

At a regular meeting of the Caroline County Planning Commission, held Thursday, June 23, 2022, in the Community Services Center Auditorium, 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 (NONE)**
4. **UNFINISHED BUSINESS**
- 4A. **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 staff report:

The Planning Commission held a public hearing on the proposed text amendments at the May 24, 2022 meeting and deferred action to the June 23<sup>rd</sup> meeting.

Staff is offering this text amendment to define the terms “Energy Storage Facility”, “Energy Storage Project” and “Host Locality”. The Commonwealth of Virginia has established these definitions, and, though these definitions are incorporated by reference from the Code of Virginia, staff believes that the definitions should specifically be added into the Zoning Ordinance. The addition of these definitions benefits staff in any future interpretation/BZA appeal related to such definition or use, but does not obligate the County to allow such uses, as staff does not propose to include such use in any zoning district.

The Zoning Administrator has opined that “Energy Storage Facilities” are not authorized uses under the Caroline County Zoning Ordinance, as the ordinance does not identify the use in any zoning district. The Zoning Administrator also previously opined that such facilities were not accessory uses to Solar Energy Projects. These interpretations are consistent with the zoning administrator's previous interpretation that Solar Energy Projects were not permitted uses under the zoning ordinance, until the Board of Supervisors added the use to a specific district(s), which it did in the RP Rural Preservation Zoning District.

However, the solar energy interpretations were specific to third party or commercial solar developers and not to public electrical utilities. Under

the zoning ordinance, public utilities have the ability to make application for a solar energy project under the Public Utility Generation designation, defined in Article II as "those facilities used in the manufacture or development of electric power for sale to the public". Public Utility Generation is allowed as a Special Exception in the RP and by-right in the M-1 Industrial districts.

Staff believes that the inclusion of these definitions helps clarify that such uses are not currently allowed in any zoning district and draws an important distinction between this use and the public utility generation definition, thereby mitigating any argument that "battery storage" is authorized under that definition or inferred as accessory thereto.

The text amendments read 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 use 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. Schwartz: Text amendment does not obligate the County to allow such activities, correct?

- Mr. Pennington: No, it defines the use but does not allow the use. The use has not been added to the Zoning Ordinance.

Mr. Sullivan: If definitions were not added but an Applicant came in and wanted one of these would the County have ability to say no.

Response from Mr. Mackenzie, County Attorney

- Staff would advise the use is not permitted in the County at this time. However, someone may confuse this as a public utility generation use. This amendment makes clear that a public utility such as Dominion could make application but not a third party.
- The amendment is adding more specific language to be used in the future should the use be allowed but the use is not allowed by right or by Special Exception now and is not being added.
- Part of the purpose of the amendment is to distinguish between energy storage facility and public utility generation which is currently allowed for a utility generation company (Dominion/REC) by special exception in RP & by-right in M-1 zoning district.

Planning Commission comments:

- Mr. Sullivan: Has staff considered adding clarity to public utility generation definition to exclude this? Concerned that we may be getting ahead of ourselves. Maybe a text amendment is better suited for an existing definition.
- Dr. Horton: Need to have precautions in place because of the existing solar projects approved by or at the Board for consideration. This matches the State language.
- Mr. Wieber: This amendment is describing something we have no definition for now. Believes holding off is the wrong move because of what is going on with the State regarding solar facilities

**Mr. Wieber moved and Mr. Schwartz seconded to forward TXT-02-2022 to the Board of Supervisors with a motion of approval:**

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

**Voting nay: Sullivan**

*\* Motion carries \**

## **5. PUBLIC HEARING**

Mrs. Zech read the public hearing protocol

**5A. RZ-05-2022 – Bauserman, Warren, Owner/Applicant:** Request a Rezoning from RP, Rural Preservation (density of one dwelling unit per 10 acres of land) and R-1 Low Density Residential (maximum of 2.9 dwelling units per acre) to Planned Residential Development (maximum density of 10 dwelling units per acre), on tax map #52A-1-A-1; 52-A-18 and 52-A-18A, consisting of 13.28 acres, more or less. The property, accessed by Deerfield Road, is bounded on the north and east by Campbells Creek Subdivision, Madison Voting District. The 2030 Comprehensive Plan designates this property as within the Ladysmith Community Plan as Low Density Residential. **Proposed Use:** Residential (Townhomes).

Mr. Pennington provided the following staff report:

### **Summary of Agency Comments**

VDOT comments were not received in time for the Applicant to revise the GDP prior to consideration by the PC. The applicant must address all VDOT items.

There were no other issues identified in the remaining agency comments.

### **Comprehensive Plan**

The 2030 comprehensive plan designates this area as low density residential within the Ladysmith growth area. This use would be inconsistent with the Comprehensive Plan due to the density of the townhouse subdivisions. Either straight single family detached or a mix of townhouse and single family dwellings would be more appropriate with the comprehensive plan and the existing approved developments.

### **Discussion**

The applicant is requesting approval of a rezoning from R-1 (residential) and RP (Rural Preservation) to PRD (Planned Residential Development) in order to construct seventy (70) townhouse units.

The R-1 portion of this land was rezoned with the creation of Campbell's Creek subdivision. The intent at that time was to connect Deerfield Road through the rear portion of the subdivision. That portion of Campbell's Creek was not developed due to limiting factors at the time. This rezoning would allow for 70 townhouse units to be constructed and Deerfield Road to connect as originally designed.

The property will be served by public water and sewer as the parcel is located within the Public Utilities service corridor.

the Property is bounded by the existing Campbell's Creek Subdivision and Ladysmith Village. The area in Ladysmith Village is designated for single family detached.

### **Proffers**

No proffers have been offered for consideration by the Planning Commission.

### **Applicant Presentation**

Ray Freeland with Freeland Engineering on behalf of the Applicant:

- This is a development that was laid out many years ago. The zoning in area is mixed and matched with no consistency. Believes they have a nice layout. In their opinion Planned Residential zoning would be pretty consistent with the area.
- Official comments were not received from VDOT. A traffic impact analysis is not warranted, generating 89 trips per day. Traffic will be entering solely on Deerfield Road.
- They are proposing a trail system, playground area and willing to allow Campbell's Creek residents to use those.
- Project would be beneficial to County (tax revenue) & not put a lot of stress on School System.
- Applicant (his clients) are local business people
- Project would be a good match for community.

Public Hearing Opened at 7:20 p.m.

John Powell, Madison District, resident of Campbell's Creek;

What plans does the Builder have to address the stormwater easement that drains to the South River?

Route 1 has no no turn lane into Deerfield Road & will be adding approx. 130 cars in & out of subdivision;

What guarantees do they have that they will be allowed to use playground, etc.?

What type of housing - low income? , high income?

Privacy is a concern.

Robert Withers, Madison Voting District, resident of Campbell's Creek

Is it federally subsidized housing?

10 trips per day per unit – 700 vehicles; Deerfield does not have that volume now;

Would like it to be screened or fenced;

Should have a 200' turn lane/taper on both southbound entrances & left turn lanes also.

Dawn Hawkins, Madison Voting District; Campbell's Creek, Quail Oak Drive

Walk-thru is coming directly behind her property and she is concerned about children running through her property; Kids already destroying things back there since Ladysmith Village went in;

Would like privacy fence;

Home Owner's Association: do they expect Campbell's Creek to go in with that?

Water - Has Aqua now, will they be able to switch to County water like the proposed development?

Would like to meet with them to discuss.

Debra Brosnan, Madison Voting District, Campbell's Creek, Quail Oak Drive

Numerous accounts of damage to her property now concerned it will increase with new development

Privacy & noise is an issue

Turn lanes, very blind spot at Deerefield & Route 1, a car can visually disappear; very dangerous;

Concerned with the Watershed,

Home Owner's Association? no one needs another bill.

Sonny Worthan, Madison Voting District, Campbell's Creek, Quail Oak at Deerfield

Opposed as it's been presented; peaceful, quiet now; family oriented subdivision; bring in 70 houses it will no longer be safe for families/children;

Two options to enter, use Durette or Gatewood without infringing on their quality of life

Traffic – the street not in best condition, will only get worse with increased traffic.

Evelyn Wortham, Madison Voting District, Campbell's Creek, Quail Oak at Deerfield

Concerned about traffic off of Route 1 into Campbell's Creek, very dangerous, people have died there;

They park on the street now because driveways are short, can they still park there with all the traffic coming through?

Concerned with privacy; need fence;

Lived there for 35 years

Brian Chiarizia, Madison Voting District, Campbell's Creek, Quail Oak Drive

Agrees with neighbor's concerns;

The river runs behind their homes, Ladysmith Village has caused their backyard to flood so where is water going to go from new development, water rises 8 feet when it rains; shed sits on pylons so it doesn't flood.

Tiffany Bradshaw, Madison, Campbell's Creek

Has been in Campbell's Creek her whole life; it's a quiet neighborhood, she wants to raise her children there.

Concerned with traffic and accidents at Deerefield.

Please consider those that have been there forever & would like to keep the neighborhood quiet.

Carolyn Minor, Madison Voting District, Campbell's Creek, Quail Oak Drive

Been there 42 years, want it to continue to be her home, quiet neighborhood;

Tried to do something similar years ago with apartments;

Close knit & want to stay that way;

She doesn't agree with this, totally against it.

Stephanie Mosby, Madison Voting District, Campbell's Creek, Quail Oak Drive

Been in Campbell's Creek for 33 years;

Her concern is they don't know enough about what they are bringing in or not bringing in; not enough information;

What does this do to taxes in Campbell's Creek?

Water: with Aqua now, can they get on the County system?  
 Concerned with entrance on Route 1;  
 How will this help them?

PH closed at 7:50 pm

Ray Freeland responds to comments on behalf of the Applicant:

- VDOT & turn lane: owner & developer are fully aware it's not a good area; would consider proffering turn lane; would like to set up community meeting to talk through this;
- Stormwater: Only a general development plan has been submitted; A thorough stormwater plan will be included as part of site plan & plats.
- Water System: They would be interested in talking about that but not sure how that fits with the County & Aqua. Would be a real benefit to the people in Campbell's Creek and the County;
- Home Owner's Association – are not asking them to join, will form their own, no expenses to Campbell's Creek residents;
- Federal housing is not an option;
- Clients have been in Caroline a long time; want to work together with Planning Commission and Board of Supervisors.
- They are interested in sitting down and talking with residents
- Security – in his opinion, will have more eyes/ears in back if developed; clients are part of the community, want to continue to be part of it;
- Parking - all units will have two parking spaces & extra parking along street. Planning to use Deerfield Road as access.
- Believes they can come to terms with some of the issues

Questions/Comments from Mr. Schwartz (responses from Mr. Freeland on behalf of the Applicant)

How many bedrooms

- Probably 3 bedrooms

Will the units be rentals?

- The plan is to sell them, they are not interested federal housing; They are trying to make these affordable; working family homes & envision this as becoming part of the Campbell's Creek community.

Has any thought been given to making this a mix of single-family dwelling and some townhomes? Perhaps a 50/50 mixture.

- He would address this with the client, it's all about the numbers. The area as a whole is mixed use – Campbell's Creek is a medium sized lots with SFD, Ladysmith village is mixed use; what they want to develop is just outside Planned Development in the comprehensive plan.

Plans to get in touch with the Sheriff for details. Do not want a traffic hazard like that, realizing that's not your client's fault. Traffic numbers are generated from peak hours, very narrow window; need to consider the whole day.

- Applicant is willing to proffer turn lanes. They would like to set up a community meeting to show different scenarios with turn lanes, etc., once VDOT comments are received. Entrances will be curb & gutter, wide throat width, etc.

- They can never address all the concerns but maybe the important ones.

Questions/Comments from Dr. Horton

There is so much traffic on that road with no turn lane and 70 more units is a lot. Would like to hear more from VDOT. How many houses in Campbell's Creek

- 149 homes in Campbell's Creek. Per VDOT, turn lanes are not warranted but they will address these issues if they have more time to work on it. They are asking for a deferral to the next meeting in order to hold a community meeting.

**Mr. Wieber moved and Dr. Horton seconded to accept the Applicant's request to defer RZ-05-2022 to the October 27, 2022 meeting.**

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

*\* Motion carries \**

## **6. ANY & ALL MATTERS**

### **6A. Discussion & Consideration to Repeal Solar Ordinance(s)**

Mr. Pennington referred to the memo provided to the Planning Commission and stated staff is asking the Planning Commission to authorize advertisement of a public hearing to reconsider the solar ordinances. He explained DEQ expects regulations & guidance documents concerning stormwater run-off to be available middle to the end of next year. Staff would like to have the DEQ regulations included in the solar ordinance. He said staff feels we've learned a lot over the last eighteen months and need to make more than a couple of adjustments to the solar ordinance. The Planning Commission has the choice to revise the existing ordinance in place or, as staff feels is best, repeal the ordinance so it can be revised.

**Mr. Schwartz moved and Mr. Wieber seconded to authorize advertisement of a public hearing for the August 25, 2022 meeting to consider repeal of the solar ordinances:**

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

*\* Motion carries \**

### **6B. Consideration & Authorization to Advertise for Public Hearing: proposed text amendment related to the front setback required for accessory structures on corner lots**

Mr. Pennington asked the Planning Commission to authorize advertisement of a public hearing for a text amendment for garage accessory structures on corner lots in the R-1 zoning district.

**Mr. Minor moved and Mr. Wieber seconded to authorize advertisement of a public hearing for the proposed text amendment:**

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

*\* Motion carries \**

7. **ADJOURNMENT**

- Motion to adjourn to the July 28, 2022 meeting.

**Mr. Minor moved and Mr. Wieber seconded to adjourn the meeting at 8:15 p.m.**

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

*\* Motion carries \**

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