

At a **regular meeting** of the Caroline County Planning Commission, held Thursday, April 28, 2022, in the Community Services Center, located at 17202 Richmond Turnpike, Milford, Virginia, at the hour of 6:00 p.m.

**Present**

Dr. Carol Horton  
 Percell Minor  
 Robert Schwartz  
 Scot Sullivan  
 George Wieber

**Absent**

Leon Smith

**Also Present**

Michael A. Finchum, Director of Planning & Community Development  
 Chris MacKenzie – County Attorney  
 Craig Pennington - Planner  
 Lisa L. Zech – Administrative Assistant/Planning Tech.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF MINUTES (JAN. 27, 2022 & FEB. 24, 2022)**

***Vice-Chair Schwartz moved and Mr. Wieber seconded to approve the January 27, 2022 and February 24, 2022 minutes as submitted.***

***Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber***

*\* Motion carries \**

3. **UNFINISHED BUSINESS**
  - 3A. **RZ-01-2022 – Ragland, Kenneth, Ragland, Edward, Jr, and Ragland, Evelyn, Owner William Webb, Jr., Applicant:** Request a Rezoning from RP, Rural Preservation (density of one dwelling unit per 10 acres of land) to R-1 Low Density Residential (maximum density of 2.9 dwelling units per acre), on Tax Map #54-10-7, consisting of 34.22 acres, more or less. This property is located on Rogers Clark Boulevard (Route 207) between Golansville Road (Route 601) and Ladysmith Road (Route 639), Mattaponi Voting District. The 2030 Comprehensive Plan designates this property as Rural Preservation and not within a designated growth area.  
**Proposed Use:** Residential.

Craig Pennington, Planner, stated that the Staff Report for this case has remained the same from the worksession.

He said at this time, Staff would suggest that the request for extension of water and sewer and the 2232 Comprehensive Plan review be applied for and taken to the Board of Supervisors for approval or denial, to determine where this rezoning stands with by right laws.

Chris Mackenzie, County Attorney, explained that in order to have public water and sewer service, you need Board approval. He said the rezoning application that is before the Commission does not comply with the zoning ordinance because it is requesting a higher density than it has under the zoning ordinance because it does not have public water and sewer.

He said procedurally, it is up to the Applicant, it is up to the Commission. He said the Commission still has time to defer it on your own accord and take time to let Staff try to work with the Applicant on this. He said the Commission cannot mandate that Staff submit a request for Board approval for public water and sewer. He said he believes it would be legally challenging for the Commission to approve this rezoning without that, because the zoning ordinance does not allow for this density without public water and sewer.

He said the Commission does not have to make a decision tonight, you can move to defer to the next meeting, see where things are in a month; however, the Commission also has the ability to vote on it tonight if they so choose.

Dr. Horton asked if this is denied, does it still go through the same process with the Board of Supervisors.

Mr. Pennington stated if the Commission were to act on this tonight and it would go to the Board, and the request be made for the water and sewer extension, then it would actually have to be held up at the Board for the water and sewer extension and 2232 Comprehensive Plan review with the Commission.

Mr. Wieber stated that he believes they should defer this because there is too much vagueness.

Mr. Sullivan stated he would like to hear what the Applicant has to say and his view and interpretation.

Dan Webb, Applicant Representative, stated as a County resident, he is a little frustrated. He said the owners of the property, The Ragland's, started months and months ago meeting with County representatives. He said they wanted to market the property and understand what they needed to do and the water and sewer issue was never brought up in previous meetings with County Planning. He said they met with Mr. Schiebel and he thought it was a good idea and they were willing to put in a well to make up the difference in their usage. He said then when they went through the planning process with the Planning Staff, he provided the GDP with the by-right number of units. He said they never received a comment letter from the County saying they couldn't do that by-right, nor did he ever have any correspondence. He said the first time he heard about the water and sewer issue was on the Friday before the last meeting when he read the meeting minutes.

He said subsequently, they had a meeting with Planning Staff who voiced their concerns and position. He said the only thing he would say, when he reads the Comprehensive Plan, it has one line that says water and public extensions are not permitted in rural areas and this is a residentially zoned piece of property he is trying to extend to and water is on the same side of the road just down the street. He asked why the County would want them to put in a well and septic systems when you have a viable public utility system right there regardless of how many units he has. He said they are providing availability fees that Mr. Schiebel said would go to debt service, almost \$1.4 or more million dollars in availability fees. He asked why the County would not want additional connections.

Mr. Webb went on to quote from the ordinance regarding the Comprehensive Plan.

He stated that he is getting the feeling that his right to develop property is being taken away and he does not want to do any more lots than they can by-right. He said he was willing to go through the Comprehensive Plan review, but why didn't they start with that, that's step one, et cetera.

Mr. Sullivan stated he just wanted to give the Applicant an opportunity to speak and said he was sensitive to his thoughts.

Mr. Mackenzie stated that the Planning Commission is an advisory body to the Board of Supervisors and as such, part of your roll is to scrutinize the applications and crystalize them before they get to the Board of Supervisors. He said this is part of that roll, identify issues and refine.

**Mr. Sullivan moved and Mr. Wieber seconded that whereas the general welfare and good zoning practice warrants, I move to defer RZ-01-2022 – Ragland, Kenneth, Ragland, Edward, Jr, and Ragland, Evelyn, Owner William Webb, Jr., Applicant, to the next regular meeting for further discussion.**

**Voicing yea: Horton, Minor, Schwartz, Sullivan, Wieber**

\* Motion carries \*

Dr. Horton asked Staff if the Commission would receive the Comprehensive Plan information on this at the next meeting.

Mr. Pennington said it is not a review of the current Comprehensive Plan but rather it will be an amendment to the Comprehensive Plan.

Mr. Mackenzie explained the Comprehensive Plan amendment process.

#### **4. PUBLIC HEARING**

Lisa Zech read the Public Hearing protocol.

- 4A. RZ-02-2022 – Quality Land Group, LLC, Owner/Shawn Barnard (Double Down Outdoors, LLC), Applicant:** Request a Rezoning from M-1 Industrial (no specified density) to B-1, Business, on Tax Map #85-A-38, consisting of 2.78 acres, more or less. This property is located at 25114 Richmond Turnpike (Route 301), Reedy Church Voting District. **Proposed Use: Retail.** The 2030 Comprehensive Plan designates this area as being Agricultural Preservation.

Mr. Pennington provided the following Staff Report:

**Request:**

The applicant is requesting approval of a rezoning from M-1 (Industrial) to B-1 (Commercial) on Tax Map Parcel 85-A-38.

**Summary of Agency Comments**

There were no agency comments other than the Virginia Health Department. They have stated that should the permit be approved, the applicant will need to have a drainfield evaluation performed in order to locate the septic field and provide the results to insure that the drainfield can handle the use of the building.

**Comprehensive Plan**

The 2030 Comprehensive Plan designates this area as Agricultural Preservation.

The Plan further states that this area shall be utilized for agricultural production and agricultural residential uses. This use is not consistent with the Comprehensive Plan, however, this property is already an M-1 (Industrial) zoned property and a B-1 (Commercial) use would be more consistent with the character of the area.

**Discussion**

The applicant is requesting approval of a rezoning from M-1 (Industrial) to B1 (Commercial) on Tax Map Parcel 85-A-38. This parcel was previously rezoned in 2011 to M-1 (Industrial). That rezoning provided for the design of the site where Rousey Boulevard was relocated to the current location along the western property line. This rezoning was approved and an old store was rehabbed into a Plumbing/HVAC contractor's office.

The applicant currently has a Home Occupation permit to operate Double Down Outdoors. Currently the owner must conduct all business via internet sales and email. Customers may schedule an appointment to pick up their items. The applicant would like to move his business to a viable location for retail of outdoors equipment. The planned sales would include camping equipment, animal feed, and firearms.

Sean Barnard, Owner/Applicant, thanked the Commission for allowing him to come tonight and give a presentation. He said this is just an additional opportunity for them to continue growing and providing services to the community. He said they get a lot of folks that contact him looking for stuff and are grateful that they can get it in Caroline and not have to get it from outside of the County.

He stated they believe they provide a good service to the people here in the County and he will also be providing some tax revenue for the County. He said he looks forward to serving the community.

Chairman Minor opened the Public Hearing on RZ-02-2022, Double Down Outdoors, at 7:20 p.m.

Edward Williams, Mattaponi Voting District, stated he was a team lead for a Veteran non-profit organization and leads the entire State of Virginia. He said one of the things he has had the opportunity to do was meet and get to know the Barnards over the past two and a half years. He said he grew up in King George and he and his wife moved to Caroline County and knows several business owners in Bowling Green and he can put Mr. & Mrs. Barnard on the same level as those business owners. He said they are fantastic business owners and will operate a great business and bring support to our community and he is in favor of approving this request.

Dave Harper, Jr., Bowling Green Voting District, Sparta area, said he has been a resident for 27 years and it is great to see how the County has expanded and grown. He said this is a local small business and would be a good addition and they are good people. He said he was in favor of approving this request.

There were no further speakers and Chairman Minor declared the Public Hearing closed at 7:30 p.m.

Mr. Sullivan asked how long the Applicant has been in business.

Mr. Barnard said they have been in business three years.

Dr. Horton asked if he was operating at his home now.

Mr. Barnard said yes, at his home in the Mattaponi District.

Dr. Horton asked how far south of Bowling Green the new location was.

Mr. Barnard said the new location is across from the old Penola Market.

Dr. Horton asked how many employees he had.

Mr. Barnard said it would just be himself and his wife for now but will have to add some staff when the business grows.

Dr. Horton asked if he owns or rents the new location.

Mr. Barnard said the new location is under contract.

Dr. Horton asked about turn lanes.

Mr. Pennington stated in the rezoning in 2011, VDOT had Rousey Boulevard relocated to its current location and is on the western portion of the triangle. He said they also permitted the current entrance that is there in the 2011 rezoning. He said comments from VDOT were that the entrance still meets the same type of use and no additional site improvements necessary.

Chairman Minor said so there are two buildings on the property and asked about the use of the warehouse.

Mr. Barnard said the warehouse would be used mostly for storage and also an archery range to tune bows in the warehouse.

Chairman Minor said he read something about if this is approved something has to be done to the septic.

Mr. Pennington said that is correct. He said VDH currently does not have a drainfield/septic tank location for this property. He said previously it was a HVAC electrical contractor with minimal employees in there, and with the change of use and the possibility of customers having to use the restrooms, the drainfield will have to be evaluated to make sure that it meets this use. He said previously, it was done under an industrial use, which usually has less use than a commercial use and so VDH has asked that the drainfield be evaluated by an AOSE to make sure it can handle this use and provide a location survey of the drainfield for tracking.

Chairman Minor asked if that had to be in their motion.

Mr. Pennington said no, it does not because this is required by VDH. He said before the Applicant could get his final CO and start operation in the building, the Building Official would hold him to that drainfield evaluation.

Dr. Horton asked what firearms meant.

Mr. Barnard said firearms means rifles, shot guns, pistols and everything will be under the Federal Firearms License Regulations.

Dr. Horton asked if this was licensed for sales.

Mr. Pennington said yes, they are licensed for sales. He said as Mr. Barnard stated, firearm sales are regulated by ATF and he has to have inspections, et cetera. He said the County will permit the retail use of this building and ATF would keep an eye on firearms sales.

Vice-Chair Schwartz stated that Mr. Barnard has a sound business plan and he thinks this business could be described as a mini Green Top. He said they do need this type of business as there is nothing like it in the county. He stated this is a welcome addition.

***Vice-Chair Schwartz moved and Mr. Wieber seconded that whereas rezoning request RZ-02-2022 for Quality Land Group, LLC, Owner/Shawn Barnard (Double Down Outdoors, LLC), Applicant appears to be generally consistent with the goals and objectives of the Comprehensive Plan and Future Land Use Map, and whereas the public necessity,***

**convenience, general welfare and good zoning practices warrants the approval of this request, I recommend that RZ-02-2022 be forwarded to the Board of Supervisors with a recommendation of approval.**

**Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber**

*\* Motion carries \**

- 4B. TXT-01-2022** - An Ordinance to amend the Zoning Ordinance of Caroline County to Repeal and Replace Article XV, Supplemental Regulations, Section 2 – Fences, Walls and Hedges, paragraph 1. The purpose of this amendment is to 1) permit a fence, wall or hedge along the sides or front edge of any front yards to be a maximum of four (4) feet in height with six (6) inches allowable for posts and caps, and 2) to permit a fence or wall along the rear lot line or alongside lot line to the rear of the setback line to be a maximum of eight (8) feet in height; and 3) to add a requirement for a site distance triangle at all intersections and driveways.

Mr. Pennington provided the following Staff Report:

Staff has provided a text amendment to the Caroline County Zoning Ordinance regarding the height of fences. Currently the Zoning Ordinance allows for front yard fences of no more than 3 feet in height. Rear and side yard fences are allowed at a height of no more than 7 feet.

This amendment would allow for a front yard fence to be no more than 4 feet in height with a 6 inch allowance for posts and caps and must be an open face type of fence. Rear and side yard fences would be allowed to reach a height of 8 feet. Once fences go over 8 feet in height they would require a building permit.

The text amendment reads as follows:

**TXT-01-2022** - An Ordinance to amend the Zoning Ordinance of Caroline County to Repeal and Replace Article XV, Supplemental Regulations, Section 2 – Fences, Walls and Hedges, paragraph 1.

Fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall or hedge along the sides or front edge of any front yards shall be greater than four (4) feet in height with six (6) inches allowable for posts and caps, and provided that a fence or wall along the rear lot line or alongside lot line to the rear of the setback line shall not exceed eight (8) feet in height.

Front yard fences shall be open face and not solid.

A minimum of a ten (10) foot site triangle shall be provided at all intersections and driveways as shown in figure 45 of Article II of the Caroline County Zoning Ordinance, or such greater width as determined necessary to meet Virginia Department of Transportation site distance standards.

Chairman Minor opened the Public Hearing on TXT-01-2022 at 7:40 p.m.

Rita Bel-monte, Mattaponi, stated that she would like to have a better understanding of the fencing because she would like at some point to fence her property. She said she wants to make sure her grandchildren are safe when they are running on her land, et cetera. She said when you say an open fence, are you talking about a fence that has the wiring.

There were no further comments and Chairman Minor declared the Public Hearing closed at 7:42 p.m.

Dr. Horton asked what open fencing means.

Mr. Pennington explained that open fencing is a split rail, chain link (without slats), or pickets.

Vice-Chair Schwartz further explained that 50% of the fence is open.

Mr. Wieber asked about the slopes and how height would be addressed.

Mr. Pennington said it would be at the median point of the yard and so obviously, yards are not flat, and so from the median height of the yard it would be 4 feet from that. He said the fence would get shorter or taller depending on the slopes.

Mr. Wieber said he thinks that should be provided to some of the communities around, because this is not as easy as it is made out to be. He said it could be clarified.

Dr. Horton said so the only thing this text amendment is doing is increasing the fence height from 3 feet to 4 feet and 7 feet to 8 feet.

Mr. Pennington said that was correct and also the requirement for the open face front.

Chairman Minor said most of your fences comes in 4, 6 or 8 feet.

Vice-Chair Schwartz asked what precipitated this change.

Mr. Pennington said in looking at the general fence height sold to the general public and a request for a 4 foot fence in a front yard.

Vice-Chair Schwartz said he does not have any difficulty with a 4 foot, 8 foot and the 6 inch cap, but the open face fence is what he is having some difficulty with because he can just see someone in a HOA, and why in the world someone would subject themselves to an HOA, he doesn't know, but one neighbor doesn't like the other neighbor's fence and so they come to the Planning Commission and ultimately to the Board to have regulations put in. He said well he might want on his property a solid fence or a  $\frac{3}{4}$  facing, but just because my neighbor doesn't want it, or doesn't like the color, he has to abide by his neighbor's wishes, et cetera.

Dr. Horton asked where open face should be.

Mr. Pennington said open face should be on front and side, because anything in front of the front corner of your house, is considered your front yard.

Dr. Horton said so you can still have a privacy fence in your rear yard.

Mr. Pennington said yes.

Vice-Chair Schwartz asked if this would pertain in rural areas as well.

Mr. Pennington explained that this is the current County fence ordinance. He said currently, the County fence ordinance says 3 feet in front and 7 feet in the back and this would be the County ordinance that says you can go to 4 feet, 8 feet and open face.

Dr. Horton asked about replacing a privacy fence.

Mr. Pennington explained that if you had a 3 foot, solid front yard fence at this time, then you could keep it and if it rotted and you have to replace it, you would have to replace it with an open face fence but you could go up to 4 feet now instead of 3 feet.

Dr. Horton said this overrides an HOA.

Mr. Pennington said no, it does not. He said an HOA can be stricter than the County but not less strict than the County.

Mr. Sullivan asked what the requirement was for building inspections at 7 feet.

Mr. Pennington stated that no fence requires a building permit for inspections until you get over 8 feet, i.e., 8 foot 1 inch would need a permit and inspection.

Dr. Horton said she likes the open face in the front for safety reasons so vehicles can see children, animals, et cetera.

**Mr. Wieber moved and Dr. Horton seconded that whereas the public necessity, convenience, general welfare and good zoning practices warrants the approval of TXT-01-2022, I recommend that TXT-01-2022 be forwarded to the Board of Supervisors with a recommendation of approval.**

**Voting yea: Horton, Minor, Sullivan, Wieber**

**Voting nay: Schwartz**

*\* Motion carries \**

## **5. ANY & ALL MATTERS**

Mr. Pennington stated County Staff is asking for authorization to craft and have a Public Hearing at the next meeting, a text amendment regarding an ordinance for battery storage for electricity.

**Dr. Horton moved and Mr. Wieber seconded to authorize Staff to craft a text amendment regarding an ordinance for battery storage for electricity and set a Public Hearing at the next meeting.**

**Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber**

*\* Motion carries \**

## **6. ADJOURNMENT**

- Motion to adjourn to the May 26, 2022 meeting.

**Mr. Wieber moved and Vice-Chair Schwartz seconded to adjourn at 8:00 p.m.**

**Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber**

*\* Motion carries \**

Respectfully Submitted,  
Michael A. Finchum, Director