



County of Surry Virginia Planning Commission Meeting Minutes November 27, 2023

MEETING CONVENED: The meeting of the Surry County Planning Commission was called to order at 7 PM on Monday, November 27, 2023, in the Surry County General District Court, 45 School Street, Surry, VA by Mr. Eddie Brock, Chair.

ATTENDANCE: The following members responded present to Roll Call:

Mr. Eddie Brock, Chairperson
Ms. Judy S. Lyttle
Mr. Giron Wooden, Jr.
Mr. Theodore Lunsford
Mr. Earl Newby, Sr.
Mr. Thomas Hardy
Mr. Stephen Berryman
Mr. David Coggin
Mr. William Seward, IV
Ms. Dianne Cheek
Ms. Carmen D. Judkins

Also present were Mr. Horace Wade, Director of Planning and Community Development, Ms. Regina Hilton, Administrative Assistant Mr. Lorenzo Turner, Planner I, Ms. Frances Bailey, Planning Technician/Plans Reviewer, Ms. Lola Perkins, County Attorney, and Ms. Anne Darby of Summit Design and Engineering Service

PLEDGE OF ALLEGIANCE: All

ADOPTING OF AGENDA: Chair Brock entertained a motion to adopt the meeting's Agenda. It was moved by Ms. Lyttle and seconded by Mr. Wooden.

In favor: (11) Brock, Lyttle, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward, Wooden
Opposed: 0
Abstain: 0

APPROVAL OF CONSENT ITEMS: Chair Brock asked the Commissioners for the disposition of the minutes for October 23rd and any noted correction. The motion to approved was made by Mr. Newby and seconded by Mr. Wooden.

In favor: (11) Brock, Lyttle, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward, Wooden
Opposed: 0
Abstain: 0

OLD BUSINESS: None.

NEW BUSINESS:

1. Approval of Process for Utility-Scale Energy Facilities
 - a. Motion for Approval
2. Presentation of New Zoning District – Emerging Technologies Zoning District
 - a. Motion to bring forth ordinance.

Mr. Wade gave a brief overview of the process for the Utility- Scale Energy Facilities.

- The process is to separate the different steps of a siting agreement.
- Initially, the siting agreement was not reviewed by the Planning Commission, but only by the County Attorney and the Planning Director. Then the County Attorney negotiated with the applicant's attorney.
- The Planning Commission will not necessarily have a public hearing, but will provide comments, which will return to the body as a regular business item. Part two will be separating the substantial accord from the other public hearing.
- Previously, it would be the substantial accord rezoning the future land use permitted and the conditional use permitted separate the substantial accord, which would be a public hearing. If it was not approved by the Planning Commission, then the applicant would move the item to the public hearing. If the Planning Commission denies the substantial accord, the applicant has a choice to appeal to the Board of Supervisors within 10 days or resubmit the application with changes.
- Once the application is resubmitted and does not pass a substantial accord determination or the Board does approve the siting agreement, you will then go through the rezoning process with the amendment and the conditional use permit. This process would be separated and not all in one night.
- Additional background information on the Planning application process: Provocation with the Planning Director and two Planning Commissioners, preferably from the district where the project is located, as the applicant provides a conceptual plan. The applicant will review the plan objective with the staff. The subcommittee will review the rezoning condition prior to appearing before the Planning Commission public hearing.

- Prior to the public hearings is a substantial accord determination. All solar energy facility applications will require a M1 or M2 zoning district, C & P siting agreements, substantial accord determination, community meeting, submit a preliminary application for technical review, and then a pre-application meeting.

Ms. Cheek asked Mr. Wade to clarify number three, the use of a public hearing when deemed necessary by staff and the community meeting occurring prior to submitting a formal application. Are they two different events and that number three should be renamed if it is a community meeting. Mr. Wade said that the community meeting and the public hearing are completely different. The Code of Virginia requires a public hearing. The process does require a public hearing. Ms. Perkins said what could be done is to separate community meetings to have a separate number, but the community meetings would take place prior to the public hearing.

Ms. Cheek asked if number four through seven were projects which require substantial accord determination and were there any exceptions. Mr. Wade said that it was correct and that there were certain exceptions such as new streets or connections, parks or public areas, and public buildings.

Chair Brock entertained a motion for approving the process for the Utility-Scale Energy Facilities. Mr. Wooden moved to approve with the noted or suggested correction, and it was seconded by Mr. Newby.

In favor: (11) Brock, Lyttle, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward, Wooden
Opposed: 0
Abstain: 0

Next on the agenda is the presentation of an Emerging Technology Zoning District. Mr. Wade presented:

- The public announcement of a particular project and that Surry County will soon face a decision regarding new and emerging technology uses that are being expanded throughout Virginia.
- Creating a new zoning district, which includes new technologies such as data centers and potential power sources, which will pave the way for this permission and the Board's consideration of an application when the need arises.
- It will create a potential path forward in considering projects, which involving new technologies and ensure no unintended consequences for other existing zoning districts.
- Example, if amending the M2 zoning district to add data centers, power sources, or other uses, it would also permit other uses in M2 zoning districts that exist today.
- The purpose of the meeting tonight, is to ask for a motion to initiate the amendment of the zoning ordinance to incorporate the need for new emerging technology which consist of a combination of commercial industrial utility technology focus related uses. And then further to the public necessity, convenience, general welfare, and good zoning practice.
- The district would not immediately apply within a zoning change but will be available for the applicant to request a rezoning to the new district.

- The amendment will be presented to the Planning Commissions at the December 18th meeting for a public hearing and a recommendation will go before the Board of Supervisors
- The Board will decide whether to create a new district and if the new district will be an option available for the applicant to initiate a rezoning. If the property meets the criteria of the ordinance, then it can proceed.
- When receiving the application for rezoning the district, there will be a Planning Commission public hearing to make a recommendation.
- The Board of Supervisor will have a public hearing to consider rezoning and to make a motion to approve and change the zoning map. During that process, the Planning Commission, if inclined to make a favorable recommendation on any project, would also approve a comprehensive plan or map amendment.
- By creating a new district, not constituting approval of any project, it will amend the zoning ordinance to include a new district.

Ms. Darby of Summit Design and Engineering Service stated:

- The Surry Planning team and their consultant planning team are working together to drafting a new district based on research, survey of best practices, and a review of districts and other jurisdictions.
- The draft is not complete. The district will include a general-purpose statement. It will note all uses that are anticipated for future developments, either as permitted principal uses or uses permitted by a conditional use permit. Also, the definition for all the uses which are non-existing will be defined in the new ordinance.
- The teams have viewed other districts that have outlined good processes. After applications are reviewed by the Planning Commission and the Board of Supervisors, they will be approved based on many criteria including detailed descriptions of the project, site plans, circulation plans, and preliminary hazard mitigation information.
- The district will outline standards for new uses, especially emerging uses that would require conditional use permits. The idea would create a district that allows the County and any potential applicant to have the flexibility to incorporate new use while mitigating impacts and requiring information.
- Their goal is to create a district that has maximum flexibility and offer parameters around the new uses.

Mr. Wade said that they are working diligently to finalize the draft ordinance and will make it available in advance before the December 18th meeting.

Mr. Seward asked what the difference between M1 or M2 and the new district. Mr. Wade said that there are several uses that has been reviewed or researched that are not in any zoning district within the County. The reason for zoning order amendments is to not make any unintended consequences to other districts. It would be beneficial to have a new zoning district and have uses evaluated in the new district. Especially emerging technologies not known to the County. Whether they are permitted or conditional use permits.

Chair Brock asked if everything in the AR district is switched to either M1 or M2 or placed in this new district, will the guidelines be stricter? Ms. Darby said that the way they start crafting the district would be more specific and stricter for a site plan to be approved. More details would need to be required, than those in a M2 or M1 district. The goal is to have more flexibility, while having as much oversight over the individual plans, noise impacts, lighting impacts, and hazardous materials. This would give the Planning Commission and the Board of Supervisors the ability to say, "We're not comfortable with this piece, you need to amend this or change your site plan or location."

Ms. Cheek asked if she could see the paperwork on the researched material. Mr. Wade said it would be available before the December 18th meeting and he would be available to answer any questions. Ms. Cheek also asked will there be a public hearing. Ms. Darby stated the point made earlier to Ms. Cheek about the difference between a public hearing and a community meeting, the applicant will be holding a community meeting, but the date hasn't been announced. There will be an open house for questions and that will be in advance of any public hearing, preceding a recommendation by the Planning Commission or any action by the Board.

Ms. Cheek asked would the Commission hold the public hearing and will the Commission convene before the 18th. Mr. Wade said yes, and the information will be provided prior to the public hearing.

Mr. Wooden asked if the Planning Director is asking the Commission to approve staff to continue working on bringing this information forward on the 18th and not for approval tonight. Mr. Wade said that the Commission is not approving the district at all, but to continue working on the process to bring forth the ordinance on the 18th.

Chair Brock asked, after the information is received, will the public have the chance to see it on the 18th in the regular meeting. Mr. Wade said correct and the public hearing on the 18th, would be a formal process that allows public input. Mr. Brock asked, could the Commission defer the decision.

Ms. Perkins said legally you could, and a special meeting can be held, if more discussion is needed regarding the creation of the new district. Again, the 18th will be the creation of the new district. Commissioners will receive an advance draft ordinance.

Mr. Coggins asked "on the 18th, are they asking for an agreement to have a new district? Mr. Wade said prior to the 18th, the Commission will have a final draft of the ordinance to have input before the public hearing.

Mr. Wooden asked if the zoning subcommittee could review it at the ordinance prior to the 18th meeting. Ms. Perkins said that the members of the zoning subcommittee could review the same time as the Planning Commissioners. If the Planning Commissioners agree that the members of the zoning subcommittee could take lead, that could be worked out between the two.

Mr. Brock asked if the zoning ordinance process is time sensitive and must be done in December or the Commission could review the zoning ordinance and have the hearing in January. Mr. Wade said that they were trying to give the Commission a heads-up.

Ms. Cheek asked Mr. Brock if the December meeting agenda could allow the public comments before the Commission discussion. Ms. Perkins asked Chair Brock if she could respond to Ms. Cheek. Ms. Perkins said because it's a public hearing, the public comments will happen after the staff presentation,

which occurs prior to any discussion by the Commission. The regular public comments session would be later because of a public hearing associated with this topic and there would be no need to change the order.

Mr. Hardy made the motion to bring forth the public hearing for the New Zoning District – Emerging Technologies Zoning District. It was seconded by Mr. Wooden. Chair Brock said that it was properly moved and seconded to bring forth the ordinance for the Emerging Technology Zoning District.

In favor: (11) Brock, Lyttle, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward, Wooden

Opposed: 0

Abstain: 0

PUBLIC COMMENTS: None

COMMENTS BY COMMISSIONER:

Mr. Brock acknowledged Ms. Lyttle for her service to the Planning Commission for the Board of Supervisors.

ADJOURNMENT:

Chair Brock entertained a motion to adjourn at 7:43 until the December 18th meeting. It was moved Mr. Wooden. All those in favor signify by saying Aye.

Commissioners: Aye