

December 7, 2023

PRESENT: George A. Coyner, II, Chair
 Mark L. Glover, Vice Chair
 Thomas V. Thacker
 Sandra K. Bunch, Zoning Administrator and Secretary
 James R. Benkahla, County Attorney
 Doug Wolfe, Director of Community Development
 Kathleen Keffer, Assistant County Attorney
 Julia Hensley, Planner II
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Thomas W. Bailey

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 7, 2023 at 9:00 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at **9:00 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:

- **BRANDON R. BURKHOLDER - SPECIAL USE PERMIT**
- **STUART SQUIER, AGENT FOR VERIZON WIRELESS - SPECIAL USE PERMIT**
- **QUENTIN WOOD, PE, AGENT FOR WAYNE AVE SOLAR 2, LLC - 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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ABSENT: Thomas W. Bailey

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 7, 2023, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Thacker moved that the minutes from the November 2, 2023, meeting be approved.

Mr. Glover seconded the motion, which carried unanimously.

BRANDON R. BURKHOLDER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Brandon R. Burkholder, for a Special Use Permit to have an office for an audio visual setup production business with outdoor storage of commercial vehicles on property owned by Brandon R., Sarah F. and Robert M. Burkholder, located at 53 Deerwood Lane, Lyndhurst in the South River District.

Mr. Brandon Burkholder stated I would like to use a portion of my 64 x 64 building for audio and video production equipment storage. I would also like to have three (3) commercial vehicles at the site parked along the fence row.

Chair Coyner stated the Board visited the site this morning. We saw a number of trucks and trailers at the site.

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Mr. Burkholder stated one of the trailers are not mine. I have an enclosed trailer, a box truck, and a vehicle that I use for a daily driver.

Chair Coyner stated we saw speakers outside. They will need to be kept inside the building.

Mr. Burkholder stated the property is a work in progress. I rent a storage facility and the speakers will go there.

Chair Coyner asked if there would be any customers coming to the site?

Mr. Burkholder stated no.

Mr. Thacker stated the applicant has two (2) company vehicles and one (1) trailer. The personal vehicles do not count. Is this all that you would have or do you think you would like to have more down the road?

Mr. Burkholder stated I would not want to have more right now. If I get another vehicle or trailer, I will replace the ones I already have.

Chair Coyner asked if there are employees?

Mr. Burkholder stated no.

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

There being none, Chair Coyner declared the public hearing closed. The Board viewed the property this morning. The property is well maintained except for the speakers outside.

Mr. Glover stated this should not have a negative impact on the neighboring properties. He moved to approve the request with the following conditions:

Pre-Conditions:

None

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Operating Conditions:

1. All equipment and materials for the business be kept in the 32' x 64' portion of the building.
2. Be limited to two (2) licensed company vehicles at the site and one (1) sixteen (16') foot trailer parked in the designated area shown on the site plan.
3. No employees.
4. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
5. Site be kept neat and orderly.

Mr. Thacker seconded the motion, which carried unanimously.

STUART SQUIER, AGENT FOR VERIZON WIRELESS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Stuart Squier, agent for Verizon Wireless, for a Special Use Permit to construct a 199' wireless telecommunications tower on property owned by Ray Hawpe Strickler, located at 85 Shenandoah Mountain Drive, West Augusta in the Pastures District.

Ms. Lori Schweller, an attorney with Williams Mullen, stated I have a presentation on behalf of Verizon Wireless (copy is in the file).

Chair Coyner asked if there will be an access road that goes to this?

Ms. Schweller stated the existing road comes off of Route 250. Verizon will improve the road and put down 12' of gravel to the site.

Chair Coyner asked how much traffic will come to the site once the tower is established?

Ms. Schweller stated once constructed, there will be very few trips. There is not a lot of traffic, only a technician to check the site.

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

Mr. Steve Morris, 203 Hotchkiss Road, Churchville, thanked Verizon for working on this tower. This tower is needed. I would hope we would get more carriers in the area. Please approve this tower.

Mr. William Shaver, 1144 Braley Pond Road, West Augusta, stated I am in favor of this request. People come to the area to hike, fish, hunt, ride horses and they have no cell service in the area. There has been accidents or people riding that could not get cell service in the area. People have come to my house to use the phone because they could not get cell service to call for help. Without cell service we cannot call for help. I appreciate Mr. Strickler putting this tower on his property.

Mr. William Tribble, 810 Braley Pond Road, West Augusta, stated this will help me get high speed internet.

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

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

Chair Coyner stated the Board visited the site today and the area does need cell coverage.

Mr. Thacker asked what is the signal radius for the tower?

Ms. Schweller stated for a 199' tower Verizon has coverage anywhere from 2-3 miles depending on obstructions and the terrain. We think coverage will go half way to Deerfield and east towards Churchville towards the Buckhorn Inn.

Mr. Thacker asked if the signal can be turned up to get more coverage area?

Ms. Schweller stated there is no other tower in the area for at least three (3) miles. This is very much needed.

Chair Coyner stated the tower is very much needed.

Mr. Thacker 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" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies including Erosion and Sediment Control Plan and Stormwater Management Plan.
2. The applicant will submit all necessary information and a bond, irrevocable letter of credit or appropriate surety to comply with Section 25-68.7 "Bonding" of the Augusta County Zoning Ordinance within **two (2) years**.

Operating Conditions:

1. Be permitted to construct a 195' monopole style telecommunication tower with a four (4') foot lighting rod.
2. Be permitted to construct the tower fifty (50') from the rear property line adjoining National Forest property.
3. No additional landscaping or buffering is required to screen the fenced compound area.
4. All existing trees and vegetation around the perimeter of the fenced compound remain and be maintained as a natural buffer.
5. Tower design will allow a minimum of three (3) additional co-locators.
6. The tower will not be lighted.
7. The applicant will notify the Augusta County Community Development Department within thirty (30) days of the date the tower is no longer used for telecommunication purposes. The tower shall be disassembled and completely removed including the concrete pad to a depth of at least three (3') feet below grade and all equipment from the site within 180 days of such notification.
8. The applicant will not unreasonably deny the telecommunication providers the opportunity to co-locate on this tower.

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9. The County will have the option of co-locating public safety communications equipment and antenna on this site for future growth and upgrade of the radio system, including law enforcement communications.
10. Construction of the approved project shall commence within **two (2) years** of final approval and be diligently pursued until completion.

Mr. Glover seconded the motion, which carried unanimously.

QUENTIN WOOD, PE, AGENT FOR WAYNE AVE SOLAR 2, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Quentin Wood, PE, agent for Wayne Ave Solar 2, LLC, for a Special Use Permit to construct a 3 megawatt solar facility on property owned by Ellen B. Fitzgerald and Laura B. Fitzgerald, located within the field to the east of the house at 147 Wayne Avenue, which is south of the railroad that parallels Wayne Avenue, Stuarts Draft in the South River District.

Ms. Jessie Robinson and Quentin Wood with New Leaf Energy presented a PowerPoint presentation to the Board (copy is in the file).

Chair Coyner asked if the height of the panel is 15'?

Mr. Wood stated yes. The panels are 2' closer to the ground.

Chair Coyner asked if that still allows room for sheep?

Mr. Wood stated yes.

Chair Coyner stated there will be six (6) acres under panel but the lease is for 20+ acres.

Mr. Wood stated 23 acres are fenced. The project takes up a lot of area. There is a stormwater basin. They will be in a 15' row. We have to maintain no closer than 15' spacing due to the fire department comments.

Chair Coyner asked if the vegetation will grow underneath?

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Mr. Wood stated yes. We will have sheep on the property and provide a very dense vegetative cover on the property. We will not have any erosion concerns.

Chair Coyner asked if the buffer of the trees will be planted six (6') foot on center?

Mr. Wood stated six (6') foot is the minimum in the County. We would like a berm along the adjacent site.

Chair Coyner asked if the trees will be maintained if one dies?

Mr. Wood stated yes.

Chair Coyner asked if the panels move according to the sun?

Mr. Wood stated yes.

Ms. Robinson stated at the end of the day they will go back to where they originally were.

Chair Coyner asked if they make noise?

Mr. Wood stated yes. There is an electrical motor for the panels.

Chair Coyner asked if the panels are American made?

Ms. Robinson stated the act that was passed recently gives incentives to developers to procure the use of solar panels in the states (tax breaks). There is not a supply here right now and factories are working on that because now there is a big demand on developers. It will not be here for this project so we probably will not be able to source them in the United States for this project.

Chair Coyner asked when will this be in operation?

Ms. Robinson stated we will need to receive site plan approval. Construction should begin in 2025.

Mr. Daniel Dotterer stated I am one of the first solar grazers. My family has farmed for 300 continuous years. Almost all of that time we have had sheep. We have had 1,100-1,200 sheep. I am on the Board for the American Solar Grazers Association. We would have to see how the vegetation grows in this area. I would bring in the sheep from March

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– December. We do rotational grazing. We will have 10-12 paddocks and every four (4) days we will do a rotation.

Mr. Thacker asked if there will be water sources for each paddock?

Mr. Dotterer stated we can move them around. I do not think we finalized water but some sites we use a hose and some places we have to bring in water. Someone comes every 3-4 days.

Mr. Glover asked if there is a fee to the subscriber?

Ms. Robinson stated no.

Mr. Glover asked if a panel gets damaged how does it get disposed of?

Mr. Wood stated currently it will end up in the landfill. They are currently working on developing recycling facilities but there are few around us now.

Chair Coyner asked if there will be extra poles and wires from the panels to the ground?

Mr. Wood stated the wires are ran underground within the pad. There are small inverters where the pad is.

Chair Coyner asked what happens if there is a fire?

Mr. Wood stated the power disconnects at the pole. The site is monitored remotely and any issue the power would be shut off.

Mr. Thacker asked if the local power company will be able to cut the power?

Mr. Wood stated I am not sure about cutting power but they would have access to the facility.

Chair Coyner asked if there are local people that will service the site or would they be from out of the state?

Mr. Wood stated I believe they would have someone local.

Mr. Glover stated if one is damaged it will go to the landfill. Our landfill will not take them, do you have a plan for this?

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Mr. Wood stated these panels fall below the hazardous levels that are set by the EPA.

Ms. Bunch stated if the permit gets approved, the Board will approve what is submitted. The plans have a landscape buffering and no berms were ever mentioned. The plans state a landscape buffer. Staff will need to have a revised plan that shows the berm along with the landscaping.

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

Mr. David Fitzgerald, 147 Wayne Avenue, Stuarts Draft, stated I have lived here for 44 years. Solar is an excellent combination for farming as well as have some income during retirement. They plan on doing sheep grazing. It will be good to keep the rest of the land in farming. I will be the closest neighbor.

Mr. Paul Fitzgerald stated I grew up in the Stuarts Draft area. I have a vested interest in this project. The Stuarts Draft Small Area Plan identified just over 8,000 acres in the Urban Service Area for Stuarts Draft. The solar farm here is really large but we are looking at this as a small project. This property has restricted access and a private railroad crossing. I have had limited experience with the railroad but I do not think they would support any upgrade to a commercial crossing. Solar needs to be near an interconnection point and it is usually in a development or in an urban area instead of in the rural areas. Even though this is in an Urban Service Area, it is adjacent to electrical connection points. Development and growth is encouraged in Urban Service Areas but this is not a site ideally feasible for residential or industrial development because of its limited access and the railroad crossing. The applicant has done a good job with explaining this. This will have a low impact particularly due to the railroad which will act like a natural berm. There will also be additional landscape which reduces any negative impact. This property is a good candidate for solar and does not conflict with the goals of the Stuarts Draft Small Area Plan.

Mr. Skyler Zunk with Energy Right stated I have had conversations with the Planning Commissioners and Board of Supervisors since the Comprehensive Plan update in July 2021. These are good policies that take place to encourage good projects like this one. This will preserve agriculture and soils. I attended the community meeting at Schneider Park in late August. There was concerns about the view shed. The sheep will serve the agriculture use. Property rights is an important element. Folks feel like they should be able to use their land as they see fit. It is important that we have clean energy for the grid

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and create extra income for the owners while doing this. Energy Right is here as a resource if there are any questions.

Mr. Philip Fitzgerald, 51 Woodview Court, Stuarts Draft, stated I am in favor of the project. This will benefit the community. They plan on raising sheep at the site and still be able to farm. I am in favor of this project.

Ms. Theresa Schneider, 116 Ox Road, Waynesboro, stated this property is right behind Hollister and across the street from residential. Would this be like the solar farm at Goose Creek and Jefferson as far as how close it is to residential? During construction and afterward where are damaged/broken panels discarded as they cannot go to the landfill? Who will be responsible for maintenance and proper disposal of the panels? Make sure it is taken to a reputable company. How will we hold them accountable? Some would be damaged due to weather and some will be defective. Are residents being informed that damaged/broken solar panels cannot be discarded in the landfill or left on the ground due to possible contamination of our water supply (lead and cadmium)? There is a total of 75 acres with two projects. Will there be others besides this? This is so loosely regulated right now. If I am a homeowner, I would have to pay to get this transported somewhere. If there is a problem with the panel, I cannot take it to the landfill. Would it be done with a permit? Are there fines in place? Lead and cadmium are two hazardous components. Cadmium is a byproduct of Zinc. From an article written, it states it is one of the most toxic elements exposed to at work or in an environment. It can cause many issues and an increased risk of cancer. You are choosing to go from fossil fuels to renewals. How do I guarantee it because we are replacing one evil with another. If wind and solar on its own is proven to be a failure, are you backing it up with nuclear? Most people will not say anything but I want to make sure it is a good thing. Please address the issue that our water will not be contaminated because our water is also surrounded by County water. Please do not wait for something to happen to address it. If someone gets sick because the water has gotten contaminated who will be responsible. I see illegal dumpsites happening because this is so loosely regulated. If the company does this, they need to be held responsible. If water gets contaminated, fine them or put them in jail. I did not know solar panels had hazardous materials until three weeks ago. I tried to get this addressed with the Board of Supervisors but I get no response. When I pulled the regulations for solar panels for the County, I got a two page generic form that told me nothing. The Planning Commission is going to amend the chapter but that means nothing to me. China will probably provide these solar panels. Please be responsible.

Mr. William Monroe with Augusta Water stated I am here on behalf of our Board of Directors. They have asked me to come and address the Board of Zoning Appeals

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concerning this project. We are not in favor or in opposition to this. Augusta Water's mission is to support and work with the County to achieve development objectives in a fiscal responsible manner. The County's Comprehensive Plan does identify the property here for this project as in an Urban Service Area with Future Industrial Use. Compliance with the Comprehensive Plan would require water and sewer service extensions if the property were to be developed. Drinking water would be provided to the area by the South River Zone which is fed by multiple sources. There is a 6" water main that exists on an adjoining property, 1,300' to the east, second 6" main at the intersection of Sylvan Drive and Wayne Avenue and a larger interconnected 10" main located approximately 1,800' to the west across an adjoining parcel. Sewer will be treated at the Stuarts Draft Wastewater Treatment Plant which is rated at 4,000,000 gallons per day. There is a 24" sewer main existing on an adjoining property, approximately 1,300' to the east. Augusta County's Comprehensive Plan as amended addresses utilities as it relates to water and wastewater utility planning. 1) Develop water supply sources to meet current and future County demands 2) Develop wastewater treatment sources to meet current and future County demands 3) Public water and sewer should be designed to serve full development of the planning area and/or sub area. The plan states development in these areas is expected to utilize public water and sewer and should develop commensurate with those that is recommended in the Plan. Designated Urban Service Areas are the first priority location where the expansion is for public water and sewer facilities. As a water and sewer authority, Augusta Water does not receive any tax revenue, all revenue is generated from the water and sewer services that we provide. When we consider future use of the property as envisioned in the Comprehensive Plan if industrial development would occur on this property, Augusta Water estimates that it could generate \$750,000 depending on when development occurs. This is derived from a customer utilizing a 6" water meter and the customer utilizes about 12,000,000 gallons, this is based on the average annual usage for all existing industrial customers. Our Mission Statement directly implies that Augusta Water supports the County's Comprehensive Plan. We have made and we will continue to make investments of our ratepayers money based on these things. We do those in good faith and we ask that the Board of Zoning Appeals take those into consideration when your making these decisions.

Mr. Rick Pfizenmayer, 30 Round Hill Drive, Stuarts Draft, stated Wayne Avenue Solar 2 (approximately 88 acre project) has three obvious reasons why it is not in substantial accord with the Comprehensive Plan. Policies 2, 5 and 6, there will be issues with the visual impacts. This will change the character of the area in the same manner as what the recently rejected Shenvalee project. This is a phase development and there is clustering as addressed in Policies 2 and 12. The Board already approved another small scale project and now you are being asked to approve this small scale project even though it was originally conceived as a small scale project but now it is a large scale

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project. The size of this will set a bad precedent. Wayne Avenue Solar 2 is not in substantial accord with the Comprehensive Plan and should be denied a Special Use Permit.

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

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

Ms. Robinson stated we are open to adding a condition about the berm to the landscape plan as part of the approval. The panels are not out of cadmium. They are Tier 1 (industry standard) which has a warranty of at least 25 years and are below the limits that the EPA sets. When it comes to decommission we will always use the best and most responsible practices for the panels and if recycling is in place that would be our ideal solution.

Chair Coyner stated since your company has been in business for a while, I am assuming you have that in place already as to where you can get rid of those panels.

Mr. Wood stated it is based on each project locally. There is a place in Texas.

Chair Coyner asked if there is a contract?

Ms. Robinson stated this is a 23 acre project with 6 acres being under panel. Both projects are less than 50 acres. This project meets or exceeds the Zoning Ordinance requirements. Staff has found this project to be in substantial accord with the Comprehensive Plan.

Chair Coyner declared the public hearing closed. The Board visited the site this morning. Even though the property is in the Urban Service Area, the railroad is a major roadblock in order to have typical development there.

Mr. Thacker stated a berm with the excess soil would be a positive for the project.

Ms. Bunch stated the applicant cannot deviate from the concept plan that was submitted once it is approved. Staff will need an updated plan that shows everything that we discussed. Going forward when you pick a specific alternative for buffering that is what you will need to show on the plan. Alternative 1 is a berm or a fence. The applicant chose Alternative 2.

Mr. Wood stated we would like to have the berm on the backside.

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Ms. Bunch stated we can work with that as long as there is no other changes when it comes for site plan review.

Mr. Glover stated other requests that came before the Board were also in the Urban Service Areas but in this case there is a railroad which does make this piece of land difficult to use than what it is currently being used for.

Chair Coyner stated the land will still be used for agriculture since there will be sheep.

Ms. Bunch stated we have never put sheep grazing as an operating condition. If we condition it than you need to have sheep there.

Mr. Wood stated we are comfortable with the language that we proposed on the screen regarding the sheep grazing as well as other proposed changes to the conditions.

Ms. Bunch stated staff discussed the proposed changes and were not in agreement with the surety condition proposed. There was an error on the conditions that should read 365 days instead of six (6) months. Staff did change that condition.

Mr. Benkahla stated condition #14 should be changed to: No topsoil shall be removed from the site.

Ms. Bunch stated we do not typically offer a condition for sheep grazing. If you do not graze the sheep and it is listed in the condition you will be in violation.

Mr. Wood stated there will be certain times of the year they will not have sheep there. We are fine with using the wording at appropriate times or commercial reasonable.

Ms. Bunch stated we cannot use appropriate times or when it is commercially reasonable. The land is agriculture and it is an approved use. We do not typically put that as a condition.

Mr. Wood stated if you do not feel it is necessary, that is fine.

Mr. Glover stated this request is in compliance with the Comprehensive Plan. Based on Policy 6: The development potential of the property is limited since the site access crosses a main rail line and siding, which severely limits the development of the parcel for Industrial uses. The applicant is willing to plant trees and a berm. They plan to do what they can to make this fit and be harmonious with the area. I support the staff

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recommendations in the report. He moved to approve the request with the following conditions:

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, including buffering on the north, east, and west, and natural vegetation to the south.
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

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Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights of landscaping.

- 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.

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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 forty (40) of operation.
- l. Costs must include a 25% contingency of the total estimate.

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- 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 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.
9. 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.
10. 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.
11. 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

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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.

12. The applicant shall disclose to the Augusta Water if corrosion control systems are part of the Facility.
13. Augusta Water Infrastructure.
 - a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of Augusta Water.
 - 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, Augusta Water shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.
14. The Applicant must obtain site plan approval within 24 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 Wayne Ave Solar 2, 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 Wayne Ave Solar 2, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.

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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 Wayne Ave Solar 2, LLC 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 determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Site Plan prepared by New Leaf Energy, Inc. dated 12/06/23.
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.

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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.
11. All construction and decommissioning activities shall be limited to the hours of 7:00 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. All solar panels shall use anti-reflective coatings.
14. No topsoil shall be removed from the site.
15. 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.

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- 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 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.
16. 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.
17. 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.
18. This Permit shall be valid from the time of issuance and thereafter for a period of 40 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 40 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant 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.

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19. 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.
20. 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.
21. 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.
22. Prior to the activation of the Facility, Wayne Ave Solar 2, LLC, shall provide training to the Augusta County Fire Rescue and Augusta County Sheriff's Office. This training and education shall include documentation of onsite material and equipment, proper firefighting and lifesaving procedures, and material handling procedures.
23. Local Subscribers - If the project secures a place in the Shared Solar program, prior to beginning commercial operation of the utility-scale solar facility, the Applicant shall work in good faith and use its best efforts to identify residents of Augusta County, Virginia and its incorporated towns to voluntarily subscribe to its community solar program ("Local Subscribers"). Outreach efforts to Local Subscribers may include, among others, advertising in a local newspaper of record and hosting informational community meetings. The Applicant will give notice of such informational community meetings to the County Administrator.
24. Contribution for Public Improvements – The Applicant, or, if different from the Applicant, the facility owner and/or operator, shall provide to the County a one-time cash payment in the amount of \$50,000 on or before the date that is 90 days following the commencement of commercial operation of the solar facility. This payment is provided in accordance with the provisions of Virginia Code

§15.2-2288.8.B. The Applicant, facility owner and/or operator shall provide written notice to the Zoning Administrator within ten (10) business days of when the solar facility commences commercial operation. The Applicant, facility owner and/or operator shall be jointly and severally responsible for the payment of the cash payment required by this condition.

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.

Mr. Thacker seconded the motion, which carried unanimously.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

BERNARD LEE CHRISTIAN, III - EXTENSION OF TIME REQUEST

A request by Bernard Lee Christian, III, for a Special Use Permit to construct a new building to have a motor vehicle repair operation including body and fender work on property he owns, located on the east side of Tinkling Spring Road (Route 608), Stuarts Draft in the South River District.

Ms. Bunch stated the applicant has hired an engineer. They are planning to submit a site plan for the project.

Mr. Thacker moved to approve the one (1) year Extension of Time.

Mr. Glover seconded the motion, which carried unanimously.

STAFF REPORTS

- 23-5 Mint Spring Development, LLC
- 23-6 Douglas J. Napier
- 23-7 Shady Haven Properties, LLC
- 23-8 Samuel & Jessica Boppe
- 23-9 Jacob W. Back
- 23-10 Gobble Hoo, LLC
- 23-11 VA District of United Pentecostal Church

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23-12 Kevin S. & Amber N. May
23-13 RAE Enterprises, LLC

Ms. Bunch stated staff sent a letter regarding SUP#23-5 for not completing the pre-conditions. The request will come before the BZA in January for an Extension of Time. SUP#23-6 was denied. Staff sent a notice regarding the wrecked vehicle for SUP#23-7. The applicant has since removed the vehicle. This permit will be reviewed in March by the Board. SUP#23-8 and SUP#23-9 are both in compliance. Staff sent a letter regarding SUP#23-10 for not completing the pre-conditions. The request will come before the BZA in January for an Extension of Time. SUP#23-11, SUP#23-12, and SUP#23-13 are all in compliance.

Ms. Keffer discussed the court cases with the Board.

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


Chair


Secretary