



County of Surry Virginia Planning Commission Meeting Minutes December 19, 2022

MEETING CONVENED: The meeting of the Surry County Planning Commission was called to order at 7 PM on Monday, December 19, 2022, in the Surry County General District Court, 45 School Street, Surry, VA by Mr. Eddie Brock, Chairperson.

ATTENDANCE: The following members respond to Roll Call Present:

Mr. Eddie Brock, Chairperson
Mr. Giron Wooden, Jr.
Mr. Earl Newby, Sr.
Mr. Thomas Hardy
Mr. David Coggin
Ms. Dianne cheek

Absent:

Ms. Carmen D. Judkins
Ms. Judy S. Lyttle
Mr. Theodore Lunsford
Mr. Stephen Berryman
Mr. William Seward, IV

Also present were Mr. Horace Wade, Director of Planning and Community Development; Mr. Lorenzo Turner, Planner I; Ms. Regina Hilton, Administrative Assistant; Ms. Lola Perkins, County Attorney.

PLEDGE OF ALLEGIANCE: All

ADOPTING OF AGENDA: Chair Brock entertained a motion to adopt the meeting's Agenda. It was moved by Mr. Wooden and seconded by Mr. Newby. Ms. Cheek stated in the old business, the first statement says, The Surry County Comprehensive Plan Amendment if recommended by a Planning Commission, "will replace the existing Comprehensive Plan". The amendment doesn't replace but amends the Comprehensive Plan. Ms. Cheek recommends that we change the wording to say will amend the existing Comprehensive Plan. Mr. Wade stated that he will consult with the County Attorney and will address the issue later in the meeting.

In favor: (6) Brock, Newby, Hardy, Cheek, Coggin, Wooden
Opposed: 0
Abstain: 0

APPROVAL OF CONSENT ITEMS: Chair Brock asked the Commissioners for the disposition of the minutes for November 22, 2022. A motion to approve was made by Mr. Wooden with the noted correction from Ms. Cheek and seconded by Mr. Newby.

In favor: (6) Brock, Newby, Hardy, Cheek, Coggin, Wooden
Opposed: 0
Abstain: 0

OLD BUSINESS:

1. Surry County Comprehensive Plan Update

The Surry County Comprehensive Plan Amendment, if recommended by the Planning Commission, will replace the existing Comprehensive Plan (adopted in 2020). The Surry County 2040 Comprehensive Plan ("Plan") is used by County citizens, staff, the Planning Commission, and the Board of Supervisors as a guide for future decisions affecting the County including, but not limited to, decisions related to future land use, road networks, and zoning case actions. The Plan encompasses all of Surry County. The Plan does not rezone land, but it suggests ordinance amendments and other actions that will facilitate the implementation of the Plan after adoption by the Board of Supervisors. Plan recommendations are to update the Future Land Use text to include data, information, mapping, policy analysis, and implementation measures concerning the future location.

Mr. Wade presented a memo with the updated energy products amendment, with the Commission's recommendation, public comments, and responses.

- **Planning Commission Question/Comment One:** The order of the operations of the plan amendment is recommending, specifically, if the Board of Supervisors approved, an application that the Commission has deemed not in substantial accord with the Comprehensive Plan, would hearings for rezoning, comprehensive plan map update, and conditional use need to be held by the Commission?
- **The Response:** To clarify, the new process for proposed community-scale and utility-scale skill energy projects, would include the negotiation of a Siting Agreement, which includes a review for substantial accordance with the Comprehensive Plan and approval for a Condition Use Permit. An applicant can begin the CUP process at the same time as a negotiation of a Siting Agreement or after the county and applicant have entered a Siting Agreement. The Comprehensive Plan Amendment recommends eliminating rezoning from the approval process for energy projects to permitting these projects by a CUP in any district where the amendment deems appropriate. The public hearings will be required for both a Siting Agreement and approval of a conditional use permit. If the Planning Commission determines that a proposed energy project is not substantially in Accord with the Comprehensive Plan, the Commission can recommend against the County, entering into a Siting Agreement for the proposed project. The Board of Supervisors has the ultimate authority to approve a Siting Agreement. Simply put, the Board of Supervisors has the power to proceed with the approvals for energy projects that the

Planning Commission has not recommended. The staff and consultant are verifying that the information above is accurate per the state code.

Ms. Cheek's question was about strategy six, will that information be continually verified? Mr. Wade stated that he does not anticipate leaving the meeting with a recommendation from staff to recommend anything to the Board. Tonight's agenda is to ensure to cover all the bases and information, and that we all agree on how we move forward and what information to cover. There is information that Staff and the Consultants are currently reviewing and then would get back to the Commission on items that are pending.

Ms. Cheek stated, that to the Commission's knowledge, the subcommittee was not able to review any of the information and you don't have the benefit of the subcommittee review. Mr. Wade stated that the subcommittee did not receive the final version as anticipated but saw a draft version that was slightly discussed. Ms. Cheek agreed with Mr. Wade and the Commission doesn't have input from the subcommittee with any recommendation.

- **Planning Commission Question/Comment Two:** The Planning Commission asked the amendment to clarify that there should be a minimum of a half-mile between any utility-scale and community-scale, energy projects as defined by the property lines.
- **The response.** The bullet in strategy three about the separation between energy projects now reads the project site is a minimum of 0.5 miles from any existing community-scale or utility-scale energy project sites as seen in the definition section of the amendment, the project site is the entirety of the parcels of which any energy project will be installed."
- **Planning Commission Question /Comment Three:** Planning Commission asked for clarification on how the 10% of developable will lay a figure in strategy two of the amendment was determined.
- **The response.** The 10% figure emerged in part due to discussions during the July Board of Supervisor meeting, in which the Board indicated its desire to proceed with a policy that would allow some new energy projects in Surry County if proposed projects meet certain criteria. The Planning Commission echoed this general sentiment and directed the consultant to move forward with the policy that will allow some new community-scale and or utility-scale energy projects up to a certain percentage of the developable area. It is important to note that the 10% of the developable land figure includes all energy projects, not just utility-scale, solar. Approved and existing energy projects currently make up 6.07% of the developable land in Surry County.

The 10% figure could be changed depending on the will of the Planning Commission and the Board of Supervisors. However, it was intended to give some leeway for any potential expansions to the Dominion Nuclear Plan, community-scale projects with less severe impacts. As outlined in previous research, Spotsylvania and Prince George Counties have upper limits of 3.75 and 2.74 respectively. The 3.7 figure in Spotsylvania's Comprehensive Plan refers to land area outside of their primary development boundary and only applies to solar energy projects. This 2.74% figure from Prince George refers to a total land area outside of their M3 zoning district

and only applies to solar energy projects or facilities. The actual proportion of developable land area that can be used for all energy projects in both Spotsylvania and Prince George is higher than the 3.7% and 2.74 per figures.

- **Planning Commission Question/ Comment Four:** Other counties have started using the full PV size in stormwater runoff analysis for energy facilities rather than using the support structures for PV panels and analysis. As the Department of DEQ will not implement this change for another two or three years. Researchers needed to see if guidance or calculations for the stormwater runoff will include full panel size and can be implemented at the local level.
- **The Response:** Surry County does not currently complete its stormwater analysis for projects. The consultant will be researching how the county might be able to enforce stormwater regulations that are stricter than the current DEQ standards.

Mr. Wade stated the above item has not been addressed but will provide the information before the next meeting.

- **Planning Commission Question/Comment Five:** The Planning Commission wanted to clarify that viewshed analyses should be completed for all community-scale and utility-scale energy projects, not just those within a half mile of a historic site.
- **The Response:** The consultant worked with staff to update the language for this part of strategy three. To clarify, a viewshed analysis determines what can be seen from a particular location, not all the locations from which a project can be seen to ensure that Staff and Planning Commission can envision the visual impacts of a potential project. Strategy three includes the updated language of no part of the facility is in any historic or otherwise significant view shed in the county as determined by staff. The staff will select some nearby sites from which renderings of the project site will be submitted by the developer at the developer's expense. These renderings will be reviewed by staff during the pre-application meeting.

Mr. Wade stated the next section goes into the public comments that were made at the Public Hearing.

- **Public Question/Comment One:** Questions about different distances? 750 feet, half a mile, and a mile were used as strategy three of the amendment.
- **The Response:** These distances were selected both in light of policies set forth by other Virginia localities and also in consideration of the experiences of staff and members of the Planning Commission with previous projects. These distances have been selected to best mitigate certain issues that can arise with energy projects
- **Public Question/Comment Two:** A resident question, what parcels that were already observed for manufacturing or industrial uses were not included in the “areas where energy projects may be acceptable.”
- **The Response** “utility service/ major, which is a defined use, is not a permitted use in any zoning district currently. And a CUP is required for that use. As such, the policies of the amendment are not “taking away” a land area where energy projects can be developed by right. For visualization, the consulting condoning GIS analysis, comparing areas where energy projects may be appropriate. And land zone M2 in Surry County. There are 262 acres of land zone M-2 that are within areas where energy projects may be appropriate. There are 330 acres of land zone M2 that are outside of this area.

Ms. Cheek asked if a CUP is required, and Mr. Wade responded yes.

- **Public Question/Comment Three:** A resident suggested that an energy project should be allowed as long as all surrounding landowners sign off on the project.
- **The Response:** The regulations are being introduced to support the health, safety, and welfare of the entire community. That's the general basis of having zoning warrants is to protect the health, safety, and welfare of the entire community. Energy projects can have impacts on economic development, tourism, et cetera for their entire County.
- **Public Question/Comment Four:** It was suggested that energy facilities should be calculated by the area of disturbance for sites rather than the parcels themselves as it relates to the 10% cap on the developable land areas for energy projects.
- **The Response:** This was discussed through the community meeting and brought to the Planning Commission for review. After consideration, the current policy of calculating site area by parcel size was reaffirmed by the Planning Commission.
- **Public Question/Comment Five:** A resident noted that some of the information in the amendment seems random and more suitable for the appendix.
- **The Response:** Staff and the Consultant wanted to demonstrate that the policies of the amendment were drafted with thorough public engagement and using relevant data. All survey responses were re-posted on the county website for transparency with personal information or response redacted.
- **Public Question/Comment Six:** It was suggested that land within a half-mile historic site should be eligible for historic energy projects as long as they can be demonstrated. The project will be appropriately screened from view.
- **The Response:** The Planning Commission determined that preserving the viewshed of Surry's historic sites is paramount. As such, a half-mile buffer was selected after a review of potential alternatives.

Mr. Wade also presented updated items for the Energy Projects Amendment. An added section was made after Governor Youngkin released the Virginia Energy Plan on October 3, 2022, making investments in emerging technologies, including small modular nuclear reactors potential citing of SMRs in Surry County that wasn't addressed in the amendment and will be addressed in a separate public process. Ms. Cheek asked how they would be addressed. Mr. Wade said that would be something that has to be discussed and may happen in the next 10 years.

Mr. Brock asked if that would have to amend the Comprehensive Plan. Mr. Wade answered, if there were a specific property, that we would do a specific study for that project. Mr. Wade stated that he would supply literature to the Commissioners on new land uses.

Ms. Cheek asked if a more general statement, as we receive technologies, will be evaluated, not specifically SMRs. Mr. Wade's thoughts as to SMRs are important because they will eventually come to the County. And agrees that other technology, that we are not aware of, will need to be evaluated and studied. Ms. Cheek asked if the study will be made known to the Commission. Mr. Wade stated that a significant amount of study would be required, and expert help would be needed. If the applicant is Dominion, they would have to pay for experts to provide recommendations for the County.

Mr. Wooden stated that he thought everything was covered under the Energy Project. The Comprehensive Plan is developed to amend processes done through local government.

Ms. Cheek asked about the noise-generating equipment in strategy three. If the noise was made from the movement of the panels, was considered noise-generating equipment. Mr. Wade stated that the difference is temporary. The panel is temporary once it moves, it stops for a period. The noise referred to would be continuous noise on a site like inverters, which has a humming noise.

Mr. Newby asked Mr. Wade if anyone in the County is monitoring the solar panel development site. Mr. Wade stated that he periodically checks with the developers. Mr. Newby stated that there are some concerns that should be addressed. The desecrated roads and the limited view into the highway from the four-way stops. Mr. Wade said with most concerns, you can discuss them with Staff. Cavalier, for example, has a group from AES that will work to resolve the issue and they would like to develop a relationship with the Community

Mr. Brock thought the trucks from the Cavalier project would be coming in from Wakefield. There are signs in Bacon's Castle that "solar panel this way." Also, road work will begin to remove the curb in Bacon Castle, which again there will be waiting for traffic. Mr. Wade said that he would forward the construction traffic management plan.

Mr. Newby asked if the Developer polices themselves. Mr. Wade said not necessarily. They have a plan and if they deviate from the plan, then it would be enforced by the state police and the sheriff.

Mr. Brock stated another incidence is when the trucks make a left turn into Bacon Castle Trail, there is a sign that says, "No Thru-Truck Traffic". He has brought this before the Board of Supervisors and hasn't gotten a chance to speak to the VDOT representative.

Ms. Cheek asked if the infrastructure behind Johnson Brothers belongs to Cavalier. Mr. Wade said it was another project. Mr. Brock heard it was for the signage. Ms. Cheek said the truck was traveling down Hwy. 10 and Mr. Brock stated that they are traveling down 10 and making the turn on Bacon Castle Trail towards Dendron and then to Wakefield. At the presentation, they were supposed to come from Wakefield, and have a lay-down yard on the facility off the road, so the traffic would not back up White Marsh Road. Also, they were going to repair the highway at the beginning of the project and very minimal traffic off Highway 10.

Mr. Newby said the roads on the Isle of Wight side are much like the ones on the Surry side. Maybe at this point a need for an overseer of these projects. Mr. Wade answered, as far as CUP conditions, the Planning Office is responsible for making sure all CUP conditions are enforced. We do need help with the other conditions. Mr. Newby asked if we have before pictures of the highway. Mr. Wade said that they are required to submit a video to be viewed by VDOT.

Mr. Wade asked Ms. Perkins to come up to address the comment that Ms. Cheek asked about the way the Comprehensive Plan Notice read, instead of "replacing," it should be "amended" in our Agenda. Ms. Perkins said that it should be "amend" the plan and not "replace" the plan. "Amend" is the proper

terminology pursuant to what is in the Virginia Code. The code section that talks about amending the plan talks about the plan having to be reviewed at least once every five years and then a determination if an amendment is needed then. We would look at it again and again when new technology comes.

Mr. Brock asked for a motion to defer the project amendment. Ms. Cheek made the motion to defer the approval of the amendment for the stormwater item and the process and strategy confirmation and resolution for the Board to review. Seconded by Mr. Newby.

In favor: (6) Brock, Newby, Hardy, Cheek, Coggin, Wooden

Opposed: 0

Abstain: 0

NEW BUSINESS

- 1. Ordinance Amendment 2022-03:** Ordinance to amend Article I, Section 1-305 Variances, Article I, Section 1-307 Certiorari to review decision of BZA, and Article II, Section 2-102 Definitions to comply with Powers and duties of boards of zoning appeals §15.2-2309 of the Code of Virginia and update definitions in accordance with §15.2-2201 of the Code of Virginia. The amendments include changes to the requirements for how the Board of Zoning Appeals is to consider a variance application, definition of a variance, the addition of language to grant a variance to alleviate a hardship by granting a reasonable modification to a property for a person with a disability and updating language regarding appeals.

Mr. Wade stated that the Code of Virginia was updated in 2015 and 2018 and the amendment changes were made. The county ordinance was written in 2013 and the changes were not made in that time period. We are now updating the orders to reflect those changes. The ordinance amendment was reviewed by staff and with the County Attorney overseeing to assure that all the language is correct with all the strikeouts.

PUBLIC HEARING OPEN

PUBLIC HEARING CLOSED: None

Mr. Hardy make the motion to approve the ordinance amendment 2022-03 and seconded by Mr. Wooden.

In favor: (6) Brock, Newby, Hardy, Cheek, Coggin, Wooden

Opposed: 0

Abstain: 0

- 2. Ordinance Amendment 2022-04:** Ordinance to amend Article I, Section 1-201. Powers and duties of the administrator and adding Section 1-208. Administrative Variances, to authorize the administrator to approve setback variances and establish standards for approval of administrative setback variances as permitted by §15.2-2286 of the Code of Virginia.

Mr. Wade stated that the code allows administrative setbacks. The proposal is variances at 25% of the requirement. Mr. Wade stated that his recommendation to the Commission is to increase the to 50%. "As staff, we have seen where nonconforming properties, people asking for setbacks, and they couldn't place their structure where they needed it, but they couldn't apply for a conventional variance, because it may not necessarily meet the requirements of the variance." Adjacent notification will be sent to property owners and if you receive a call or notice from an adjoining neighbor, then that project immediately goes to the Board of Zoning Appeals. If none is received, and the project meets all criteria set forth, the Administrator can then sign off. The review is simpler and not as time-consuming as having to wait for a Board of Zoning Appeals (BZA) approval. Mr. Wade stated that the process is not currently in place with Surry County, but some localities have decided to have different variations.

Mr. Wade asked at this time that the Planning Commission make a recommendation to the Board of Supervisors. He and the sub-committee addressed the ordinance last year, having the community the opportunity for the ordinance to work out. The draft code now states 25% and some setbacks maybe 100 feet. That sometimes there may be a structure preventing them from building. They may need an exception of 50 feet to build and smaller project requirements maybe 15 feet, but they only meet 7 feet.

Mr. Wooden asked if the adjacent landowner had concerns about the project. Mr. Wade stated it would go before the BZA. Ms. Cheek asked would the process be in a letter form for the adjacent homeowner so that they can speak out. Mr. Wade answered that the letter would be addressed by Staff. Ms. Cheek stated that it would be helpful if a portion of the ordinance was sent as well in a letter. They would have 21 days to respond.

PUBLIC HEARING OPEN

PUBLIC HEARING CLOSED: None

Mr. Wooden moved to approve Ordinance Amendment 2022-04 with the noted correction of adding 50% instead of 25% setbacks and seconded by Mr. Newby.

Ms. Perkins stated the purpose of clarity for the record because the version that was posted online combined all of the amendments. 2022-04 encompasses changes to Section 1-201 and Section 1-208.

Mr. Brock included the noted clarifications:

In favor: (6) Brock, Newby, Hardy, Cheek, Coggin, Wooden

Opposed: 0

Abstain: 0

Ms. Perkins concluded her previous statement by saying, "if I could just further clarify for the record, the prior vote that encompassed, again, because of the way that I structured it online, that encompassed revisions to Section 1-305, 1-307, and Article Section 2-102, which is the definition section. Again, just for clarity of the record, to make sure it's clear that a public hearing was had on all of those different sections."

PUBLIC COMMENTS:

Ms. Holly Kendall of 533 Arrow Reed Road asked about the meeting with Getaway at the fact-gathering meeting and whether was it still on the table, off the table, still in consideration, or exactly what was the status of the project.

Mr. Brock stated the paperwork deadline for the January meeting was not met. He thought Getaway was seeking other avenues. The comment the realtor made was that there was too much opposition from the public against the project.

Ms. Jordan made the following comments:

- There are several health safeties and general welfare that impact the public with this project.
- First concerns are safety with traffic. Hog Island Road is a high-traffic corridor, and twice she has been run off the highway.
- Incident where a car crossed her driveway and flipped in the soy field and had to be lifted by Nightingale.
- Whether a study has been done by VDOT on the impact of the road with the additional traffic that will be brought in by this project and the increase of noise.
- The concerns of fires that would impact her home and those of other neighbors. This project would be in the south end of the county and the EMS is in the center portion of the county.
- The proposed project would be a place of relaxation but a lot of gunfire, dogs, and dog attacks where a neighbor has lost goats and 19 guineas in the area and there are also coyotes in this area.
- People's background and light pollution are potential. Additional stress from traffic, the road, and the change of the environment, and an overall sense of wellness.
- The lack of response from EMS, who will tie up their time.
- Who will be policing this project, which would probably be the citizens?
- The environment is a big concern. The Chesapeake Bay Preservation Act is being ignored because of the wetlands. They will need permits and the threat of endangered species.
- It may be a situation of spot rezoning. There are so many unknowns.

PUBLIC HEARING CLOSED:

COMMITTEE UPDATES:

Mr. Wade commented on the Getaway project. Talking with the potential applicant, Mr. Wade believes that they have decided not to pursue the project at this time. After the community meeting, one concern was the upgrading of the road accessing the project. Mr. Wade thought that they did not want to address the concerns at that time.

Mr. Wade stated that in the new year, they will again work on agritourism. There will be a correction or amendment to the ordinance that involves agritourism. The zoning subcommittee will review the elements before coming to the Planning Commission.

Mr. Brock asked if the Board make a final approval or denial of the Solar Project at Bacon's Castle. Mr. Wade said it would be addressed at the Board of Supervisors meeting on January 5th.

Ms. Cheek asked about the drone project. Mr. Wade said overall, it went well. Six people attended the meeting. It was a unique project and would need the support of the community. There are about 50 adjacent property owners, and they all were sent a notice. A project is a place where they have drone training for those that are in federal, state, and local agencies. The applicant is moving from Suffolk and the location Surry is a much larger property, and the agencies in Hampton Roads areas or Northern Virginia will come to the site because the airspace is tied up in those areas. Mr. Wade said that the applicant provided a map so that you can see why Surry County.

Mr. Brock asked Mr. Wade the size of the drones. Mr. Wade said that he had not seen them. Ms. Cheek said since we haven't met them, when would they be able to meet the agenda? Mr. Wade said the earliest would be January.

Mr. Newby asked how many public hearings they had. Mr. Wade said that Mr. Newby and Ms. Cheek were going to the site. There are certain things that the applicant had to address before his application would be complete. He had submitted a portion of his application but some things should be corrected before proceeding. Part of that would be encompassing a community meeting. Mr. Wade and Ms. Perkins discussed that there should be an added use change to the A-R district that will be presented in January so that he can apply for the specific use.

Ms. Cheek asked when will the website will be updated with the current Commission Members. Mr. Wade said, let's set a goal before the next meeting. Mr. Brock asked when we will elect new officers. Mr. Wade said January during bylaws. He will send out the meeting deadline dates.

ADJOURNMENT:

Chair Brock entertained a motion to adjourn at 8:30 until the January 23rd meeting. It was moved by Mr. Wooden and second by Mr. Newby. Properly moved and second. All those in favor signify by saying, Aye.

Commissioners: Aye