

At a regular meeting of the Caroline County Planning Commission, held Thursday, May 26, 2022, in the Community Services Center, located at 17202 Richmond Turnpike, Milford, Virginia, at the hour of 7:00 p.m.

Present

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

Absent

Leon Smith

Also Present

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 (MARCH 24, 2022)**

Vice-Chair Schwartz moved and Mr. Sullivan seconded to approve the March 24, 2022 meeting minutes as presented.

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

** Motion carries **

4. **SUBDIVISION**
 - 4A. **SB-11-2021 – Walton Virginia, LLC, Owner / D.R. Horton, Applicant:**
 The applicant is seeking Preliminary Plat Approval to create 263 residential lots in the South River/Ladysmith Village development on Tax Map Nos. 52-2-1; 52-2-2; 52-2-3; 52-A-32 and 52-A-33.

Craig Pennington, Planner, provided the following Staff Report:

Request:

The applicant is requesting approval of a Preliminary Plat for creation of 263 residential lots

Discussion

The applicant, D.R. Horton, is requesting preliminary plat approval to create 160 single family lots & 103 townhouse lots in the South River section of the Ladysmith Village/South River development.

The South River Section 3 plats have been deferred since the February Planning Commission due to further review by the County, County Attorney, VDOT, and the applicant. The issue being discussed was the acceptance of the roads in South River Section 1 into the VDOT road network. This issue and all other agency comments have been resolved and the preliminary plat may be approved.

County Staff suggests that the Planning Commission require the Final Plat to be reviewed by the Planning Commission in order to view the agreement(s) regarding the repair of the roads in South River, Section 1.

Mr. Wieber thinks the suggestion that the final plat come to the Commission is a good suggestion.

Dr. Horton asked if this was not the final plat.

Mr. Pennington said no and explained that final plats usually do not come to the Planning Commission and the Commission only sees preliminary plats. He said in certain cases the Commission has suggested or conditioned that the final plat come back to the Planning Commission for final approval, but it does not happen all the time. He stated in this case, Staff is suggesting that the final plat come back to the Commission for final approval.

Mr. Wieber moved and Dr. Horton seconded that whereas the preliminary plat submitted appears to meet the requirements of the zoning and subdivision ordinance, I recommend that SB-11-2021 for Walton Virginia, LLC, Owner / D.R. Horton, Applicant be approved as submitted with the final plat returned to the Planning Commission for approval.

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

* Motion carries *

4B SB-03-2022 – Ladysmith HHH, LLC Owner/Applicant:

The applicant is seeking Preliminary/Final Plat Approval to create 2 lots on Tax Map No. 52-3-1.

Mr. Pennington provided the following Staff Report:

Request:

The applicant is requesting approval of a Preliminary and Final Plat for creation of one commercial lot.

Discussion

The applicant is requesting preliminary and final plat approval for a subdivision of parcel 52-3-1. This subdivision is to locate Wendy's on a stand-alone parcel.

Because this property was subdivided previously, creation of this lot constitutes a major subdivision requiring Planning Commission review and approval.

The final plat does not return to the Planning Commission for approval unless the Planning Commission requests it. Construction plans for the Wendy's are in technical review. Upon approval of the construction plans and Staff review and approval of the final plat, it can be put to record.

Conformance with Subdivision Ordinance

Staff has reviewed the subdivision plat and believes it to meet the requirements of the Subdivision Ordinance.

Vice-Chair Schwartz moved and Mr. Wieber seconded that whereas the preliminary and final plat submitted appears to meet the requirements of the zoning and subdivision ordinance, I recommend that SB-03-2021 for Ladysmith HHH, LLC Owner/Applicant, be submitted to the Board of Supervisors with a recommendation of approval.

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

* Motion carries *

5. **UNFINISHED BUSINESS**

- 5A. **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.

Mr. Pennington stated that the applicant has requested deferral of RZ-01-2022.

Mr. Wieber moved and Vice-Chair Schwartz seconded that RZ-01-2022 at the request of the applicant be deferred to a future meeting of the Planning Commission.

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

* Motion carries *

6. **PUBLIC HEARING**

There were no citizens present and the Public Hearing protocol was waived.

- 6A. **TXT-02-2022** - An Ordinance to amend the Zoning Ordinance of Caroline County by Amending Article II, Definitions, to add definitions for "Energy Storage Facility", "Energy Storage Project" and Host Locality". The purpose of the amendment is to establish definitions for these terms, which are not currently defined in the Zoning Ordinance.

Mr. Pennington provided the following Staff Report:

Staff is offering this text amendment to define an "Energy Storage Facility", "Energy Storage Project" and "Host Locality".

While an Energy Storage Facility is not a current permitted use in the Caroline County Zoning Ordinance, the State of Virginia has defined Energy Storage Facility and Staff feels that Caroline should add the definition into our Zoning Ordinance for such time as the use may be allowed.

The text amendment reads as follows:

TXT-02-2022 - An Ordinance to amend the Zoning Ordinance of Caroline County by Amending Article II, Definitions, to add the following:

"Energy storage facilities" means the energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored. **For clarity, energy storage facilities are distinct from and not included within (i) major or minor solar energy facilities or (ii) public utility, distribution, generation or transmission facilities, as defined in this ordinance, nor are they an accessory uses thereto.**

"Energy storage project" means the energy storage facilities within the project site.

"Host locality" means any locality within the jurisdictional boundaries of which construction of a commercial solar project or an energy storage project is proposed.

Mr. Wieber said so this text amendment is basically related directly to the storage of solar energy that may be created.

Mr. Pennington said that is correct. He said this text amendment is to define that if you were to get approval for a solar energy facility, it does not allow battery storage as an accessory use. He said energy storage would be a completely separate use that you would need a separate permit for even if they are going to be operated on the same site. He said an energy storage facility is not currently a use in the zoning ordinance.

Vice-Chair Schwartz asked why a storage unit facility cannot be performed within the boundaries of a solar project and operation.

Mr. Pennington said it could be within the boundaries of a solar project in operation, but they would need to get a separate permit for the energy storage. He said the utility scale solar ordinance allows for the generation of electricity to be put back to the grid, it does not state that you can store the energy on site to then be put back into the grid.

Vice-Chair Schwartz said so they are going to need a separate permit either way.

Mr. Pennington said first, it would need to be added into the zoning ordinance and then they would need a separate permit to do that.

Vice-Chair Schwartz said so in actuality, they are really creating more work for the Planning Commission and for the Board of Supervisors to rezone additional land off site.

Mr. Pennington said not necessarily. He said if energy storage facilities were to become a use in the zoning ordinance, they would most likely would be by special exception and not by-right. He said they would need an extra special exception to go along with the special exception for the solar facility.

Vice-Chair Schwartz stated but they are still talking about additional land acquisition.

Mr. Pennington said no, it could go onsite with the solar, they just need two permits, a utility scale solar permit, and an energy storage permit if energy storage becomes a use.

Vice-Chair Schwartz said as worded right now, they could go off site to a separate piece of land.

Mr. Pennington said no, at this time, no energy storage is allowed.

Vice-Chair Schwartz said but if the definitions are passed as such, as they are contained herein, then they could go offsite.

Mr. Pennington said no.

Vice-Chair Schwartz said they would have to stay on site.

Mr. Pennington said the definition going into the zoning ordinance does not make it an allowable use, it is just defining it. He said they still cannot do energy storage anywhere in the County unless the Board of

Supervisors directs Staff to add energy storage as a use. He said putting this definition into the zoning ordinance clearly defines what an energy storage project is and says that it cannot be an accessory to the solar project. He said basically, it is defining it to say that it is not allowed right now.

Vice-Chair Schwartz said his point is that he wants to make sure that an energy storage facility is maintained on the solar site if it gets approved down the line.

Mr. Pennington said when such times comes, as it may be added as a use, that would come to the Planning Commission and at that time, Staff could write the standards for an energy storage facility and it could be a standard that it must be on the same site as the solar facility. He said he believes that question would be answered at the time that it becomes a use should it become a use.

Mr. Sullivan said he feels they are getting ahead of themselves with this definition. He said if they haven't defined it as a use in the ordinance, maybe they should wait until it happens to come back with a text amendment to define it.

Vice-Chair Schwartz asked what if there is no solar project that was approved, would it be easier to add them on once a solar project is approved.

Mr. Pennington stated that Staff felt that defining it now and getting it into the ordinance and clearly stating that it is not an accessory or ancillary use to a solar facility. He said Staff felt it was important so that a solar facility did not think that they could do energy storage just because they were a solar facility.

He said the Caroline County Zoning Ordinance states that if something is not defined as a use in the ordinance, then it is not allowed. He said if it was not in the ordinance, it is still not allowed, but Staff wanted to clearly state that it is not an accessory use to a solar facility.

Dr. Horton said since they have eight solar facilities maybe they should do this.

Vice-Chair Schwartz said his concern was that they not be off site.

Mr. Pennington said that would be appropriate at the time they create a use definition.

Vice-Chair Schwartz asked if it could become a by-right issue if a solar facility was approved.

Mr. Pennington said not without Staff bringing it back to the Commission to have it added to the ordinance as a by-right use. He said if Staff is directed to add it to the ordinance, Staff would promote it as a special exception instead of a by-right use. He said the County Attorney did look at this definition to make sure they were accomplishing their goals with what they put on paper.

Dr. Horton asked if it was clear that this text amendment was only for solar facilities.

Mr. Pennington said yes, and this is the definition Staff pulled directly from the State definition and the part that is bolded, the second sentence, is what they added into the County definition. He said it speaks to transmission facilities.

Dr. Horton said she did not want it to be misconstrued.

Mr. Sullivan reiterated that he thinks they may be getting ahead of themselves with this. He said he would like to see the ordinance come out where it clearly defines the use and at that time, they would have more time to work on the definition.

Vice-Chair Schwartz said maybe it should be re-written to become specific to solar facilities only.

Vice-Chair Schwartz moved and Mr. Wieber seconded to defer this to a future meeting of the Planning Commission.

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

** Motion carries **

7. ANY & ALL MATTERS

8. ADJOURNMENT

- Motion to adjourn to the June 23, 2022 meeting.

Mr. Wieber moved and Mr. Sullivan seconded to adjourn the meeting at 7:30 p.m.

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

** Motion carries **

Respectfully Submitted,
Michael A. Finchum
Director of Planning & Community Development