

Minutes
Essex County Planning Commission
Regular Meeting
December 5, 2023
7:00 P.M.

A regular meeting of the Essex County Planning Commission was held on December 5, 2023, at the Essex County School Board Office, Tappahannock, Virginia.

Present:

David Jones – Chairman
Angelo Stevens – Vice Chairman
Stephen Walters
Wright Andrews
Trent Taliaferro
Benjamin Scott Mundie

Absent:

Jean Segar

Also present:

Carlos Disla – GIS Coordinator

CALL TO ORDER

David Jones, Chairman, called the regular meeting of the Planning Commission to order at 7:00 pm.

ROLL CALL

Chairman Jones asked Carlos Disla if he could call the roll. He did not have the names so David Jones asked each Commissioner present to state their name and say present so Carlos could see if a quorum was met. A quorum was met.

MEETING AGENDA

Chairman Jones asked if any changes needed to be made to the agenda.

APPROVAL OF MINUTES

Chairman Jones asked if there were any corrections or additions needed for the November 8, 2023, minutes? Commissioner Mundie said that in the third paragraph his name is spelled wrong, it was Mundy and not Mundie. Commissioner Walters asked if silviculture was one word, or two words and Commissioner Mundie said that it was one word so that was a correction that needed to be made. Chairman Jones asked that the minutes be accepted as

amended. Commissioner Mundie made a motion to approve the minutes as amended. Commissioner Walters seconded the motion. AYES: 6 NAYES: 0 ABSENT: 1

PUBLIC COMMENTS

None

PUBLIC HEARING

None

OLD BUSINESS

Discussion of chapter 1 of the Essex County Comprehensive Plan

Chairman Jones said that they received chapter 1 through email and Mr. Barnes left space so the members can make notes. He asked the members if they wanted to walk through chapter one tonight or if they want to take the month to review it.

Commissioner Wright said he took time to read through it a little. The only thing he put in his draft to Mr. Barnes is that Essex is a neat County, but he thinks there needs to take into account in the plan the uniqueness in some areas but in other areas there is commonality with other Counties. Some things that come out what comes out in the training is that we need to be working with more counties.

The members of the Planning Commission were to review Chapter 1 during the month.

SECTION ONE

INTRODUCTION AND FRAMEWORK

FOR PLANNING

Background Description

Essex County is a predominantly rural County situated on the northeastern most section of the

Middle Peninsula in the Commonwealth of Virginia. It is bounded on the north by King George

and Westmoreland Counties, on the east by Richmond County, south by Middlesex County, and

by Caroline and King and Queen Counties on the west. The east boundary of Essex County is the Rappahannock River (See Map 1-1). The land area of the County is approximately 257 square miles (165,000 acres).

Formed in 1692 when Old Rappahannock County was divided into Essex and Richmond, the County was named for either the English County or the Earl of Essex. In 1652, a port settlement began in the area of New Plymouth, later renamed Tappahannock for the Indian name meaning Town on the River. Tappahannock was incorporated in 1926 and serves as the County seat covering an area of roughly 2.75 square miles and located near the center of the County. An elected Board of Supervisors and an appointed County Administrator govern the County and a Town Council-Town Manager form of government serves the Town.

Tappahannock is the employment and population center for the County and the commercial center for the Middle Peninsula region. Residential developments exist as small rural communities along the Rappahannock River or as strip residential along primary roadways.

Growth has been gradual and slow allowing the County to retain its predominantly rural character. As the County grows and changes over the next 20 years, this Comprehensive Plan will serve as a guide for making growth management decisions in Essex County. The Plan is a culmination of a cooperative effort, pulling together the knowledge and skills of diverse

residents, business leaders and government staff. This plan represents a vision of Essex County along with recommendations for bringing that vision to fruition. The ideas of the Plan are a distillation of the community's many desires, tempered by what is necessary, feasible, and reasonable to foster a good quality of life for Essex residents. This Plan is not intended to be a static document. It should be reviewed and updated periodically to reflect new development trends, shifts in the economy, or changes in the community goals and objectives.

Essex County is a special place with a unique character, culture and history that distinguishes the community from others in the region. This Comprehensive Plan, particularly the plan goals and objectives, addresses the preservation and enhancement of these special qualities and the distinctive personality felt by the residents. This sense of uniqueness and pride of place are the guiding forces and strongest motivation for those who have contributed to the realization of this document. The opportunities presented by a shifting economy, technological changes, and a strategic location present the County with the chance to shape a bright future.

The Comprehensive Plan Defined

The overall goal of the Comprehensive Plan is to: "Maintain and enhance the quality and character of the County by promoting the efficient use of the County's land and natural

resources in order to effectively meet the social and economic needs of present and future residents providing for a more balanced and sustainable community."

The Comprehensive Plan is an official public document adopted by the County Planning Commission and Board of Supervisors. The Plan is a general, long-range, policy and implementation guide for decisions concerning the overall growth and development of the County. It brings together the elements of land use, economy, transportation, public infrastructure and environmental protections to implement the vision of a sustainable Essex County community.

The Plan is comprehensive in that the elements cover the entire range of development, preservation infrastructure and economic issues which can be influenced significantly by the County Board of Supervisors and other governing authorities. Consideration is given to these categories and issues arising over the next twenty years. Planning should be viewed as an opportunity for a community to control its own destiny. It is a process by which Essex County has:

- ☐ assessed its current state of development, needs, problems, and resources;
- ☐ determined its desirable future physical form and character;
- ☐ established public policies designed to help bring about the necessary changes and guide

private actions to achieve community objectives

The purpose of such a process is to ensure rational allocation of finite resources to meet the community's priority needs and to mitigate whenever possible, future environmental, social, and economic issues. Planning is a means for expressing the will of the community; regulatory actions the means by which the community's will be implemented. In other words, regulations are not ends in themselves, but means of achieving the desired ends i.e. goals identified during the planning process.

The Comprehensive Plan has evolved as the primary vehicle through which this process is conducted. The Plan generally consists of:

- ☐ an analysis of existing conditions and an inventory of available resources;
- ☐ goals and objectives;
- ☐ future plans; and
- ☐ recommendations for implementation.

The Plan is most effective when it contains input from all segments of the community and must be continuously evaluated and updated as necessary. Public participation and outreach are essential to knowing and understanding the goals and objectives of the County.

The Comprehensive Plan update was conducted by a Steering Committee consisting of Essex

County residents and members of the business community, Essex County staff and Planning Commission members and Middle Peninsula Planning District Commission.

Although adopted as an official public document, the Comprehensive Plan is not a development and preservation ordinance. This plan serves as a catalyst and guide to the establishment of, or revisions to, other ordinances or planning tools including the zoning and subdivision ordinances.

The Land Use Plan Map, included in this plan, serves to illustrate how and where the Plan's policies and recommendations will be carried out. This mapped information is general in nature and not appropriate for determining the suitability of specific sites for any specific use.

The Purpose of the Plan

This Plan provides the basic policy framework to manage and direct future development in Essex County. It is designed to address imminent issues as well as to provide a long term planning strategy for implementing future actions and policies. As such, the Plan is designed to address the County's needs through the year 2030 and thereby provide the County with a means to ensure orderly, managed growth and development throughout the planning period. Various projections, policies, and recommendations are prepared in the context of balancing the many objectives attendant to this Plan. This general theme when interpreted in terms of land use says that:

The County should adopt a "growth management " philosophy toward the use of the land over

which it has zoning authority; and that development should be of a controlled nature, channeled into the most appropriate areas and discouraged in other areas. Moreover, the County has determined that such a philosophy is necessary to cost effectively sustain adequate levels of public services and facilities in the form of schools, transportation networks, sewer, water, police, fire and health care services which will be required to support present and future residents.

The goals and objectives framed in the elements of this Plan serve as a formally adopted growth management guide to Essex County's future. They provide guidance for public decisions concerning how development will be managed or regulated, where and how it should occur, and where capital improvements and public services should be provided or not provided to support it.

In this context, the Plan serves to inform County residents, the development community, and State and Federal agencies of the County's intent regarding its future. It identifies controls, management measures, financial or human resource investments, and incentives necessary to achieve County objectives.

Finally, the Plan provides the basis for a number of County actions and management decisions and serves as a tool for evaluating the merits of proposals which will surface over time.

Undoubtedly, County residents, the Planning Commission and the County Board of Supervisors will be faced with proposals which could affect many aspects of life in the County. This Plan in particular, its policies and objectives, provide guidance in decision-making and establish a basis for evaluating proposals of this kind.

Goals, objectives, and recommendations of the Comprehensive Plan are influenced by reports prepared as part of the process toward its completion. Likewise, it will, in turn, influence revisions in the construction of companion documents which serve to implement the Plan including the County Zoning Ordinance and Land Subdivision Regulations. Since the Plan concurrently influences and is influenced by these related Planning Program documents, a brief description of each follows.

Legal Basis for Comprehensive Planning

Essex County's first Comprehensive Plan was drafted in 1967. Preparation of the Comprehensive Plan is the legal responsibility of the County Planning Commission and is mandated by the Virginia Planning Enabling Legislation, Title 15.2, Article III, of the Code of Virginia, 1950, as amended. The Plan also serves to satisfy the requirements of VAC 10-20-10 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations, which established standards for local Comprehensive Plan Elements designed to implement Chesapeake

Bay Water Quality Improvement objectives. Any ordinance pertaining to the use of land or the growth and development of the County should conform to the goals, objectives, and policies as they are presented in this Plan.

Zoning Ordinance

The Essex County Zoning Ordinance was first adopted in 1976 and serves as a primary planning tool for implementing the Comprehensive Plan. Zoning is a means by which private properties are regulated in the public interest. The Zoning Ordinance and its official map delineate and describe conservation, agriculture, residential, business and industrial areas throughout the County. The permitted uses and development regulations for each of these areas are described within the ordinance and through a schedule of district regulations and an official zoning map.

The Zoning Ordinance sets out how property in the County may or may not be used. It prescribes a series of zoning districts and enumerates uses permitted and establishes performance standards for future development in each district. The standards are designed to ensure achievement of certain objectives established in the Plan including protection of sensitive environmental features and enhancement of future environmental qualities.

Subdivision Regulations

Revised in 1998, Essex County has enforced subdivision regulations for as a part of the growth management process. Subdivision regulations assure adequate provision of services for residential communities. By use of this planning tool, unnecessary burden of public funds for streets, recreation and utilities is mitigated in the future.

These regulations provide guidance and controls for the configuration and layout of land subdivision in the County. They further establish standards for subdivision plat content and procedural submission requirements. Standards contained in these Regulations will also be designed to ensure implementation of certain Comprehensive Plan policies and objectives.

Site Plan Regulations

Another tool to implement the Comprehensive Plan is the establishment of site plan requirements which provide for the review of proposed developments of a designated scale prior to their location within the County. In this way the provision of public services, impact on adjacent land uses and overall impact can be negotiated with the developer prior to approval by the County.

Storm Water Management

Essex County implements a countywide storm water management plan based on guidelines from the Statewide Storm Water Management Programs. The plan includes provisions from the previous Erosion and Sedimentation Control Ordinance. Through the Storm Water Management

Program, development requests are reviewed and monitored so as to assure that sedimentation is minimized and storm water erosion is prevented during land disturbance. This serves to control development to the extent that compliance with environmental protection factors must be met.

Housing and Building Codes

Housing and building codes include the fire code, electrical code, housing code, building code and plumbing code. These are designed to protect the health, safety and general welfare of the residents of the County by providing minimum standards for all types of structures. Most of these codes have been incorporated into the Uniform Statewide Building Code and are in effect through the Office of the Building Inspector.

Conservation Easements & Historic Districts

The provisions of Virginia law permit County ordinances to include protection against destruction of or encroachment upon historic areas. This can be included within the zoning ordinance or it can exist independently in the form of historic easements. The historic easement is a means for private owners of historic properties to preserve these properties for public enjoyment without giving up their ownership. The easement includes a dedication of restrictions on future use and development of the property and places it in trust with a public or semi-public agency. The property owner, however, retains the right of continued ownership and usage as

long as uses are consistent with the restrictions. There is also a provision for tax deductions.

The County may wish to encourage owners of historic properties to consider their options in preserving identified historic sites and structures in the County. Similar State statutes permit a landowners voluntary formation of agricultural and forestry district. Encouraging landowners to create such districts further the comprehensive plan objectives for preserving farmland, forestland and rural character.

Capital Improvements Program

Essex County is currently exploring creation of a Capital Improvements Program. A capital improvements program lists the local public improvements needed for a specified period. It identifies the estimated construction costs and the proposed funding source as well as the timetable under which such projects will be implemented. A capital improvements program serves to assist the County in carrying out the goals and objectives within the limits of the County's financial capabilities, and to assure adequate funding for capital improvements needed to facilitate delivery of services to County residents

Discuss issues with Agricultural and Forestry language in the Essex County Zoning Ordinance

Mr. Barnes emailed a copy of a memorandum to the Planning Commission members that he sent to the Essex County Agricultural and Forestal Economic Advisory Board.

Mr. Mundie asked when they meet. Chairman Jones said that he does not know but will find out.

Mr. Walters said one thing he would see them helpful with is I was allowed to do this before, now I'm not. We may need to be careful if we add AG back to the other districts like it was. We need to do it in a smart way, so we are not causing any problems. We want to use best practices.

Commissioner Mundie said that a prime example that Mr. Barnes put around new the Beale Church that is R1. You can't envision that not being a good use. It has always been a field why would you want to restrict him. He is curious to hearing their input.

Commissioner Taliaferro was not aware that all the land around Beale Church is R1.

Date: November 29, 2023

To: Essex County Agricultural and Forestal Economic Development Advisory Board

From: Brian Barnes, Zoning Administrator

Subject: Board of Supervisors Directive Regarding Agriculture/Forestry Zoning

Meeting: TBD or next available

Issue: Essex County undertook to have the Zoning and Subdivision Ordinance updated and new language adopted. The adopted zoning ordinance, effective November 10, 2022, permits agriculture by right only in the A-1 and A-2 districts. Upon hearing concerns from citizens and members of the Agriculture and Forestry Industry, the Essex Board of Supervisors issued a Directive to the Planning Commission to begin working on the issue and recommend language improvements that might alleviate or eliminate this issue.

During several meetings, the Commission researched and discussed this issue. At the November Planning Commission meeting, the Commission directed staff to reach out to the Agricultural and Forestal Economic Development Advisory Board (AFED) to engage the expertise and experience of that body and seek a recommendation from the local Industry experts.

Discussion: Zoning Ordinance language regulates land uses by naming what uses are permitted by-right (without special authorization) or by conditional use or special exception (depending on which type of special authorization a locality uses). If a “use” is not named for a district it is generally understood to not be permitted. In other words, a locality does not list everything that is not permitted, only what *is* permitted and by what means it may be authorized (either conditional use permit or by-right).

Previously and traditionally, agriculture and forestry activities were by right across a wide range of zoning districts in Essex County. With the new ordinance, this was changed to a narrow focus on only the A-1 and A-2 districts. These two districts still represent the vast majority of the county land area and all other lands under such management on November 10, 2022, would become authorized via prior non-conforming use (if they desire to expand or modify those prior non-conforming uses, they must seek further approval from the Planning Commission and Board of Supervisors or rezone to an A-1 or A-2 district classification.

It appears that restricting agriculture by right to a select suite of zoning classifications is not unusual, even in heavily agricultural counties. However, it may be prudent to expand the by-right agriculture uses in districts that are zoned for uses more “offensive” (example: industrial zoning). What other districts might be well served to include Ag & Forestry uses?

The “Right to Farm Act” clearly restricts a localities’ ability to regulate agriculture within a bona fide agriculture district (Code of Virginia §3.2-300, et seq. and § 15.2-2288, et seq.). This act prevents a locality from requiring a Special Use Permit for an agriculture activity in an agricultural district. If the Essex County Zoning Ordinance requires a Conditional Use Permit for an agricultural activity meeting the definition of Agricultural Operation on agriculture zoned land, that section may not be in compliance with state code. AFED members should discuss this in detail and investigate the issue further.

Conclusion: While the Agricultural and Forestal Economic Development Advisory Board serves at the pleasure of the Board of Supervisors, this request for assistance comes from the Planning Commission and county staff. The rendering of such

assistance will still serve to fulfill the “pleasure of the Board” by assisting to fulfill the Board Directive regarding this issue. To that end, county staff make all previous Planning Commission memos and documents regarding this issue a part of this memorandum so that AFED members may see what the issue is and where the expertise is needed. Please know that county staff are able and willing to assist and attend one or more meetings with the AFED to assist in this process.

Chairman Jones said that the meeting for January is January 2, 2024 so we could move it to Wednesday January 3, 2023. The members were fine with the January 2, 2024 meeting.

NEW BUSINESS

None

ADJOURN

Having no further discussion, a motion to adjourn was made and seconded. AYES: 6, NAYES: 0, ABSENT:1

David Jones, Chairman