

Kenneth Dufty  
6182 Wardtown Road  
Exmore, Virginia 23350

May 19, 2021

Chairman Dixon Leatherbury  
Members of the Northampton  
County Board of Supervisors  
Northampton County Administration Complex  
The Hornes  
Eastville, Virginia 23347

Re: 2020-2040 Comprehensive Plan  
***“Whose Vision is it Really?”***

Chairman Leatherbury and Northampton County Supervisors,

I am writing to share the results of nearly four (4) months of research centered around the final draft of the proposed 2020-2040 Northampton County Comprehensive Plan (herein referred to as “The New Comp Plan”) and express concerns by my family and many of our volunteer researchers and other subscribers on our contact list have regarding the pending approval of that proposal. While we are fully aware that the public comment period ended on May 4, 2021 and culminated with a public hearing at the Northampton High School on that date, several active members of our community and readers have verbally or through electronic means expressed great concern that the proposed final draft does not reflect the collective vision of those who actively participated in the workshops, focus groups, hearing opportunities, and comment periods that were conducted and held prior to the May 4, 2021 date at which the formal public input session was concluded.

It is worth stating at the onset that I hold no expectation that the final comments penned below will be considered or acted upon by the majority of the Northampton County Board of Supervisors (NCBOS) given the denial of our requests to have our concerns considered in the recent past and having them outright dismissed during the March 24, 2021 joint work session held at the administration building in Eastville between the Northampton County Planning Commission (NCPC) and your board.

These final comments have been prepared and are submitted *in part* to respond to the rather specious statements made by Supervisor David Fauber during the May 11, 2021 NCBOS monthly meeting regarding the public involvement in the drafting of the New Comp Plan. To wit, during a discussion about prospective final changes the NCBOS may make to the New Comp Plan during their upcoming May work session, Supervisor Fauber lectured his comrades that the pending 2020-2040 was the “people’s” document and that it was not the job of the board members or the county to change that vision as recorded and collected through the community surveys, comment periods, and workshops.

This filing will: 1) detail and highlight a collective comparison between what the citizens asked for during the 2-year process that culminated in the December 9, 2020 first draft of the New Comp Plan and our current 2009 Comprehensive Plan (2009 Comp Plan); 2) offer a comparison between the vision registered in the 300+ citizen survey responses solicited during the drafting of the New Comp Plan and what that draft plan has in store for the citizens and businesses of Northampton County; 3) discuss the denial of the several requests citizens submitted to the supervisors for changes to the draft, changes that would have brought the New Comp Plan into closer synchrony with the will and desire of the majority of citizens for the next 20 years of this county’s future; and, 4) comment on the many requests that were granted to the Northampton County Economic Development Authority, an entity *closely aligned with the private interests that supported the 2012-2015* highly controversial attempt to rezone Northampton County in a manner that was wholly inconsistent with our revered 2009 Comprehensive Plan.

Finally, in order to double check our initial reaction and conclusion that the New Comp Plan was in no way, shape, or form reflective of what the citizens envisioned for this county’s future over the next 20 years, on two separate occasions I scheduled time at the NCPD’s office and reviewed and took notes on the 300 citizen surveys that are on file in that office. These visits were on March 23, 2021 during which I reviewed 100 of those survey responses, and then again on April 16, 2021 to review and note the responses in the remainder of those reports.

**1. Berkeley Group Response Document of March 12, 2021 remains a true testament to the fact that the draft plan is not the vision of the citizenry, but more of a wish list for private interests including the Northampton County Economic Development Authority.**

**A. First, we are NOT the City of Lexington, Virginia as stated in the December 9, 2020 Draft Comp Plan**

As you know, the Berkley Group was hired well over a year ago to help with and facilitate the process of fully involving the public in the formulation and drafting of the New Comp Plan which has been proposed to replace our 2009 Northampton County Comprehensive Plan. Working with the NCBOS, the Northampton County Planning Commission (NCPC), the Northampton County Planning Department (NCPD), the county attorney's office and other principal stakeholders involved in the scoping process in this instant effort, Berkley submitted a multi-page response document to your board on March 24, 2021 which recommended actions the NCBOS should take, if any, to respond to a large number of "stakeholders" that were involved in the drafting of the New Plan.

It is well established that the Berkley Group which is based in Bridgewater, Virginia is well respected in this field and has assisted many municipalities throughout the Commonwealth of Virginia in planning and other land use decisions and associated efforts for many decades. Indeed, upon information and belief they have been guiding and advising the City of Lexington, Virginia since 2015 in similar planning and zoning issues.

Before elaborating on one concern that was raised by many of our volunteer researchers and readers regarding the December 9, 2020 draft of the New Comp Plan, let me remind you that Northampton County is unique in many, many ways and that distinction is highlighted in the undisputed fact that we are: 1) the last largely undeveloped and protected stretch of real estate on the Eastern Atlantic Seaboard; 2) home to one of the most important migratory flyways in the world and are officially designated as such; 3) ground zero to one of the most unique and indeed threatened system of aquifers in the world with our drinking water regime created by a bolide strike millenia ago and which sits over incredibly highly saline and toxic brackish water just over 300 feet below our land surface; 4) the home of a vibrant and productive agriculture and aquaculture industry that leads the Commonwealth in production and export of our harvested clams, oysters, and other locally-produced crops; and, 5) home of a well-seasoned populace with nearly 30% of our residents over the age of 65.

In contrast, the demographics of the City of Lexington in Rockland County differ sharply with that of Northampton County in every conceivable way. To wit, Lexington is a college town with the average age of the 7,000 residents there registering a young 22 years. Home to VMI and Stonewall Jackson's historic home, the city hosts hundreds of eclectic retail shops, art galleries, theaters, restaurants and other entrepreneurial offerings in a consolidated business district, as well as high rise apartments, condos, and other higher-end forms of housing. The population in Lexington is 83% white, while Northampton County's share is about 65%. In short, the City of Lexington is NOT reflective of Northampton County nor is it as diverse.

Therefore, we and many others were concerned when, on page 10-3 of Berkley's December 9, 2020 draft of Northampton County's 2020-2040 Comprehensive Plan (which is still available on the county's website as of this writing), readers were taken aback with the statement that announced that the plan's goals and strategies were to **"achieve OUR vision for the Lexington of 2040"** (emphasis added, see **Attachment A**). This glance behind the curtain that cloaks **OUR** vision for the next 20 years and replaces it with the Berkley-Lexington vision for that long-term future serves as a jumping off point for our consolidated comments registered below. Indeed, many of our volunteer researchers, after comparing the New Comp Plan with our current 2009 Plan believe this brief look behind Berkley's planning curtain could actually have been a Freudian finger-slip on the keyboard and this revelation serves as a suitable frame for our comments which begin here.

**B. The citizen requests for changes or additions to Berkley's vision for OUR future have been denied or recommended to be denied outright by Berkley or the majority of the NCBOS as memorialized in the March 12, 2021 responsive document prepared by the consulting firm.**

In preparation for the joint work session held between the NCBOS and the NCPC on March 24, 2021, Berkley prepared a March 12, 2021 comprehensive recommended response

document entitled “**Additional Review Comments and Proposed Recommendation**” that was designed to address and recommend changes to the draft New Comp Plan as requested by citizens and other stakeholders. Below is brief summary of the final actions that were taken to address some of the citizen comments regarding suggested proposed changes to the draft New Comp Plan.

1. Citizens suggested that it would be “**most helpful**” if a spread sheet could be prepared and provided to Northampton County residents and stakeholders that would offer a simple comparison between our prevailing 2009 Comp Plan and the draft New Comp Plan to help people understand the changes to our current vision for OUR future and those being proposed in this instant proceeding. Berkley dismissed that request out of hand in response #11 by firmly stating that the “**COMPARISON IS NOT PART OF THE SCOPE OF WORK**”. (emphasis added).
2. Citizens asked that the New Comp Plan not only include what the residents and stakeholders **WANT** for Northampton County, but include expressly what they **DON'T WANT** for this fine county's future over the next 20 years. This suggestion was precipitated by the 2012-14 NC BOS thwarted attempt to arbitrarily and arguably illegally rezone this county into something it was never meant to be, and indeed fashion this county into a working model of Virginia Beach and Ocean City land use practices and approach to development. It is not lost on many that this contentious attempt to bow to the will and desire of private interests including members of what is now called the “Economic Development Authority” and indeed that of

at least one member of the current NCBOS would have been disastrous for the future of our rural character and way of life that are indeed our core strengths.

What we fought against in that private interest assault on our future included: the proliferation of hundreds of industrial chicken houses; the rezoning of over 4,000 acres of farmland into residential without the landowners consent (representing unwanted density increases); the allowance of bio diesel plants and poultry manure incinerators in every zoning district “by right” with no notice to neighbors; removal of the CBPA on the Seaside; commercial development of our waterfronts including Willis Wharf and Oyster (see our comments below on that and other issues); and, the elimination of affordable housing options like *mobile home parks*. Because many of these contested proposals, defeated by electing two new BOS members in the November 2015 election, are now back on the table and included as “**our**” vision for the next 20 years, we argued that the New Comp Plan should include a discussion of this milestone in our past history and stand as a marker that we will not tolerate a resurgence of private interest attempts to hijack and indeed derail the vision of the majority of Northampton County residents. That vision is encoded in our current 2009 Comp Plan and should remain so. **But the Berkley Group recommended to the NCBOS in Item 12 of their response document that they deny that request, arguing that “the vision and plan was purposefully drafted and refined to maintain a positive tone”.** (emphasis added)

In response, we reply that we are *positive* that it is just as important to record what **we do not want** for the future

of this county, i.e. industrial poultry, etc., as it is to lecture us that **Berkley Group** and other private interests allegedly know better than **we** about what **we** **DO** want. Note here the NCBOS agreed with Berkley group that the citizen request should be denied, ***which it was.***

3. Citizens asked that the New Comp Plan reflect the majority opinion that we do **NOT** want large apartment houses and multi-family houses and “units” on our farm fields and prime agricultural lands. We asked that this desire to confirm this vision which is imbedded in our 2009 Comp Plan be reflected and memorialized in the New Comp Plan. The concern is grounded in the recorded fact that there is a stated desire by Supervisor Fauber and perhaps other NCBOS members to change the current zoning requirement that only ONE “**dwelling unit**” be allowed on parcels that are no less than 20 acres in size on prime farm land or land zoned “agriculture”. The request to reinforce our desire that this protective measure remain in place and be so stated in the body of the New Comp Plan is propagated by the fact that in several tables in the New Comp Plan, the word “dwelling unit” (which is narrowly constructed) is replaced with just the word “**unit**”, which could be an apartment house with an unlimited amount of apartments or multiple “**dwelling units**” and many do not feel that this is a mistake or oversight, as we have pointed out this dangerous semantic or play on words repeatedly during the drafting of the New Comp Plan with no response from Berkley or other principals involved in the drafting of this proposed document. But in the March 12, 2021 response document submitted to the NCBOS on

March 24, 2021, *Berkley recommended denying that request by arguing that the Planning Commission did not “identify discouraged land uses”* and therefore they should not be mentioned. *Item #16 in Berkeley Response Document.*

4. Citizens asked that the language in the 2009 Comp Plan and zoning ordinance requiring or strongly suggesting “proffers” to be included and encouraged to be considered and factored into development plans by prospective investors in Town Edge Districts be brought forward into the New Comp Plan. Indeed, the New Comp Plan lists Town Edge Districts areas around incorporated towns that are under the jurisdiction of the county just outside of town limits as primary and ripe targets for intensive commercial, residential, and light industrial development. *Proffers* are central **to our current Plan** and ordinance, as they are designed to offset the costs to community services such as Public Safety (police) and Fire response.

These town services that will need to be made available to future developments in county-owned town edge parcels are funded and provided through the revenue raised by taxing town residents yet they will have to be provided to Town Edge businesses and residents without just compensation because of proximity and response times offered by the towns. In response to citizen requests that proffers be included in the New Comp Plan, Berkley seemingly sidestepped responding to that simple request by recommending to the NCBOs that language be included in the final plan that states the county should

**“(e)valuate\residential zoning requests for consistency with the Comprehensive Plan and fiscal impact on the community”.** In effect, the suggestion that the proffer language that is currently emphasized in our current 2009 Comp Plan be brought forward into the New Comp Plan was recommended by Berkley **to be denied, and therefore it was.**

5. The citizens requested that **“by right”** uses suggested to be allowed in the draft New Comp Plan be taken out of the language Berkley included in the draft. These “by right” uses included “technology zones, enterprise zones, community development authorities and tax increment financing” in Willis Wharf and Oyster. Note “by right” basically means that the neighbors and residents in these areas that will now be called “working waterfront development areas” (note the New Comp plan arbitrarily eliminates the current zoning classification “Waterfront Villages”) will not know what is happening on their sacred waterfronts until they hear the roar of bulldozers and the piercing din of pneumatic nail guns and impact drivers. The results of “by right” allowance on working waterfronts can be seen in both Chincoteague and Crisfield where scenic vistas of quaint sea- and bay- side landscapes have now been replaced with bricks, mortar, steel and glass obstructions associated with the hotels, condos, high rises and convention centers perched on the sands where neighbors once recreated. “By Right” allowance is also recommended for vacation rentals and accessory dwellings in the draft of the New Comp Plan. Note “by right” uses

trample on the chance to engage the citizenry, indeed the local stakeholders and oft times generational residents, a seat at the permitting table and a valuable chance to relay their concerns and suggestions regarding view shed, noise, lighting, traffic, access, etc.- mitigation measures that can and most times **are** intended to preserve the character of the local community and result in material changes to a proposed action that may otherwise have irreversible effects on an established local environ if ignored. However, in response to our stated concern in Item #21 of the Berkley Proposed Response and Recommendation document, the consulting firm successfully argued that our concerns should be dismissed, again totally misconstruing or sidestepping our recommendation by arguing “**No Change Recommended. The plan seeks to balance community-identified needs and priorities, including housing and jobs**”. This can not possibly serve as a basis to deny our request that “by right” uses be carefully reconsidered in the final New Comp Plan, but **it WAS** denied by the NCBOS at your March 24, 2021 Joint Work Session with the NCPC.

6. The citizens requested that the **American Farmland Trust’s Cost of Services** study be incorporated by reference into the New Comp Plan. This request to include the AFT’s Cost of Community Services (COS) by reference into the New Comp Plan was facilitated by the fact that large density increases of residential housing in Northampton County are being recommended in the New Comp Plan. These come in the form of increased density in the Town Edge Districts, by right allowance of Accessory Dwellings throughout the county, and even by Supervisor Fauber’s relentless and repeated suggestion to allow apartment houses or multi-family “units” on agricultural lands situate on our prime farmland fields. The

COS study, revered by most planners and town and county officials, found that increasing density or the number of housing units in a municipality can and will have a deleterious effect on fiscal health. Rather than lowering the real estate taxes and producing added revenue for a town or county, increased density more often than not results in the need **to RAISE taxes** on the businesses and residents. Indeed, the COS found that taxpayers owning farmland or agriculturally-dedicated property only require less than \$0.50 in services (schools, public safety, roads, social and emergency services, transportation infrastructure, administration services and health care). But once that land is developed or dedicated for housing or a dwelling, that property can require from \$1.14-\$1.25 in community services, resulting in a negative fiscal impact on the taxpayers in that community. If the study was wrong, indeed heavily developed communities and municipalities like Virginia Beach or Ocean City would be paying far less in real estate taxes than our largely undeveloped rural county. And we know that is not the case.

However during the March 24, 2021 Joint Work session, our request was firmly denied at the recommendation of Supervisor Coker who argued that there was no need to include the American Farmland Cost of Services Study directly or by reference in the New Comp Plan because the county already addresses that issue by its implementation of the Agricultural and Farmland Forestal District protection program which discounts the tax levy on actively farmed or preserved parcels. Although we certainly support and recognize the value of the farmland and forestal protection program, our request to include this

study in the body or by reference in the New Comp Plan was facilitated by the policies and strategies designed and proposed to increase density in Northampton County, policies that seem to ignore or marginalize the fiscal impacts associated with that approach and policies that were not asked for or supported by citizens participating in the drafting of the New Comp Plan.

## **2. COMPARISON OF THE 2009 COMP PLAN WITH THE NEW COMP PLAN**

This writer and a handful of researchers have taken it upon ourselves to perform an in depth comparison between our revered 2009 Comp Plan and the proposed New Comp Plan, especially in regard to housing, community profiles and desired density. We were surprised at the material differences found in that comparison, and share some of them with you below.

**A.** The New Comp Plan appears as more of an attempt to “**gentrify**” Northampton County and perhaps marginalize lower income residents while creating the illusion that “affordable housing” is a prime goal of the drafters of the New Comp Plan.

**A.1a.** **The 2009 Comp Plan** offers a road map and admirable strategies to meet the diverse needs of lower income residents, aiming to assist this important segment of our diverse population. Indeed, on pages 64-67 of our current 2009 Comp Plan, the citizen wishes and desires to embrace lower income families and their housing needs are embraced expressly and markedly. The 2009 Comp Plan called for: 1) Requiring developers to include a percentage of affordable housing units as part of their developments (page 66);

2) providing tax credits to encourage low to moderate income housing construction;  
3) investigate county owned land for development of affordable workforce housing; 3) create a county housing affordability fund; and 4) encourage ***inclusionary*** development to the greatest extent possible (i.e.including affordable housing initiatives in higher end housing projects).

As for more affordable home options like mobile home parks (proposed to be eliminated as a permissible zoning option in the ill-fated and illegal 2014 zoning ordinance that was overturned), on page 114 of our 2009 Comp Plan the following sentence captured the majority of citizen’s feelings about affordable housing options in Northampton County by stating:

**“New construction in favor of high income development such as resort or retirement communities does not address the needs of Northampton County residents.”** And, **“Mobile Homes and other types of Manufactured housing must be recognized as a means of meeting low and middle income housing needs.”** See ATTACHMENT “B”.

**A.1b. The New Comp Plan makes no such recommendation for affordable housing,** mentioning repeatedly that now our desire is for “liveable communities” (like Lexington perhaps?) where condos, multi-families, and walking communities are situated to shops, retail outlets and amenities. We can find no **mention** of mobile or manufactured homes, nor inclusion

**Page 13 of 22**

of any of the incentives for affordable housing that are called for in our 2009 Comp Plan.

As for “condominiums” that are repeatedly mentioned in the context of “affordable housing” in the New Comp Plan, the community survey responders, according to my personal count, reflects that 169 responders said they did not want “condos” compared to 131 who checked that box in the affordable housing section of the survey. However, many of those who checked the condo box **checked all** the options listed under the “affordable housing” survey solicitation of recommended actions and approach.

The most telling example and icon of what the New Comp Plan envisions for the “affordable housing” needs of Northampton County can be summed up by turning to page 70 of the final May 4, 2021 draft and checking out the picture at the bottom left hand side of the page. We have included that page **as Exhibit C** to these comments. Look at the picture there of Berkley’s vision for Northampton County and the “liveable” community approach to “affordable housing” for Northampton County residents. When viewing that Lexington-style home, ask yourself this: “Given the fact that over 20% of Northampton County households are at or below the poverty line, where are those folks going to live in a community that looks like something from downtown Cape Charles or to wit, even the Outer Banks...or Berkley’s Lexington?”

**B. The 2009 Comp Plan recognizes the sanctity and unique character of Northampton County and highlights the different needs and unique nature of this diverse community.**

**B.1a.** The 2009 Comp Plan recognizes and tips its regulatory hat to the fact that Northampton County has many unique and small rural areas that are set apart from each other in regard to density, character, geography, location, soil type, and available resources.

As an example, on page 19 of the revered Northampton County 2009 Comp Plan, a list of communities and land use types are listed (**Attachment D**) They include: Conservation Areas; Rural/Agricultural Areas; Hamlets; Waterfront Hamlets; Villages: **Waterfront Villages; Existing Cottage Communities:** and, Existing Subdivisions.

The 2009 Comp Plan delves into a distinct and exclusive discussion of the needs and unique character of each of those zoning districts and gives great deference to working with citizens in each of those districts to address land use pressures and challenges that those unique areas face now and over the life of the current plan. Note that the Waterfront Villages which include Oyster and Willis Wharf have their own “vision” decrees, developed and adopted after long and arduous workshops, focus groups, and public hearings/meetings during the 2006-2009 time frame. Cottage Communities indeed have their own set of problems and the 2009 Comp Plan pledges county support for addressing pending pressures such as land use loss due to erosion, septic system failures, and degrading housing stock in need of updating and reconstruction or raising. **See Exhibit D.**

**B.1.b The December 9, 2020 Draft of the new New Comp Plan arbitrarily abolishes Waterfront Villages, Waterfront Hamlets, and Cottage Communities.**

The December 9, 2020 first draft of the New Comp Plan eliminated Cottage Communities as a zoning district and did the same with Waterfront Villages. During the March 24, 2021 NCBOS and NCPC joint work session, District 5 Supervisor Betsy Mapp questioned Planning Commission Chairman Anders' reasoning as to why Cottage Communities (like Silver and Smith Beach) were stripped of their designation as that separate zoning classification and resident protections. Anders responded that the Northampton County Planning Commission genuflected to the orders of the NCBOS to "streamline" the zoning classifications, so they just arbitrarily eliminated the Cottage Community designation altogether. Note here that I can find no member of any of the 5 Cottage Communities or anyone else for that matter in the community survey responses that petitioned the NCBOS to eliminate Cottage Communities as a zoning district. Supervisor Mapp made a motion to restore those small and unique communities to their former stature as just that, and the rest of the Board concurred. Many of our researchers believe that if Supervisor Mapp did not raise her voice on this issue (and others), that the deleterious, assaultive, and unilateral obfuscation of citizen desires and visions encoded in our esteemed and current 2009 Comp Plan would have been carried out by the rest of the BOS members. We are indebted to her for her tireless defense of the citizenry of her district and also the entire lower ESVA.

As for Waterfront Villages, Berkley, the Planning Commission and the NCBOS have given them the same treatment they tried to give Existing Cottage Communities. They just eliminated them as zoning districts and unilaterally stripped them of the "Village" designation. Instead, again without petition from the residents in

these villages, Waterfront Villages are now slated to be called "Waterfront Communities". See **Exhibit E** which is page 24 of the final May 4 New Comp Plan document. But worse, Waterfront Communities are now ground zero for a new use classification called "Working Waterfront Development Areas". This new classification which is allowed by state law, allows these areas to become: **Enterprise Zones, Technology Zones, Community Development Authorities, enjoy Exemption from Ordinances, and enjoy Tax Increment Financing and enjoy tax forgiveness (forgiveness of tax liens). SEE ATTACHMENT E1-E3.**

Note here that the December 9, 2021 draft of the New Comp Plan allowed all of these uses in the WWDA's to be accomplished "**by right**" with no notice to the former Waterfront Village residents who soon may be living in a Waterfront Community targeted for these economic development incentives with no consent, decree, or invitation by these very residents who will have to live with these changes for the next 20 years, if not in perpetuity. The May 4, 2021 final draft eliminated the "by right" designation for working waterfronts without explanation, but this can return easily as the authors of the New Comp Plan call for the plan to be **amended on a yearly basis.**

**C. The 2009 Comp Plan Reflects the Citizen's Concerns about increasing density in Northampton County.**

**C.1.a.** Overwhelmingly the thousands of Northampton County residents who took part in the many workshops, focus groups, community meetings and surveys, and comment opportunities resulting in the drafting and adopting of our current 2009 Comp Plan were very concerned about increasing the number of housing units and density in this fragile and protected county.

Indeed, on page 12 of that esteemed document it is recorded that:

**“Citizens are concerned that demands for Second homes or waterfront development And scattered residential development will Threaten fragile ecosystems, migratory bird Habitat corridors, natural habitat, and Groundwater supplies. See Exhibit F.”**

**C.1.b.** In comparison, the New Comp Plan calls for massive density increases and does so with no apparent evidence that the voiced citizen concerns about irresponsible sprawl as noted in the 2009 Comp Plan are no longer relevant. Indeed the New Comp Plan calls for Accessory Dwellings “by right”, basically allowing the doubling of number of homes in any zoning district. While a small handful of respondents to the community survey leaned towards increasing density in this county (note that no names were attached to these surveys, making it impossible to determine if the respondents had a private interest i.e.EDA members?), the vast majority seemed to be aligned with the sentiment in the 2009 Comp Plan.

**Many of the researchers who have looked at the New Comp Plan with objective scrutiny are very concerned about the interchangeable semantics throughout the plan regarding the difference between “dwelling units” and “units”, as we mentioned briefly above.**

— Foundationally on this point, there is a marked and undisputed difference between a **“dwelling unit”** and a **“unit”** in regard to density. Indeed, *Law Insider* defines a “dwelling unit” as “any room or rooms forming a single habitable unit”. Conversely,

a “unit” can be an **apartment house, high rise, condos, or any other structure that holds multiple dwelling units.**

The New Comp Plan, although mandated to be “internally consistent” by Virginia code and law, interchanges these two terms seemingly at will, but indeed with potentially devastating consequences. Indeed, when talking about density on agricultural and conservation lands, the New Comp Plan seemingly harmlessly calls for **“1 unit”** on 20 acres of ag land and **“1 unit”** on 50 acres of Conservation lands. ***See ATTACHMENT G, sub 1-4.*** Note that in all of these density sheets, the Maximum Density mandate highlights the word “unit” in BOLD, red-flagging that the density call out is important and should be so noticed. So density in ag, conservation, hamlets, villages, and waterfront communities is listed as housing “units” rather than dwelling units. A defender of the New Plan could argue that there is really nothing to be concerned about with this semantic and that the New Comp Plan drafters really mean “one dwelling unit”....**except that when it comes to TOWN EDGE districts, the density is explicitly referenced as calling for “5 dwelling units per acre to 1 dwelling unit per 2 acres with density decreasing as distance from town center increases”.** (See Attachment G-4). This distinction is proof positive that Berkley and or the NCBOS and NCPC KNOW that there is a difference between a “dwelling unit” and a “unit”, and we believe that this could be a smoke-and-mirrors attempt to trick the citizenry into believing density is being controlled while actually and in reality this play on words is making Supervisor Fauber’s desire to put apartment houses on farmland possible and beyond legal reproach and appeal.

**D. The Economic Development Authority is much more of an author of the New Comp Plan as opposed to the citizenry and is given broad power and deference in this plan.**

In the December 9, 2020 Draft New Comp Plan, the Economic Development Authority was granted its wish to have Northampton County residents once again pick up the tab for the hiring of new Economic Development Director. It is worth noting that during the attempt to rezone this county into something it was never meant to be, as discussed above, it is estimated that taxpayers shouldered nearly \$700,000 for the Economic Development Director salary and associated costs during the 2013-2015 timeframe.

As with nearly all of the wishes granted to the EDA during the drafting of the New Plan, we cannot find any citizen requests in the community survey responses that asked for the changes suggested by this authority and its members. **Again, kudos to District Supervisor Mapp who, during the joint work session between the NCBOS and the NCPC held on March 24, 2021 in the Eastville Board chambers, quashed this request, and rightfully so, saying this county had already tried this approach and it was (paraphrasing here) a disaster.**

The EDA is given broad authority in the New Comp Plan and is even awarded the power to “acquire property” on behalf of the county for economic development purposes. Check the Working Waterfront Development Area legislation in **EXHIBIT E 1-3** attached hereto if you just think this is a random or harmless coincidence. This in essence gives the EDA *eminent domain* powers and could be, among other goals, a way to accomplish the stated goal by NCBOS members to develop a new boat ramp or marina between Cape Charles and Morley’s Wharf.

These are areas that are owned exclusively by private land holders and that perhaps could change through direct seizure of those properties in the name of “economic development”, using the EDA as a tool.

Most notably, almost all of the suggestions the EDA made to be included in the New Comp Plan and as recorded in the Berkley March 12, 2021 Response Document were granted. These include: exemption from zoning ordinance requirements for hotels; permit process reform, streamlining of otherwise protective zoning ordinance; by right uses in enterprise zones (soon to be Willis Wharf and Oyster and others); etc. Interesting and in relation to the AFT study we requested to be included in the New Comp Plan, Berkley recommended to the NCBOS that the EDA language about the value of farmland be added. To wit, Berkley recommended adding the EDA recommended language stating that:

**“Many conservation initiatives are intended to reduce property tax assessment of conserved areas. These agricultural and conservation lands, which we are fortunate to preserve in perpetuity, have the effect of a net reduction of taxable assets. There is a need to offset this reduction, and the increasing cost of government services, with significant gains in the commercial sector tax base”. Item #56 in Berkley’s March 12, 2021 Proposed Recommendations as handed out in the March 24, 2021 NCBOS and NCPC joint work session.**

This language stands in direct contrast to the American Farmland Cost of Services Study, and it raises not only one-but both-eyebrows that Berkley would suggest adding the EDA language to the New Comp Plan while (again) denying the citizen requests that add a balance to their suggested revision.

**II. CONCLUSION AND SUMMARY** The items discussed above represent only several of the notable changes that the NCBOS is considering in the 2020-2040 Northampton County Comprehensive Plan. The research and comments as noted above have taken nearly four months to complete. Again we have no expectation that these comments will result in any material changes to Berkley's and the EDA's future of this great county, as we believe you have the votes (probably 4-1 with a "hats off" to Supervisor Mapp) to catapult this misguided and indeed dangerous plan into effect.

One final comment is to remind you and indeed the citizens of Northampton County that the next step in the process after a comprehensive plan is adopted is to enact a zoning ordinance that MUST by law and Supreme Court precedent [be consistent with that guiding document. If a particular land use is not included in a comprehensive plan, it cannot be legally brought into a zoning ordinance. So if it was an underlying mission by elected leaders to zone out a particular use, let's say mobile homes for instance, there will be no legal recourse to appeal that zoning decree if that use is not specifically mentioned in the body of an adopted comprehensive plan. The inverse of that danger also prevails.

We simply wanted to share the results of our research with you and the members of the NCPC, letting you know that we indeed know what the proposed New Comp Plan really is, having our eyes wide open and our hands on at least a spoke of this unique and incredibly sensationally-misguided wheel. One thing we can say in closing and without reservation: ***This New Comp Plan is NOT our plan and any machinations that may be uttered trying to convince us that it is will, well, definitely fall on deaf ears and now enlightened minds that know better now that our research is completed.***

Sincerely, Kenneth Dufty

Cc: Northampton County Planning Commission

