

Spotsylvania County Planning Commission

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: September 6, 2017

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

C. Douglas Barnes	Berkeley
Gregg Newhouse	Chancellor
Richard Thompson	Courtland
Michael Medina	Salem
Howard Smith	Livingston
Mary Lee Carter	Lee Hill

Members Absent: C. Travis Bullock Battlefield

Staff Present:

Wanda Parrish, AICP, Director of Planning
B. Leon Hughes, AICP, Assistant Director of Planning
Paulette Mann, Planning Commission Secretary
Alexandra Spaulding, Senior Assistant County Attorney
Patrick White, Planner III

Announcements: Ms. Parrish informed the Commission about upcoming cases at the September 20, 2017 meeting.

Review & Approval of minutes:

Motion and vote: Ms. Carter made a motion, seconded by Mr. Smith to approve the minutes of August 16, 2017. The motion passed by roll call vote 6-0.

Unfinished Business: None

Review and Approval of Preliminary Plat

P17-0002 Cedar Forest Preliminary Plat (Berkeley Voting District)

We received a submission of the Major Preliminary Plat, which requires Planning Commission review and approval in accordance with the Subdivision Ordinance, Sec.20-3.5.1(c). The Preliminary Plat is for the subdivision of twenty (20) acres to develop the Cedar Forest Subdivision with twenty-nine (29) single family detached lots. The project will be served by public water and sewer. This project is in the Primary Development Boundary and identified for Mixed Land Use on the Future Land Use Map. The property was zoned to PDH-3 in March of 2017 and is identified as tax parcel 35-A-55B.

The plat conforms to County Codes and Standards and is ready for approval by the Planning

Commission. The preliminary plat is ready for approval.

At a meeting of the Spotsylvania County Planning Commission held September 6, 2017 on a motion by Mr. Barnes, seconded by Ms. Carter and passed 5-0 with Mr. Thompson abstaining, the Commission approved the following resolution:

RESOLUTION

Approve P17-0002 Cedar Forest Preliminary Plat

WHEREAS, the applicant requests approval of the Preliminary Plat for twenty (20) acres of Planned Development Housing -3 (PDH-3) zoned land in order to construct 29 single family homes. Tax map numbers 36-A-55B, Berkeley voting district; and

WHEREAS, staff has reviewed the Preliminary Plat and recommends approval of the plat dated; June 30, 2017 and

WHEREAS, the Planning Commission reviewed and approved the plat on September 6, 2017, and a motion was made and seconded to recommend approval of the Plat with a vote of 5-0; and

WHEREAS, general welfare and good subdivision practice are served by approval of the Plat; and

NOW, THEREFORE, BE IT ORDAINED that the Spotsylvania County Planning Commission does hereby approve P17-0002 the Cedar Forest Preliminary Plat.

BE IT FINALLY ORDAINED that the Spotsylvania Planning Commission's approval does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Public Hearing(s):

Code Amendment(s):

CA17-0009 (Ordinance No. 23-173) Spotsylvania County Planning Commission: Amendments to the Code of the County of Spotsylvania, Chapter 23, Zoning, Article 2, Definitions and Rules of Construction in Section 23-2.1.4 Definitions, to add defined terms; Section 23-4.5.7 Standards of Review, to add use-specific standards for Solar Energy Facilities; Section 23-6.3.3 Special Uses in the Agricultural 2 (A-2) zoning district, to add Solar Energy Facility as a Special Use; and Section 23-6.4.3 Special Uses in the Agricultural 3 (A-3) zoning district, to add Solar Energy Facility as a Special Use. Amendments are intended to define, set minimum standards, and designate zoning districts in which Solar Energy Facilities may be permitted by Special Use.

Mr. White presented the case. Following recent inquiries of potential Solar Energy Facility developers to potentially locate projects within the County it was determined that a modification

to current County codes was necessary.

Currently, a Solar Energy Facility would only be allowed via Special Use Permit within the I-2 zoning district due to it use meeting the definition of a Public utility, heavy.

“Public utility, heavy means the following shall be deemed to be heavy public utilities:

1. Electrical generating plants and facilities.
- ...”

This amendment separates Solar Energy Facilities into their own defined land use, allows them to be permitted via Special Use Permit in the A-2 and A-3 zoning districts, and sets minimum standards for them.

Pursuant to Virginia Code 67-102 (Commonwealth Energy Policy) and 67-103 (Role of Local Gov’t)

Code Sections to be amended:

- Division 23-2.1.4 Definitions, to add defined terms;
- Division 23-4.5.7 Special Uses Standards of Review, to add standards for Solar Energy Facilities;
- Division 23-6.3.3 Special Uses in the Agricultural 2 (A-2) zoning district, to add Solar Energy Facility as a Special Use;
- Division 23-6.4.3 Special Uses in the Agricultural 3 (A-3) zoning district, to add Solar Energy Facility as a Special Use.

Division 23-2.1.4 Definitions, to add defined terms

- “Integrated Photovoltaic Material”
- “Photovoltaic material”
- “Solar Energy Facility”

Division 23-4.5.7 Special Uses Standards of Review, to add standards for Solar Energy Facilities

- Require adequate emergency access.
- Must meet all local, state, national codes.
- Must be screened to minimize visibility and aesthetic impacts from property owners and roadways. Demonstrated through viewshed analysis.
- Require submittal of phasing plan for construction.
- Require submittal of decommissioning plan for removal.
- Lands must be restored to reasonable condition upon decommissioning.
- Decommissioning surety to be placed to assure removal of facility:
 - Surety to include inflation adjustment.
 - Surety to be reevaluated every two years.
- If a component of facility exceeds 1 year of inoperable status Zoning Administrator notifies applicant of that components Date of Abandonment.
- Applicant or landowner then have 1 year to repair, replace, or remove. Should they fail, the decommissioning surety may be used.

- Should a decommissioning surety require use, no further site plans or building permits can be approved until the phasing and decommissioning plans, and the decommissioning surety are reapproved by staff.
- Should surety fail to fund decommissioning the difference will be obtained through legal action.
- Changes of ownership, lessee, or decommissioner shall be reported to Co within 60 days.

Division 23-6.3.3 Special Uses in the Agricultural 2 (A-2) zoning district, to add Solar Energy Facility as a Special Use

Sec. 23-6.3.3. – Special Uses.

(43) Solar Energy Facility;

(Renumber of remaining uses)

Division 23-6.4.3 Special Uses in the Agricultural 3 (A-3) zoning district, to add Solar Energy Facility as a Special Use

Sec. 23-6.4.3. – Special uses

(42) Solar Energy Facility;

(Renumber of remaining uses)

Staff recommends that the Planning Commission approve Ordinance 23-173.

Mr. Newhouse reviewed the public hearing procedures and opened the public hearing.

Speaking in favor or opposition:

M.R. Fulks, 1601 Belvedere Drive: He stated that he serves on the Ag/Forestal Committee and that is how he first learned about this amendment. He stated that he strongly believes that farms that are 200 acres or less be allowed to have Solar Energy on Agricultural Zoned land without getting a special use permit. He stated that profit in farming has vastly declined and there is no economic way to continue and is forcing farmers to see. These being permitted by right for parcels 200 acres or less will head off sprawl.

Ms. Robinson, 10400 Campbell Drive: She stated that she agrees with Mr. Fulks. She stated that without the use of solar energy, farming is difficult. She discussed using solar to power her well. This will help the small farmer.

Mr. Barnes inquired if this language is aimed at the small farmer.

Mr. White stated that the approach is for large solar energy facilities, not for the small farmer that would like to power a well. He stated that the ordinance would be for more of a commercial installation.

Mr. Barnes asked Mr. Fulks to clarify his statement.

Mr. Fulks stated that it would allow for income for good sized farm and save a family farm.

Mr. Thompson stated that he has concerns about this because he understands that any leftover energy is required to be bought by the power companies.

Ms. Carter inquired if this ordinance would have any impact on Ms. Robinson.

Mr. White stated that if she is using solar to power her own well, no. If she had a field to sell electricity to Dominion or someone else, then yes.

Ms. Carter stated that she feels she has too many questions regarding this and some things just aren't clear. She inquired if staff has contacted any farmers about this.

Mr. White stated no.

Mr. Smith inquired if 200 solar panels would have to go through the process.

Mr. White stated yes, it would require the SUP process to examine the impact on neighbors.

Mr. Medina stated that his biggest concern in allowing a by-right solar farm would be the inability to decommission the use. The County would then have no recourse.

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Barnes made a motion, seconded by Ms. Carter to continue to the first meeting in October (October 4, 2017) to allow for further investigation of the by-right proposal and decommissioning plan.

Mr. Medina stated that he believes there is legislation regarding power companies and limiting the ability to sell back power.

Ms. Carter encouraged staff to reach out to farmers and asked for an update along the way, prior to coming back in October.

VOTE: The motion passed unanimously 6-0 by roll call vote.

Closed meeting

At a meeting of the Spotsylvania County Planning Commission held on September 6, 2017, on a motion by Mr. Newhouse seconded by Mr. Barnes and passed 6-0, the Commission adopted the following resolution:

RESOLUTION NO. 2017-**To Adjourn into Closed Meeting**

WHEREAS, the Spotsylvania County Planning Commission desires to adjourn into Closed Meeting for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically relating to Planning Commission policies and procedure; and

WHEREAS, pursuant to Va. Code §2.2-3711(A)(7) (1950, as amended), such discussions may occur in Closed Meeting.

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Planning Commissioners do hereby authorize discussion of the aforestated matters.

At a meeting of the Spotsylvania County Planning Commission held on September 6, 2017, on a motion by Mr. Newhouse, seconded by Ms. Carter and passed 6-0 the Commission adopted the following resolution:

RESOLUTION NO. 2017-**Return to Open Meeting**

WHEREAS, the Spotsylvania County Planning Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Va. Code §2.2-3712(D) (1950, as amended), requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Planning Commission hereby returns to open meeting and certifies, by roll call vote, that to the best of each member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Freedom of Information Act and identified in the motion to go into Closed Meeting were heard, discussed or considered in the Closed Meeting.

New Business: None

Public Comment:

The meeting adjourned at 8:15 p.m. on a motion by Mr. Thompson, seconded by Ms. Carter.
The vote was 6-0.

___*Paulette Mann*_____

Paulette Mann

___September 20, 2017_____

Date