

**FLUVANNA COUNTY PLANNING COMMISSION
MEETING MINUTES**

132 Main Street Palmyra, VA 22963

72 Main Street Palmyra, VA 22963

Tuesday, September 10, 2024

Work Session 6:00PM in Morris Room | Regular Meeting 7:00pm in Courthouse

MEMBERS PRESENT:

Barry Bibb, Chair
Kathleen Kilpatrick, Commissioner
Howard Lagomarsino, Commissioner
Lorretta Johnson-Morgan, Commissioner
Eddie Shifflett, Commissioner
Mike Goad, Representative of Board of Supervisors

ABSENT:

None

STAFF PRESENT:

Todd Fortune, Director of Planning
Dan Whitten, Fluvanna County Attorney
Kayla Polychrones, Administrative Assistant
Kelly Harris, Assistant County Administrator
Eric Dahl, County Administrator

CALL WORK SESSION TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 6:00 pm, Chair Bibb, called the September 10, 2024 Work Session to Order, led in the Pledge of Allegiance and then he conducted a Moment of Silence.

WORK SESSION:

Discussion was held on possible Zoning Text Amendments for more defined language on (1) Pet Crematoriums (2) Tarp Screening (3) Inoperable Vehicles (4) Animal Training Facilities and (5) Road regulations in Subdivisions.

CALL REGULAR MEETING TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 7:02 pm, Chair Bibb, called the September 10, 2024 Regular Meeting to Order, led in the Pledge of Allegiance and then he conducted a Moment of Silence.

1. DIRECTOR'S REPORT – Todd Fortune, Director of Planning

Announcements and Updates

- WaWa (SDP23:07) : On August 21, the Board of Supervisors held a public hearing on the developer's request for a waiver on the sign requirements for one of the proposed signs. The request was approved.
- The Solar Ordinance Committee met on September 3 to finalize draft recommendations for ordinance language and supplemental regulations for solar policy. Two previously submitted special use permit applications (SUP23:01 and SUP23:09) have been withdrawn due to the approval of ZTA 24:02 by Board of Supervisors on July 3rd, 2024.
- James River Water Authority (JRWA) held a groundbreaking on August 14th to begin construction of continuing a section of the raw water main in southern Fluvanna County.
- SUP24:01 – Camp Yellow Cardinal LLC – applicant has officially withdrawn their application.

Upcoming Meetings

- October 8, 2024 – Morris Room
- November 12, 2024 – Morris Room
- December 10, 2024 – Morris Room

2. PUBLIC COMMENTS #1

At 7:03 pm, Chair Bibb opened the first round of public comments. With no one wishing to speak, Chair Bibb closed the first round of Public Comments at 7:04 P.M.

3. MINUTES

MOTION:	To Approve the Regular Meeting minutes of the Planning Commission of August 13, 2024.				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:			Second	Motion	
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Approved				

4. PRESENTATIONS

None.

5. SITE DEVELOPMENT PLANS

None.

6. SUBDIVISIONS

SUB24:29 -- Rivanna Bend by 30 Scale, LLC – A Sketch Plan request for a rural cluster major subdivision with respect to 76.71 acres of Tax Map 18 Section 1 Parcel 1. The applicant is proposing 21 cluster lots with one residual parcel of 63.71 acres designated as open space that permits one house. The subject property is located along Justin Drive in the Lake Monticello Area.

Director Todd Fortune provided a Staff Presentation of Rivanna Bend rural cluster major subdivision. Applicant, Mike Meyers from 30 Scale LLC and owner, Larry Willis, Rivanna Bend LLC, were present to answer Planning Commission questions.

Staff Recommended Conditions:

- 1) The rural cluster subdivision will contain no more than 21 separate residential lots as shown on the Sketch Plan dated September 7, 2024.
- 2) Prior to final plat approval, the applicant shall meet all VDOT requirements.
- 3) Prior to final plat approval, the applicant shall provide confirmation of water and sewer availability with Aqua Virginia.
- 4) A resource management plan shall be developed for the open space parcel.
- 5) Preliminary and Final Subdivision plat approval shall be granted for the use.

MOTION:	I move that the Planning Commission accept SUB 24:29 Rivanna Bend by 30 Scale, LLC, a Sketch Plan request for a rural cluster major subdivision with respect to 76.71 acres of Tax Map 18 Section 1 Parcel 1, subject to the conditions listed in the staff report.				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:		Motion	Second		
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Recommend Acceptance of Sketch Plan				

SUB24:32-- Reventon by Murcielago, LLC – A Sketch Plan request for a rural cluster major subdivision with respect to 205 acres of Tax Map 26 Parcel A Section A2, Tax Map 26 Parcel A Section A5A, and Tax Map 26 Parcel A Section A38. The applicant is proposing 67 cluster lots with one residual parcel of 164.3 acres designated as open space. The subject property is located along Rolling Road (Route 620) and Briery Creek Road (Route 600).

Director Todd Fortune provided a Staff Presentation of Reventon rural cluster major subdivision. Applicant and owner, Tom Sullivan from Murcielago LLC and land engineer Brian S. Ray, Ray and Associates, were present to answer Planning Commission questions. Staff and Planning Commission agreed it would be best to defer decision until hearing VDOT’s final comments on revised sketch.

MOTION:	I move that the Planning Commission defer SUB 24:32 Reventon by Murcielago, LLC, a Sketch Plan request for a rural cluster major subdivision with respect to approximately 205 acres of Tax Map 26 Section A Parcel A2, Tax Map 26 Section A Parcel A5A, and Tax Map 26 Section A Parcel A38 subject to the conditions listed in the staff report to October 8, 2024.				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:			Second		Motion
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Recommend Deferral				

7. UNFINISHED BUSINESS

SDP24:06 – South Boston Convenience Store by KFP1 LLC and Shimp Engineering- A Site Development Sketch Plan request for a gas station/convenience store, car wash, and commercial space on South Boston Road, with respect to 20.835 acres of Tax Map 18 Parcel A Lot 53, zoned B-1.

Land Engineer, Kelsey Schlein of Shimp Engineering and owner, Allen Powell of KFP1 LLC, addressed Planning Commission concerns about a private cemetery on property and staff shared photos from site visit along with names of deceased and their respective visible headstones.

MOTION:	I move that the Planning Commission accept SDP 24:06 South Boston Convenience Store, a Site Development Plan request for a gas station/convenience store, car wash, and associated retail space with respect to 20.835 acres +/- of Tax Map 18 Section A Parcel 53.				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:		Second	Motion		
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Recommend Acceptance				

8. NEW BUSINESS

None.

9. PUBLIC HEARINGS

ZTA24: 04 - Ordinance to Amend and Reordain “The Code of The County of Fluvanna, Virginia” by amending § 22-2-1, enacting §§22-3-1 through 22-3-5.4 and Enacting §22-28-1 through 22-28-25 to create a Solar Zoning District and to add supplemental regulations for utility scale solar generation facilities.

Director Todd Fortune gave a presentation on the proposed S-1 ordinances. S-1 adds utility scale solar generating facilities as a use permitted by special use permit only. S-1 by-right uses include agriculture, conservation areas, farm sales, accessory uses, non-commercial cemeteries, non-commercial greenhouses, small-scale solar generating facilities and minor utilities. The following uses are by special use permit only: agricultural enterprise, wholesale agricultural sales, commercial livestock feed lots and sales yards, communication services, minor-scale solar generating facilities, telecommunication facilities and major utilities. The proposed ordinance also adds supplemental regulations for utility scale solar generation facilities. A complete copy of the proposed ordinances and regulations can be found in the staff report and PC Packet for September 10, 2024.

At 8:13 P.M. Chair Bibb opened the public hearing.

Jennifer Price of 2549 Bybees Church Road expressed opposition to a higher tax in S-1.

Matt English of 246 Deans Johns Place Appomattox, VA spoke in favor of fewer restrictions in S-1.

Skylar Zunk of Energy Right spoke in opposition of large setbacks in S-1.

Kyle West of Vega Renewables spoke in favor of fewer restrictions in S-1.

Gary Wood, CEO of CVEC spoke in opposition of large setbacks in S-1.

Paul Beyer of 4873 James Madison Highway spoke with concerns about solar panels on flood plains.

Jason Sweeney of 3456 James Madison Highway asked the Commission to consider Gloucester County’s solar ordinances as a reference for buffers and solar developers paying for inspections.

Karen Bowles of 5520 James Madison Highway spoke with concerns about highway designations and impacts a solar plant would have on qualifications.

Harry Kingery of CEP Solar, spoke in opposition to large setbacks from streams and rivers.

Josephus Almond of 42 Partridge Berry Lane spoke in opposition to large setbacks.

Stephanie Cimillo of 548 Stage Junction Road spoke in favor of solar as a renewable energy source.

Kat Campbell of 5630 James Madison Highway spoke in opposition of utility scale solar in Fluvanna.

Nadine Armstrong of 2979 Bremo Road spoke in opposition of solar.

Martha McAloon of 56 Pine Lane spoke in opposition of solar development in Fluvanna.

With no one else wishing to speak, Chair Bibb closed the public hearing at 9:12 P.M. and opened Planning Commission Discussion.

Chairman Bibb: In my research, it says because of data centers, the demand for electricity will increase by one third by 2030 and there could be possible brownouts.

County Attorney Whitten: A point of clarification is that battery storage is not allowed under this ordinance.

Chairman Bibb: I want to thank the commissioners that worked on this ordinance a lot. I do see some problems with the setbacks.

Lagomarsino: I have concerns about the draft ordinances stating that no signage will be allowed on fencing, structures or building in the USSGF project area. From an emergency standpoint and code requirements, signage would be needed due to active electrical current.

County Attorney Whitten: There is language in the ordinance states that any signage required by state or federal law or regulation shall be exempt from this section. To give clarification also the 5,400 acres is more of the intent of the Planning Commission and the Board to restrict it to 5,400 acres and not a cap because with zoning in general, you cannot have a hard cap. You cannot automatically deny a project outright based on acreage.

Johnson-Morgan: Could we take the 3% portion cap out of the draft ordinance entirely? Even if we limit 1% of total acreage for S-1 distribution, Columbia and Fork Union still carry the weight of developable areas.

Goad: I would fight strong to keep the 1% distribution cap to stay in the ordinance so that Fork Union is not a target for all solar development. While the distribution is not equal among districts, it would prevent my district from being the concentration of all potential solar projects.

Kilpatrick: I agree with keeping the 1% and 3% so that it would not all be concentrated in Fork Union due to the location of the transmission lines. I also want to talk about the environmental impact on the water and natural streams. Our rivers and streams are responsible for economic growth and agri-tourism. There is no intention to tax greater on solar, only on Fair Market Value for land that goes into S-1. Do we have brownfields in the county? I think as we go forward need to adjust setbacks for streams and ponds.

County Attorney Whitten: You can be less restrictive with regulations but any more restrictive would require another public hearing that we do not have time for to meet the BOS deadline.

Lagomarsino: The utility scale solar is with a Special Use Permit. Could we be more restrictive in with additional conditions for approval in siting agreement and permit?

County Attorney Whitten: Correct.

There was discussion among Representative Goad and Commissioners if there could be a section in the ordinances encouraging development on brownfields. County Attorney stated that could be done and conditions could be waived by BOS if the restrictions did not apply to brownfields.

Chairman Bibb: I think we should lower some of the setbacks around ponds and streams.

Johnson-Morgan: I have reached out to people in this community who are concerned about ponds and streams where these solar farms could potentially go. I think we need to consider adjacent properties and I disagree on going down further on setbacks.

Kilpatrick: I believe public input is important but we need to look at the science that backs up how deep a riparian buffer should be to protect streams from sediment and run-off. The Chesapeake Preservation Act stating what an adequate riparian buffer is 5 times lower than what we are proposing.

Director Fortune: We do have staff that reviews erosion and sediment control plans as well as storm water management.

After more discussion, the Planning Commission compiled what would be the key points for the Board of Supervisors to look at during their Public Hearing.

MOTION:	I move that the Planning Commission recommend approval of ZTA 24:04, an ordinance to amend and reordain “The Code of The County of Fluvanna, Virginia” by amending § 22-2-1, Enacting §§22-3-1 through 22-3-5.4 and Enacting §22-28-1 through 22-28-25 to create a Solar Zoning District and to add supplemental regulations for utility scale solar generation facilities. Furthermore, we recommend consideration of reducing the setback requirement for ponds and streams to 100ft to be consistent with the findings of the Chesapeake Preservation Act, endorsed by multiple states and to consider carefully the 3% limitation.				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:		Motion			
VOTE:					
RESULT:	Motion Failed for Lack of Second				

Shifflett: I thought we agreed upon not giving a specific number in the motion. If the Board wanted to change it then we would have to go back to a Public Hearing because it would be more restrictive.

MOTION:	I move that the Planning Commission recommend approval of ZTA 24:04, an ordinance to amend and reordain “The Code of The County of Fluvanna, Virginia” by amending § 22-2-1, enacting §§22-3-1 through 22-3-5.4 and enacting §22-28-1 through 22-28-25 to create a Solar Zoning District and to add supplemental regulations for utility scale solar generation facilities and further recommend further review of the 3% and the Riparian Buffer.				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:		Second		Motion	
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Recommend Approval				

10. PUBLIC COMMENTS #2

At 9:56P.M. Chair Bibb opened the second round of public comments.
 With no one wishing to speak, Chair Bibb closed the second round of public comments at 9:57 PM

11. ADJOURNMENT

MOTION:	Motion to Adjourn the September 10, 2024 Regular Meeting at 9:57 PM				
MEMBER:	Bibb	Kilpatrick	Shifflett	Lagomarsino	Morgan
ACTION:			Second		Motion
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Approved Adjournment				

Minutes were recorded by Kayla Polychrones, Administrative Programs Specialist.

Barry Bibb, Chair
Fluvanna County Planning Commission