



**Charlotte County Planning Commission
250 LeGrande Avenue, Suite A
Charlotte Court House, VA 23923**

**Tuesday, May 25, 2021
7:30 pm**

- Call to Order
- Invocation
- Approve Agenda
- Consider April 27, 2021 Meeting Minutes
- Public Comment Period
- Set Public Hearing for Proposed Solar Zoning Amendments (June 22nd at 7:30 pm)
- Zoning for Cemeteries
- Conflict of Interest
- Staff Report / Update on Activities
- Commissioners' Time

Charlotte County Planning Commission
April 27, 2021 – Regular Monthly Meeting
Charlotte County Administration Office

Present:

James Benn	W.V. Nichols
Andrew Carwile	Clark Poindexter
Cornell Goldman	David Watkins, II
Deborah Haskins	Eugene Wells
Kerwin Kunath	Kay Pierantoni*

Absent:

Kenny Howard
Gladys Reid

**Board of Supervisors Representative (non-voting)*

Staff Present: Daniel Witt, County Administrator
Monica Elder, Assistant County Administrator

Chairman Andrew Carwile called the meeting to order at 7:30 pm and Cornell Goldman gave the invocation.

Eugene Wells made the motion to approve the agenda as presented. David Watkins seconded the motion and the motion carried with all members present voting yes.

Motion was made by Deborah Haskins to approve the March 23, 2021, minutes as presented. David Watkins seconded the motion and the motion carried with all members present voting yes.

Motion was made by David Watkins to approve the April 12, 2021, minutes as presented. Deborah Haskins seconded the motion and the motion carried with all members present voting yes.

Public Comments:

Francis Hodsoll, CEO of solar developer SolUnesco, addressed the Commission, reporting SolUnesco's preparation of the Randolph Solar application continued to move forward. He stated that changing zoning requirements at this point was a concern for SolUnesco since significant investment had already been made in the project. Mr. Hodsoll also noted that SolUnesco was already making efforts to discuss the project with those who opposed it and stated the public hearing process was important for identifying and addressing concerns.

Citizen *P.K. Pettus* addressed the Commission, referencing Debbie Flynn's request for larger setbacks at the March 23rd Planning Commission meeting. Referring to Culpeper's Maroon Solar project, Ms. Pettus noted Culpeper denied their first application and the application was resubmitted after the applicant addressed concerns expressed by commissioners and citizens. She stated that the new application included extended setbacks of 100 to 200 feet and additional changes in response to input from Culpeper's citizens and local officials. Ms. Pettus stated that if Strata Solar, developer of Maroon Solar, found these setbacks reasonable, Charlotte County should not require less.

Vegetative Buffers for Utility-Scale Solar

Chairman Carwile reported that Jason Fisher, Senior District Extension Agent Forestry and Natural Resources with the Virginia Cooperative Extension Office had contacted several other agencies to assist with providing guidance on buffers for solar. Information from Mr. Fisher, Elizabeth Marshall with the UVA Weldon Cooper Center, and others had been provided to the commissioners and was included in the meeting packet. Chairman Carwile reviewed some of their recommendations for buffers including the use of using a variety of native plant species of varying mature heights to avoid the need for chemical maintenance, increase longevity, and improve opacity. A recommendation based on opacity was not provided since available data related to the density of the forest crown rather than horizontal opacity. Commissioners then discussed means of retaining existing mature vegetation to serve as screening buffers.

Chairman Carwile presented maps he had prepared showing property in the County that was located a half mile from VDOT roads that were rated as a category 300 road or better. He presented additional maps showing property 1000 feet and also 2000 feet from these same roads and an overlay map illustrating the majority of the area in the approved Moody Creek and Court House Solar projects was located one half mile or more from these types of roads. Chairman Carwile then recommended considering different screening requirements based on a project's distance from roads rated 300 or better.

After being recognized by Chairman Carwile, Francis Hodson with SolUnesco noted that the planned application for Randolph Solar included a number of landowners with smaller properties, who would benefit financially from the project. However, larger setbacks and increased buffer widths might exclude small properties from projects. Kay Pierantoni noted that the size of Randolph Solar dictated the need to include owners of smaller properties.

At the Chairman's request, staff read the current buffer requirements in Section 10-23-10. Kay Pierantoni inquired about requiring that a landscape architect review existing buffers and provide recommendations regarding density and infill plantings in the buffer.

After being recognized by Chairman Carwile, citizen Reed Charlton stated that these issues would be resolved with size limitations on solar facilities. Staff explained that the zoning regulation restricting utility-scale solar development to 3% density in a five mile radius had been amended to provide the Board of Supervisors authority to approve development at a higher density when they deemed it to be appropriate. Citizen Rebecca Daly noted that Randolph Solar would occupy most of the land in the district.

In response to citizen P.K. Pettus's inquiry regarding the location of buffers, setbacks and fencing, staff explained that the County used "setback" to refer to the land located between the property boundary and the fence that surrounded the project while "buffer" referred to the vegetative screening that was located in the setback area.

Kay Pierantoni pointed out that the information that had been received from UVA's Weldon Cooper Center on the buffers included guidance from the American Planning Association regarding visual impacts and a visual impact study should be considered.

Cornell Goldman made a motion to maintain the existing buffer requirements. Kerwin Kunath seconded the motion and the motion carried with all members present voting yes.

Setbacks for Utility-Scale Solar

Staff reported that the vote taken on March 23rd on setback requirements for utility-scale solar, which had included multiple amendments, did not follow proper parliamentary procedure. Therefore staff recommended the commission rescind the motion and readdress setbacks. In response to the Commission's request for staff to provide clarifying language for the setback requirements, staff had also reviewed the March 23rd motion and had provided suggestions for needed clarifications.

Kerwin Kunath made the motion to rescind the vote taken at the March 23, 2021, Planning Commission meeting regarding setbacks for utility scale solar facilities. Cornell Goldman seconded the motion and the motion carried with all members present voting yes.

Kerwin Kunath then made the motion to recommend amending setbacks for utility-scale solar to require a minimum setback of 125 feet from the center line of any state maintained road abutting the property; a minimum setback of 75 feet from all other property lines with the exception of those property lines that are inside the project's boundaries and which do not abut property located outside the project area; and a minimum of 400' from all off-site residential structures unless otherwise prescribed by the Board of Supervisors as a condition of approval for a Conditional Use Permit. Cornell Goldman seconded the motion. Kay Pierantoni expressed concerns regarding using the center line of the road as the starting point for the front setback rather than using the property line. After additional discussion on the front setback measurement, the motion was approved with David Watkins voting no and all other members present voting yes.

Additional Solar Ordinance Discussion

In response to a citizen's inquiry regarding industry standards for utility-scale solar, Chairman Carwile explained that there was no set standard and regulations varied, referencing staff's ordinance comparison as well as the input received from Mr. Fisher and the Weldon Cooper Center. Francis Hodsoll with SolUnesco noted that Charlotte County's requirements were average based on the ordinance comparison SolUnesco's review of regulations.

Citizen Rodney Moon then inquired about a potential conflict of interest since some of the commissioners had been contacted by solar developers about using portions of their property for solar development. Chairman Carwile noted that staff had provided information from the Virginia Code regarding local and state conflict of interest regulations in the packet. Staff reviewed portions of Virginia Code §2.2-3101 and 2.2-3112 regarding conflict of interest and offered to obtain a legal opinion from the county attorney if further clarification was needed.

Citizen P.K. Pettus inquired about the notification process for adjacent landowners. Staff reported that notice of public hearings was provided in accordance with state code requirements and the proposed community meeting requirement would provide earlier notification for landowners.

Staff reported that three applications for utility-scale solar projects less than five megawatts each were expected in the next week or so, but no new solar applications had been received.

Staff Report

Staff reported that Kerwin and Beverly Kunath's application for a wedding and event venue had been approved by the Board of Supervisors at their April 12th meeting with the proposed conditions. Staff also reported that the proposed county budget included funds to hire a consultant to assist with the comprehensive plan update and staff expected to contract with the Commonwealth Regional Council (CRC) planning district office for these services.

Zoning for Cemeteries

Staff reported that in recent years an increasing number of citizens had expressed an interest in establishing a family cemetery on an existing parcel. As a result of this and concerns the Board of Zoning Appeals had expressed about the division of the Hermon Presbyterian Church cemetery parcel, staff recommended the Planning Commission consider the need to provide additional guidance on cemeteries in the zoning ordinance. The Commission requested that staff research the issue further and provide additional information at the next meeting.

Adjournment

Eugene Wells made the motion to adjourn, David Watkins seconded the motion and motion carried.



Charlotte County, Virginia
Planning Commission Report

Meeting Date: May 25, 2021

Subject Title: Zoning for Cemeteries

SUBJECT HIGHLIGHTS

General

In recent years staff has received more frequent inquiries regarding the establishment of family cemeteries on private property. In addition, the Board of Zoning Appeals (BZA) previously expressed concerns that churches had to use the variance process to divide their cemetery from the church property if the resulting lots did not meet the zoning lot size requirement.

Applicable Zoning Regulations

ARTICLE 9. USE MATRIX

B = By Right

C = Conditional Use Permit

T = Temporary Use Permit

Use Types	General Agricultural	Intensive Agricultural	General Residential	Village Center	General Industrial
Cemetery	B		C	C	

ARTICLE XII. DEFINITIONS...

Cemetery. Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery. The following uses shall be included in the approval of a cemetery without further zoning approval being required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion sediment control. Mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas that are shown in a legislative approval for the specific cemetery obtained at the request of the owner shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original local legislative approval. This subsection shall not supersede any permission required by an ordinance adopted pursuant to § 15.2-2306 relative to historic districts.

Applicable State Regulations

§ 57-26. Restrictions as to location of cemeteries and as to quantity of land.

Restrictions as to location. -- No cemetery shall be hereafter established within a county or the corporate limits of any city or town, unless authorized by appropriate ordinance subject to any zoning ordinance duly adopted by the governing body of such county, city or town; provided that authorization by county ordinance shall not be required for interment of the dead in any churchyard or for interment of members of a family on private property; nor shall any cemetery be established within 250 yards of any residence without the consent of the owner of the legal and equitable title of the residence; provided that subject to the foregoing if the location for the proposed cemetery is separated from any residence by a state highway, it may be established upon

such location without the consent of the owner of such residence if it be not less than 250' from the residence at its nearest point thereto; provided such prohibition and restriction shall not apply where the tract of land intended for use as a cemetery is separated from any residence by a state highway and now contains a public or private burial ground and is not within the corporate limits of any city or town; and no cemetery shall be hereafter established, and no burial made in any part of any cemetery, other than a municipal or city cemetery, located within 300 yards of any property owned by any city, town or water company, upon which or a portion of which are now located driven wells from which water is pumped or drawn from the ground in connection with the public water supply....

§ 57-27.1. Access to cemeteries located on private property; cause of action for injunctive relief; applicability.

A. Owners of private property on which a cemetery or graves are located shall have a duty to allow ingress and egress to the cemetery or graves by (i) family members and descendants of deceased persons buried there; (ii) any cemetery plot owner; and (iii) any person engaging in genealogy research, who has given reasonable notice to the owner of record or to the occupant of the property or both. No landowner shall erect a wall, fence or other structure or device that prevents ingress and egress to the cemetery or grave, unless the wall, fence or other structure or device has a gate or other means by which ingress and egress can be accomplished by persons specified in this subsection. The landowner may designate the frequency of access, hours and duration of the access and the access route if no traditional access route is obviously visible by a view of the property. The landowner, in the absence of gross negligence or willful misconduct, shall be immune from liability in any civil suit, claim, action, or cause of action arising out of the access granted pursuant to this section....

Staff Recommendation

Staff has identified two potential options for addressing this issue. The first is to propose zoning regulations that would allow landowners to divide off cemeteries as “nonbuilding lots” of a size that is less than current lot size requirements to allow churches and families to retain ownership of cemeteries while selling their remaining land. Challenges include the need for the remaining land to meet lot size requirements, the need for an access easement, future ownership of the cemetery if the family line ends, and issues that may arise with the adjacent property owner if the cemetery is not maintained in the future.

The second option is to continue to require all newly created parcels to meet minimum lot size requirements and prepare an informational sheet addressing siting of cemeteries, access rights and landowner rights. As state code regulations still provide family the right of access and the right to maintain and use the cemetery while providing landowners protections as well, staff is recommending this option. This option would require no action by the Planning Commission.

Associated Motions (if applicable):

Not Applicable



Charlotte County, Virginia
Planning Commission Report

Meeting Date: May 25, 2021

Subject Title: Conflict of Interest

SUBJECT HIGHLIGHTS

General

Conflict of Interest questions have come up at several recent meetings since solar developers have been in contact with some commissioners regarding lease or purchase of their property and the commission is in the process of considering zoning amendments related to utility-scale solar. While the Planning Commission did not request a legal opinion, because staff has received additional questions regarding this issue, the county attorney was contacted for guidance in an effort to protect public trust.

Legal Guidance

County Attorney Russell Slayton has advised that Virginia Code 2.2-3112.B.3. which was included in the information provided to the Commission at the April 27th meeting, states the following:

"An officer or employee of any state or local government or advisory agency who has a personal interest in a transaction may participate in the transaction:...If it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction."

Mr. Slayton has advised that since the actions of the Planning Commission regarding the proposed solar zoning amendments "affect the public generally," a Planning Commissioner's negotiations with a solar developer or contract to lease or sell property for a solar facility does not constitute a conflict of interest.

Mr. Slayton has also recommended that Planning Commission members provide a written declaration as addressed in Virginia Code 2.2-3115 if they are in negotiations with solar developers, have signed a contract for the sale or lease of property related to solar development, or are a joint owner of property that is under negotiations or under contract for solar development.

Staff Recommendation

Mr. Slayton has provided a declaration statement for signatures by those commissioners impacted. Staff recommends that commissioners review the document and if applicable, return a signed copy to the Planning Commission Secretary.

Associated Motions (if applicable):

Not Applicable