

## Spotsylvania County Planning Commission

**DRAFT**

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

**MINUTES:** April 4, 2018

**Call to Order:** Ms. Mann called the meeting to order at 7:00 p.m.

**Members Present:**

Richard Thompson	Courtland
Michael Medina	Salem
Howard Smith	Livingston
Jennifer Maddox	Berkeley
C. Travis Bullock	Battlefield

**Members Absent:**

Gregg Newhouse	Chancellor
Mary Lee Carter	Lee Hill

**Staff Present:**

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

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**Announcements:** Ms. Mann led the pledge. She advised that the Chairman and Vice-Chairman are unable to attend the meeting this evening so the Commission will need to nominate a Chair pro tem to preside over the meeting. She called for nominations.

**Motion and vote:** Mr. Thompson made a motion, seconded by Mr. Medina to nominate Howard Smith as Chairman pro tem. The motion passed 5-0 by roll call vote.

The meeting was turned over to Mr. Smith.

Ms. Parrish suggested that since two members of the Commission were missing that the comprehensive plan worksession being moved to the next meeting. She stated it would be of great value to have everyone present. The Commission agreed.

Ms. Parrish informed the Commission that they may wish to cancel the April 18, 2018 meeting. No cases are ready to be heard that evening.

She advised the Commission of a proposed joint worksession with the Board of Supervisors on May 22 at 6 p.m. She stated that the meeting is pending approval on Tuesday night and that she would keep the Commission informed on that date.

Finally, she stated that she is trying to arrange a tour of an operational solar facility located in Louisa. They have a 300 acre facility. She stated that she will provide 2 or 3 dates and then go

from there. She also advised the Commission and audience that the SCC will hold their public hearing on the solar facility on May 9, 2018 at 2 p.m. and 7 p.m. This is for the state level permit and has nothing to do with the local public hearings.

**Review & Approval of minutes:**

**Motion and vote:** Mr. Thompson made a motion, seconded by Mr. Medina to approve the minutes of March 7, 2018. The motion passed 5-0.

**Unfinished Business:** None

**Review and approval of plat(s):**

**P18-0001 Summit Crossing Estates Preliminary Plat**

Mr. Hughes presented the plat. The Summit Crossing Estates PDH-3 rezoning was approved with proffers by the Board of Supervisors on March 16, 2017 enabling the construction of the 70 lot subdivision. The project is located approximately 2000 feet east of the intersection of Massaponax Church Road and Summit Crossing Road.

The Plat was reviewed by the Technical Review Committee and does not fully comply with all Ordinance requirements. Section 20-5.1.8 (d) of the Subdivision Ordinance requires that subdivisions with lots that are 25,000 square or less to have curb and gutter streets. Section 20-5.1.8(k) (3) of the Subdivision Ordinance requires sidewalks on all streets in residential subdivisions where curb and gutter are provided. Summit Crossing Estates will have seventy (70) lots with an average lot size of 17,499 square feet. The applicant is proposing to construct the project without curb and gutter utilizing ditch sections on each side of the street with sidewalks only on one side of the street.

In accordance with Section 20-4.1.5 of the Subdivision Ordinance, Exceptions, the applicant is requesting exceptions to the provisions of Article 5 of the Subdivision Ordinance. The applicant has submitted a letter outlining the following reasons for the request: 1. The reduced impervious area will enhance storm water management by reducing the size of storm water management facilities. 2. Will improve water quality as runoff is filtered via the increased green space. 3. Minimize impacts to the natural environment. 4. Meet the intent of the County Code by preserving natural features of the site and minimizing impacts to these natural features. 5. The provision of sidewalks on one side of the street provides the benefit of pedestrian movement along the higher traffic streets in the project.

Staff is supportive of the Ordinance requirements and notes that this property is in the Mixed Use area as identified on the Future Land Use Map. This area is intended to develop into a more densely populated area and it is in close proximity to other parcels that have been approved for development of high density residential. Staff also acknowledges the benefits of less impervious area as it relates to improved storm water management and can support this project with ditch section streets. However, staff is less supportive of sidewalks on one side of the street. It is common and customary in large lot subdivisions not to provide sidewalks. It is more

common and customary in small lot subdivisions to provide sidewalks to limit the interaction of pedestrians and vehicles. Sidewalks on one side of the street increase the number of pedestrian crossings and opportunities for conflict. Sidewalks on both side of the street create a more safe condition for pedestrians by limiting the need to cross the street. Often these pedestrians are young people moving about in the neighborhood. Dual sidewalks create a comfortable and inviting opportunity for people to walk and interact with neighbors on both sides of the street. We are building communities that are going to here for long time, increased amenities allow communities and neighborhoods retain value. Limiting sidewalks to one side of the street seems to be a short term view ignoring residual benefits. When sidewalks are constructed in the right of way and to the appropriate standard the maintenance is the responsibility of the VDOT and not the home owners association. Staff recommends approval of the exception request to allow the ditch section streets, but does not recommend the exception for sidewalks on one side of the street.

Staff recommends approval of the preliminary plat, P18-0001, with approval of the exception request to allow the ditch section streets, but does not recommend the exception to allow sidewalks on only one side of the subdivision streets.

Mr. Thompson stated that he could not support the plat without sidewalks on both sides of the street.

Ms. Maddox inquired whether it is common to see sidewalks on only one side of the street.

Mr. Hughes stated that there are some approved subdivisions out there with sidewalks on one side of the street only, but most do comply.

**Motion and vote:** Ms. Maddox made a motion, seconded by Mr. Thompson to approve the following resolution.

### **RESOLUTION**

#### **Approve Summit Crossing Estates Preliminary Plat with one Exception**

**WHEREAS**, the applicant requests approval of the Preliminary Plat for 49 acres of PDH- 3 zoned land in order to construct seventy (70) single-family homes. Tax map numbers 50-A-119 and 50-A-119B, Lee Hill voting district; and

**WHEREAS**, staff has reviewed the Preliminary Plat and recommends approval of the plat dated; October 4, 2017 and

**WHEREAS**, the Planning Commission reviewed and approved an exception request to allow ditch section streets an exception to the ordinance requirement for curb and gutter streets and

**WHEREAS**, the Planning Commission reviewed and denied an exception request for the allowance for sidewalk on one side of the streets and

**WHEREAS**, the Planning Commission reviewed the Preliminary Plat on April 4, 2018 and a motion was made and seconded to recommend approval of the Plat with a vote of 4-1; 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 P18-0001 the Summit Crossing Estates 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.

The motion passed 4-1, with Mr. Medina voting nay.

**Public Hearing(s):**

**Special Use Permit(s):**

**SUP18-0004 Zoan Baptist Church:** Requests special use permit approval to allow a private school on Residential 1 (R-1) zoned property. The property is located at 5888 Plank Road which is on the south side of Plank Road (Route 3) approximately 1,500 feet west of the Harrison Road (Route 620) and Plank Road (Route 3) intersection. The property is located within the Primary Development Boundary. The property is identified for Institutional development on the Future Land Use Map of the Comprehensive Plan. Tax parcel 22-A-38. Chancellor Voting District.

Ms. Pomatto presented the case. The Zoan Baptist Church is located at 5888 Plank which is on the south side of Plank Road (Route 3) approximately 1,500 feet west of the Harrison and Plank Road intersection. The church property totals approximately 7 acres and is currently zoned Residential 1 (R-1). The church operates as a legal non-conforming use as the church use was established prior to the Zoning Ordinance. In October 2017 a complaint was filed with County Code Compliance that a private school was operating within the church facility. The complaint resulted in staff investigation and ultimately the determination by the Zoning Administrator that in order to operate a private school on Residential 1 (R-1) property, a special use permit is required. The school currently operating within the church facility is known as Summit Academy. Summit Academy's current student enrollment is 30 students, grades 9 – 11. In the Fall of 2018 the school anticipates offering full curriculum coverage for grades 9 – 12 with an enrollment of 50 or less students.

The school classrooms are located within the youth wing of the church and the fellowship hall serves as the lecture hall and assembly area for the school during the week. The school hours are Monday through Friday from 8:15 am to 3:04 pm during the months of August through early June. Students either drive or are dropped off by their parents to the school. There is no bus or transportation service for the students and the school is able to utilize the church parking lot which is adequate to serve both the church and school which operate at separate times. Currently there are no organized outdoor activities on site.

The applicant anticipates the maximum student capacity in the church facility as-is to be approximately 120 students. Staff assumed the maximum student capacity of 120 students in

order to analyze the proposal's impact on traffic. Based on the ITE Trip Generation Manual, a private school with 120 students will generate approximately 298 daily trips with 97 in the AM peak and 70 in the PM peak. The church site currently has two access points on Plank Road, neither of which meets current VDOT entrance standards. VDOT's review of the application included a recommendation that the owner bring the site access up to meet current minimum entrance standards. The County's traffic engineer reviewed the proposal and weighed VDOT's recommendation against current traffic conditions, level of service along Plank Road and crash data. The level of service along Route 3 between Big Bend Blvd. and Harrison Crossing operates at a LoS C in both the AM & PM Peak Periods per the Spotsylvania County Travel Model. A level of service C meets or exceeds our standard in the Transportation element of the Comprehensive Plan. The main (western) entrance into the site is located 700' from Big Bend Blvd. and 1,600' from Harrison Road. Both intersections are signaled and create gaps in the traffic flow to allow entry the church site safely. The main (western) entrance to the site is 40' wide which meets Commercial width standards. Plank Road is a divided highway so the eastern entrance operates as right-in, right-out. Over the past 5 years, the stretch of road 400' east and 400' west of the site entrance averaged 3.7 crashes per year which is not considered a "high crash" location (5 or more would qualify).

At maximum capacity of 120 students in the existing facility the estimated traffic will have minimal impact on Route 3. Given the limited amount of traffic generated by the school use, the existing levels of service and traffic conditions, the County is not recommending any changes or improvements to the access points at this time. However, an increase in student enrollment beyond 120 or an expansion of the facility which would increase the student capacity will trigger a re-assessment. In order to provide the County the opportunity to reassess the impact of the use on the traffic network and the condition of the existing access points, staff is recommending a condition which limits the number of students to 120 students. Any increase beyond 120 students will trigger an amendment to the special use permit.

Ms. Pomatto discussed the following findings:

In Favor:

- A. The proposed private school use will operate within the existing facilities located onsite and complements the intent of the Institutional Land Use designation. Nearby commercial and employment center land use designations adjacent to the project area are all harmonious with the land use proposal.
- B. There are no proposed changes to the site or building as the use will be contained within the existing facility with minimal impacts to the transportation network.

Against:

- A. The existing access points do not meet current VDOT entrance standards.

Given that the private school will operate in the existing facility with no changes to the building or site, staff has identified no concerns with the use as proposed. The item of concern is the fact

that the access points do not meet current entrance standards. While the existing access points do not meet current standards, the use will generate a limited amount of traffic and will not degrade the level of service for Plank Road which is currently operating at an acceptable level. This segment of Plank Road is not a high crash location and there are no other identified issues which lead staff to recommend the entrances be improved at this time. However, staff's position is based on the school operating in the existing facility with the capacity allowed. Should the student enrollment increase, the special use should be reassessed. Staff recommends that the Planning Commission recommend approval of the Special Use Permit to allow the private school use on Residential 1 (R-1) zoned property with the following conditions:

1. The maximum allowable number of students shall be one hundred and twenty (120). Any increase in the number of students beyond 120 shall require an amendment to the special use permit.
2. All Building and Fire Code requirements must be adhered to as the student enrollment increases within the maximum allowable number of students.

Mr. Thompson inquired if the proposal was reviewed by the County's Traffic Engineer.

Ms. Pomatto stated that it had and they are fine with no improvement at this time.

*Mr. Smith opened the public hearing.*

*Speaking in favor or opposition: None*

*Mr. Smith closed the public hearing.*

**Motion and vote:** Mr. Thompson made a motion, seconded by Mr. Bullock to approve the special use with staff's recommended conditions. The motion passed 5-0.

### **New Business**

Ms. Parrish stated that without objection, the April 18, 2018 meeting may be canceled.

The Commission agreed to cancel the meeting.

### **Public Comment**

Daniel Kulig, Livingston Voting District: He expressed his concern for the potential erosion and stormwater damage to the properties, wetlands, tributaries of Fawn Lake, from the construction and operation of the solar energy facility. Requests that County require site specific erosion and sediment control and SWM plans for review and approval prior to Special Use Permit.

Jim Smith, Livingston Voting District: He discussed that the size of the proposed solar facility is the same size as the City of Fredericksburg. He stated that it would appear that this proposal would necessitate approval of a stormwater management plan by the agencies responding to the

matter.

David Hammond, Livingston District: He suggested that there are some aspects of the plan that do not comply with the county ordinance for Solar Energy Facilities and some areas where he believes the ordinance should be revised. He highlighted the decommissioning of the facility and that provision 11 be evaluated regarding whether the multiple LLCs created need to be linked to decommissioning documentation, provision 15 should be revised to require the equipment be removed on an urgent basis and that provision 16 is ambiguous about whether the landowner will be held liable. He stated the decommissioning cost estimate was too low and that recycling costs should be included.

Bill Parsons, Livingston District: He stated that he is not opposed to Solar Power but this project has potential issues that could have long lasting negative impacts on people and the environment in the surrounding area and possibly bodies of water further away. He mentioned the local aquifer and the erosion control and runoff issues that have been mentioned.

Richard Genaille, Livingston District: He stated that he has found that there is unauthorized construction of steel I-beam poles on the property. The beams appear to be substantial in size and for a rather large building. These are located inside the site, a few hundred yards from the construction access. There are also construction trailers on site and suggests that county staff further investigate the unauthorized activities. He stated that Culpeper has put a moratorium on solar facilities and pleaded that Spotsylvania do the same.

Michael O'Bier, Livingston District: He stated that the 50 foot buffer with 6 ft. tall pine trees would not adequately screen the facility but instead recommends 362 feet with trees, berms, and shrubs, per the Kingston Canada Act. He has concerns about wells; his is only 47 feet deep and has never had a problem. He also stated that he has concerns about runoff, well preservation, wind, dirty power, electromagnetic fields, installed equipment and the background of the General Contractor.

Bill McGrath, Livingston District: He stated that he has concerns about the buffer and that this use should not be seen or heard. He stated the proposed 50 foot buffer is insufficient. He stated he is concerned about the potential impacts on the neighbors.

Irvin Boyles, Livingston District: He discussed that Fawn Lake has been praised by VDGIF as one of the cleanest and purist lakes in the State of Virginia. He stated that he wants it to remain that way. He discussed Cadmium and other elements that could leak and damage the land and lake. He stated an emergency action plan is necessary. He stated that the company should have to maintain an insurance policy to cover any and all expenses that might be incurred by residents of Fawn Lake and surrounding areas due to damages, injuries, and cleanup.

Kevin McCarthy, Livingston District: urge the Spotsylvania County Planning Commission and the Board of Supervisors to place a moratorium on any construction of solar energy facilities until such time as the appropriate due diligence can be completed. He requested the following: First, that the Planning Commission and/or the Board of Supervisors secure independent professional analysis and assessment of the environmental, health, safety, financial and economic

impact that a solar farm of the magnitude contemplated would have on Spotsylvania County, its residents, landowners, homeowners, taxpayers and businesses. Such assessment and report should not be provided to the county by those seeking special land use permits, but rather should be secured separately by the county directly, with reimbursement to the county from the applicant or applicants. Second, that the Planning Commission and/or Board of Supervisors prepare, publish and deliver to all constituencies previously mentioned a thorough Cost / Benefits report, detailing exactly how this proposed solar facility will benefit the residents of Spotsylvania County. Until such studies and reports are completed, he urged the Planning Commission and Board of Supervisors to halt any further consideration of the sPower proposed facility and enact a moratorium on any other such development.

Moya Doss, Livingston District: She stated that she has lived in Fawn Lake for 20 years and just recently purchased a lake lot to build another home. She suggested that the County suggest that sPower start smaller and not be the 10<sup>th</sup> largest facility in the world. She also has concerns about the aquifer and that the application is still so vague. She expressed concerns for the lake, aquifer, and her property values.

Steve Doss, Livingston District: He stated that he would like to wake up each morning and not be scared of what is yet to come. He stated that there is no proof of concept and would like to see this done in much smaller stages.

Judy Genaille, Livingston District: She inquired who exactly is responsible for this proposal. She stated that in reviewing the submitted documents, sPower is on the application, but there are a bunch of LLC's listed on many of the other documents and feels they should all be the same. She also suggested that all of the plans should be laid out so that tornadoes and other things can be fully planned for. She inquired who alerts who. She stated that an SOP should be laid out for each issue in regard to emergency management. She stated decommissioning should consider recycling of the panels.

Katherine Lovello, Livingston District: She stated that she has concerns about the sulfidic soils that are present in this region and that she would like to see a requirement for sPower to test the soil to the maximum depth of excavation at each location. This soil could contaminate the groundwater and surface soil of thousands of acres of land.

Alfred King, Livingston District: He stated that the county has simply had no experience with a project of this size and no one staff person can deal with all of the issues. He suggested a committee of concerned citizens, staff, Planning Commission members, and Board of Supervisor members.

**Motion to adjourn:**

Mr. Thompson made a motion, seconded by Mr. Medina. The motion passed 5-0.

The meeting adjourned at 8:30 p.m.



Paulette Mann

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Date

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