

Minutes
Recessed Meeting
Northampton County
Planning Commission
December 7, 2009

This was a recessed meeting of the Northampton County Planning Commission held on Monday, December 7, 2009, in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Va.

Those present were Chair David Fauber, Robert Meyers, Michael Ward, James Lackie, Mary Miller, Roberta Kellam, Thom Shockley, Marshall Cox and Martina Coker.

Also present was Sandra Benson, Director of Planning and Zoning; Peter Stith, Long Range Planner; and Kay Downing, Administrative Assistant.

The meeting was called to order at 6:03 p.m. by the Chair and a quorum established.

The agenda was reviewed and amended to include election of officers under Unfinished Business. Motion to amend was made by Commissioner Meyers and seconded by Commissioner Kellam.

Unfinished Business.

The commission continued discussion on solar energy language and Zoning Text Amendment 09-05 as filed by Lincoln Renewable Energy.

- A. Continuance of Zoning Text Amendment 09-05: Lincoln Renewable Energy has filed an application for a proposed zoning text amendment to amend the Northampton County Zoning Ordinance to include a new Section 154.113 entitled "Standards for Solar Energy Facilities," and to amend Appendix A, Use Regulations, Category 4 Community Service Uses, to add "Solar Energy Facility, Small System" and "Solar Energy Facility, Large Scale."

Also present were Joseph Jordan of Lincoln Renewable Energy, Jessica Brunton of Velocitel, and Dani Cutlip of Velocitel were present on behalf of the applicant.

Commissioner Kellam stated that she had gathered additional information and noted that 12 kilowatts of electricity can be provided with 600 square feet area of solar panels. She suggested that 1,000 square feet of panels be allowed by right.

The Chair suggested not looking at size as much as type of user and suggested that language provide for inclusion of single-user commercial. Commissioner Kellam suggested that shared-user scenarios be included as well to provide for homeowners associations or shopping centers.

Commissioner Kellam stated that the commission should try to resolve the issue of lot coverage since the A Agriculture District allows only 15 percent lot coverage. She noted that special use permits relate only to use and not size of facilities. She stressed that the proper zoning tool should be used to regulate

solar energy fields. She suggested two options: (1) change the lot coverage in each zoning district to accommodate solar facilities only; or (2) create a floating zone for solar facilities.

At this time, Ms. Benson clarified that the commission needs to act on Zoning Text Amendment 09-05 with options to recommend approval, recommend modification(s) or to recommend denial.

The draft zoning text of September 30th submitted by the applicant and as revised on October 27th was reviewed by the commission. Discussion followed about amending the zoning ordinance Use Charts which would require another public hearing. Ms. Benson noted that zoning text amendments and special use permits related to the same issue can be scheduled concurrently.

Commissioner Coker questioned how coverage for solar energy fields would be defined. Ms. Benson stated that pervious area versus impervious must be considered just like a deck.

The Chair interjected that a building permit and electrical permit would be needed for such facilities similar to a light fixture. It was his opinion that coverage would be based on the size of the solar field.

Commissioner Miller questioned if the floating district would solve the lot coverage issue and eliminate the 15 percent lot coverage in the A District. The Chair stated his opinion that solar panels are not a zoning issue for residential uses, but is basically a building issue. However, Commissioner Kellam disagreed and suggested that it be an accessory use for residential purposes. Commissioner Miller suggested that if the residential solar panel is detached it should be considered an accessory use and should be counted as lot coverage. The Chair agreed except when such panels are attached to a house roof. Commissioner Ward noted that in Accomack County a mechanical permit is need if the panel is located within a residential yard. Ms. Benson added that she was unaware of any detached solar panels within the county, but could check with the Building Official. Discussion continued as to wind load maximums and height restrictions. Commissioner Ward noted that geo-thermal energy must be approved through the Health Department and is attached to a building permit.

Commissioner Kellam suggested that solar panels be included in residential accessory uses. Ms. Benson stated that no delineated list for accessory uses and structures exists.

Motion was made by Commissioner Meyers to define residential solar energy facility. Ms. Benson stated that the motion should be in the context of Zoning Text Amendment 09-04. The motion was withdrawn.

Discussion was held on language related to the ES Existing Subdivision District. Ms. Benson noted that while the applicant has recommended an amendment to allow the vacating of lots within an ES Existing Subdivision District such language is not germane since the ES District is regulated by the zoning ordinance adopted December 28, 2000. Ms. Brunton stated that the objective is to allow a solar energy farm on land within an ES District, but that the parcel lines would not be vacated until approval is given by the county and only then the landowner could vacate the parcels. Ms. Benson stated her opinion that such an option should not be entertained since land lease agreements between landowners and business operators are private matters.

A short recess was called by the Chair.

Discussion was held on how the lot coverage requirement would apply to large-scale solar energy facilities, in view of the fact that permitted lot coverage in the Agriculture/Rural Business (A/RB) District is 15 percent. The majority of the commission concurred that the poles in the ground supporting the panels do not constitute the total lot coverage and acknowledged that without provision to increase the lot coverage for such installations, projects would not be possible in the A/RB District.

It is noted for the record that Commissioner Meyers had prepared for distribution to the members a draft Floating District which would be known as the Solar Energy District. Commissioners Meyers and Miller expressed the opinion that such a floating district would provide greater flexibility for applicants that propose large-scale solar projects. Commissioner Meyers remarked that such a district (SED Solar Energy District) would take care of the lot coverage issue.

Commissioner Miller distributed pictures of large solar facilities located in Europe for the commission's review.

The commission then discussed which zoning districts would be suitable to accommodate large solar facilities. By consensus the commission agreed that the EI Existing Industrial and the A/RB Agriculture/Rural Business Districts allow such uses by major special use permit only.

Other topics were discussed as the proposed language was reviewed including buffer requirements. Ms. Benson stated her opinion that those proposed were excessive in her opinion. Commissioner Miller stated her opinion that definite guidelines are needed and that specificity is necessary. Ms. Benson noted that a dense vegetative buffer would restrict the capacity and efficiency of a large solar field.

At 10:05 a.m. a motion was needed to continue the meeting or adjourn according to the by-laws. However, it is noted that no motion was entertained and the meeting continued.

Commissioner Miller suggested that those definitions as discussed tonight and the use of solar energy facility small scale be allowed by-right in all districts should be recommended for approval and that the balance of the zoning text amendment draft language be recommended for denial. She also suggested that the commission ask the Board to instruct them to develop a floating zone and standards that fulfill the requirements of the industry and to make solar energy a viable project for the county.

Ms. Benson noted that action must be taken on the public hearing matter (ZTA 09-05) no later than Feb. 13th.

The commission was then polled to distinguish who supported the floating zone concept and who favored the special use permit process. Commissioners Miller, Ward, Lackie, Coker and Meyers supported the floating zone. Commissioner Shockley supported the special use permit process while Commissioner Cox was undecided; and Commissioner Kellam supported the special use permit process with modification for lot coverage.

After further discussion on how to proceed, Commissioner Lackie expressed his disappointment in the lack of progress made, but suggested that the floating zone concept was the best way to proceed and to allow residential solar uses by right.

Ms. Benson reminded the commission that the code allows 100 days for a recommendation to be made which will expire mid-February for this zoning text amendment application. She also reminded the

commission that the Board of Supervisors can approve what the commission recommends, modify the commission's recommendation, or do something else if they so choose. It was her opinion that the commission had not officially acted in response to Zoning Text Amendment 09-05 as submitted.

The Chair suggested that a motion be entertained to include recommending approval of definitions of Building Integrated Solar Energy System, Passive Solar Energy System, Solar Module, Solar Energy Facility, Solar Energy Facility – Small System, Solar Energy Facility – Large System and Photovoltaic, to recommend approval of small solar energy systems by-right in all zoning districts, and to recommend that the Board of Supervisors direct the commission to develop a floating district for solar energy large systems.

Motion was made by Commissioner Miller as referenced by the Chair and was seconded by Commissioner Ward. The motion carried 8 to 1 with Commissioner Kellam opposed.

Those recommendations pertaining to Zoning Text Amendment 09-05 voted upon by the planning commission are reflected as follows.

§154.113 STANDARDS FOR SOLAR ENERGY FACILITIES.

(A) Purpose and Intent. The purpose of this section is to establish standards for the siting of solar energy facilities. The goals are to:

- (1) Promote the development and utilization of renewable energy facilities.
- (2) Consider the general safety, welfare, and quality of life for county residents; and
- (3) Minimize adverse impacts on areas surrounding solar energy facilities.

(B) Definitions. For the purpose of this section, the following definitions shall apply.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights, and awnings.

PASSIVE SOLAR ENERGY SYSTEM: A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

PHOTOVOLTAIC. Pertaining to the direct conversion of photons of sunlight into electricity.

SOLAR MODULE. A device that converts energy from the sun's rays into electric current.

SOLAR ENERGY FACILITY. An electricity-generating facility that (a) utilizes photovoltaic or passive technology **directly** to convert solar energy into electricity, consisting of an array of solar modules and other accessory structures, **the primary purpose of which is to provide for electricity generation; components of such a facility may include**, but are not limited to, transformers, transmission **facilities**, supporting systems and any and all

components associated with **necessary for** the generation, transmission and interconnection and monitoring of the power generated; **or (b) utilizes passive solar energy arrays for liquid transfer of heat to use within buildings.**

SOLAR ENERGY FACILITY, SMALL SYSTEM. A photovoltaic **or passive** solar energy conversion system which has a rated capacity to generate not more than 15 kilowatts (name plate rating) DC of electricity and generates electricity primarily for onsite use and consumption. **A small-system solar energy facility is considered an accessory use and maybe either roof-mounted or ground-mounted. A building-integrated solar energy system or a passive solar energy system as defined herein shall be considered a small-system solar energy facility.**

SOLAR ENERGY FACILITY, LARGE SCALE. A photovoltaic solar energy conversion system which has a rated capacity to generate more than 15 kilowatts (name plate rating) DC of electricity, where **facility**, the primary purpose **of which** is to generate and provide **sell** electricity for large scale commercial applications and to provide electricity to the local utility provider. **A large-scale solar energy facility consists of a series of ground-mounted panels and appurtenant transmission facilities. Components of such a facility may include, but are not limited to, transformers, transmission facilities, supporting systems and any and all components associated with the generation, transmission and interconnection and monitoring of the power generated.**

SOLAR MODULE. **A device that converts energy from the sun's rays into electric current.**

NAME PLATE RATING. **Wattage rating of the module at standard test conditions, as defined by industry standards.**

PHOTOVOLTAIC. **Pertaining to the direct conversation of photons of sunlight into electricity.**

(C) Use Regulations. ~~Proposed s~~ **Small system solar energy facilities shall be permitted by right in all zoning districts (including Existing Subdivision Districts section). Proposed large scale solar energy facilities shall be permitted in all zoning districts (including Existing Subdivision Districts and any floating zoning district established prior to or after the adoption of this section) by approval of a major special use permit in accordance with this section and Section 154.042 of this Ordinance. as set forth in Appendix A to this Section. Large-scale solar energy facilities shall be permitted with a rezoning to Solar Energy District as set forth in Section 154.175 Floating Districts herein.**

(D) Performance Standards. ~~Proposed large scale s~~**Small-system** solar energy facilities shall be subject to the following:

The installation and design of the facility shall conform to applicable industry standards.

(1) Electrical and mechanical components of the **sSolar** energy facility **facilities, including the electrical and mechanical components,** shall conform to relevant and applicable local, state and national codes.

(2) A building permit is required prior to the installation of any solar energy facility.

(E) Setbacks, Densities, Lot Sizes, and Dimensions for Large Scale Solar Energy Facilities.

- ~~(1) Setbacks, densities, lot sizes, dimensions and other requirements shall be as otherwise provided in this Ordinance.~~
- ~~(2) A major special use permit may be sought and approved for large scale solar energy facilities located on multiple lots or parcels that are under the common control (whether as property owner, contract owner, optionee or lessee) of a single person or entity. In such case, for purposes of determining any required setbacks, densities, lot sizes, dimensions and other requirements for such large scale solar energy facilities, any continuous lots or parcels shall together be considered a single lot.~~

(F) Submission Requirements. In addition to the requirements set forth in Section 154.042, applicants for a major special use permit shall submit the following information:

- ~~(1) The approximate Name Plate Rating generating capacity of the solar energy facility.~~
- ~~(2) The approximate number of and type of photovoltaic modules to be installed; including their approximate dimensions and potential manufacturers as well as a description of ancillary facilities, to the extent known.~~
- ~~(3) A narrative describing the proposed method of interconnection to the local utility system, to the extent known.~~
- ~~(4) A conceptual plan illustrating the proposed facility and ancillary facilities, to the extent known.~~
- ~~(5) A brief narrative describing the proposed method for screening the facility: i.e. fencing, vegetative screening, etc.~~

(G) Approval of Special Use Permit for Large Scale Solar Energy Facility. In conjunction with the approval of a major special use permit for a large scale solar energy facility, the Board of Supervisors may:

- ~~(1) Establish a period of time, not to exceed five years, during which construction of the large scale solar energy facility must begin and after which the special use permit shall no longer be valid, if such construction has not begun. For purposes of this section 154.113(G)(1), construction will be considered to have begun once an application for a building permit has been submitted in connection with the large scale solar energy facility. This Section 154.113(G)(1) shall supersede Section 154.042(C)(3)(e), but only with respect to major special use permits for large scale solar energy facilities.~~
- ~~(2) Condition approval of a special use permit, as to any part of the subject property for which a plat of subdivision has been recorded, on the vacation of any such recorded plat of subdivision, if vacation is necessary due to rights of ways, easements, or other rights created by the plat of subdivision which would be in conflict with the proposed large scale solar energy facility. If the Board of Supervisors so conditions~~

~~the special use permit, the subdivision agent of the Board of Supervisors shall consent to such vacation upon delivery to the subdivision agent of a written instrument in compliance with VA Code § 15.2-2271.1, as amended, and with any other requirements of law.~~

~~(3) Allow for the phased development of a large scale solar energy facility.~~

~~(H) Effect of Approval of Major Special Use Permit for Large Scale Solar Energy Facility. The approval of a major special use permit for a large scale solar energy facility shall not terminate or otherwise affect any plat of subdivision that has been approved for any part of the property which is the subject of the special use permit.~~

~~(I) Precedence. In the event of a conflict or discrepancy within this Ordinance, this section shall take precedence.~~

*** The definitions above of **Building-integrated Solar Energy System, Passive Solar Energy System, Photovoltaic**, Solar Energy Facility, Solar Energy Facility, Small System ~~and~~ Solar Energy Facility, Large Scale and **Solar Module**, will also be added to the definitions section of the ordinance. In addition, ~~two~~ **one** line items will be added under "Category 4 Community Service Uses", in "Appendix A Use Regulations". ~~Solar Energy Facility, Large Scale, shall be considered "S", Special Use Permit, Major, in all zoning districts.~~

Election of Officers

Prior to adjourning the commission held election of officers. Commissioner Lackie presented the Nominations Committee report which was reviewed. Commissioner Fauber was nominated to serve as Chair again, Commissioner Lackie as Vice-Chair again and Ms. Benson as Secretary. No other nominations were made from the floor and nominations were closed. Commissioner Miller moved to accept the nominations for 2010 as presented by Committee. Second was made by Commissioner Meyers and carried.

Adjournment.

At 10:30 p.m. the meeting was adjourned.

Chairman

Secretary