs to be added or deleted from the agenda. Asked for a motion to approve the agenda as amended. Supervisor Johnson so moved, and Supervisor Gill seconded the motion. AYES: 4
NAYES: 0 ABSENT: 1

RECOGNITION

Personnel Presentation

Chief Hicks stated that since 2011 the department has evolved significantly. Originally with around 1000 calls per year, this year we will be over 2,000 calls. Today is the first day of two new employees. Chief Hicks introduced the full staff to the Board:

William Thomas – Firefighter/EMT
Thomas Trader – Firefighter/EMT
Lieutenant Ryan Miller
Cameron Williams - Firefighter/EMT
Lieutenant Jonathon Sydnor
Dylan Seph – Paramedic/Firefighter
Lisa Fucci – Firefighter/EMT
Lieutenant Andrew Wilkins
Captain Nick McDaniel
Deputy Chief Kyle Durham
Kathryn Wells – New Hire
Ryan Sisson – New Hire

Major Jay Mitchell read the Oath to Swear in the new Firefighters.

PUBLIC HEARINGS

Proposed Zoning/Subdivision Ordinance Update

None

Proposed Zoning Map

None

PUBLIC COMMENTS

Joe Bozeman, 2575 Butylo Rd, stated that in November it will be very important to ensure that those in and around Washington are held accountable for the harm that have woefully inflicted, the money they have take for themselves and the lies

they have told. If it has happened in Washington it has happened here first. I have read a lawsuit and it reads quite well. You will hold the County Administrator responsible because he was aware of the problem. The voters will hold you responsible because you were aware of the County Administrator and the problem. I hold the voters responsible, if they didn't know better before they have no excuse now.

Hearing no more Chairman Akers closed out the Public Comments Section.

COUNTY ADMINISTRATOR'S and AGENCIES' REPORTS

Chairman Akers

- We had the ground breaking ceremony for WAWA.
- He has talked with the County, Town and the Schools and they are looking at getting the two architects and engineers together to figure out where to go with the vehicle maintenance garage.
- At the next work session we will have our tax discussion.
- We have a school finance meeting on Friday.

Shout outs:

- Parks and Rec as well as Rob, Mark and Harold working with the pool and getting it covered back up.
- IT was asked to do a cybersecurity planning committee, Chairman Akers asked if he needed a letter of recommendation from the Board. Mr. Huntley stated that it is a piece of the infrastructure that is with the Grant money coming. Chairman Akers stated that if it will be beneficial to assist with getting him on the planning committee to help disperse these funds they are more than willing to do so.
- Library has had their space study done and will present next month.

SCHOOL SUPERINTENDENT'S AND CONSTITUTIONAL OFFICERS' REPORTS

- Chairman Akers stated that with VDOT, Lewis Level Road is on the 5 year plan.
- Dr. Thomas will be presenting next month with things going on at the school.

BOARDS AND COMMITTEES' MINUTES

No discussion.

CONSENT AGENDA

Chairman Akers asked for a motion to approve all three the motion was made by Supervisor Smith and seconded by Supervisor Johnson. AYES: 4 NAYES: 0
ABSENT: 1

NEW BUSINESS

Zoning/Subdivision Ordinance Project: Adoption of Proposed Resolution #22-011

Vice Chairman Gill made the motion to adopt resolution #22-011 with attachment B as presented. Supervisor Smith seconded.

Vice Chairman Gill stated that this is the culmination of 18 months of work and is a move forward for the county.

Resolution #22-011

PRESENTED: April 12, 2022

ADOPTED: October 11, 2022

EFFECTIVE: November 10, 2022

AN ORDINANCE ADOPTED BY THE ESSEX COUNTY BOARD OF SUPERVISORS UPDATING THE ESSEX COUNTY ZONING AND SUBDIVISION ORDINANCES

WHEREAS, pursuant to the Code of Virginia §15.2-2283, zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of planning to facilitate the creation of a convenient, attractive, and harmonious community; and

WHEREAS, pursuant to the Code of Virginia §5.2-2240, every locality shall adopt an ordinance to assure the orderly subdivision of land and its development; and

WHEREAS, the Board of Supervisors has determined to review and update the County's zoning ordinance and subdivision ordinance to ensure compliance with state regulations, promote good economic development and zoning practices, and to streamline and reorganize for improved readability and understanding; and

WHEREAS, the Essex County Planning Commission held a kick-off meeting on November 15, 2019, to develop the draft Zoning and Subdivision Ordinance and met in joint worksessions with the Board of Supervisors from February 2020 through September 2021 to draft the Zoning and Subdivision Ordinance; and

WHEREAS, a public open house was held by the Essex County Planning Commission and the Essex County Board of Supervisors on August 31, 2021, to present the draft amendments to the County's Zoning and Subdivision Ordinances, at which members of the public had the opportunity to provide input and questions on the draft ordinance; and

WHEREAS, the Planning Commission held subsequent worksessions to review the completed draft Zoning and Subdivision Ordinance in advance of the public hearing; and

WHEREAS, the Planning Commission and Board of Supervisors held a joint public hearing on April 12, 2022, after notice in accordance with Section 15.2-2204 of the Code of Virginia, and heard citizen testimony regarding the proposed amendments to the Zoning and Subdivision Ordinance; and

WHEREAS, pursuant to the Code of Virginia § 15.2-2223, the Planning Commission finds that the proposed draft of the Essex County Zoning and Subdivision Ordinance will promote the health, safety, or general welfare of the public and assure the orderly subdivision of land and its development, and **RECOMMENDED APPROVAL**; and

WHEREAS, the Board of Supervisors finds that the proposed draft of the Essex County Zoning and Subdivision Ordinance will promote the health, safety, or general welfare of the public and assure the orderly subdivision of land and its development, in accordance with the Code of Virginia.

NOW, THEREFORE, BE IT ORDAINED that on this 11th day of October, 2022, that the Essex County Board of Supervisors, does hereby **APPROVE** the Essex County Zoning and Subdivision Ordinance, as amended to include the attached additional changes in **Attachment B**.

BE IT FURTHER ORDAINED that upon adoption by the Board of Supervisors, the Essex County Zoning and Subdivision Ordinance will supersede and replace, in their entirety, the previously adopted Appendix A – Subdivision Ordinance and Appendix B – Zoning Ordinance of the Code of the County of Essex, Virginia and will be restated as Chapter 36 – Zoning and Subdivision Ordinance.

BE IT FURTHER ORDAINED that the Board of Supervisors authorizes County staff to make non-substantive edits, including correction of punctuation, numbering, internal cross-references, citations to any statutes, and any related clerical-type changes to the text and exhibits as necessary to ensure internal consistency of the newly adopted Essex County Zoning and Subdivision Ordinance and, add language as may be necessary for clarification of information and correct any factual errors.

AND BE IT FURTHER ORDAINED that the Board of Supervisors authorizes County staff to include amendments to the draft Zoning and Subdivision Ordinance, to include changes as a result of the April 12, 2022, public hearing and outlined in **Attachment B**.

Attachment B, Public Hearing Comments

Essex County Zoning and Subdivision Ordinance Amendments					
Amendment ID	Article/ Section	Topic	Page	Amendment for Consideration	PC Recommendation
A	36.7 (c)	Conflicting Ordinances or Conditions	3	Add text after "zoning amendment" in item (c) to read "the zoning amendment notice requirement of §15.2-2204 shall be deemed satisfied."	Yes, amend as provided.
B	36.16 (b)	Powers and Duties of Subdivision Agent	4	Remove text "shall consult with the Planning Commission on matters contained within Article IX" and replace so that item (b) reads "The Subdivision Agent (Agent) shall be appointed by the Board of Supervisors to administer and enforce the Subdivision Article (Article IX) and shall serve at the pleasure of the Board of Supervisors. The Agent may call for opinions or decisions, either verbal or written, from other departments, state agencies, or the Planning Commission in considering details of any submitted plan."	Yes, amend as provided.
C	36.28	PC Powers and Duties	5	Remove existing reference to state code and replace with state code language to read: " Pursuant to the Code of Virginia §15.2-2221 and §15.2-2230, the Planning Commission shall: 1. Exercise general supervision of, and make regulations for, the administration of its affairs; 2. Prescribe rules pertaining to its investigations and hearings; 3. Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the governing body; 4. Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents; 5. Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction; 6. Prepare, publish and distribute reports, ordinances and other material relating to its activities; 7. Prepare and submit an annual budget in the manner prescribed by the governing body of the county or municipality; 8. If deemed advisable, establish an advisory committee or committees; and 9. Review the Comprehensive Plan at least once every five years to determine if it is advisable to amend the plan.	Yes, amend as provided.
D	36.98	Zoning Permit Period of Validity	12	Change time to begin zoning permit work from "one year" to "18 months" and time to substantially complete from "2 1/2 years" to "5 years".	Yes, amend as provided.
E	36.144 (c)	Conditional Use Effect of Decision; Reconsideration	19	Change time allowing reapplication from "one year" to " 6 months".	Yes, amend as provided.
F	36.157 (c)	Variances Effect of Decision; Expiration	20	Change expiration of variance without substantial construction or change of use from "one year" to "18 months".	Yes, amend as provided.
G	36.184 (a)	Site Plan Period of Validity; time between prelim and final submission	26	Change the term to submit a final site plan after preliminary plan approval from "12 months" to "18 months".	Yes, amend as provided.
H	36.225	R-3 District Access Points	37	Add text to Section 36.220 – General Standards and Interpretation as item (h) to read "Virginia Department of Transportation may require additional accesses for developments other than what is specified in this Article; the more restrictive requirement shall control."	Yes, amend as provided.
I	36.323 (d)	Stable, commercial	82	Remove text that reads "Any buildings for the keeping of animals shall be located at least 100 feet from any highway or other right-of-way for passage." Replace with "Any buildings for the keeping of animals shall be located at least 200 feet from a primary highway or other right-of-way for passage and 100 feet from any secondary highway."	Yes, amend as provided.
J	36.324 (c)	Stable, private	82	Remove text that reads "Any buildings for the keeping of animals shall be located at least 100 feet from any highway or other right-of-way for passage." Replace with "Any buildings for the keeping of animals shall be located at least 200 feet from a primary highway or other right-of-way for passage and 100 feet from any secondary highway."	Yes, amend as provided.
K	36.360 (a) & (e)	Automobile repair service	84	Change text in item (a) and (e) as follows: (a) change distance from a residential district or dwelling from 250 feet to 150 feet, and (e) change storage along a public right-of-way from 50 feet to 150 feet.	Yes, amend as provided.
L	36.361 (c) & (e)	Automobile sale, rental/leasing	85	Change text in item (c) and (e) as follows: (c) change display elevation from 2 feet to 4 feet, and (e) remove "Outdoor displays shall be limited to the vehicles being sold, rented, or leased on the property. No other display of any other goods or merchandise shall be permitted." and replace with "Any display of new goods or merchandise shall be permitted; no other displays are permitted."	Yes, amend as provided.

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Essex County Zoning and Subdivision Ordinance Amendments					
Amendment ID	Article/ Section	Topic	Page	Amendment for Consideration	PC Recommendation
M	36.365 (d)	Equipment repair service, heavy	85	Change distance of storage of equipment from a public right-of-way from 50 feet to 150 feet.	Yes, amend as provided.
N	36.366 (b) & (e)	Equipment sales and rental, heavy	85	Change text in item (b) and (e) as follows: (b) change display elevation from 2 feet to 4 feet, (e) remove " Outdoor displays shall be limited to the equipment being sold, rented, or leased on the property. No other display of any other goods or merchandise shall be permitted.", and replace with "Any display of new goods or merchandise shall be permitted; no other displays are permitted."	Yes, amend as provided.
O	36.386 (a)	Construction yard	89	Change required distance from residential district and dwelling unit from 100 feet to 150 feet.	Yes, amend as provided.
P	36.387 (a)	Junkyard use standards	90	Change setback from public street from "500 feet" to "150 feet"	Yes, amend as provided.
Q	36.387 (b)	Junkyard use standards	90	Change setback from Residential district from "100 feet" to "150 feet"	Yes, amend as provided.
R	36.404 (c) (4) e.	Solar energy; concept plan requirements	97	Add to the text requiring a grading plan to also require "an elevation plan, and a landscape plan."	Yes, amend as provided.
S	36.404 (d) (5)	Solar energy; neighborhood meeting	99	Changed to read: "The applicant shall provide to Essex County and adjoining property owners, a summary of any input received from members of the public at the meeting and the developer shall provide an action plan with the concerns raised, to adjoining property owners."	Yes, amend as provided.
T	Article X - Definitions	Agriculture, intensive	168	Remove the sentence "The operations of the use may generate dust, noise, odors, pollutants, or visual impacts that could adversely affect adjacent properties." from the definition.	Yes, amend as provided.
U	Article X - Definitions	Agriculture, intensive	168	Change the first sentence of the definition from "the commercial confined keeping of animals and storage of agricultural products with accessory uses including storage bins and litter/manure storage." to "the commercial, covered confinement, keeping of animals, with litter/manure storage, excluding pastureland having at least 90% of the total area with vegetative cover."	Yes, amend as provided.
V	36.320	Agriculture, intensive	81	Change all setbacks to 400 feet except secondary highways or other rights-of-way shall be 200 feet. Text will be changed as follows: (a) Located a minimum of 4,000 400 feet from any boundary of a town within the County. (b) Located a minimum of 200 400 feet from any primary highway and 400 200 feet from any secondary highway or other right-of-way for passage; (c) Located a minimum of 500 400 feet from any residential district and from any existing residence not located on the same parcel; (d) Setback 200 400 feet from any adjacent landowner property line; (e) Located a minimum of 400 400 feet from any religious assemblies, public or private schools, and other public-owned facilities; (f) Located a minimum of 400 400 feet from any river, creek, spring, reservoir, or any public or private water supply system, including but not limited to wells or cisterns unless a greater distance is required by State or Federal requirements, including but not limited to, the Chesapeake Bay Act and the Virginia Department of Conservation and Recreation;	Yes, amend as provided.
W	36.404 (h) (1) f.	Solar energy, large scale	104	Change "may" to "shall". The standard will read: "The conditional use permit may shall require the applicant to submit an erosion and sediment control plan for review..."	Yes, amend as provided.
X	36.405	Solar energy, medium scale and small scale	105	Change the text of (d) (3) as follows: change the word "minimum" to "maximum" so the requirement reads "The lowest surface of any panel shall be a minimum maximum of four feet above the finished grade on which the panel is located."	Yes, amend as provided.
Y	37.405	Solar energy, medium scale and small scale	105	Change the text of (d)(5) as follows: add the words "backside of the" so the requirement reads "Landscaping and screening shall be provided for ground mounted solar to block visibility of the backside of the panel(s) and ancillary equipment from adjacent properties."	Yes, amend as provided.
Z	36.405	Solar energy, medium scale and small scale	105	Change the text of (d)(6) as follows: add the words "and disposed of in an approved site" to the end of the requirement so that it reads "All broken or waste solar modules shall be removed from the site within 60 days of being taken out of service and disposed of in an approved site. "	Yes, amend as provided.

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Essex County Zoning and Subdivision Ordinance Amendments					
Amendment ID	Article/ Section	Topic	Page	Amendment for Consideration	PC Recommendation
AA	36.405	Solar energy, medium scale and small scale	105	Change the text of (e) (1) and (2) as follows: add the following sentence at the end "Small-scale residential solar is exempt." Change (e)(2) add the words "may include" in front of "electrical transmission wire" so the sentence reads "Removal includes removing any underground structures or supports and <u>may include</u> electrical transmission wire and disposing in accordance with local, state, and federal codes and regulations.	Yes, amend as provided.
BB	36.415 (c)	Accessory building or structure	105	Change item (c) (2) to read "No accessory building or structure shall have a height greater than the principal building." Insert a new (3) to read "The accessory building shall be constructed of materials that are not inferior to the principal building." (3) renumber to (4) and (4) renumber to (5).	Yes, amend as provided.
CC	36.419 (l)	Home Occupation	109	Change to read "One minor sign, not exceeding 3 square feet, in area, may be displayed indicating that the building is being utilized as a business." Also add definition of minor sign within definitions article.	Yes, amend as provided.
DD	36.422 (m) (1) c.	Short-term rental	111	Strike all of item (m)(1) c. that reads "The failure of any short-term rental host to maintain his or her principal place of residence or domicile at the dwelling unit (as required in the residential zoning districts) used as a short term rental."	Yes, amend as provided.
EE	Table 36.14	Sign dimensions for A, R, PUD, MH districts	117	Add text to Table 36.14 to limit minor signs to a 5 sign limit and place a footnote in the table that references item (b)(2) which provides a total cumulative area for all signs of 16 square feet.	Yes, amend as provided.
BG Modified Recommendation					
FF	36.385 (a)	Bulk fuel storage and distribution	89	Change text for item (a) to read "Bulk storage of fuel shall comply with National Fire Protection Association (NFPA), U.S. Environmental Protection Agency, and any other applicable federal, state, and local standards." Add item (c) which shall read: "Bulk storage shall be buffered in accordance with Article VII, Division 4, of this Ordinance."	Yes, amend as provided.
GG	36.404 (f) (4)	Solar energy; decommissioning	102	Change (f)(4) to read "The decommissioning, to include removal of solar facilities, regrading and reseeding and/or replanting shall be accomplished within 12 months."	Yes, amend as provided.
BG Does Not Recommend					
HH	36.373 (c)	Store, neighborhood convenience	88	Delete entirely item (c) which reads: "There shall be no fuel pumps or the selling of fuel for motor vehicles."	Do not amend.
II	36.374	Tradesperson service	89	Change to read "Outdoor storage as an accessory use, where permitted, shall be buffered; shall not exceed 30 percent of the total site area; and shall be subject to the use requirements of this Article.	Staff, Do not amend
JJ	Article X - Definitions	Kennel	176	Change definition to read: "Kennel, private means keeping of four or more <u>less</u> dogs that are all owned and licensed by a single owner and kept on the same property."	Do not amend.
KK	Article X - Definitions	Store, neighborhood convenience	188	Remove the following sentence from the definition: "Neighborhood stores shall not include fuel pumps or the selling of fuel for motor vehicles."	Do not amend.
LL	36.701 (b)(1).iv	Major Subdivision Prelim Plats	158	Remove the paragraph in section 36.701 (b)(1).iv that requires preliminary plats to include "Existing and proposed grades entailing contours at vertical intervals of not more than two (2) feet. In cases where the land has less than three percent (3%) slope, spot elevation shall be required." and move it to section 36.712, Final Approval Procedure for Major Subdivisions and placed as a new item under (b)(1).b. Plats.	Do not amend.

Attachment B, Post Public Hearing Comments

Essex County Zoning and Subdivision Ordinance Amendments						
Amendment ID	Commenter	Article/ Section	Topic	Page	Amendment for Consideration	Recommendation
New Since Public Hearing						
MM	Comm. of Revenue	36.404 (c)(4)n	Solar energy, large scale	98	Change "Department of Game and Inland Fisheries" to Department of Wildlife Resources.	PC - Yes, amend as provided.
NN	Comm. of Revenue	36.422 (b)(2)	Short-term rental	110	Change the portion of (b) (2) that states "the County Commissioner of Revenue for the collection of the transient lodging tax as set forth in county code" to "County Commissioner of the Revenue for business registration and collection of the business license fee."	PC - Yes, amend as provided.
OO	Comm. of Revenue	36.422 (m)(1)a	Short-term rental	111	Remove BPOI tax from (m)(1)a, and replace with "county business license fee." Text would be edited as follows: "Failure to collect and/or remit the transient occupancy tax or and/or county business license fee."	PC - Yes, amend as provided.
PP	Comm. of Revenue	36.422 (m)(1)c	Short-term rental	111	Remove item (m)(1)c, that states "The failure of any short-term rental host to maintain his or her principal place of residence or domicile at the dwelling unit (or located in the residential zoning districts) used as a short-term rental." Short-term rental was previously edited to remove the requirements for primary residence. item (m)(1)c should be removed for consistency.	PC - Yes, amend as provided.
QQ	County Attorney	36.4 (a)	Applicability	2	Add "and used" after "fee simple ownership".	Staff - Yes, amend as provided
RR	County Attorney	36.16 (a)	Powers and Duties	4	After (1) g, add an item (2) that states: The Administrator, in accordance with the Code of Virginia § 15.2-2295, may administer and enforce conditions attached to a rezoning or amendment to the Zoning Map."	Staff - Yes, amend as provided
SS	County Attorney	36.29 (a)	Rules and Regulations	5	Change "15.2-2214-2217" to read "15.2-2214 through 15.2-2217".	Staff - Yes, amend as provided
TT	County Attorney	36.55 (b)	Fees; Charges; Expenses	7	Change "no action shall be taken on any application or appeal" to read "no application or appeal shall be considered complete; thus, no action shall be taken."	Staff - Yes, amend as provided
UU	County Attorney	36.56 (b)	Authority and Action for Violations	7	change "15.2-2286(A)15" to "15.2-2286(A)16".	Staff - Yes, amend as provided
VV	County Attorney	36.99	Appeal	12	Change Division reference to Division 6 instead of Division 5.	Staff - Yes, amend as provided
WW	County Attorney	36.111 (a) (1)	Standards and Procedures	13	Change item a. to "Resolution of the Board of Supervisors stating that the public necessity, convenience, general welfare and good zoning practice requires the amendment;". Change item b. to "Resolution or motion of the Planning Commission stating that the public necessity, convenience, general welfare and good zoning practice requires the amendment; or"; Change item c. to start "Application of the owner," After c., add the following language flush to the left hand margin: Upon initiation by either the Board of Supervisors or the Planning Commission, the proposed amendment is automatically referred to the Planning Commission.	Staff - Yes, amend as provided
XX	County Attorney	36.111 (b) (1)c	Standards and Procedures	14	After "The application for a rezoning" add ",once complete, is automatically referred to".	Staff - Yes, amend as provided
YY	County Attorney	36.111 (b) (1)e	Standards and Procedures	14	Change the first sentence to read "The Planning Commission shall advise the Board of Supervisors within 100 days from its first meeting following referral."	Staff - Yes, amend as provided
ZZ	County Attorney	36.111 (b) (1)g	Standards and Procedures	14	Change the last sentence to end at "or both." Add the sentence "in the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action as otherwise would be required by this subdivision."	Staff - Yes, amend as provided
AAA	County Attorney	36.111 (c) (1)	Standards and Procedures	14	Change (c) from "Standards of Review;" to read "Amendments". Strike item (1) in its entirety (including items a. through f.)	Staff - Yes, amend as provided
BBB	County Attorney	36.112	Reconsiderations	15	Strike item (b) except for the last sentence which reads "This shall not impair the right of either the Planning Commission or the Board of Supervisors to propose any amendment to this Ordinance on their motion at any time.". Place the last sentence at the end of item (a).	Staff - Yes, amend as provided
CCC	County Attorney	36.113	Appeal	15	Strike this section entirely. Update the reserved sections to read "36.113-36.124"	Staff - Yes, amend as provided
DDD	County Attorney	36.125	Purpose and Intent	15	Change Code of Virginia reference to "15.2-2296 through 15.22303.4,"	Staff - Yes, amend as provided
EEE	County Attorney	36.13	Appeal	17	Strike this section entirely. Update the reserved sections to read "36.130-36.139"	Staff - Yes, amend as provided
HHH	County Attorney	36.142(b) (1) and (2)	Standards and Procedures	18	Strike item (b) in its entirety.	Staff - Yes, amend as provided
FFF	County Attorney	36.159	Appeal	21	Strike this section entirely. Update the reserved sections to read "36.159-36.174"	Staff - Yes, amend as provided
GGG	County Attorney	36.422 (m)(1)a	Short-term rental	111	Remove BPOI tax from (m)(1)a, the County does not have a BPOI tax.	Staff - Yes, amend as provided

Attachment B, Post Public Hearing Comments

Essex County Zoning and Subdivision Ordinance Amendments						
Amendment ID	Commenter	Article/ Section	Topic	Page	Amendment for Consideration	Recommendation
New Since Public Hearing						
III	County Attorney	36.439	Exempt Signs	114	Strike item (2) in its entirety and change item (3) removing "for commercial purposes" so it reads "Flags not exceeding 50 square feet in area;"	Staff - Yes, amend as provided
JJJ	County Attorney	36.525	Exemptions	140	Start this section with the sentence "Exemption from the term "subdivision" does not mean that an exempted divided property meets the requirements of the zoning ordinance." Change text to clearly state boundary line adjustments have to be reviewed and approved for correct platting. Change item (1) to read "Existing Parcels. The sale or exchange of existing parcels of land between owners and the creation of boundary surveys which do not change or alter any boundary lines of a parcel." and add item (4) "Minor Subdivisions and Boundary Line Adjustments. These divisions and adjustments will be reviewed for suitability and lot standards through an administrative plat review process."	Staff - Yes, amend as provided
KKK	County Attorney - Policy Item	36.458	Joint Use of Space	119	Policy consideration - Approval of shared parking should be documented so the record is clear. What happens if the hours of operation or operator change? Is there a process to review and change the amount of parking required, such as a site amendment process?	Staff - Yes, amend as provided
LLL	County Attorney - Policy Item	36.476 (e)	Applicability	128	Policy consideration - Exemptions from lighting regulations is fine. However, there may be a need for some regulation, like using the minimum light required to serve the purpose, requiring lighting be downcast, requiring lighting not to spill beyond the property on which the lighting is used, etc. A total exemption of all lighting could be a problem if abused.	Staff - Yes, amend as provided
MMM	County Attorney - Policy Item	36.508 (3)	Nonconforming Use	138	Policy consideration - Should text be added to also allow a nonconforming use to change to a lesser size by some substantial margin (35-50% smaller).	Staff - Yes, amend as provided
NNN	BG	36.9	Effective Date	3	Change text so that the effective date is 30 days after adoption. Text would read "The Ordinance shall become effective 30 days from and after the date of its passage, (effective date inserted), and legal application, and its provisions shall be in force thereafter until repealed or amended."	Staff - Yes, amend as provided
OOO	DEQ	36.179	Preliminary Site Plan	23	At the end of item (22) add text that states "and other items as required in Article IV, Division 5, which include, but are not limited to, the following: a. Delineation of the RPA boundary; b. Delineation of required buffer areas; c. Delineation of RMA wetlands; d. Delineation of RMA boundary; and, e. A notation that setbacks shown are based on current district requirements but shall not take precedence over any subsequently adopted setback requirements related to any rezoning action or district regulation amendments."	Staff - Yes, amend as provided
PPP	DEQ	36.271	Plan of Development	58	Change (c) (1) a. to add "and Article II, Division 7" so that it reads "A site plan in accordance with the provisions of this Article and Article II, Division 7 and/or a subdivision plat in accordance with the provisions of the Essex County Subdivision Article of this Ordinance;"	Staff - Yes, amend as provided
QQQ	DEQ	36.710	Plat Requirements for Single, Family, and Minor	161	Add an item (13) to read "Delineation of RPA boundary, required buffer areas, RMA wetlands, and RMA boundary."	Staff - Yes, amend as provided
RRR	DEQ	36.710	Plat Requirements for Single, Family, and Minor	161	Add an item (14) to read "Notations shall be added to the plat as follows: a. No land disturbance or vegetation removal is allowed in the Chesapeake Bay buffer area without review and approval by the Zoning Administrator; b. On-site septic systems must be pumped out every five years, or a certification must be submitted by a sewage handler permitted by the Virginia Department of Health that the septic system has been inspected, is functioning properly, and the tank does not need to have the solids pumped out.; c. 100% reserve drainfield is required for on-site sewage treatment systems; and, d. Only water dependent facilities or redevelopment is allowed in Resource Protection Areas, including the 100-foot wide buffer area."	Staff - Yes, amend as provided
SSS	DEQ	36.712 (b) (1) b.	Final Approval Procedure for Major Subdivisions	162	Add and item 8. that reads "Delineation of RPA boundary, required buffer areas, RMA wetlands, and RMA boundary."	Staff - Yes, amend as provided
TTT	DEQ	36.712 (b) (1) b.	Final Approval Procedure for Major Subdivisions	162	Add an item 9. to read "Notations shall be added to the plat as follows: i. No land disturbance or vegetation removal is allowed in the Chesapeake Bay buffer area without review and approval by the Zoning Administrator; ii. On-site septic systems must be pumped out every five years, or a certification must be submitted by a sewage handler permitted by the Virginia Department of Health that the septic system has been inspected, is functioning properly, and the tank does not need to have the solids pumped out.; iii. 100% reserve drainfield is required for on-site sewage treatment systems; and, iv. Only water dependent facilities or redevelopment is allowed in Resource Protection Areas, including the 100-foot wide buffer area."	Staff - Yes, amend as provided

Attachment B, Post Public Hearing Comments

Essex County Zoning and Subdivision Ordinance Amendments						
Amendment ID	Commenter	Article/ Section	Topic	Page	Amendment for Consideration	Recommendation
New Since Public Hearing						
UUU	Staff	36.222 B	Permitted Density for Parcels located Within the Rural Residential Development Area of the Comprehensive Plan	33	Modify Section B to remove items 1.a. and 1.b. Left column will read "Permitted Density" and the left column will read "1 dwelling unit per acre (1.0 unit per acre). This removes the restriction on parcels less than 5 acres to only 2 lots. All properties within the Rural Residential Development Area of the Comprehensive Plan will be permitted a density of 1 dwelling unit per acre and will no longer be based on parcel size within this area.	Staff - Yes, amend as provided
VVV	Staff	Article X - Definitions	Definition of alternative dwelling	167	The ordinance does not contain provisions for alternative dwellings such as yurts, tiny houses and other structures other than a reference to tent-homes in a campground. Add definition for the term Alternative dwelling to read "Alternative dwelling means a structure or combination of structures, considered temporary or permanent, such as tents or yurts, intermodal shipping containers, or tiny houses which are dwelling units that contain less than 600 square feet in floor area, and similar structures intended to be located on a lot or premises for temporary (or permanent) residential occupancy. Alternative dwelling does not include motorhomes, travel trailers or other recreational vehicles."	Staff - Yes, amend as provided
WWW	Staff	Article X - Definitions	Definition of Dwelling, or dwelling unit	173	Add language to the definition of the term Dwelling, or dwelling unit to clarify that an alternative dwelling is not considered the same as a dwelling, or dwelling unit. The modified last portion of the definition will read "but not including boats, trailers, motor homes and alternative dwellings."	Staff - Yes, amend as provided
XXX	Staff	Article X - Definitions	Definition of Accessory building or structure re: alternative dwelling units	167	Add language to the last sentence of the definition of the term Accessory building to clarify that an alternative dwelling is not considered the same as an accessory building or structure. The modified sentence will read "Accessory building or structure does not include alternative dwellings, motorhomes, travel trailers or other recreational vehicles."	Staff - Yes, amend as provided
YYY	Staff	Article X - Definitions	Definition of Accessory dwelling unit	167	Add sentence to the definition of the term Accessory dwelling unit to clarify that recreational vehicles and alternative dwellings are not considered the same as an accessory dwelling units. The additional sentence will read "Accessory dwelling unit does not include alternative dwellings, motorhomes, travel trailers or other recreational vehicles."	Staff - Yes, amend as provided
ZZZ	Staff	Table 36.12 Zoning Use Matrix	Include Alternative dwelling as a permitted use in Matrix		Add "Alternative dwelling" to the use matrix as the first item under the Residential category with the approval of a Conditional Use in A-1 and A-2 Districts.	Staff - Yes, amend as provided
AAAA	Staff	Section 36.416 (e) - Accessory dwelling unit	Use standards for Accessory dwelling unit	106	Add language to Section 36.416 (e) to clarify that an alternative dwelling shall not be considered the same as an accessory dwelling unit consistent with the other uses listed. The modified sentence will read "A manufactured home, alternative dwelling, or recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as an accessory dwelling unit."	Staff - Yes, amend as provided
BBBB	Staff	Section 36.524 Circumvention	Add clarity to subdivision lot count	140	Add language to Section 36.524 for clarity to ensure subdivisions are reviewed in accordance with the appropriate process (e.g. Major Subdivision or Minor Subdivision) and circumvention of the ordinance through multiple single-lot or minor subdivisions being recorded after the date of the parent parcel creation is understood. This modification will revise the title of this section to read "Cumulative Lot Count and Circumvention." The sentence "Family subdivisions, boundary line adjustments and parent tracks recorded prior to February 17, 1988 shall not be counted towards subdivision cumulative lot totals." will be added at the end of the circumvention language in the section.	Staff - Yes, amend as provided
CCCC	Staff	Table 36.12 Zoning Use Matrix	Add Temporary construction trailers and buildings		Add "Temporary construction trailers and buildings" as a permitted use in all zoning districts under the Accessory Use category, identify with a B to indicate permitted by-right in each zoning district with a reference to new Section 36.423 for use standards.	Staff - Yes, amend as provided
DDDD	Staff	New Section 36.423 - Use Standards	Add Use standards for Construction trailers and buildings, temporary	111	Add standards as Section 36.423 for temporary construction trailers and buildings. (a) Temporary construction trailers and temporary buildings, used in conjunction with construction work only and not for residential occupancy, may be permitted in any district during the period construction work is in progress. (b) All yard requirements of the district for a principal structure in which the temporary building or construction trailer is located are met. (c) A zoning permit is issued for a period of twelve (12) months only upon showing by the applicant of a valid and approved building permit for a conventionally built dwelling or a commercial, industrial, or public structure or development, public facility or public utility. Such temporary permit may be renewed for a maximum of an additional twelve (12) months only if the applicant satisfactorily demonstrates to the Zoning Administrator that unavoidable circumstances caused a delay in the construction.	Staff - Yes, amend as provided

ADOPTED: this 11th day of October 2022.

CERTIFICATION OF ADOPTION RESOLUTION

The undersigned Clerk of the Board of Supervisors of the County of Essex, Virginia certifies that the Resolution set forth above was duly adopted during an open public meeting on the 11th day of October 2022 by a majority of the members of the Essex County Board of Supervisors with the following vote:

AYE: Akers, Gill, Johnson, Smith

NAY: None

ABSTENTION: None

ABSENT: Magruder

Passed and adopted this 11th day of October 2022.
Effective 12:01 AM, on the 10th day of November 2022.

Signed this 12th day of October 2022.

Chairman, Board of Supervisors

Date

ATTEST:

April L. Rounds, Assistant County Administrator and Deputy Clerk to the Board
For Michael A. Lombardo, County Administrator and Clerk to the Board

Zoning Map Project: Adoption of Proposed Resolution # 22-012

Supervisor Smith made the motion to adopt resolution #22-012 with attachment A as presented. Vice Chairman Gill seconded.

Resolution #22-012

PRESENTED: April 12, 2022

ADOPTED: October 11, 2022

EFFECTIVE: November 10, 2022

**AN ORDINANCE ADOPTED BY THE ESSEX COUNTY BOARD OF SUPERVISORS
AMENDING THE ESSEX COUNTY ZONING MAP**

WHEREAS, pursuant to the Code of Virginia, the Board of Supervisors from time to time may amend the Zoning Map of Essex County; and

WHEREAS, the Essex County Planning Commission held a kick-off meeting on November 15, 2019, to develop the draft Zoning and Subdivision Ordinance and met in joint worksessions with the Board of Supervisors from February 2020 through September 2021 to draft the Zoning and Subdivision Ordinance; and

WHEREAS, the draft Zoning and Subdivision Ordinance text amendments affect the Zoning Map of Essex County; and

WHEREAS, a public open house was held by the Essex County Planning Commission and the Essex County Board of Supervisors on August 31, 2021, to present the draft amendments

to the County's Zoning and Subdivision Ordinances and Zoning Map, at which members of the public had the opportunity to provide input and questions on the draft ordinance and map; and

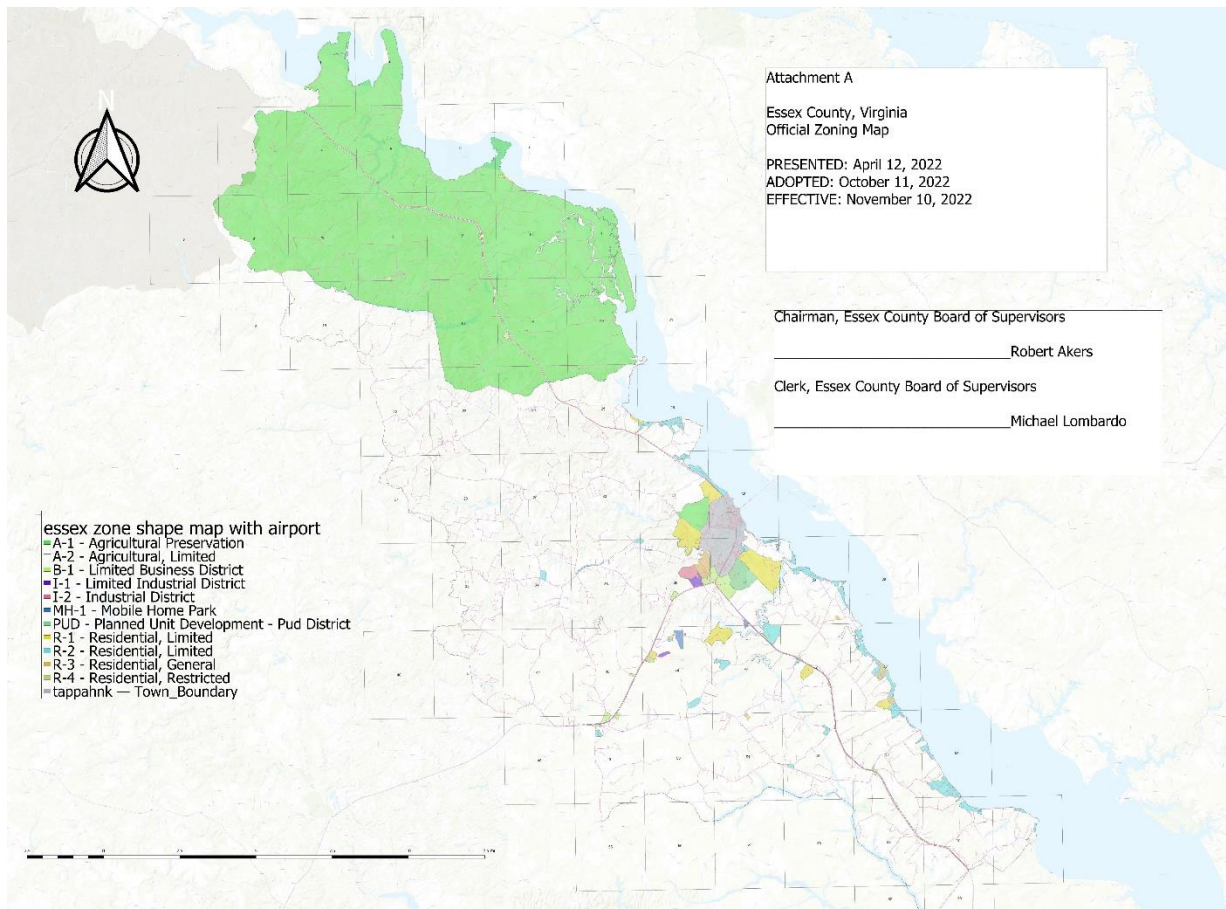
WHEREAS, the Planning Commission and Board of Supervisors held a joint public hearing on April 12, 2022, after notice in accordance with Section 15.2-2204 of the Code of Virginia, and heard citizen testimony regarding the proposed amendments to the Zoning and Subdivision Ordinance and Zoning Map; and

WHEREAS, the Planning Commission recommended approval of the proposed draft of the Essex County Zoning and Subdivision Ordinance and finds the Zoning Map amendments proposed in **Attachment A** correspond to the proposed draft of the Essex County Zoning and Subdivision Ordinance, and **RECOMMENDED APPROVAL**; and

WHEREAS, the Board of Supervisors finds that the proposed map amendments in **Attachment A** correspond to the proposed draft of the Essex County Zoning and Subdivision Ordinance.

NOW, THEREFORE, BE IT ORDAINED that on this 11th day of October, 2022, that the Essex County Board of Supervisors, does hereby **APPROVE** the Essex County Zoning Map Amendment, as represented in **Attachment A**.

AND BE IT FURTHER ORDAINED that the Board of Supervisors authorizes County staff to amend the Zoning Map, to include changes as a result of the April 12, 2022, public hearing and outlined in **Attachment A**.



ADOPTED: this 11th day of October 2022.

CERTIFICATION OF ADOPTION RESOLUTION

The undersigned Clerk of the Board of Supervisors of the County of Essex, Virginia certifies that the Resolution set forth above was duly adopted during an open public meeting on the 11th day of October 2022 by a majority of the members of the Essex County Board of Supervisors with the following vote:

AYE: Akers, Gill, Johnson, Smith

NAY: None

ABSTENTION: None

ABSENT: Magruder

Passed and adopted this 11th day of October 2022.
Effective 12:01 AM, on the 10th day of November 2022.

Signed this 12th day of October 2022.

Chairman, Board of Supervisors

Date

ATTEST:

April L. Rounds, Assistant County Administrator and Deputy Clerk to the Board
For Michael A. Lombardo, County Administrator and Clerk to the Board

BAF Reappropriate Funds :156K for projects not completed by FY22 year end

The 5 projects that were approved on April 2022: Replacement of the medic unit, LED lighting, Replacement Windows, 2 Sheriffs vehicles, EMS Bay Doors.
The completed projects were the 2 sheriffs vehicles with a total of \$103,133.98.
EMS Bay Doors with a total of \$12,145.

Supervisor Smith made the motion to reappropriate the funds of \$156,000.
Supervisor Johnson seconded. AYES: 4 NAYES: 0 ABSENT: 1

Proposed Resolution #22-010 Rural Rustic Project Route 654

Vice Chairman Gill made the motion to approve resolution #22-010 Route 654 Rectory Road as presented. Supervisor Smith seconded.

Resolution #22-010

WHEREAS, Section 33.2-332 of the *Code of Virginia*, permits the hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1500 vpd; and

WHEREAS, the Board of Supervisors of Essex County, Virginia ("Board") desires to consider whether Rectory Road, Route 654, 0.46 mile, From: Route 17 To: Dead End be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics;

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the Residency Administrator for the Virginia Department of Transportation concur in this designation.

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Virginia Department of Transportation Residency Administrator.

ADOPTED: This 11th day of October 2022.

CERTIFICATION OF ADOPTION RESOLUTION

The undersigned Clerk of the Board of Supervisors of the County of Essex, Virginia certifies that the Resolution set forth above was duly adopted during an open public meeting on the 11th day of October 2022 by a majority of the members of the Essex County Board of Supervisors with the following vote:

AYE: Akers, Gill, Johnson, Smith

NAY: None

ABSTENTION: None

ABSENT: Magruder

Signed this 12th day of October 2022.

ATTEST:

April L. Rounds, Assistant County Administrator and Deputy Clerk to the Board
For Michael A. Lombardo, County Administrator and Clerk to the Board

Budget Supplement Request

Sheriff Holmes stated that they are looking at updating their body cams. The total quote was \$34,000. We received a matching grant of \$16,986.88. The money will be taken out of SS Forgery Money. There will be no money spent from the county. They are asking to transfer the funds to cover the cost.

Supervisor Johnson made the motion, Supervisor Smith seconded. AYES: 4 NAYES: 0 ABSENT: 1

CLOSED SESSION

Supervisor Johnson stated in accordance with Section 2.2-3711. A.7 of the Code of Virginia, I move that the Board of Supervisors convene in Closed Meeting to discuss an appointment to the Wetlands Board. Vice Chairman Gill seconded. AYES: 4 NAYES: 0 ABSENT: 1

RECONVENE IN OPEN SESSION

Supervisor Johnson stated RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the Essex County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 D of the Code of Virginia requires a certification by the Essex County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the Essex County Board of Supervisors this the 11th day of October 2022, hereby certifies that, to the best of each member's knowledge, 1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and 2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Essex County Board of Supervisors.

Chairman Akers - Certifies

Vice Chairman Gill – Certifies

Supervisor Johnson – Certifies

Supervisor Smith - Certifies

BOARD REQUESTS AND DIRECTIVES

VACo Annual Conference, November 13-15

Board of Supervisors Work Session, November 15 at 5PM

Board of Supervisors Regular Session, November 15 at 7PM

Board of Supervisors Work Session, December 13 at 5PM

Board of Supervisors Regular Session, December 13 at 7PM

Board of Supervisors Strategic Planning Meeting, TBD – Chairman Akers working with Dana Smook on logistics.

ADJOURN

Supervisor Smith made a motion to adjourn. Vice Chairman Seconded. Chairman Akers adjourned the meeting.

Chairman

Clerk of the Board