

October 7, 2021

- PRESENT:** Justine D. Tilghman, Chair
 George A. Coyner, II, Vice Chair
 Thomas W. Bailey
 Mark L. Glover
 Thomas V. Thacker
 John R. Wilkinson, Director of Community Development
 James R. Benkahla, County Attorney
 Leslie Tate, Senior Planner
 Caroline Stoerker, Planner I
 Beatrice B. Cardellicchio-Weber, Executive Secretary
- ABSENT:** Sandra K. Bunch, Zoning Administrator and Secretary

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, October 7, 2021 at 8:30 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at **8:30 a.m.** in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.

VIEWINGS

The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- **J. PHILLIP DIXON OR ASHBY PARKER O'MALLEY - SPECIAL USE PERMIT**
- **SCOTT F. MCDEVITT AND ELIZABETH C. TIPTON - SPECIAL USE PERMIT**
- **NOELIA RODRIGUEZ - SPECIAL USE PERMIT**
- **AUSTIN MCNETT, AGENT FOR MCNETT CATTLE, LLC - SPECIAL USE PERMIT**
- **JOSEPH PATTERSON - SPECIAL USE PERMIT**
- **MARGARET MAE DAVISON, AGENT FOR SHARED SOLAR HOLDCO., LLC, FOR A SPECIAL USE PERMIT**

At each location, the Board observed the site and the premises to be utilized. The Board also viewed the development and the character of the surrounding area.


 Chair


 Secretary

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Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Sandra K. Bunch, Zoning Administrator and Secretary

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, October 7, 2021, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Coyner moved that the minutes from the September 2, 2021, meeting be approved.

Mr. Bailey seconded the motion, which carried unanimously.

GERALD W. OR BECKY S. KNICELY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Gerald W. or Becky S. Knicely, for a Special Use Permit to have a short term vacation rental within the existing dwelling on property they own, located at 977 Bunker Hill Road, Mount Solon in the North River District.

Chair Tilghman asked if this short term rental would be in the basement of your home?

Ms. Becky Knicely stated yes.

Chair Tilghman asked if there would be a separate entrance?

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Ms. Knicely stated yes. She said it will be run as an Airbnb.

Mr. Coyner asked if they will advertise on the internet?

Ms. Knicely stated through Airbnb.

Mr. Coyner asked if this would be for weekends or a week at a time?

Ms. Knicely stated both.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed.

Mr. Bailey stated this would be low impact and should not have any negative impact on the surrounding property. He moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to rent one (1) bedroom within the principal dwelling for short term rental.
2. Be limited to a maximum of six (6) persons that occupy the dwelling.
3. Applicant reside on premise and be available during rental or provide contact information to adjacent neighbors.
4. Site be kept neat and orderly.

Mr. Glover seconded the motion, which carried unanimously.

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J. PHILLIP DIXON OR ASHBY PARKER O'MALLEY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by J. Phillip Dixon or Ashby Parker O'Malley, for a Special Use Permit to have a detached accessory dwelling unit attached to an existing structure to be used as a short term vacation rental on property they own, located at 163 Pleasant View Road, Staunton in the North River District.

Chair Tilghman stated the Board visited the site today and saw you were working on this project. She asked if the applicant's intent is to rent it out as an Airbnb?

Mr. J. Phillip Dixon stated yes.

Chair Tilghman asked if there will be a new parking area in front of the house?

Mr. Dixon stated there will be a parking pad for two (2) cars. There is a private drive around the back. There will be a small sign to show the guests where to park.

Chair Tilghman asked if there is going to be a walkway or will they walk through the grass?

Mr. Dixon stated I am unsure.

Mr. Coyner stated you are limited on the number of folks that you can have with this rental unit.

Mr. Dixon stated I am adding one (1) bedroom, which is two (2) people.

Chair Tilghman stated there is a maximum of six (6) on the entire property.

Mr. Dixon stated it is just myself and my wife. I am going to have a queen bed and a sofa that pulls out to a queen bed and a king size bed in the living room area. If the guests have a child, we would still be under six (6).

Mr. Wilkinson stated we have not received the final paperwork from the Health Department so you may want to check with them. The permit will not be issued until we receive that information.

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Mr. Coyner asked when do you plan on starting?

Mr. Dixon stated in April.

Mr. Coyner stated the property is well maintained.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed.

Mr. Coyner stated the Board visited the site this morning. It is a really nice piece of property. It should not have any impact on the neighborhood. He moved to approve the request with the following conditions:

Pre-Conditions:

1. Obtain Health Department approval and provide a copy to Community Development.
2. Obtain the required building permits and provide a copy to Community Development.

Operating Conditions:

1. Be permitted to convert 476 square feet of an existing accessory building into a one (1) bedroom detached accessory dwelling unit for a short term rental.
2. Be limited to a maximum of six (6) persons occupy both structures.
3. Applicant to be available during rentals or provide contact information to adjacent neighbors.
4. Site be kept neat and orderly.

Mr. Thacker seconded the motion, which carried unanimously.

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CAMERON L. OR JULIE B. POWELL - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Cameron L. or Julie B. Powell, for a Special Use Permit to have a short term vacation rental on property they own, located at 463 Hankey Mountain Highway, Churchville in the North River District.

Chair Tilghman asked if the home has four (4) bedrooms?

Ms. Julie Powell stated yes.

Chair Tilghman asked if the guests will prepare meals themselves?

Ms. Powell stated yes, we are not serving any food.

Chair Tilghman asked if she will be close by or at the site when it is rented out?

Ms. Powell stated our property is very close to this property and we also have a family friend that lives next door. They will be managing it for us.

Chair Tilghman asked if she plans on using Airbnb?

Ms. Powell stated yes.

Mr. Coyner asked if the applicant will allow pets?

Ms. Powell stated we have not really decided about that but we think yes.

Mr. Bailey asked if the applicant has gotten in touch with the Health Department?

Ms. Powell stated she has not talked with anyone there yet.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed.

Mr. Thacker stated he is familiar with the property and it is well kept. This would be an asset to the County. He moved to approve the request with the following conditions:

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Pre-Conditions:

None

Operating Conditions:

1. Be permitted to rent the four (4) bedroom house for short term vacation rental.
2. Be limited to a maximum of ten (10) persons total occupying both structures.
3. Applicant submit subsequent lease agreements within ten (10) days of signature when the lease changes.
4. Facility operator remain onsite during rentals or provide contact information to adjoining neighbors.
5. Site be kept neat and orderly.

Mr. Coyner seconded the motion, which carried unanimously.

SCOTT F. MCDEVITT AND ELIZABETH C. TIPTON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Scott F. McDevitt and Elizabeth C. Tipton, for a Special Use Permit to have a short term vacation rental on property they own, located at 51 Anen Town Lane, Waynesboro in the Wayne District.

Mr. Michael McDevitt stated he is here on behalf of his parents because they both have been exposed to Covid-19 recently.

Chair Tilghman stated this site is for a maximum of six (6) people. This site is well secluded.

Mr. Coyner asked if your folks live on the property?

Mr. McDevitt stated their house is located ¼ mile away.

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Mr. Coyner asked if they will use Airbnb?

Mr. McDevitt stated yes.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed.

Mr. Thacker asked if we received Health Department approval?

Mr. Wilkinson stated we have not received their approval yet. The applicant should provide us with a copy of the Health Department approval when it is received.

Chair Tilghman stated the applicant will be subject to getting that approval because it is a pre-condition.

Mr. Coyner stated this is a very nice piece of property. This will be an asset to the area.

Mr. Thacker moved to approve the request with the following conditions:

Pre-Condition:

1. Obtain Health Department approval and provide a copy to Community Development.

Operating Conditions:

1. Be permitted to use the entire three (3) bedroom dwelling for short term vacation rentals.
2. Be limited to six (6) persons maximum occupying the dwelling.
3. Applicant reside on the adjacent parcel and be available during times the dwelling is rented or provide contact information to adjacent neighbors.
4. Site be kept neat and orderly.

Mr. Coyner seconded the motion, which carried unanimously.

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NOELIA RODRIGUEZ - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Noelia Rodriguez, for a Special Use Permit to place a 14' x 30' manufactured home which is less than the nine hundred (900) square foot requirement on property she owns, located on the northeast side of Lake Drive, 0.02 of a mile west of Oak Lane, Crimora in the Middle River District.

Ms. Noelia Rodriguez stated she would like to put a small manufactured home on this property.

Chair Tilghman stated you will need to cut some trees down to get a home through there.

Ms. Rodriguez stated yes but I will try to save as many trees as possible.

Chair Tilghman stated this seems like a good place for a smaller home. There are a lot of smaller homes in that area. She asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed. She said this is a nice secluded spot for a smaller home.

Mr. Coyner stated this will fit in well with the surroundings.

Mr. Glover moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Applicant obtain all necessary permits and provide a copy to Community Development.

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2. The dwelling be a minimum of 420 square feet.

Mr. Bailey seconded the motion, which carried unanimously.

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AUSTIN MCNETT, AGENT FOR MCNETT CATTLE, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Austin McNett, agent for McNett Cattle, LLC, for a Special Use Permit to have retail and wholesale sales of meat, mineral and feed on property they own, located at 703 Humbert Road, Crimora in the Middle River District.

Chair Tilghman stated the Board visited the site this morning. She asked what building do you plan to use?

Mr. Austin McNett stated the little building is where the meat sales will be and clients will come and pick up their orders and then the minerals and feed are stored in the bigger building on the hill.

Chair Tilghman asked about refrigeration in the buildings?

Mr. McNett stated he has seven (7) deep freezers. Majority of everything is pre-ordered. Customers go on our website, they order our beef, and then we take it to a USDA inspected facility. We get it processed and cut the way they want it, bring it back, then they come to the farm and pick up their meat. We also have wholesale accounts where we take multiple pounds of beef and deliver them to those restaurants and facilities as well.

Chair Tilghman asked if all clients coming in are by appointment only?

Mr. McNett stated we are only open on Saturday morning. We are also full-time farmers so we do not have time to have regular store hours or be open every day. We try to be open Saturday mornings and Tuesday or Thursday evenings so that customers can come and pick up their beef. We deliver to their mineral customers.

Mr. Coyner asked how far of an area do you go to?

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Mr. McNett stated they ship to Ruckersville. They do not go much passed Lexington. They serve Charlottesville and Winchester areas also. Primarily it is within a twenty (20) mile radius of home. We have a very good local response. We put roughly 10,000 pounds of meat in a twenty (20) mile circle in the last twelve (12) months.

Mr. Coyner asked if he has goats?

Mr. McNett said only for pets.

Mr. Bailey asked if he needs employees?

Mr. McNett stated no need for employees. We do not want to go through the restroom situation and we really would not justify having an employee to run our store because we are not open enough. My wife and I can easily handle pickups.

Chair Tilghman asked if you will put a sign along the road when you are open?

Mr. McNett stated no.

Mr. Thacker asked if the applicant has gotten the letters of approval from VDOT and the Department of Agriculture?

Mr. McNett stated he got staff's letter on Tuesday. I was in touch with VDOT and they have to do a speed study. The Department of Agriculture has no problem with their operation.

Mr. Coyner asked if all of your customers are prearranged to come and pick up their beef?

Mr. McNett stated yes most times but not all. We are open Saturday mornings, and on a normal Saturday, we might see six (6) people. If somebody is going to come to us, they are going to buy enough for a month, we do not have a lot of weekly customers. We usually have monthly customers.

Mr. Coyner asked how long have you owned this property?

Mr. McNett stated they purchased the property in June of 2019.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

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Mr. Jeffery Wonderley, 2099 Knightly Mill Road, Fort Defiance, stated I have concerns about the shared driveway and if there will be modifications for the entrance. When they moved in, it was originally a single driveway and he has a right-of-way but he has now expanded that to a wider entrance which was not under the right-of-way he was granted.

Chair Tilghman said it would be up to VDOT if they want the driveway to be changed.

Mr. Coyner stated the right-of-way issue is more of a civil issue.

Chair Tilghman asked if there was anyone else wishing to speak regarding the request?

There being none, Chair Tilghman asked the applicant to speak in rebuttal.

Mr. McNett stated we are within our thirty (30') foot right-of-way. There is no other alterations to the ground. He will have a speed study done for VDOT regarding the entrance and that is all. There will be no widening. If we get our speed study under 50 miles an hour, then it is approved.

Chair Tilghman declared the public hearing closed.

Mr. Coyner stated the Board visited the site this morning. I think this is a great avenue for local meat to be purchased. He moved to approve the request with the following conditions:

Pre-Conditions:

1. Obtain letter of approval from VDOT and provide a copy to Community Development.
2. Obtain a letter of approval from the Virginia Department of Agriculture for the sale of meat.

Operating Conditions:

1. No employees other than family members.

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- 2. Hours of operation be Tuesday, Thursday 6:00 p.m. to 8:00 p.m. and Saturday 9:00 a.m. to 5:00 p.m. and by appointment Monday, Wednesday, and Friday.
- 3. No Sunday operation.
- 4. Site be kept neat and orderly.

Mr. Glover seconded the motion, which carried unanimously.

JOSEPH PATTERSON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Joseph Patterson, for a Special Use Permit to have outdoor storage of a 40' trailer for a hauling business on property owned by Michael H. Taylor, located at 324 Cedar Green Road, Staunton in the Pastures District.

Mr. Joseph Patterson stated this is my father's property.

Chair Tilghman stated the Board saw your trailer at the site this morning.

Mr. Patterson stated it is not a forty (40') foot but a thirty (30') foot trailer.

Chair Tilghman asked if you want to have a forty (40') foot trailer eventually?

Mr. Patterson said by the time I get to a forty (40') foot trailer, I do not believe I will be at this property anymore.

Chair Tilghman stated this is a good place to keep one. She asked if the applicant spoke with VDOT?

Mr. Patterson stated there is a second entrance on the property. There is a road that goes straight up through the properties that I would use.

Mr. Wilkinson asked if you have a deeded access to that?

Mr. Patterson stated yes. It is my grandmother's property. The land is owned by the family.

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Mr. Coyner asked how frequently will the trailer be brought to the property?

Mr. Patterson stated on the weekends. It will not come in every day.

Chair Tilghman asked if the second entrance is better onto Buttermilk?

Mr. Patterson stated yes.

Mr. Glover said when the Board exited, there was not a lot of visibility this morning using the other entrance.

Mr. Patterson stated the entrance on the bottom hill has more visibility.

Mr. Wilkinson stated you should show VDOT the better entrance and it probably would not need any modification.

Mr. Patterson said the only thing he would have to do is cut some trees going up to that lane.

Mr. Thacker said that entrance is better than the other.

Mr. Coyner asked if the applicant leaves on Monday and comes back on Friday?

Mr. Patterson said he will work Monday – Thursday. This operation will be done part-time during the week. He has a full-time job on weekends.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed.

Mr. Glover stated the property where he is asking to store the trailer is very secluded. I do not see where there would be any concerns with the neighbors or surrounding properties. The primary concern is the entrance and he would have to get VDOT approval. He moved to approve the request with the following conditions:

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Pre-Condition:

- 1. Obtain VDOT approval and provide a copy to Community Development.

Operating Conditions:

- 1. Be permitted to store one (1) forty (40') foot gooseneck trailer in the designated area shown on the BZA sketch plan.
- 2. All natural vegetation remain to screen the outdoor storage area.
- 3. No employees.
- 4. No freight from the business to be brought to this site.
- 5. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
- 6. Site be kept neat and orderly.

Mr. Bailey seconded the motion, which carried unanimously.

MARGARET MAE DAVISON, AGENT FOR SHARED SOLAR HOLDCO., LLC, FOR A SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Margaret Mae Davison, agent for Shared Solar HoldCo., LLC, for a Special Use Permit to install a 1 MW fixed tilt solar array on 10 acres to be tied into Dominion Energy per Virginia's Shared Solar Program – VA Code 56- 576 et seq. on property owned by Margaret Mae Davison, Etal, located on a 10 acre tract of 90.78 acres on Route 626 northwest of Staunton located at 125 Berry Farm Road, Staunton in the Beverley Manor District.

Ms. Margaret Davison said this solar program will benefit low income families as a credit against their electric bills. This will feed directly into Dominion.

Chair Tilghman asked if this would be underground?

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Ms. Davison stated yes.

Chair Tilghman asked if it would tie in on Berry Farm Road?

Ms. Davison stated yes.

Chair Tilghman stated the Board visited the site this morning.

Ms. Davison explained where the panels will be located. This land is not suitable for cattle. No one will want to put in a driveway for a house either on that land.

Chair Tilghman asked once it is put in, would the neighbors see it?

Ms. Davison stated we would make sure there is enough brush so that you could not see the panels.

Mr. Coyner asked if the lane going in is on your property?

Ms. Davison stated I own the lane and there is a right-of-way. There is 150 feet of road frontage they could put their own driveway in if they choose. We would cover any damage and repairs. We have taken pictures of it and we will make sure it is, if not in better condition when they leave. There will not be a lot of traffic, up and down during the construction, might be a day or so for materials. Majority of the time it would just be regular pickup trucks.

Chair Tilghman asked how many people are working at one time on this project?

Ms. Davison stated about ten (10) people.

Chair Tilghman asked where would the parking be located?

Ms. Davison stated to the left of the driveway. The land starts where the picket fence starts.

Mr. Coyner asked if you own the property on the other side?

Ms. Davison stated yes.

Mr. Thacker stated the plan does not show any landscaping or buffer area.

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Ms. Davison stated they are choosing the existing vegetation for a buffer.

Mr. Thacker said the buffer area has to be reestablished in order to hide this from the house on the hill if you clear it all out.

Ms. Davison stated that is one of the pre-conditions that staff is recommending.

Mr. Thacker stated he did not see the landscape/buffer plan with the submittal.

Ms. Leslie Tate stated the applicant is proposing to use the existing vegetation. Essentially with the application, they were saying that their goal is to reach alternative compliance by using existing vegetation, but I think the pre-conditions do cover it in the fact that if you were to approve it, and we saw that alternative compliance was not reached, we would be asking for them to provide the landscaping plan. You could certainly further clarify and add an additional condition to say, if alternative compliance is not maintained, then the landscaping fully approved by the County will be required.

Mr. Thacker stated he would like to add that to the conditions.

Ms. Davison stated there is also a surety in the pre-conditions.

Chair Tilghman stated the road will have to be extended to go toward the house.

Ms. Davison stated no, they will just be more of a parking area.

Chair Tilghman stated I do not know how often but somebody will come and check on the panels for the maintenance of the program.

Mr. Thacker stated the others we have done is a gravel road.

Ms. Davison stated we would have a temporary road but not down to the panels.

Mr. Wilkinson stated then the service people would just walk down the hill to the panels. He asked during construction you would have some kind of post driver for the panels?

Ms. Davison stated yes.

Mr. Andy Hershburger with Got Electric stated there will be a gravel driveway to that pad in case we have to maintain this in the future. These panels are fixed.

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Mr. Coyner asked how high will they be off of the ground?

Mr. Hershburger stated seven (7') foot off the ground.

Mr. Coyner asked how far is the bottom?

Mr. Hershburger stated we try to keep them at least two (2') feet off the ground so it is easier to maintain.

Mr. Coyner asked how is the brush or undergrowth maintained? Can you have sheep to maintain the site?

Mr. Hershburger stated traditionally a lot of people use a side swing mower and a couple specialty mowers for solar projects. There could be sheep also.

Mr. Coyner asked about honey bees among the panels?

Mr. Hershburger stated yes that is a possibility.

Mr. Coyner asked if you will get the electricity from the panels by underground conduit out to the roads?

Mr. Hershburger stated you will have a utility demarcation point with Dominion so everything from that point goes out to the solar array so the DC electricity from the solar panels to the inverters is all going to be underground.

Mr. Thacker asked where on Berry Farm Road?

Mr. Hershburger stated that is to be determined based on the service. They have just started the interconnection process. He has not received a formal response yet.

Mr. Thacker asked if this would be enclosed with a chain-link fence?

Mr. Hershburger stated yes.

Mr. Coyner asked how frequently are the goings and comings to maintain these facilities?

Mr. Hershburger stated we normally do an annual preventative maintenance inspection of the system. We get alarms through a data acquisition system if there is something

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down, we will go and investigate it at that point. With the actual vegetation maintenance, that will certainly depend on the growing season.

Mr. Coyner asked if local people would maintain the site or respond to the alarm?

Mr. Hershburger stated yes I would.

Chair Tilghman asked if there needs to be a road to get to the site?

Mr. Hershburger stated from the existing access drive to the actual solar array.

Mr. Coyner asked if there will be a structure or a transformer down there?

Mr. Hershburger stated typically for a system this size there will not be any onsite buildings. They typically have a key box to make sure we can secure all of the equipment. The biggest piece of equipment is going to be about 3' x 3'.

Mr. Anthony Smith with Secure Futures stated he will be working with Andy to actually install the system. We would be the owner of the system. I do want to speak to the question about the sheep because that is one of our options that we would like to explore and consult with the County Extension office. We have done a solar sheep project previously and it was very successful. Local sheep farmers liked the idea of having a place to pasture and it provides a way of mowing the vegetation without having to use mechanical equipment or gasoline. It is good for the sheep because they are in a protected and closed chain-link fence. It is a very sustainable solution. That would be our first choice. Our intention is to work with the Extension Office to identify sheep farmers who might be interested in considering that project for us.

Chair Tilghman said you are doing this on another project now?

Mr. Smith stated yes. This is fantastic because it maintains the vegetation and there is no need for more herbicides.

Chair Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Phil Martin, Executive Director, with the Service Authority stated when we have any project such as this that goes into a Community Development Area or an Urban Service Area, we look at the potential impact on our ratepayers, and our Board has directed me to come and address you, no matter the size or the impact. I presented a memo to the

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Board addressing this request. We looked at this and we thought there could probably be at most, eight (8) houses, we looked at potentially being over the 26 year life of the project to be about \$28,000 total. It could be zero because maybe nothing may ever be developed there but we saw the impact of this anywhere from nothing to \$28,000 over a 26 year life. That is not a big impact that we saw but the Service Authority Board has directed me to be consistent and address you for all of these types of requests.

Chair Tilghman asked if there was anyone else wishing to speak regarding the request?

There was none.

Mr. Coyner asked how long does it take from the moment you get to work, to actually getting this installed?

Mr. Smith stated once we get the utility approval, I would say about a month and a half to two months of engineering and planning for the project. Lead times on electrical equipment are just kind of crazy right now so having longer lead items, maybe a few months for procurement of activities. Then a two (2) month construction period so it could be six (6) to eight (8) months in terms of the whole lifecycle of the project, just depending on how quickly the project will come together.

Mr. Coyner asked if these panels are post driven?

Mr. Smith stated they are direct driven into the ground.

Mr. Coyner stated the fact that the only road is going to be a little gravel road to get to the place, erosion should not be a problem.

Mr. Smith stated that is correct.

Chair Tilghman asked if you will remove the topsoil?

Mr. Smith stated no. When we cut the trees out, we remove the stumps. Traditionally we try to disturb as little ground as possible

Chair Tilghman stated you are not going in and removing all of the topsoil.

Mr. Smith stated we would plant grass to get vegetation back.

Mr. Bailey asked if the entire project would be fenced in?

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Mr. Smith stated yes.

Mr. Coyner asked what is the height of the fence?

Mr. Smith stated seven (7') foot.

Ms. Davison stated under the regulations for shared solar, this cannot start construction until 2023. We need to have all of the permits in place. Construction would not be started until four (4) years from now. We have already been approved with licensing through the state corporation and now waiting on our interconnection to get approved.

Chair Tilghman asked if the people signing up for the program are all low income because I was at another meeting where this was talked about and that was not the case?

Ms. Davison stated ours will be 100% low income.

Chair Tilghman asked if you have an option?

Ms. Davison yes, but ours will all be 100% low income.

Mr. Smith stated the application is very specific in that we are intending to do 100% low income. This has two benefits, one is that more low income households will participate. Dominion is under a rate hearing and because they are proposing to charge subscribers \$75 a month for the shared solar program. There is an exemption for low income. Our project since it is 100% low income will not be affected by that high charge from Dominion.

Chair Tilghman declared the public hearing closed. The Board discussed the recommended staff conditions.

Mr. Coyner stated he is pleased that they are receptive to the sheep and that they are still going to utilize the soil and continue to have grass. The Board should grant them three (3) years. He moved to approve the request with the following conditions:

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Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents," Section 25-70.4.C "Standards applicable to small solar energy systems," and Section 25-70.5 "Applications and Procedures for Small Energy Systems" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. The Facility shall not commence commercial operations until final site plan approval is first obtained from the Zoning Administrator or his/her designee, and all pre-conditions of approval have been met.
3. In consultation with site plan review, wetlands shall be inventoried and delineated, and no construction of panels or access roads shall be permitted within 35 ft. of the delineated wetland. All operations and infrastructure of the Facility shall additionally maintain a 35 ft. riparian buffer from all streams.
4. The Facility shall not obtain final site plan approval until evidence has been given to the County that an electric utility company has signed an interconnection agreement with the permittee.
5. Landscaping Plan. The Applicant shall submit a proposed landscaping plan for each perimeter of the Facility (outside all fenced areas) to the Zoning Administrator and/or his/her designee for review and approval as part of the full site plan, which shall be in general conformance with the landscaping plan submitted with the Concept Site Plan. The following conditions shall govern the installation of landscaping in accordance with the landscaping plan:
 - a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.
 - b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights.

- c. In areas where there is an existing timber buffer remaining on the Facility parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning Administrator and/or his/her designee. The use of existing timber and natural screening is preferable.
- d. In areas where sufficient existing timber does not remain, the landscaping requirements shall conform to the Concept Site Plan. The trees shall be planted during the appropriate time of year, subsequent to the completion of construction.
- e. A surety agreement for landscape maintenance in a form acceptable to the County Attorney shall be submitted and approved prior to the issuance of any building permits. The amount of the surety shall be determined by an independent landscape architect selected and reasonably compensated by the Applicant but approved by the Zoning Administrator and/or his/her designee. The amount of the surety shall be equal to a reasonable estimate of the amount needed to establish, and following establishment, to maintain the landscaping required by the approved landscaping plan for two (2) years after initial installation. Once the landscaping has been successfully established, the surety amount will be reduced to that amount required for two (2) years of maintenance thereafter. The surety will be released only after decommissioning is complete.
- f. All landscaping will be reviewed by the Zoning Administrator and/or his/her designee following installation, at one-year following installation, and as necessary thereafter to ensure the landscaping is being maintained.
- g. The Applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit, while also considering market availability.
- h. The use of herbicides for perimeter landscaping shall be minimized to the greatest extent reasonably practicable.

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6. **Decommissioning Plan.** Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County a Decommissioning Plan as outlined in the Augusta County Code Section 25-70.10, as amended. Any structure or equipment associated with the Facility that is not operating for a continuous period of 12 consecutive months shall be subject to decommissioning, per Augusta County Code Section 25-70.10, as amended. Within 6 months of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Zoning Appeals. Periods during which the Site is not operational for maintenance, repair, or due to catastrophic events beyond the control of the Applicant, during which the Applicant works diligently to return the Site to full operating status, shall not trigger the Decommissioning requirements herein. The Applicant must provide written notice and evidence of the above to the Zoning Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Site was fully operational. Regardless of the efforts of the Applicant to return the Solar Facility to full operational capacity, if the Solar Facility does not operate as a solar energy facility collecting and storing energy and transferring and distributing it to the Grid after the catastrophic event, for a period of two (2) years the Special Use Permit shall be rendered void and the Applicant shall commence Decommissioning no later than the 730th day after the last day the Site was fully operational.
7. **Decommissioning Estimate.** Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County an estimate of the decommissioning costs as outlined in the Augusta County Code Section 25-70.10, as amended, and/or detailed below (the more stringent shall apply), by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The decommissioning cost estimate shall include, at least, the following delineated by line item:
 - a. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
 - b. Costs related to creating, maintaining, and re-stabilizing any construction entrances identified on the Property, with a separate line item for each such construction entrance, unless written waiver to the Board of Zoning Appeals is requested by the landowner.

- c. Costs for mobilization.
- d. Costs for removal and disposal of all materials, line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure," cost to remove inverters," etc.
- e. Costs to de-compact soils and reestablish topsoil.
- f. Costs to stabilize land disturbed by the decommissioning work.
- g. Costs of trucking, hauling and equipment use.
- h. Costs for removal of any landscaping in buffer zones, setback areas, or under panels
- i. Costs of landfill fees associated with the disposal of commercial and industrial waste
- j. Costs of all labor and estimated man hours to perform the decommissioning work.
- k. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year thirty-five (35) of operation.
- l. Costs must include a 25% contingency of the total estimate.
- m. The certification of a third-party engineer licensed in Virginia affirming that the owner/operators' cost estimate is sufficient to satisfy the decommissioning required herein. The estimated amount for the salvaged materials shall not be part of the consideration in the decommissioning cost estimate.
- n. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, the Applicant shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not

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be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.

8. **Decommissioning Bonding.** Prior to the issuance of final site plan approval for the Facility, the applicant shall submit a bond, irrevocable letter of Credit, or other appropriate surety acceptable to the County in accordance with Augusta County Code Section 25- 70.11, as amended.
9. **Panel Specification and Composition.** At the time of site plan review the Applicant shall provide to the Zoning Administrator, a written panel specification disclosure document that includes the composition, toxicological information, and the physical and chemical properties of all of the solar panels, including coatings, being utilized for the Facility. The Applicant shall utilize crystalline solar panels for the Project. The Applicant shall not utilize any panels that of the type known as thin-film panels, including but not limited to not utilizing panels manufactured with or coated using lead, the GenX chemical, amorphous silicon (a-Si), cadmium telluride (CdTe), copper indium gallium selenide (CIS/CIGS), organic photovoltaic cells (OPC) panels, and/or any other material prohibited by state or federal law for use in solar photovoltaic panels. Moreover, to the extent any panel utilized has a Safety Data Sheet associated therewith under 29 CFR 1910.1200(g) and its Appendix D, the Safety Data Sheet shall be disclosed, as well.
10. The Facility, including, but not limited to, all areas covered by photovoltaic panel, any and all landscape or fencing buffer areas, any and all setback areas, any and all support equipment, and any and all access roads, shall be removed from Land Use Assessment and therefore subject to a rollback tax paid to the County for the difference between land use tax and the fair market value for each of the five most recent complete tax years. The remainder of the property not included in the Facility shall continue to meet current requirements for the County's Land Use Assessment program in order to remain included in the program, as determined by the Commissioner of the Revenue upon approval of the Special Use Permit.
11. The applicant shall disclose to the Augusta County Service Authority if corrosion control systems are part of the Facility.
12. **ACSA Infrastructure.**

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- a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of the Augusta County Service Authority.
 - b. No panels and/or appurtenances, including fences and landscaping shall be installed within 20 feet each way of the centerline of any existing water or sewer main to ensure adequate space for future operations and maintenance.
 - c. Where public water/sewer utilities are located on the same property as the Facility, the Service Authority shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.
13. The Applicant must obtain site plan approval within 12 months of the issuance of the Special Use Permit and shall substantially complete construction within 36 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.

Operating Conditions:

1. This Special Use Permit ("Permit") is granted solely for the subject property for operation of a small solar energy system (the "Facility"). This Permit shall be binding on Shared Solar HoldCo, LLC and any successor-in-interest, including but not limited to any current or future owner, lessee, sub-lessee, and permitted assignee ("Applicant").
2. The Permit shall not be assignable by Shared Solar HoldCo, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.
3. Any document memorializing or relating to the establishment of any successor-in-interest, e.g., lessee, sub-lessee, future owner, permitted assignee, etc., between Shared Solar HoldCo, LLC and any such individual or business entity, shall include a recital as to the existence of the Permit, and the duties and obligations of the third party and now successor-in-interest thereunder the Permit, to ensure that successors-in-interest are on written notice of the Permit and its terms and conditions. A copy of these conditions shall be recorded in the clerk's office of the Circuit Court for the County of Augusta, Virginia.
4. The Facility, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), and setbacks (unless otherwise

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determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Concept Site Plan prepared by Secure Futures, dated June 18, 2021.

5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the Facility and its successors and assigns.
6. All non-operational, non-electrical site features along the perimeter of the Facility, such as landscaping and fencing, shall be properly maintained throughout the life of the Permit. Fencing shall be maintained in good repair and landscaping shall be maintained so as to provide the desired buffer benefits. Maintenance of such features shall be guaranteed by the surety agreement and surety as provided below. If the Zoning Administrator and/or his/her designee determines that site features identified are not being properly maintained, as described herein, then the Applicant shall be given a notice to remedy as is the standard zoning violation policy of Augusta County.
7. Setbacks, either as shown on the Concept Site Plan, or set by the Board of Zoning Appeals during their review, shall be measured from the property line and/or VDOT Right of Way to the fence line of the Facility.
8. The Applicant shall not add additional photovoltaic panel areas, change the entrance locations of access roads (unless otherwise required by VDOT in a written statement), or revise the height, placement, or design of landscaping buffer elements without prior approval by the Augusta County Board of Zoning Appeals.
9. The Zoning Administrator or any other parties designated by the Zoning Administrator shall be allowed to enter the property at any reasonable time to check for compliance with the provisions of this Permit, with at least 24 hours of advance notice and subject to the security, health and safety standards and regulations that apply to the Facility.
10. The Applicant shall preserve and maintain existing forest/vegetation where it serves to meet buffer standards or standards for alternative compliance as required by ordinance from adjacent property and public right of ways, and is not in conflict with the solar panels, as indicated on the Concept Site Plan. See 5.C and 5.D in the pre-conditions of this Special Use Permit.

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11. All construction and decommissioning activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m., Monday through Saturday, and will be prohibited on Sundays. These conditions shall apply to noise generated during the construction of the Facility and to any construction needed during replacement, repair, or maintenance activities during the ongoing operation of the Facility. Replacement, repair, and maintenance activities conducted at nighttime and not involving construction shall comply with all applicable noise standards.
12. The Facility shall not be lit during ongoing operations, unless as required by the Uniform Statewide Building Code. Lighting used during construction shall be downward facing and shall be located at least 500 feet from any adjacent residential property.
13. In the event that there is damage to adjoining properties as a result of ingress/egress of construction vehicles, the Applicant shall repair all damage in full prior to the commencement of commercial operations.
14. All solar panels shall use anti-reflective coatings.
15. All topsoil shall not be removed from the site.
16. The Applicant shall implement the following additional measures during construction:
 - a. Maintain all construction-related vehicles in good working order.
 - b. Designate a specific individual and provide that individual's name and contact information to the Zoning Administrator and/or his /her designee, to which questions, complaints, or concerns during construction may be directed.
 - c. Prior to the initiation of construction, mail a notice of construction activity to all property owners whose properties are adjacent to areas on which the Facility will be constructed. The notice shall summarize upcoming construction activities, describe the areas in which construction will occur, including the main routes of delivery, and provide the name and contact information of the Facility representative to whom any complaints, concerns, or comments may be addressed.
 - d. Provide adequate portable sanitation facilities that are located in a manner that facilitates ease of disposal but that are not within one hundred and fifty (150) feet

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of any property boundary of a parcel on which a home is located and whose owner is not participating in the Facility.

- e. Prohibit any personnel associated with the construction of the Facility from overnight lodging at the site.
17. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.
18. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.
19. The Applicant shall fund, for the period of construction and until the site has been revegetated, a certified third-party erosion and sediment control and stormwater inspector, to be selected and directed by the County Administrator and/or his designee. Such erosion and sediment control and stormwater inspection shall provide e-reporting to a central File Transfer Protocol (FTP) site to which the County's Program Administrator shall be granted access. Reports will be submitted no later than next day following any inspection and shall include the inspection report for each disturbed area of development. Site inspection and reports shall be conducted and reported at a minimum as required by the Virginia Stormwater Management Program ("VSMP") permit. Any corrective actions done in the field shall be e-mailed to the County's Program Administrator within 24 hours of completion.
20. This Permit shall be valid from the time of issuance and thereafter for a period of 30 years from the start of commercial operations of the Facility, which shall be the date on which the Facility first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the 30 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant

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to the conditions herein, the Facility shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.

21. Solar Panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control.
22. Corporate Structure, Associations, and Information. Applicant and all successors-in-interest, including current and future owners, lessees, sub-lessees, and permitted assignees shall provide the Zoning Administrator, with a copy to the County Attorney, written notice of changes of ownership of the solar facility within thirty (30) days thereof.
23. Any substantial upgrades or changes made to the design or operation of the Facility that are planned shall be disclosed to the Zoning Administrator and/or his/ her designee at least ninety (90) days before the intended implementation of the upgrades or changes – except as provided herein. Any substantial upgrades and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.
24. Upon completion of the installation of the Facility, Shared Solar HoldCo, LLC shall establish contacts with Augusta County Fire Rescue and Augusta County Sheriff's Office and provide both with an emergency management plan.
25. Any infraction of the above-mentioned conditions, or any Zoning Ordinance regulations, may lead to a stop work order and revocation of the Special Use Permit by the Board of Zoning Appeals.

BE IT FINALLY RESOLVED that the Augusta County Board of Zoning Appeals' decision to approve this Permit is predicated on the Augusta County Board of Zoning Appeals' understanding that the above conditions the Augusta County Board of Zoning Appeals hereby imposes upon this Permit are valid, lawful, and shall apply to the approved use for the life of the use, provided, however, that if any provision of these conditions is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of these conditions and this Permit shall nonetheless remain in full force and effect.

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Mr. Thacker stated there is only one (1) house near this site. This is a good site. He seconded the motion, which carried unanimously.

OLD BUSINESS

RANDY SHOWALTER - CONSIDERATION TO CANCEL A SPECIAL USE PERMIT

A consideration to **cancel** the Special Use Permit held by Randy Showalter for a motor vehicle repair operation and impound area on property owned by Kimberly A. Miller, located at 105 Shulls Lane, Mount Solon in the North River District.

Mr. Wilkinson reminded the Board that this cancellation request is due to his failure to complete his pre-conditions. The permit has never been issued.

Mr. Randy Showalter stated he is working with Blackwell Engineering on getting his building turned over to S-1 as well as working with GW Wiseman. The fence is all done.

Chair Tilghman stated you do not have a permit to operate a business.

Mr. Wilkinson stated the applicant is operating a business without a license. The Board approved it on November 7, 2019 with pre-conditions. He asked if Blackwell will also do the engineering plan for you?

Mr. Showalter stated yes.

Mr. Coyner asked why are we here two (2) years later?

Mr. Showalter stated last year I did not know if I was going to be in business very long with all that went on.

Mr. Coyner stated the County is to the point where we are not going to draw this out so much longer.

Mr. Showalter stated they are going to try and come out there and get the rest of this stuff going and finishing this project.

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Mr. Wilkinson stated when the buildings were converted into commercial use, they were not built or inspected for that, you are required to get an engineer of your choice to go ahead and rate the building to see if it meets Building Code for the commercial use. The engineering firm also has the capability to do the Stormwater Plan. He has not received anything from the Health Department yet. Mr. Showalter should contact the Health Department to submit their approval to us.

Mr. Coyner asked if this would be done in ninety (90) days?

Mr. Showalter stated yes.

Mr. Coyner stated you do a really good job. It would be a shame to see you out of business because you did not keep up with some of these details. There is a potential for that to happen if you do not get it done. We do not want to put you out of business.

Mr. Wilkinson stated the applicant should contact Blackwell Engineering to be sure they complete the pre-conditions. Staff will be glad to help you or answer any questions about getting these conditions completed.

Mr. Thacker moved to give the applicant ninety (90) days in order to complete the pre-conditions of their Special Use Permit. If the conditions are not completed by January 6, 2022, the applicant's permit will be cancelled. There will be no further extensions.

Mr. Coyner seconded the motion, which carried unanimously.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

TIMOTHY D. OR TRACY L. CUPP - EXTENSION OF TIME REQUEST

A request by Timothy D. or Tracy L. Cupp, for a Special Use Permit to construct a 40' x 40' building to store business vehicles and materials for the existing electrical contractor business on property they own, located at 279 Patterson Mill Road, Grottoes in the Middle River District.

Mr. Coyner moved to approve a one (1) year Extension of Time.

Mr. Bailey seconded the motion, which carried unanimously.

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DUANE WITMER - EXTENSION OF TIME REQUEST

A request by Duane Witmer, for a Special Use Permit to have a concrete pumping business on property owned by Mary A. Witmer, located at 188 Coffman Road, Weyers Cave in the North River District.

Mr. Glover moved to approve a one (1) year Extension of Time.

Mr. Thacker seconded the motion, which carried unanimously.

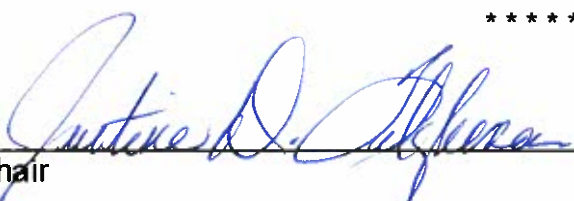
STAFF REPORTS

- 20-49 Randall Lee or Allison M. Fink
- 20-50 Dixie Gas and Oil Corp.
- 20-51 Kenneth Ray Bradley, Jr., Inc.
- 20-52 Kenneth Ray Bradley, Jr.
- 20-53 Monica L. Rutledge
- 20-54 Zane M. or Katherine P. Houff
- 20-55 SA Holdco, LLC

Mr. Wilkinson stated SUP#20-49 and SUP#20-50 are both in compliance. He stated the fence is installed for SUP#20-51 but the applicant still needs their VDOT letter. He stated SUP#20-52, SUP#20-53, SUP#20-54, and SUP#20-55 are all in compliance.

Mr. Benkahla discussed the court cases with the Board.

There being no further business to come before the Board, the meeting was adjourned.



 Chair



 Secretary