



County of Surry Virginia
Planning Commission Meeting Minutes
April 22, 2024

MEETING CONVENED: The meeting of the Surry County Planning Commission was called to order at 7 PM on Monday, April 22, 2024, 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, Chair
Mr. Theodore Lunsford
Mr. Earl Newby, Sr.
Mr. Breyon Pierce
Mr. Thomas Hardy
Mr. Stephen Berryman
Mr. David Coggin
Mr. William Seward, IV
Ms. Dianne Cheek
Ms. Carmen D. Judkins

Absent:

Mr. Giron Wooden, Jr., Vice Chair

Staff Presents

Mr. Horace Wade, III, Director of Planning and Community Development
Ms. Regina Hilton, Administrative Assistant
Mr. Lorenzo Turner, Planner I
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. Newby and seconded by Mr. Pierce.

In favor: (10) Brock, Pierce, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward

Opposed: 0

Abstain: 0

APPROVAL OF CONSENT ITEMS: Chair Brock asked the Commissioners to dispose of the minutes for January 16, 2024. Mr. Newby made a motion to approve, which was seconded by Ms. Judkins.

In favor: (10) Brock, Pierce, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward
Opposed: 0
Abstain: 0

Chair Brock asked the Commissioners to disposition the January 29, 2024 minutes. Mr. Wade stated that the January 29th minutes were unavailable at this time. Chair Brock entertained a motion to defer the minutes until the next meeting. Mr. Pierce made a motion to defer the minutes, which was seconded by Mr. Hardy.

In favor: (10) Brock, Pierce, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward
Opposed: 0
Abstain: 0

Chair Brock asked the Commissioners to dispose of the minutes for March 24, 2024. Mr. Berryman made a motion to approve, which was seconded by Mr. Newby.

In favor: (10) Brock, Pierce, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Coggin, Seward
Opposed: 0
Abstain: 0

OLD BUSINESS:

1. Solar Ordinance Amendment

The Planning Commission will review the County's Solar Ordinance using other select Virginia localities' solar ordinances and recommend an amendment.

Mr. Wade said there are new items needed for the Surry County Solar Ordinance Amendment, and he is having Staff look at the ordinance of several localities. Some were rural, and others were suburban/with rural aspects. The ordinances are for Essex County, Hanover County, Isle of Wight, Louisa, Pulaski, Southampton, and Chesterfield. Then, ruling out Chesterfield and Hanover, Staff looked at some of the elements and found good information from the other localities. Mr. Wade believes that Southampton and Surry County did similar things, which required rezoning the property for Industrial Use. Having a solar facility rezoned to M1 or M2, most other localities allow it by right in an agricultural district.

Mr. Wade said that we want to have quality development when it comes before the Planning Commission and the Board of Supervisors for approval. Tools, language, buffering, and setbacks are in place to guide the development.

Mr. Wade said from the list, we have expanded from about 50' to about 300' of buffers, ensuring that they are not against the road's right-of-way and residential properties. It sets parameters for the area acreage used for all energy projects. This was done in Surry's comprehensive plan of having 10% of developable land and as localities have done in their ordinances.

Question: Ms. Cheek asked Southampton if it says that a single project farm should be no greater than a thousand acres. Mr. Wade said he believes so, and Isle of Wight County is saying there should be a maximum of 2% of the county's total number of prime farmlands. Louisa County says no more than 3% of the total county acreage. Mr. Wade said that various localities have looked at their transportation management plan for roads being repaired from any damage that is done to the public roads by solar construction equipment and that traffic control plans and traffic impact analysis are required.

Mr. Wade said that there are conditions discussed in Surry's ordinance that are included as recent conditions for solar development. The last ones were Loblolly and Surry Solar. The projects were not approved, but we should look at the conditions for those developments and see if we want to include those as ordinance requirements.

Question: Ms. Cheek asked if the conditions were documented in the CUP or the proposal. Mr. Wade said that they were in the CUP and that he would send the information to the commissioners. Mr. Wade said that there are also technical reviews. Some localities have them reviewed by a third-party consultant. Technical reviews are currently in our ordinance and carry a fee of \$2500. The going rate for the technical review fee is about \$5000. Mr. Wade said to compare our fee schedule with the zoning ordinances and compare it to other localities.

Mr. Wade said another item to address is noise. Isle of Wight County says that the DBA should not exceed 60 DBA for landowners' property, and other localities' ordinances are very generic. Another item is community meeting requirements. Some localities require community meetings as a requirement, but Isle of Wight, Hanover, and Chesterfield County was different. Southampton was the only county that required a property owner within a mile radius and perimeter of the project. Mr. Wade's recommendation for Surry is to include a mile buffer. This would not just be for the adjacent property owners but would also be sufficient for the county. Mr. Wade recommends that the ordinance include community meetings, which is different from a public hearing, whereby the law is for adjacent property owners.

Question: Chair Brock asked, "If a project is having a community meeting, is it open to the public?" Mr. Wade said as for Surry, notices are only sent to adjacent property owners. One thing that can be done is to ask for a copy of the notification so that all can see it.

Mr. Wade said that for the larger projects, we want more input for transportation and traffic. For Solar projects, we want the implications outside of the boundary area and for decommissioning. Surry County does have a decommissioning component. Looking through other ordinances, you may notice that language shall be the gross amount of the estimate to remove the panels. We will put a surety requirement in place to ensure that the County can receive its money if anything happens. Not doing all the work of getting the salvage value back from the panel but having a surety in place that holds for the project's life that is evaluated every five years.

Mr. Wade thought that the current ordinance states that panels should be placed and removed above 36 inches, and anything below 36 inches, basically, can remain. But, maybe change it to say remove all items unless, and the language you have in place is, unless the property owner says otherwise.

Mr. Wade said tonight's meeting is to discuss the project liaison, the emergency response plan, and the glare study to ensure the elimination of any type of glare for people driving past the site. Southampton

County has something like Surry's comprehensive plan. The project must not be within five miles of another major solar energy project. It must be located at least one mile from the corporate limits of any incorporated town or city. Any requirement requiring a siting agreement shall be approved by the Board of Supervisors before the submittal of an application for a zoning amendment or CUP.

Question: Mr. Seward asked what the CUP on decommissioning is in the comprehensive plan. Mr. Wade said that he thought it was per our previous CUPs that the bare minimum requirements are not minimal requirements.

Question: Mr. Coggin asked, after the decommissioning of a project, if the land would return to the way it was. And is this speaking about forestry? It would take 15 years before it would be forestry. Mr. Wade thought it was about agricultural land going back to how it was before.

Question: Ms. Cheek asked, "Are we going to be looking at things from the perspective of, like, say, you must return the land back to the way it was?" Can that be measured? How can the County verify that this is met? Also, how can you verify it 15 to 35 years from now." Mr. Wade said that the site plan would have the existing conditions, where the existing panels were located, verification from the engineers of the existing land before, and the salvage value.

Mr. Berryman said that the current ordinance is not being followed. Should the Commission look at it, or should it be removed? Section 10-151 under D says, "Existing views from public thoroughfare shall be preserved." Mr. Berryman said that a thoroughfare is any road or place you find a solar farm on a highway. Whether you see the fence, the solar array, or new buffering trees, the view from the thoroughfare has been changed, and the current view is not being preserved. Mr. Wade said it would be good to have 300 feet of buffering in place up front. The 15-foot buffer is in place in our current ordinance. If you have a 300-foot buffer and it is removed, the project will see the requirement in the ordinance; they probably will not touch it and see it is almost unattainable for them.

Mr. Berryman made another point about section B: It says the layout shall be designed to preserve and maintain existing tree lines between fields or meadows. There are places on Cavalier where they have placed panels in fields and continued up to woods. They did away with the tree line between the open fields and the woods.

Question: Ms. Cheek said if this is happening, why isn't the County speaking about the violation of the ordinance? Mr. Wade said when looking at how the project is approved or the actual plan, you are looking at that piece. When the County looks at it administratively, we must go by what was essentially approved. Ms. Cheek asked, "Approving a plan that goes against our ordinance?" Mr. Wade said that we are going by the plan of the approved layout, which should be designed to preserve and maintain existing tree lines between fields or meadows. The layout should be designed to preserve and maintain existing tree lines between fields or meadows, pastures, and/or mature wetlands.

Question: Ms. Cheek asked if the plan should show the tree lines, and the plan should say, I'm in conformance with your ordinance. Mr. Berryman said he believes that is why the Planning Commission did not recommend approval of Cavalier, but it was approved by the Board.

Mr. Coggin said that he thought it was Louisa County's ordinance that states, "The applicant shall pay for an independent engineer to check construction progress weekly and to ensure construction is proceeding following the terms of the CUP." If the county hires an independent firm, they could do things like the loggers. Go out, check the work, flag it with pink ribbons, and say, you can't cut here. Mr. Coggin said that we don't have the manpower to go out weekly to check the project, that the County shouldn't have to pay someone, and that it should be paid by the solar projects.

Mr. Wade:

- Louisa County has an ordinance in place that says projects shall pay for a third-party engineer to go out and verify. Surry County should include it in the ordinance.
- There are things in the CUP of stormwater inspections that the applicant must pay. We receive stormwater and E&S reports, especially after a major storm. The reports are by a third-party engineer.
- Louisa County's plan requires a third-party engineer to evaluate the site, which Mr. Wade believes makes the community feel safer.
- Staff meets with Cavalier weekly. There isn't an engineer on our staff to evaluate. There is a third-party engineer, but they evaluate the plan for E&S and give back notes. If there are any questions about the process, they are a part of the team and will report to Staff. They do not inspect the site every week.
- Louisa County's plan, except for the 300-foot buffer, is a good ordinance to benchmark what we want for solar and the ordinance for Surry.
- There may be a need to expound, for the language of what you say shall, which means you should, shall, must do. So, if it is a must, are we trying to achieve these goals?
- There is a need for baseline requirements. Layouts should be designed to preserve and maintain existing tree lines between fields or meadows, pastures, and mature woodlands. CUPs are approved on a case-by-case basis.

Question: Ms. Cheek asked if a CUP overrides the ordinance. Mr. Wade asked if she was referring to a condition. Ms. Cheek said that the CUP has conditions that may conflict with what's in the Ordinance. So, which one trumps the other? Mrs. Perkins said that she would have to do research, get back to the Commission, and prepare a memo for the Commission before the next meeting. Ms. Perkins stated that Virginia can only do what the general assembly gives us the authority to do. Proffers are things that the applicant is willing to do.

Mr. Berryman said with Cavalier, point C, "The layout shall be designed to minimize development on open fields." He said the next project was Sycamore Cross, and suddenly, they found 125 acres of woodland. He asked why they didn't take 125 acres of panels out of fields and put in that woodland from the beginning?". Mr. Wade said from an engineering standpoint that it is cheaper to build on flat land and cheaper on stormwater if they are already developed on flat land.

Mr. Lunsford said that when talking about buffering in the frontage, one thing to consider is the size of the tree and whether it can prevail over the wind. The trees in front of his home are 38 feet tall and is a mixed variety. The prevailing wind comes directly across the solar panels. When the wind picks up and comes across the solar panels, nothing but a few trees will be left. There isn't a buffer, and the trees will lie on the ground and the roadway. There is nothing to stop or slow down the wind. So, when having more buffer, there is a better chance of slowing down the wind.

Mr. Wade suggested addressing the support for a larger buffer at the next public hearing due to some of the factors that Mr. Lunsford is experiencing. The public and the developers need to know why we are looking at the elements and changing our ordinance. The County wants to have quality development in Surry County. Mr. Wade thinks that “shall be designed to preserve” and “there is where the layout shall be designed.” Mr. Wade said that two or three people might have a different opinion of what that means and to look at other locales to see what they have put in place and confirm that we do not have development on agricultural fields.

Mr. Seward stated that decommissioning affects the ordinance. Thirty years from now, the panels may not have a monetary value. As far as the cost at the time of decommissioning versus putting a value on them now and the wording of decommissioning in the ordinance. Mr. Wade said that it is not in our ordinance and has suggested, with Cavalier, that we reevaluate their process in five years. Over time, the value will either increase or decrease. More than likely, it will increase, the panel value will decrease, and the cost to decommission will increase. We should receive surety for that project. It may be negative at this point, but other locales said that it takes between two to five years to reevaluate the cost estimate and then redo the surety amount.

Mr. Wade said other localities required that the panels be taken to special areas and not allowed in the county’s dump site. Maybe that would be something to consider, making sure they aren’t placed within Surry County, and the county will have to dispose of them. Mr. Wade said other localities are adding to the estimate for the surety and administrative costs of about 25%, plus the surety for decommissioning work. Mr. Newby said that Isle of Wight County has good language for decommissioning all structures above and below grade surety. It includes the project cost and the estimated administrative cost.

Mr. Wade asked the Commission to give him a list of specifications for the ordinance, giving developers the requirement for buffering and M1 setbacks, which other localities have done. The ordinance is a 2018 version, and other localities have recently placed their orders.

Question: Ms. Cheek asked Mr. Wade if he is pulling from the CUPs that were recently done. Mr. Wade said that he would pull from the CUPs and forward the conditions from Loblolly and Surry Solar Center to the Commission. Those projects weren’t approved, but the conditions are what they worked on. Transportation was a big item in construction management. Ms. Cheek asked about the comp plan. Mr. Wade said that would be included. Mr. Berryman asked if the condition for Cavalier be included, and Mr. Wade said yes.

Mr. Coggin said Louisa County states that the developer must pay an independent engineer and asked if it could be incorporated. He said that the general contractor must pay for a quality control inspector and that he favored the 300-foot buffer setback. Mr. Wade said there are ways around the buffer width and screening, by having small evergreen trees 8 to 12 feet in height. Chair Brock said that he agreed with Mr. Coggin that you could eliminate all other locales except Louisa County. The only thing missing is the available zoning district. You could put in M1 and then the 300 feet, and where the applicant should pay. The next closest would be Southampton County.

Mr. Pierce asked about the incentives proposed by Loblolly to residents within a certain radius of their solar project. Mr. Wade said it was a part of their siting agreement. It could be reviewed again to see what was said in it. Mr. Pierce asked if it could be incorporated into the ordinance.

Mrs. Perkins said that the incentive is not allowed by the Virginia law. It could not be in our ordinance, but it certainly could be proffered, as it would benefit all the residents of Surry County. What will

happen six months later if the project is approved and what happens to new owners of the property that didn't live through the construction? So, things like that may be included in an ordinance. Proffers offer more flexibility.

Mr. Coggin asked about the transportation plan and if it's possible to work with VDOT. Accidents have occurred during the day on the adjoining roads of the Cavalier Solar Project. Citizens of Surry know to drive 55 miles an hour on a back road, and city folks don't know how to drive 55. They would be driving 75 miles per hour. We know to drop down to 45 around the construction site. Mr. Wade said that Mr. Coggin was basically asking for a temporary speed reduction and would talk with VDOT about decreasing the speed. It is something that cannot be put in our ordinance. Mr. Coggin also asked about the 50-foot right-of-way around the property for the fire department to put out fires.

Ms. Perkins asked the Commission and Mr. Wade for clarification of what objectives are needed for the next meeting. To research prior projects with CUP conditions and to have a draft ordinance for the next meeting. Mr. Wade said that his recommendation at this point is not to have items for the month of May, and since this Monday is Memorial Day, to maybe have a solid draft in place by June. Then, having draft points of concerns from the Commission and concerns and other ordinance amendments in place for having significant buffers. Mr. Wade said by working between now and the June meeting, to have a solid draft so that the Commission can have a week before the meeting to review. Instead of waiting until the June meeting, what can be done in the meantime is to send you all the conditions for Loblolly, Surry Solar, and Cavalier as well.

Mr. Wade said that if the Commission would like to see issues become not only a comprehensive plan goal but an ordinance amendment to include when you speak of cemeteries or historical sites being a bare minimum of 250' away, But in the comprehensive plan, you may see 750' as a goal and minimum requirement to be set.

Mr. Wade said if it would be their choice to have a meeting, and if the Commission chooses, you will have the conditions for the three solar cases. Two were not approved, and he would not have a draft order in place until the June meeting. Chair Brock asked the Commission what their choice was to have a May meeting. Mr. Berryman said it would be very beneficial if the Commission could receive the conditions. Mr. Wade said that we would be back in three weeks.

Question: Ms. Cheek said that the current ordinance also addresses solar energy projects that are different from the Utility Scale. Was that true? Mr. Wade said that our ordinance says solar energy projects. Ms. Cheek said that the current ordinance defines projects and utility-scale as solar farms. There are other ways to have solar power in the county that are not solar farms. Ms. Cheek asked if we are addressing the smaller types of solar projects that may occur in the County's ordinance. Mr. Wade said they will address smaller projects of 10 acres or less. Ms. Cheek said that maybe we could make it clearer or add clarity to smaller projects to better understand it.

Ms. Perkins said that some ordinances define small and large scales. The Attorney in Henry County called and said, "Let's talk about solar at the conference." Their definition of small scale is "a solar energy facility with one project area of two acres or less, mounted on or over a building structure parking lot or utilizing integrated PV only. Large scale is a renewable energy project that either generates electricity from sunlight, et cetera, et cetera." Ms. Perkins said that could certainly be done in our ordinance if the Commission was interested in that.

Mr. Berryman said our ordinance has a solar energy project and a solar energy farm definition. Which is a renewable energy project. Mr. Wade suggested taking off the word solar farm because it has a connotation that it's a farm when it's a solar energy facility.

Mr. Coggin asked about the speed issue around Cavalier and is aware that it can't be legislated. Would it have to be brought before the Board of Supervisors, and who would initiate that conversation? Mr. Wade said that we can start with VDOT. Mr. Coggin said maybe putting flashing lights or signs to slow down to 45 mph.

Mr. Coggin asked if there were monthly meetings with AES. Mr. Wade said that they meet with AES and VDOT weekly. He will call to inquire about the procedure for reducing the speed limit and ask if the Board would be involved in making the decision.

NEW BUSINESS:

Chair Brock said it was brought to his attention that we need a committee to have an ordinance for short-term rentals. Ms. Perkins said that, as a little background, the Board of Supervisors asked, convening what she is calling a stakeholder group involving citizens of the county and some members of the Planning Commission, trying to get some economic development for the county. To have authority members and key folks within the County, including Mr. Wade and herself, look at the issue of short-term rentals. Currently, the ordinance does not provide flexibility for an owner of a property to rent their home for a limited period. Our ordinance currently allows it to be zoned agricultural if the property owner still resides there, like a bed and breakfast with the proprietor with a CUP.

Short-term rentals are popping up everywhere. So, the Board is looking at the issue to try and figure out some recommendations for the ultimate development of an ordinance that will fit the needs of Surry County and work for our residents, visitors, outage workers, and all that would come to Surry County. Ms. Perkins would like two Planning Commissioners to participate in this stakeholder group. The first organizational meeting is next Tuesday, April 30th, at 6:00 PM. It is intended to be an organizational meeting once every three weeks for a period of six months with the objective of developing some recommendations. It would then come before the Planning Commission and the Board of Supervisors. Chair Brock asked for volunteers. Mr. Coggin and Ms. Cheek volunteered.

PUBLIC COMMENTS:

Ms. Susan Corvello from the Claremont District:

When listening to Mr. Berryman talking about ponds, trees, and codes around the projects, he asked, "Are the site plans done after approval and completion of the project? Would it come back to the Commission, and does the site plan show where the trees are being cut? Ms. Corvello said that she thought the site plan would show some of the codes and asked if Louisa County had all the good things discussed that night. Ms. Corvello said that Mr. Wade said how some solar companies are buying properties and timbering them, knowing that the project will eventually come to the County. Ms. Corvello asked if there was a way an ordinance could prevent this. Ms. Corvello asked who enforces the traffic plans and the traffic mitigations. Cavalier has a traffic plan for traffic coming up White March Road.

Mr. Ray Lawson:

This is not something he would typically come here to do at all, and it is to open up many eyes. Mr. Berryman has nailed quite a few things that I'm having issues with myself. "Ordinance, ordinance, ordinance, ordinance. What's the point of having an ordinance if it's not going to be enforced? That's all I have to say."

COMMITTEE UPDATES:

Mr. Wade said the topic for the next subcommittee meeting will be short-term rentals. This is a reminder to the Commission of an APA Virginia conference in July. Registration will start soon. The Conference is in Williamsburg this year. The County will take care of the application fee, and the Conference will be July 21st through the 24th, which is Sunday through Wednesday.

ADJOURNMENT:

Chair Brock entertained a motion to adjourn at 8:59. It was moved by Mr. Pierce and then seconded by Mr. Newby. It was moved and properly seconded that the meeting be adjourned. All those in favor signify by saying, Aye.

Commissioners: Aye