

At a meeting of the Caroline County Planning Commission, held Thursday, March 24, 2022, in the Community Services Center, located at 17202 Richmond Turnpike, Milford, Virginia, at the hour of 7:00 p.m.

Present

Dr. Carol Horton
Percell Minor
Robert Schwartz
Scot Sullivan
George Wieber

Absent

Leon Smith

Also Present

Chris MacKenzie – County Attorney
David Nunnally, Sr. – Environmental Planner
Craig Pennington - Planner
Lisa L. Zech – Admin. Assistant/Planning Tech.

CALL TO ORDER – REGULAR MEETING

1. **PLEDGE OF ALLEGIANCE**
2. **APPROVAL OF MINUTES (NOV. 18, 2021 & DEC. 16, 2021)**

Mr. Wieber moved and Vice-Chair Schwartz seconded to approve the November 18, 2021 and December 16, 2021 minutes as presented.

Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber

** Motion carries **

3. **SUBDIVISION**
- 3A. **SB-11-2021 – Walton Virginia, LLC, Owner / D.R. Horton, Applicant:**
The applicant is seeking Preliminary Plat Approval to create 263 residential lots in the South River/Ladysmith Village development on Tax Map Nos. 52-2-1; 52-2-2; 52-2-3; 52-A-32 and 52-A-33.

Craig Pennington, Planner, stated that the Applicant has requested that SB-11-2021, Ladysmith Village/South River be deferred.

Mr. Wieber moved and Vice-Chair Schwartz seconded that at the request of the Applicant, I move to defer SB-11-2021 for Walton Virginia, LLC, Owner/D.R. Horton, Applicant, to the next meeting.

Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber

** Motion carries **

4. **UNFINISHED BUSINESS**
- 4A. **2022/2023 – 2026/2027 Capital Improvement Program:** The Capital Improvement Program is the program for guiding Capital Projects and purchases over a five-year period and is based on the Comprehensive Plan. The Capital Improvements Program is developed pursuant to Title 15-2, Chapter 22, Article 5, of the Code of Virginia, 1950, as amended.

Ms. Zech provided an update on the 2022/2023 – 2026/2027 Capital Improvement Program.

She said as the Commission can see from the memorandum in their packet, last month they held the Public Hearing on 2022/2023 – 2026/2027 Capital Improvement Program but did not have final numbers from the County Administrator. She said since that time, nothing has changed and they still do not have the final numbers. She stated that Staff suggests the Planning Commission take no action at this time.

5. PUBLIC HEARING

Ms. Zech read the Public Hearing protocol.

- 5A. **RZ-01-2022 – Ragland, Kenneth, Ragland, Edward, Jr, and Ragland, Evelyn, Owner William Webb, Jr., Applicant:** Request a Rezoning from RP, Rural Preservation (density of one dwelling unit per 10 acres of land) to R-1 Low Density Residential (maximum density of 2.9 dwelling units per acre), on Tax Map #54-10-7, consisting of 34.22 acres, more or less. This property is located on Rogers Clark Boulevard (Route 207) between Golansville Road (Route 601) and Ladysmith Road (Route 639), Mattaponi Voting District. The 2030 Comprehensive Plan designates this property as Rural Preservation and not within a designated growth area. **Proposed Use:** Residential.

Mr. Pennington provided the following Staff Report.

Request:

The applicant is requesting approval of a rezoning from RP (Rural Preservation) to R1 (Residential) on Tax Map parcel 54-10-7.

Discussion

The applicant is requesting approval of a rezoning from RP (Rural Preservation) to R-1 (Residential) on parcel 54-10-7. The adjoining parcels of 54-10-8 and 54-10-9 are zoned R-1 (1985) and are intended to be included in the overall development. The applicant has provided a plan with a yield of 135 lots (15,000 square feet minimum) subject to the approval of the extension of public water and sewer by the Board of Supervisors, and three 10 acre lots on the RP portion of the project. A second plan is also provided that shows the same number of lots (135) should this rezoning, together with the utility extensions be approved, which provides more spacing and parks.

The current permitted (by-right) number of lots is 63, based on a one acre minimum lot size with no utilities. 135 lots is permitted only if the Board of Supervisors allows the extension of both public water and sewer to the subject property. This holds true regardless of whether or not Tax Map 54-10-7 is rezoned to R-1. However, it makes no sense to rezone this parcel without permitting the extension of public utilities.

The Utilities Department has stated that this development requires a pump station for the sewer system and 54,000 gallons per day of additional water capacity to supply water and sewer to the property. The applicant has proffered a well, which may or may not provide the minimum required additional supply.

Summary of Agency Comments

VDOT has provided comments regarding labeling and adjustments to pavement surfaces. The applicant has made these changes and are awaiting a 2nd review at VDOT.

Public Utilities has commented that a pump station and a 54,000 gallon per day of additional water supply will be required for approval of the subdivision. The applicant has proffered these items along with this rezoning.

Comprehensive Plan

The 2030 Comprehensive Plan designates this area as Rural Preservation and outside of any designated growth area. With respect to public utilities, the plan further states:

TO IMPLEMENT THE COUNTY'S ECONOMIC DEVELOPMENT AND LAND USE PLANS REQUIRES A WELL-DESIGNED PUBLIC UTILITY SYSTEM. SUCH A SYSTEM MUST HAVE THE PROPER LINE SIZES, ADEQUATE SUPPLY, SUFFICIENT STORAGE, AND PRESSURE TO MEET THE FIRE FLOW AND GENERAL USAGE THAT WILL BE REQUIRED.

BASED UPON RECOMMENDATIONS FROM PREVIOUS PLANS, THE CAROLINE MASTER WATER SUPPLY PLAN AND WASTEWATER PLAN WERE ADOPTED IN JUNE OF 2002 (SINCE UPDATED IN 2016 AND 2018 RESPECTIVELY) BY THE COUNTY BOARD OF SUPERVISORS. THESE DOCUMENTS OUTLINE, IN MUCH DETAIL, THE LOCATION OF UTILITY PLANTS AND LINES, AREAS THAT NEED UPGRADING AND AREAS THAT ARE ADEQUATELY SERVED.

COMPARED TO PRIVATE WELL OR SEPTIC SYSTEMS, A PUBLIC WATER AND SEWER SUPPLY PROVIDES A READILY AVAILABLE AND MORE RELIABLE UTILITY SOURCE THAT CAN SERVICE LARGER DEMANDS WITHOUT THE NEED FOR SEPTIC FIELD AREAS OR WELL SETBACKS. PROVISIONS OF WELL MARKED AND ESTABLISHED WATER LINES AND FIRE HYDRANTS ALSO PROMOTES FIRE PROTECTION SINCE RESIDENTS AND BUSINESSES CAN BE ASSURED THAT GOOD, ADEQUATE AND RELIABLE WATER SUPPLIES ARE LOCATED NEARBY AND EASILY ACCESSIBLE TO FIREFIGHTERS. WHEN A COMMUNITY CAN ACCESS PUBLIC SEWER OR WATER, HIGHER DENSITY HOUSING CAN BE PROVIDED, WHICH REDUCES SPRAWL. LARGER AND MORE DESIRABLE BUSINESSES AND EMPLOYERS CAN TYPICALLY BE ATTRACTED AS WELL. AS A RESULT, THE LOCATION AND THE AVAILABILITY OF UTILITIES ARE IDENTIFIED AS A GROWTH MANAGEMENT TOOL IN THE COUNTY.

AVAILABILITY OF PUBLIC UTILITIES IS ALSO NEEDED TO MEET THE DENSITY REQUIREMENTS FOR THE URBAN DEVELOPMENT AREAS PROVISIONS OF THE VIRGINIA CODE. AS A GROWTH MANAGEMENT TOOL, **PUBLIC WATER AND SEWER ARE AVAILABLE ONLY IN THE PRIMARY GROWTH AREA LIMITS. PUBLIC EXTENSIONS ARE NOT PERMITTED IN THE RURAL AREAS.** MAP 7.3 IDENTIFIES THE LOCATION OF THE WASTEWATER TREATMENT AND COLLECTION SYSTEM, WHILE MAP 7.4 IDENTIFIES THE LOCATION OF THE COUNTY'S WATER SYSTEMS.

Proffers

Additional analysis is warranted as the proffers are minimal and do not appear supportive of the request.

Chairman Minor suggested they have a worksession before the April meeting for questions regarding utilities.

Chris Mackenzie, County Attorney, stated the Applicant may make a presentation, then conduct a Public Hearing and continue the meeting to a worksession.

Mr. Wieber stated he would like to hear from the Applicant.

Dan Webb, Representative for the Applicant, stated that he had hoped to have a PowerPoint presentation available; however, that presentation is unavailable and instead he has provided a package of information to the Planning Commission. He said it has aerial photos from the County's GIS System where he has highlighted the three parcels that will be a part of this project.

He stated two parcels are already zoned R-1 and so he did a layout of what a by-right would look like based on the current zoning and he came up with 135 units. He said he took that same 135 units as shown on page three of their GDP, showing that they are not asking for an increase in density, nor are they asking for a reduction in lot size. He said they simply just want to take what the by-right number of units that they currently have with the three parcels and are spreading those out on the

three parcels. He said in spreading out the units on the three parcels, they will have a much better project and be able to space the lots out as well as provide additional parks and buffers from the adjacent properties.

He stated he has met with the Director of Utilities and he is in support of the project. He said the Applicant has agreed to install a pump station that will pump the sewer to the existing gravity sewer line located on Route 207. He said there is an existing water system that contains two wells; however, there is a concern that there is not adequate capacity within the existing system. He said the Applicant is proffering a well lot that would be contained on their property and they will determine the exact location with the Utility Department. He stated the Applicant is proffering to contribute \$200K to the County utility system to make upgrades. He said in talking the Director of Utilities, he said a typical well can cost from \$50K to \$100K and agreed that \$200K would be sufficient to support this project.

Chairman Minor asked if a study has been done about how much water this project will need.

Mr. Webb stated they have two wells now but will be adding a third well.

Mr. Sullivan asked if a study was done to determine the amount of water that will be generated from the third well.

Mr. Webb said the wells need to generate 50 gallons per minute and the Director of Public Utilities felt they could find that location. He further explained how they will find a well and said currently, they have not specified where it will go.

Mr. Sullivan said so there are no studies.

Mr. Webb said there are no studies.

Vice-Chair Schwartz asked if the two wells now would have the capacity to serve the original 63 or 135 dwellings.

Mr. Webb said he thinks there is additional capacity within that system but not enough capacity with enough reserve, based on the Utility Department's analysis, of what those wells produce to serve the entire 135 units. He stated the Applicant is willing to provide a site and funding for the additional well.

Vice-Chair Schwartz stated that the developer nor the County would want an inadequate water supply. He said they need to look into this a bit deeper and see if the extension is not approved, that there is a sufficient back-up to rely on.

Mr. Webb spoke about how the County adds and takes wells off-line, et cetera.

Mr. Wieber asked about the amount of water required for these homes versus what is there now.

Mr. Webb stated the way he reads the ordinance, they can do 135 by-right now. He read from the water ordinance. He said he is trying to understand why they would not be able to extend water because his meetings with the Utility Department says they can.

He said they feel they have a by-right of 135 units and they are not asking for more units or a reduction in lot size (15,000 square feet). He said again, they are willing to pay for a third well, etc.

Mr. Wieber explained his position as a Commissioner regarding zoning.

Mr. Webb stated they are trying to give additional money for necessary upgrades other than the well and proffering upgrades to the turn lanes on Route 207. He went on to further explain what the Applicant is proffering.

Chairman Minor said at the end of the day, they have to make a decision that is in the best interests of the people of Caroline County.

Mr. Sullivan asked about the conceptual design.

Mr. Webb explained the GDP and how they did it.
Mr. Sullivan said if all three lots were zoned R-1, what would be the total number of units by right.

Mr. Webb said it would be a little over 200 units.

Mr. Sullivan asked with the upgrades with the well, did the Applicant look at that from a perspective of whether it could serve that maximum number versus the 135.

Mr. Webb said yes, and they believe it would serve 205 units with the improvements they are talking about.

Mr. Mackenzie clarified to the Commission that the proffer statement includes a proffer of the GDP and it states that the development will include no more than 135 single-family residences. He said it is a great question; however, he wants the Commission to highlight that the Applicant is proffering a maximum of 135 residences.

Mr. Webb said that was correct, they are proffering to make sure they were limiting the number to what they could already do.

Dr. Horton asked if the Applicant was sticking to 135 units with all three lots.

Mr. Webb said that was correct, they want to stay with the 135.

Dr. Horton asked when the first lots were zoned.

Mr. Pennington stated the zoning is in place, but the lots are not. He said currently it is just two parcels that was zoned R-1 in 1985.

Dr. Horton said so 135 lots have not been approved.

Mr. Pennington said that was correct and right now, the County code regarding water and the zoning ordinance, Staff feels that they need to harmonize those ordinances and they have the County Attorney looking at that as well as the Comprehensive Plan. He said hopefully they can get an answer to that from the County Attorney prior to the next meeting.

He said if the water and sewer is extended to the property, then 135 will be the amount of lots they could do. He said if water and sewer is not extended to the property, then 63 lots would be the amount of lots they could do. He said the water ordinance says you have to provide water.

Mr. Webb stated again, he believes they could develop 135 lots now with the current zoning from 1985 but trying not to exceed that.

Mr. Pennington stated they are having the County Attorney look into it to determine "by-right".

There was no further discussion and Chairman Minor declared the Public Hearing open on RZ-01-2022 at 7:30 p.m.

Teresa Fields, Mattaponi, adjacent property owner, stated that allowing the rezoning of this property near the Schools would only exaggerate traffic issues, et cetera. She said rezoning this property would also result in the loss of income to the community for farming. She asked how this will be beneficial to the residents in Caroline County. She asked if the budget could support water, sewer, and emergency services. She said the schools are busting at the seams now.

Rita Bel-Monte, Mattaponi, said she appreciates and understands the need for housing, but she loves the rural preservation in Caroline County. She said being here has changed her life for the better, its quiet, and the well water that she enjoys.

She said she is really concerned about the traffic impacts. She said she has lived in Caroline 24 years and has begun to notice a traffic pattern that is coming down Minor Lane and she is concerned that Minor Lane is in the pathway.

She stated she would love to have all of the details in order to have a full understanding of this proposed development, i.e., what type of housing? Affordable, rental? Will it impact private wells and drainfields?

There were no further speakers and Chairman Minor declared the Public Hearing closed at 7:40 p.m.

Dr. Horton stated she has noted the concerns about the traffic but this development is pretty far from the growth area; and the concerns of possibly adding 200-300 more children to the County's school system. She said the main thing for her is that they are talking about something that was zoned in 1985.

She said she believes the worksession is a good suggestion because this was zoned in 1985 and she is still not clear on the number of houses and she also has water and sewer questions.

Vice-Chair Schwartz agreed and said in 27 years, if there was a real desire or intent to develop this property it would have been done.

Mr. Sullivan said he was interested in the cost to extend water lines.

Mr. Wieber agreed that they should have a worksession. He said this development is directly across from Caroline High School and he is definitely concerned about traffic in that area.

Mr. Mackenzie recommended that a motion be made to defer this to a worksession on April 28th at 5:30 p.m. and then continue this meeting instead of adjourning.

Vice-Chair Schwartz moved and Mr. Wieber seconded to defer RZ-01-2022 – Ragland, Kenneth, Ragland, Edward, Jr, and Ragland, Evelyn, Owner William Webb, Jr., Applicant, to a worksession on April 28, 2022 at 5:30 p.m.

Dr. Horton asked if they would have the information needed by April 28, 2022.

Mr. Pennington stated that the County Attorney will look into the ordinances and Staff plans to invite the Utility Department to the worksession.

Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber

* Motion carries *

- 5B. RZ-03-2022 - Lease2U, LLC, Owner / Applicant:** Request an amendment to existing zoning proffers for B-1 Business on Tax Map #52-A-135, consisting of 2.33 acres, more or less, The purpose of this rezoning is to modify the proffers associated with RZ-09-2003; including but not limited to 1) adding an inter-parcel connection from the undeveloped internal road serving Tax Map # 52-A-136, 52-A-135, and 52D-1-7 to the planned inter-parcel connection at Schooler Properties, Tax Map #52-A-133, and 2) eliminating the prohibition of any use other than an office. This property is located at 17453 U.S. Route 1, 0.10 miles north of Ladysmith Road (Route 639) Madison Voting District. The 2030 Comprehensive Plan designates this property within the Ladysmith Community Plan as Community Business.

Mr. Pennington provided the following Staff Report:

Request:

The applicant is requesting approval of a rezoning from B1 to B1 in regards to a proffer amendment.

Department and Agency Comments:

No comments were requested due to the nature of the proffer amendment and previous comments from departments and agencies.

Comprehensive Plan

The 2030 Comprehensive Plan designates this area as a commercial development area within the Ladysmith Community Planning Area. This proffer amendment is consistent with the Caroline County Comprehensive Plan.

Discussion

The applicant is requesting approval of a rezoning from B-1 (Commercial) to B-1 for an amendment to the previous proffers associated with Parcel 52-A-135. The applicant is requesting the removal of proffers 1(b) and 1(d).

In RZ-09-2003 proffer 1(b) states:

The rezoning shall apply to the entire parcel (2.4279 acres) and be limited to the conversion of the existing house to an office, which shall not exceed 2,600 gross square feet.

This parcel is located directly adjacent to the Food Lion Shopping Center at the corner of Ladysmith Road and U.S. Route 1. Since the time of this rezoning in 2003, Ladysmith Industrial Park has been constructed to the rear of this property, State Farm Insurance has been located directly adjacent to this property and a Planned Shopping Center has been approved across U.S. Route 1 from this property. This proffer statement limits the improvements that can be done on this property to renovating the existing house on the property to an office and does not allow for any new construction. The removal of this proffer statement would allow for the development of this parcel to be consistent with the surroundings.

In RZ-09-2003 proffer 1(d) states:

All access to the parcel shall be via the industrial park road now under construction and no access to the parcel shall be permitted via U.S. Route 1. The existing entrances off U.S. Route 1 are to be removed prior to site plan approval. However, if access is not available from the industrial park, the applicant may install a single commercial entrance off U.S. Route 1 subject to VDOT approval.

Since the time of this rezoning, access was not available via the industrial park and a singular entrance was granted via U.S. Route 1. A site plan

was approved in 2020 to construct a road off U.S. Route 1 to serve State Farm Insurance, this parcel, and Tax Map 52D-1-7. Proffer 1(d) is no longer valid with the approved new entrance.

In addition to removing proffer 1(b) and 1(d), the applicant would like to add a proffer that provides for an inter-parcel connection with the Ladysmith Food Lion Shopping Center. In construction of the Food Lion Shopping Center an inter-parcel connection was provided for this parcel. Inter-parcel connectivity is a requirement in the Caroline County Zoning Ordinance. This proffer would be consistent with Caroline County growth area planning.

Generally, Staff believes the requested proffer changes are appropriate. However, Staff has identified some B-1 uses that may not be appropriate for U.S. Route 1 frontage and will work with the applicant to address Staff concerns prior to the Public Hearing.

Evan Stout, Owner/Applicant stated he would like to remove the proffer for office only so they can develop the property for other tenants.

Vice-Chair Schwartz stated the Applicant wants more options other than Office, and asked if he had any idea what options he was looking at.

Mr. Stout said he had one national retailer contact him and a local person contact him.

Vice-Chair Schwartz said so the applicant is keeping it in retail or some suitable business along the lines of the Shopping Center.

Mr. Stout said that was correct.

Vice-Chair Schwartz asked if he was contemplating demolishing the existing building and rebuilding.

Mr. Stout said yes.

Mr. Wieber asked if there was an expansion in size.

Mr. Stout said he was going to go larger.

Dr. Horton asked Staff about some businesses not being appropriate for this area.

Mr. Pennington said yes, there are items in the B-1 District allowed such as a truck stop by special exception and that is an area that would not be appropriate for a truck stop. He said Staff feels it would be appropriate if some uses such as higher intense uses that might not be consistent with the surrounding shopping centers, that some of those be proffered to be prohibited.

He said they have contacted the Applicant and are going through the businesses.

Dr. Horton stated they need a better description of what will go there.

Mr. Wieber asked about the size of the parcel.

Mr. Pennington said the parcel could be subdivided into multiple parcels.

Mr. Wieber said they are also talking about the possibility of retail in there. He said he appreciates the inter-connection, but he is concerned about the amount of commercial space and nothing tells him that. He said he needed more clarification.

Dr. Horton said if the Applicant could narrow it down and be more descriptive, it would be helpful.

Mr. Mackenzie stated that the proffer statement as written now does not proffer out any uses. He said the Applicant would have to amend his statement to proffer out certain uses.

Mr. Wieber stated he needed more information in order to render a decision. He said there is nothing proffered out and they need tighter reins on what will be developed there. He said the road is a big asset and will help but he is concerned about the vagueness.

Dr. Horton asked if the Applicant would have to come back before the Planning Commission.

Mr. Pennington said not unless it is a special exception use. He said retail stores, bakeries, et cetera, are by-right uses and would not come back to the Planning Commission.

Dr. Horton said it sounds like retail but she needs to be able to answer to her constituents about what is not appropriate.

Mr. Sullivan asked if anyone had a copy of the B-1 Ordinance.

Mr. Mackenzie stated one point of clarification is that this is currently zoned B-1 Commercial with proffers. He said what is before the Commission is not an amendment to the proffers but a complete rezoning to B-1 with a completely new proffer statement.

Mr. Pennington said yes, however, the new proffer statement is the same as the old proffer statement without 1-B, 1-D.

Mr. Mackenzie said the clarifying point from a legal perspective is that there is no need to consider the old proffers because they are being completely replaced with what has been put before the Planning Commission.

Dr. Horton said so old proffers versus new proffers.

Mr. Mackenzie said in the B-1 District, there are 33 uses by-right and 22 uses by special exception. He read the by-rights to the Commission.

Mr. Sullivan said so anything beyond that would come back to the Commission.

Mr. Mackenzie said yes, such as a Daycare.

Dr. Horton said the new proffer is to connect to the shopping center. She asked if it would still be connected to Route 1.

Mr. Pennington said yes, it would allow someone from Food Lion to come behind what is now the office and then enter Route 1 further away from the intersection which would be safer. He explained that the one about the entrance no longer applies because the Applicant is building a commercial entrance.

Dr. Horton said so the list that Mr. Mackenzie read is the only list of what can go on this property.

Mr. Pennington explained that is what could go there without coming back to the Planning Commission and anything else would have to come back to the Planning Commission.

Chairman Minor opened the Public Hearing on RZ-03-2022, Lease2U, LLC, Owner / Applicant, at 8:00 p.m.

Rita Bel-Monte, Mattaponi, asked if the Applicant had any idea what business he would like to put there and stated she was concerned about traffic coming by Minor Lane, et cetera.

There were no further speakers and Chairman Minor declared the Public Hearing closed at 8:05 p.m.

Mr. Wieber moved and Vice-Chair Schwartz seconded that whereas rezoning request RZ-03-2022 for Lease2U, LLC, Owner/Applicant, appears to be generally consistent with the goals and objectives of the Comprehensive Plan and Future Land Use Map, and whereas the public necessity, convenience, general welfare and good zoning practices warrants the approval of this request, I recommend that RZ-03-2022 be forwarded to the Board of Supervisors with a recommendation of approval.

Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber

** Motion carries **

5. ANY & ALL MATTERS

6. ADJOURNMENT

- Motion to adjourn to the April 28, 2022 meeting.

Mr. Wieber moved and Vice-Chair Schwartz seconded to continue to the April 28, 2022 meeting at 8:10 p.m.

Voting yea: Horton, Minor, Schwartz, Sullivan, Wieber

** Motion carries **

Respectfully Submitted,
Michael A. Finchum
Director of Planning & Community Development