

the monitor

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Supreme Court of Virginia To Hear the Walker Drive Appeal

By Sally Harmon Semple

Only about one in seven cases that are appealed to Virginia's high court are accepted to be heard. The citizens suit challenging the Town of Warrenton's rezoning of Walker Drive is among them. Just three weeks after hearing a short summary of three of the alleged violations in the rezoning process, the Supreme Court of Virginia, on Sept. 12, granted the citizens' request to present an appeal on those counts.

The violations appealed to the Virginia Supreme Court have ramifications for land use decisions across the state. Of key interest is whether the town, through proffer, allowed the weakening of a land use protection, and whether such a proffer is legal. Letting the lower court decision stand would set precedents for using proffers as a tool to modify and weaken regulatory protections.

Also contested is a worrisome decision by the lower court not to allow citizen plaintiffs to challenge procedural violations made by the Town in the rezoning process. These particular citizens had been awarded standing by the Court – meaning they already passed the high hurdle of demonstrating they are uniquely harmed by the rezoning. Nonetheless the Court did not allow them to contest procedural violations which lead to the rezoning.

The third issue to be heard by the Higher Court is whether the town exceeded its authority by changing the default land use mix for the applicant without consulting with the Planning Commission.



Bill Semple says he has read every one of the 4,500 pages that comprise the case leading to an appeal before the Virginia Supreme Court.

These issues extend well beyond Walker Drive in Warrenton – they have the potential to touch every landowner in Virginia facing impacts from a future rezoning.

Zoning disputes like this are important. They directly affect the personal and property rights of citizens and are one of the most powerful

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Fauquier County Weighs Ordinance Governing Solar Power

By Ken Alm

Solar photovoltaics (PV) are the fastest-growing energy source in the world due to the decreasing cost per kilowatt-hour — 60 percent to date since 2010, according to the U.S. Department of Energy.

In November Fauquier County staff briefed the Planning Commission on a proposed draft text amendment for a Utility Scale Solar Ordinance. The proposed text amendment develops standards and definitions for Solar Facilities and creates a new use category and special standards for Utility Scale Solar projects. (Utility Scale Solar projects are currently permitted in Fauquier County through the Special Exception process as Electrical Generating Plants and Facilities, but the current ordinance lacks specific requirements aligned with Utility Scale Solar.) The draft ordinance for Utility Scale Solar can be viewed on the county web site.

UTILITY SCALE SOLAR

As with any land-use application, there are numerous potential impacts that need to be evaluated with solar facility uses. All solar facilities are not created equal, and land-use regulations should reflect those differences in scale and impact accordingly.

Utility-scale solar energy facilities involve large tracts of land totally hundreds, if not thousands, of acres (The current county proposal would limit Utility Solar to 1500 acres). On these large tracts, the solar panels often cover more than half of the land area. The solar facility use is often pitched as “temporary” by developers, but it has a significant duration — typically projected by applicants as up to 40 years.

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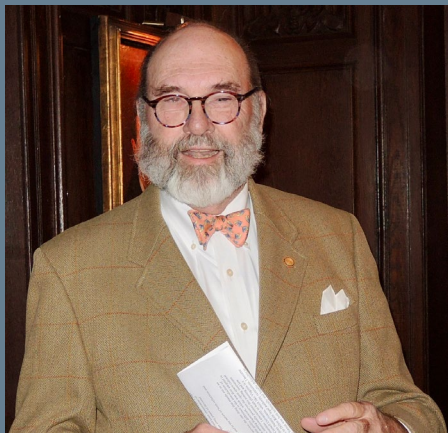
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CFFC in November presented the fifth annual Kitty Smith Award for conservation to former county administrator current Planning Commission member Bob Lee, while surprising conservation matriarch Hope Porter with the same award. Mrs. Porter has for years declined recognition for her role in successfully opposing reckless development in Fauquier County.

CFFC Poised for Future Challenges

By Les Cheek
CFFC President

By way of analogy to the world of sports, 2019 was a “building” year for Team CFFC. While addressing several threats to Fauquier’s rural agricultural character, we focused largely on improving CFFC’s capacity to respond to future challenges.

Our highest priority was attracting new members, the crucial element for an advocacy organization dependent on grassroots support for its activist efforts. Through the presence of CFFC tents staffed by volunteers from its board of directors, we were able to collect approximately 80 new email addresses from attendees at Warrenton’s First Friday events, Hume Day and Remington Day. We are especially focused on educating younger families and attracting them to join CFFC.

In line with our desire to attract new members, we have been working on upgrading our membership communications. To our quarterly newsletter, the *Monitor*, we added a revamped website and the ability to email action alerts to our nearly 600 supporters. By year’s end, we expect to hire a part-time communications assistant to help us keep our website fresh and develop a social media presence to better inform membership about CFFC activities.

An important part of why CFFC is effective is our collaborative efforts with fellow conservation and civic organizations. Working with the Piedmont Environmental Council, we promoted the planting and preservation of milkweed, an essential food for monarch butterflies. We also collaborated with the Clifton Institute, with which we jointly sponsored two summer nature workshops. Several CFFC board members volunteered for potato planting at the Fauquier Education Farm, and CFFC participated in the PATH Foundation’s Give to Local Piedmont campaign.

Another item on our list of 2019 goals and objectives was the creation and funding of a full-time zoning inspector position in the county’s Department of Community Development, to aid in the enforcement of Fauquier’s vital land use regulations. While this effort has not yet borne fruit, we are optimistic about its 2020 prospects.

Triggered by applications for two major “resorts” in different parts of Fauquier’s huge agricultural and forestal landscape,



we have been advocating that the Board of Supervisors overhaul the county’s vague and obsolete rules for non-farm commercial enterprises in Fauquier’s rural areas, including wineries, breweries, cideries, and distilleries. We have high hopes for this project in the coming year. On a related note, we have begun suggesting to the Board that the use of zoning ordinance “text amendments” and “special exceptions” to sidestep longstanding prohibitions of inappropriate land uses should be reduced. We plan to continue this activity in the years ahead.

Overhaul the county’s vague and obsolete rules for non-farm commercial enterprises.

Ongoing goals include: (a) encouragement of proposals to bring high-speed broadband service to all areas of the county; (b) establishment of additional rural historical districts to recognize important elements of Fauquier’s storied past; (c) continuing financial support for organizations relevant to CFFC’s mission, such as the African American Historical Association, the Fauquier Heritage and Preservation Foundation, the Clifton Institute, the Fauquier Historical Society, and the Goose Creek Association; and (d) finding capital resources for the construction of a facility to aggregate vegetables, meat and other agricultural products for bulk rate sale to restaurants, grocers and institutions.

As this “building” year draws to a close, CFFC is increasingly grateful to you, our members, for your ongoing — and growing — support, financial and otherwise, for CFFC’s commitment to protecting Fauquier’s future. 🇺🇸

Controversial Barrel Oak Project Headed to Supervisors

By Kevin Ramundo

Those following the controversial and highly unpopular Barrel Oak hotel proposal near Marshall — which was withdrawn by the applicant after widespread opposition — should anticipate that it will be on the Board of Supervisors agenda sometime next year. Opposition to this project is continuing.

At its October meeting, the Fauquier County Planning Commission recommended that the Board of Supervisors not approve the so-called Sanctuary at Barrel Oak project. CFFC, other preservation/conservation groups, and many citizens spoke out against the project at this meeting and for good reasons, including that this commercial hotel, restaurant, and event center does not belong in an area zoned rural/agricultural.

At various times, the county's citizens have communicated their concerns. At a community meeting organized by the applicant in early June and attended by 90 people, more than 90 percent said they were against the project. At the planning commission public hearing, 22 of the 24 speakers spoke against the project. And of the 82 emails and letters received by the county through mid-November, 78 were opposed. Contrary to the opinion of the applicant that this opposition is part of an organized effort by CFFC and other groups, the vast majority were expressing their personal concerns.

The project flies in the face of the county's comprehensive plan and approval of this project could lead to similar commercial businesses in rural areas throughout the county. The recently approved Rural Lands Plan states that commercial uses should not be allowed in rural areas, and tourism-related facilities should not detract from surrounding rural areas.

The proposed project represents real risks to public health and safety. It would be located on Grove Lane, which has experienced 14 accidents over the last three years with multiple fatalities, injuries, and four alcohol-related accidents according to the state of Virginia's accident data base. The project could also threaten the availability of water for existing homes and farms. A



Service districts, like this one in Marshall, were planned with commercial development in mind, including hotels.

highly regarded water engineering firm, Emery and Garrett, has calculated water usage between 21,000 and possibly more than 35,000 gallons per day. This is two-to-three times what the applicant has estimated.

Some might support the project because it could generate revenue for the county. Unfortunately, the likelihood of that is low. The applicant does not have a partner and will have difficulty finding one because there is no market study verifying consumer demand. The project may be too small for a luxury hotel company and bank financing may not be available. Even the applicant probably knows the project will have a very difficult time going forward, which may explain why he has invested so little time and money so far and why he has requested a 10-year authorization for the special exceptions.

Eventually a real hotel developer will build a hotel in the Marshall service district where it belongs. This prospective hotel will be consistent with the comprehensive plan and become a major economic driver for the town. Think of the chilling effect a hotel at Barrel Oak two miles down the road would have on a legitimate effort to put a hotel in the Marshall service district.

One last point. The applicant has done very little study and analysis to support this project. Approval could encourage others interested in special exceptions to submit similarly weak applications and waste the time and energy of county staff and officials. We hope that the county will clarify its zoning regulations and tighten the standards for special exception applications so that it does not have to face more unrealistic projects in the future. 🏡

Solar Power from page 1

Establishing such a solar facility use may take an existing agricultural or forestry operation out of production and resuming such operations in the future will be a challenge. Utility-scale solar can take up valuable future residential, commercial, or industrial growth land when located near towns or other identified growth areas. If a solar facility is close to a major road or cultural asset, it could affect the attractiveness of the area. Because of its size, a utility-scale solar facility can change the character of these areas and their suitability for future development.

While solar energy is a renewable, green resource, its generation is not without environmental impacts. Though utility-scale solar facilities do not generate the air or water pollution typical of other large-scale

fossil-fuel power production facilities, impacts on wildlife habitat, wildlife corridors and stormwater management may be significant due to the large scale of these uses and the resulting extent of land disturbance. The location of sites, the arrangement of panels within the site, and the ongoing management of the site are important in the mitigation of such impacts.

In short, utility-scale solar facility proposals must be carefully evaluated regarding the size and scale of the use; the conversion of agricultural, forestry, or residential land to an industrial-scale use and the potential environmental, social and economic impacts on nearby properties and the area in general. 🏡





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ways local government acts on its citizens. When the government improperly wields its zoning authority, it can skew the balance of the rights of the homeowners and the developers. The General Assembly has placed restrictions on local governments pursuing conditional rezoning so that neighbors are not unduly impacted. These restrictions are intended to protect citizens, but in this case they did not.

Exacerbating this imbalance, the Town of Warrenton has joined forces with the Applicant in battling the citizens, pitting more than five attorneys against the local homeowners. Citizens are at an appalling financial disadvantage. Winning the case requires appellate legal counsel, not to mention thousands of dollars in fees. Donations are needed to cover the citizens' legal bills.

Please consider supporting this effort with a check made payable to Fauquier Conservation Partners LLC, 319 Falmouth Street, Warrenton, VA 20186, or you can contribute on-line via: gf.me/u/v3d8az If you simply wish to further discuss what is at stake, feel free to call Sally or Bill Semple at 540-347-4378. 



PLEASE JOIN US.

Be a part of the only organization dedicated to preserving the rural, agricultural character of Fauquier County. CFFC tracks every land use rezoning or special exception proposal before the Planning Commission with our exclusive, monthly Land Use Report. CFFC also covers historical preservation, transportation and the environment. Please visit citizensforfauquier.org for a better understanding of how you may become involved.

Citizens for Fauquier County, a 501(c)(3) tax-exempt organization, needs your support to assure that future development is consistent with Fauquier's rural agricultural tradition. Please visit citizensforfauquier.org and join today.