

**King & Queen County
Planning Commission Minutes
March 3, 2025**

The King & Queen County Planning Commission met on Monday, March 3, 2025, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the General District Courtroom for their regular monthly meeting.

Planning Commission Members Present:

Mac Bradley
Robert Coleman, Jr.
Hunter Richardson

Edmond Wilson, Jr.
David Campbell
Jonathan Massey

Also in Attendance:

Vivan Seay, County Administrator/County Attorney
Donna Elliott Sprouse, Director of Community Development
Kelly Evko, Economic Development Director

Call to Order

Chairman, Mr. Richardson, called the meeting to order.

Roll Call/Determination of Quorum

In the absence of Mr. Jackson, Mr. Campbell took roll call and determined that a quorum was present.

**Approval of Minutes
February 3, 2025**

After review of the revised February 3, 2025 minutes, a motion was made by Mr. Coleman to accept the revised minutes as presented, seconded by Mr. Wilson.

Voting For: Wilson, Coleman, Richardson, Campbell, Bradley, Massey
Voting Against: None
Abstain: None

Citizens Comment Period

Mr. Richardson opened the floor for citizens comment period.

Hearing none, citizens comment period was closed.

New Business

None.

Old Business

A. Zoning Text Amendment ZA24-02 – Article 4, Table 4.1 Energy Generation Facilities by Natural Resources & Computer Data Processing (*deferred from 02/02/2025*)

Mr. Richardson noted that the Commission held a public hearing for zoning text amendment ZA24-02 during their last meeting. The request was a county submitted text amendment request to consider amending the permitted use table found in Article 4. Specifically, the text amendment would allow energy generation facilities by natural resources by approved conditional use permit in the Agricultural zoning district. The text amendment also included a request to allow for computer data processing in the Agricultural zoning district by approved conditional use permit. Mr. Richardson added that during the time that the County was considering Walnut Solar, there were other solar developers looking at King and Queen. He noted that the Board decided to change the ordinance and have energy generation facilities by natural resources removed from the Agricultural zoning district by approved conditional use permit and have them instead in the Industrial zoning district by approved conditional use permit. He added that the County is now asking to revert back to allowing energy generation facilities in the Agricultural zoning district by approved conditional use permit. Mr. Richardson noted that the Commission, during their last meeting, decided to defer the request so that we could further research the request.

Mr. Coleman noted that the deferral was agreed to by the Commission at his request. He requested more time so that he could learn more about the text amendment and to have the opportunity to ask constituents what their thoughts were regarding the request. He noted that he had the opportunity to speak with some people about the request and the overall consensus was that the citizens were concerned about having these large parcels zoned for Industrial uses and the possibility of them being developed with an Industrial use in the future. The citizens would much rather such a use be placed in the Agricultural zoning district by approved conditional use permit rather than in the Industrial zoning district. Mr. Coleman further noted that the Commission and Board separately, will work hard to review the conditions, along with the site plan. This provides the opportunity to strengthen our position on the project.

Mr. Bradley stated that he was with Mr. Coleman when he spoke to some of the citizens. He further stated that he liked the thoughts of one of the citizens who spoke last month, Mr. Hart, who said that it was better to wait to see what happens with Walnut Solar while it is being constructed. He was for leaving it as is for now.

Mr. Massey noted that the solar developers are already speaking with citizens on Buena Vista going south to Gloucester County and north of Rt 360. Mr. Massey noted that whatever we decide, it is not going to stop the applications.

Mr. Richardson asked if Ms. Seay had any additional thoughts or comments.

Ms. Seay noted that though these conversations come up based on the anticipation of applications regardless of whether the County has them or if they are forthcoming, changes to the County ordinance should not be made with specific projects in mind. The Board should make such decisions based on land use planning for the County as a whole.

If the Commission is going to entertain allowing this use or not, they must determine what zoning district is the best fit for that use. She stated that she does not recommend placing solar in the Industrial zoning district. explained that mining could certainly be considered an Industrial use and the Commission could look at that. She clarified that she was not suggesting making changes to the mining use, just simply using it as an analogy.

Mr. Wilson stated that he went through the Comprehensive Plan. He explained that it is very grey because it states that the Commission should do what is right for the people of the County and also do what is right for the growth of the County. He said that this case was somewhere in the middle.

Ms. Seay stated that she also wanted to point out something that Mrs. Sprouse had also pointed out previously, regarding conditional use permits. She noted that it was her understanding that there was this thought by the Commission that the Commission could not deny a conditional use permit, that it was a by right use with conditions. She stated that this was not the case and that the Commission can deny a conditional use permit. She believes that this was the thought previously that if a conditional use permit application came in, and the County agreed to a set of conditions, that the Commission had to approve it. Ms. Seay said that is not the law.

Mr. Wilson said solar projects used to be allowed in the Agricultural district, but then it was changed to the Industrial district, which made it more difficult for the applicant. Ms. Seay agreed. Mr. Wilson then questioned why was the County considering changing it.

Ms. Seay further explained that the text amendment to allow solar projects in the Industrial district rather than the Agricultural district served more as a deterrent in hopes of slowing solar development. It was successful for some years, but now the County is finding that the developers are not backing down to the fact that they need to seek rezoning to Industrial to apply for solar. Then the applicant will proffer away all uses in the Industrial zoning district but solar. At that point, the Commission doesn't have a reason to not consider a rezone. The Commission could still consider the conditional use permit. However, the County is left with this Industrial parcel in a rural area.

Mr. Richardson noted that this is where it touches on him a bit, these little spots throughout the County that gets changed to Industrial. Then for whatever the reason, the project doesn't materialize; or technology changes or they become obsolete and the company starts pulling

up wires and tossing panels. The County is then left with this Industrial property in a random spot in the middle of nowhere. Someone could later come in and build some noisy industry in the middle of the County. At that point you are dealing with spot zoning.

Ms. Seay stated that could happen potentially, but what these developers often do is forgo all of those industrial uses other than solar if the rezoning is approved. Then you are left with an Industrial zoned parcel that can only have solar.

Mr. Coleman asked for clarification regarding if a parcel was zoned Agricultural and the County had an application for a solar project, with the applicant having their list of conditions and the Commission having their own set of conditions. If the Commission and the applicant couldn't come to an agreement on the conditions, the Board will get both the Commission's and applicant's conditions. Then the Board could have their own set of conditions that they feel is most appropriate.

Ms. Seay stated that Mr. Coleman is correct. She explained that the Board could deny the project all together.

Mr. Coleman then asked if there was no agreement on conditions or if the project was denied, would the applicants have to then go find another parcel for their project?

Ms. Seay noted that he was correct, but even if there is an agreement on conditions at the Planning Commission level, the Board could deny the conditional use permit all together. If the Board doesn't believe that this project is in the best interest of the health, safety, and welfare of the County citizens in the proposed area, provided that their reasons are not arbitrary or capricious, they could still deny the project.

Mr. Richardson noted that the comments received from the public was to slow it down and that they didn't want any more solar development. However, the Commission's best tool to make site specific decisions is the conditional use permit, not the zoning of the parcel. Should the Commission and Board choose to allow one panel per 100 acres or increase its buffers from other solar sites, they will then have to make it work or not.

Ms. Seay stated that she would be ingenuine if she did not agree that the rezoning is another barrier. However, it is one that the developers have navigated around. The rezoning is not the deterrent that it once was. Further, Ms. Seay stated that she does not recommend drafting you're the County's zoning ordinance in such a way to be the barrier or deterrent. If there is a use that the Commission just doesn't like or the Commission doesn't want, there are other ways to accomplish that, rather than messing with your zoning map.

Mr. Richardson stated that based on the interest that Mr. Massey made reference to, regardless if it is in the Plainview area or not, it is still there. Therefore, the zoning requirements for solar is not slowing it down.

Mr. Coleman echoed Mr. Richardson's comment, further stating that there is interest in the Newtown area as well. People have been contacted about solar in the area. He stated that it

is not just in the lower end of the County. Mr. Coleman stated that Rappahannock Electric has a high-powered line that runs through Newtown.

Mr. Wilson added that it is not just solar, it includes data centers as well.

Mr. Massey asked what surrounding localities were doing.

Mrs. Sprouse stated that she could not answer for all surrounding localities, but both Essex and Gloucester require a conditional use permit in their perspective agricultural districts.

Mrs. Sprouse stated that she had received minutes from the Essex County Planning Commission meeting regarding a proposed solar development in the Ozena area of the County. She stated that the Planning Commission recommended denial of the conditional use permit. They did not even approve conditions to pass to the Board. It is her understanding that the Planning Commission's recommendation is now with the Essex Board for consideration.

Mr. Campbell noted that he saw that there is a proposed solar development near Jim Hall store.

Ms. Seay noted that some localities have solar overlay districts. In a county like King & Queen, it is so long that solar development depends on where your power lines are and where there is capacity.

Mr. Campbell stated that he did not mind solar farms or windmills on top of a shopping center or courthouse roof. However, where they are placed now, we are the county losing a lot of acres that has been used for agricultural for 40 plus years.

Mr. Massey stated that he would like to see the current project through to see the implications or impact before considering another project. He noted that solar farms are not cost effective at all.

Mr. Richardson stated that at some point we need a motion and then someone that agrees to that motion to second that motion. Then the Commission will take a vote. He said that it sounds as if the Commission was fifty/fifty. He has heard comments that lean towards agreeing with staff's request for the change and he has heard comments that suggests the Commission leave it as it is. He encouraged the Commission to vote the way they feel and explain why they are voting the way that they are. He added that the Commissions comments will help the Board when it reaches their agenda.

Mrs. Sprouse stated that she wanted to make one other item clear before they vote. She asked if Mr. Massey's comment about waiting was referring to waiting on making a change to the zoning ordinance and leave it the way that it is or was referring to waiting on any future solar applications. She noted that she can not pause applications for solar. In fact, if an application came in next week, it will be processed per the adopted zoning ordinance. Ms. Seay stated this applies not just to the County zoning ordinance but also to state law.

Mr. Richardson added, to be clear, vote or motion is either the Commission keep the zoning code as it is and allow solar in Industrial zoning by approved conditional use permit and data centers in the commercial districts as a by-right use or allow solar and data centers in the Agricultural zoning by approved conditional use permit.

Mr. Richardson asked if the Commission would rather vote on them separately or together.

Mr. Wilson stated that data centers are not currently allowed in the Agricultural zoning district and that the request was to take both solar and data centers and allow them by approved conditional use permit in the Agricultural zoning district. Mr. Richardson said this was true.

Mrs. Sprouse noted for clarification purposes that the request was not to change what is in place now, but rather to add these uses in the permitted uses table in the Agricultural zoning district by approved conditional use permit. Data centers will still be by right in the commercial districts.

Mr. Wilson noted that it comes down to the conditional use permit regardless of whether the parcel is zoned Industrial or Agricultural.

Mr. Richardson stated that was the reason the County has submitted this proposed text amendment for a change.

Mr. Richardson asked again if the Commission would rather vote on them separately or together. He added that it was perfectly fine if they were not in an agreement and to vote how they felt was best.

Mr. Massey suggested that they break the proposed amendment up as two separate votes.

Mr. Richardson stated that they will take energy generation facilities by natural resources first.

Mr. Wilson noted that he simply wishes our Comprehensive Plan was a little clearer. Mr. Richardson stated that the Comprehensive Plan update just left the Commission's desk. Ms. Seay noted that the Comprehensive Plan is a good planning tool or reference, however it is not binding. Mr. Wilson noted that he and Mr. Bradley were just at the 116th PC training class and that is what they preached. If something is going on in your County, perhaps you should go back to your Comprehensive Plan for guidance.

A motion was made by Mr. Coleman to recommend approval of zoning text amendment ZA24-02 for allowing energy generation facilities by natural resources in the Agricultural zoning district by approved conditional use permit. He noted that he made the motion because he feels that the best tool that the Commission and Board of Supervisors has is the conditional use permit. Mr. Coleman's motion was seconded by Mr. Bradley.

Mr. Richardson asked if there was any further discussion before taking a roll call vote.

Mr. Bradley asked if this decision could be changed in the future. Ms. Seay noted that it could be changed through the same process, a text amendment.

Hearing no further comments, a roll call vote was taken.

Voting For: Wilson, Coleman, Richardson, Campbell, Bradley, Massey

Voting Against: None

Abstain: None

Mr. Richardson asked if there was a motion for ZA24-02, allowing computer data processing in the Agricultural zoning district by approved conditional use permit, or whether the Commission should leave it as is.

Mr. Coleman asked for clarification purposes, if computer data processing would still be a by right use in the Commercial zoning districts. Mrs. Sprouse stated that it would.

Mr. Richardson stated that a by right use means there are no conditions as there are in a conditional use permit. Mrs. Sprouse stated he was correct. Mrs. Sprouse added that staff is not looking to change what is already allowed, but simply adding computer data processing in the Agricultural zoning district by approved conditional use permit.

Ms. Seay stated that with data centers, they are limited to where they can be placed based on resources, in particular electricity. However, with new technology and power sources, it could possibly expand where they may go in the future.

Mr. Bradley asked about the size of these data centers.

Ms. Seay stated that it really depends on who is leasing the space. A relatively small one may be on about 20-30 acres when taking in to consideration its buffers, parking, etc. A campus proposal, which means more than one, could take up a few hundred acres.

Mr. Bradley noted that was what he was concerned about.

Ms. Seay said compared to a 1,700-acre solar farm, its relatively small. These structures are like very large office buildings.

Mr. Wilson asked what would a county get out of a data center.

Ms. Seay stated that a locality close by has revenue projections of 18 million a year. She noted that Chesterfield and Henrico have several. Loudon County has over 200 data centers now and their revenue is in the billions.

Mr. Coleman asked if the revenue comes from the infrastructure, such as the building and real estate. Ms. Seay noted it mostly comes from machinery and tools tax on their equipment.

She is going to propose a text amendment to the tax code, creating a new category for computers and such equipment separate from the business personal property tax. This is so it will position the County much better should the Board want a data center in the future.

Mr. Massey asked if there was a large environmental impact with data centers. He understood that they use a lot of water for cooling. Ms. Seay stated that water is a scarce commodity nationwide. The industry is looking at new technology which uses little to no water, which they call dry campuses. She noted that Mrs. Evko could speak more on this issue.

Mrs. Evko noted that things have changed so much over the last 18 months. The technology has come so far, especially regarding the water used. One reason there are so many in Virginia is because of the tax structure. There are 571 data centers in Virginia currently. The tax structure that was created for data centers is about to sunset, though it was brought up in the General Assembly this year. They did not push back the sunset date. She believed that the sunset date is 2035. Virginia was way ahead of the game. Atlanta and Georgia have been very aggressive in seeking data centers and have increased their numbers dramatically. There are two different things planned in Chesterfield. There are about 20 on tap for Henrico County presently and more in other counties around us. If you look at the map of data center construction, it is moving down from Loudon to Fredericksburg and south. She noted that there is a way to allow for these data centers and to do so in a manner that does not ruin the rural nature of the County, but yet creates the tax revenue. What is going to happen is, as everything continues to get more expensive, the County will have several solar farms, which are not a huge source of revenue to the County at all, and County's waste facility will eventually go away and then what will replace that revenue? The County will need to make up that lost revenue source. It is an investment and will not happen next week. One campus site would be ideal, but it has to be where your power is in your locality. Data centers cannot simply be placed anywhere. Usually there are large buffers and it is placed off the road, along with other conditions in the County's conditional use permit, so that they will not be offensive in the County.

Mr. Wilson noted that what he is hearing from all of this discussion is conditional use on any individual item that comes before the County.

Mr. Richardson added that when an application comes across their table, even a sand and gravel mine site, cat litter plant, or solar farm; the Commission has the ability to make these conditions. The staff will prepare recommended conditions for the Commission and will add, subtract, change, etc. and forward their recommendation to the Board. The Board then does the same.

Mrs. Sprouse stated that she has started some research on data centers and has pulled from other localities their conditions, ordinance requirements, and lessons learned. This is so that if the County were to receive a proposal for a data center, some of the work and research has been already done.

Mr. Richardson asked if the Commission is now ready to make a motion.

A motion was made by Mr. Coleman to recommend approval of ZA24-02, allowing for computer data processing in the Agricultural zoning district by approved conditional use permit. Mr. Coleman's motion was seconded by Mr. Massey.

Mr. Richardson asked if there was any discussion. Hearing none, Mr. Richardson asked for a roll call vote.

Voting For: Wilson, Coleman, Richardson, Campbell, Bradley, Massey

Voting Against: None

Abstain: None

Staff's Comments

No comments.

Commissioner's Comments

Mr. Wilson stated that they all try their best to make the best decisions for the County, as they all live here and do not want to make any mistakes in their decisions.

Adjournment

Mr. Richardson noted that the next meeting is set for Monday, April 7, 2025, at 6 p.m.

There being no further business, motion was made by Mr. Jackson to adjourn. The motion was ratified by all present members stating "Aye".

Hunter Richardson, Chairman