

Minutes  
Essex County Planning Commission  
Regular Meeting  
February 6, 2024  
7:00 P.M.

A regular meeting of the Essex County Planning Commission was held on February 6, 2024, at the Essex County School Board Office, Tappahannock, Virginia.

Present:

David Jones – Chairman  
Angelo Stevens, Jr. – Vice Chairman  
Stephen Walters  
Wright Andrews  
Scott Mundie  
Trent Taliaferro

Absent:

Jean Segar

Also present:

Kelly McKnight – Building & Zoning Office Manager  
Brian Barnes – Zoning Administrator

**CALL TO ORDER**

David Jones, Chairman, called the regular meeting of the Planning Commission to order at 7:00 pm.

**ROLL CALL**

Chairman Jones asked Ms. McKnight to call the roll. A quorum was met.

**MEETING AGENDA**

Chairman Jones asked if any changes needed to be made to the agenda.

**APPROVAL OF MINUTES**

Chairman Jones asked if there were any corrections or additions needed for the January 3, 2024, minutes? Mr. Andrews made a motion to approve the minutes as presented. Mr. Mundie seconded the motion. AYES: 6 NAYES: 0 ABSENT: 1

## **PUBLIC COMMENTS**

None

## **PUBLIC HEARING**

None

## **OLD BUSINESS**

### **Discuss chapter one of the Essex County Comprehensive Plan**

Chairman Jones told the Planning Commission that Mr. Barnes wants to bring up things that are coming and then we will begin talking about the Comprehensive Plan.

Mr. Barnes said that it is good to have one more slow meeting because the Planning Commission is getting ready to get busy. There are a couple of things that we have been working on in the office that you will be seeing next month and the month after. One new piece of business that he wants the Planning Commission to know about is that we have a new staff person, and her name is Lauren Colley. She will be cross trained by me and by Ernie. That way if someone is sick, she can step in. Last week Lauren and I attended the Agricultural Forestry Economic Development Advisory Committee meeting. The Agricultural Forestry Economic Development Advisory Committee decided to break up into a couple of sub committees, they figured if it is three of them on a committee then we would have to take minutes and meet formally, if it is two of them that could be a sub committee and we could hang out at someone's house. They broke sections up as to where it is totally forestry issues on one side and totally ag issues on the other side. I am hopeful that they are going to come up with some good information for the Planning Commission. I will let you know, and Barry Bates is on this committee, and he looked around and said I think this is going to take us all summer and maybe into the fall to get a good recommendation for the Planning Commission for the Ordinance adoption.

The other thing that I want to update you on is I did have a gentleman come in with about a 450-acre piece of land and a potential 50 lot subdivision on that land. What he would like to do is take that parcel which is A-2 countryside and across the road is rural residential overlay. Our zoning ordinance specifically prohibits you from having a major subdivision in the countryside district it has to be rezoned R-2, his idea is to change the overlay from countryside to rural residential because rural residential overlay on A-2 would allow for a major subdivision. I am not saying I am for that, behind that or against that, my job as a staff person is to help him through the process and help him find as many facts as I can for the Planning Commission to make sure that everything is legal. We have been talking about it, but it is coming pretty fast. I got a call today from his engineer they already have a lot of it surveyed and platted, they just need to get some more details for the major subdivision paperwork.

One little note, coming from Lancaster County we had a block for action item, Comprehensive Plan amendment. As an applicant you could apply to have the Comprehensive Plan amended for your particular project. We don't have that in ours, but I do know that it is done and part of Virginia code and possible to be done. But this would be a new one for you all based on the files I have seen where someone is going to come in and do his major subdivision request, he would try to make a change in the overlay approved and then apply for the major subdivision. That is coming down the pike in the next month or two or three.

The next one you have is your first utility scale solar project that will be coming to you in a while. The paperwork was passed around so the Planning Commission members could see it. (attached below). I have several companies that have talked with us and zoom calls with Ernie and I and throw out things and then never hear from them again. Maybe the landowner didn't like it, or they decided to go somewhere else, or they didn't get position with Dominion. This company let me know yesterday that they are eager to take this and come to you for the comprehensive plan review, the 2232 review that is in the ordinance. I don't know if that will be March or April. When I have a firm on that I will send this to you in an electronic format, everything I have on this.



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**3MW SOLAR GROUND MOUNT PROJECT**

**PROJECT NAME: MUDDY GUT SOLAR**  
**PROJECT ADDRESS: 2543 BOSTON ROAD,**  
**DUNNSVILLE, VA, 22454**



THE SERVICES OF THE CONTRACTOR ARE LIMITED TO THE DESIGN AND CONSTRUCTION OF THE SOLAR SYSTEM. THE CONTRACTOR IS NOT RESPONSIBLE FOR THE DESIGN OF THE BUILDING OR THE FOUNDATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR SYSTEM. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

DEVELOPER:

SOLAR PROVIDER GROUP  
1050 KING ST W, SUITE 03A104, TORONTO, ON M8K 0C7  
+1 888-988-4877

CONTRACTOR:

NO. REVISION / ISSUE DATE

0 ISSUED FOR INTERCONNECTION 2023/12/04

PROJECT NAME:

MUDDY GUT SOLAR

SUPPLIER NAME:

SOLAR PROVIDER GROUP LLC

PROJECT ID NO.:

LOC PROJECT ID NO.:

LOCATION:

GPS COORDS:

2543 BOSTON ROAD  
DUNNSVILLE, VA 22454  
-78.83026881737405

DRAWING TITLE:

COVER PAGE

TAJ/SKAD FILE NAME:

MUDDY GUT SOLAR/REV01

SHEET:

0001

PLOT FILE NAME:

MUDDY GUT SOLAR/REV01

PLOT DATE:

2023-12-04

DESIGNED BY:

SKAD

CHECKED BY:

NTS

DATE:

12-27

DRAWING LIST	
SHEET NO.	DESCRIPTION
C001	COVER PAGE
A001	SITE PLAN - POWER LINE UPGRADE & INTERCONNECTION
A002	SITE PLAN - INTERCONNECTION / ELECTRICAL SETUP
E001	SINGLE LINE DIAGRAM - AC
E002	SINGLE LINE DIAGRAM - DC
D001	DATASHEET - RACKING SYSTEM
D002	DATASHEET - PV MODULES
D003	DATASHEET - INVERTER

PROJECT DEVELOPER	PROJECT MANAGER	FIT CONTRACT
SOLAR PROVIDER GROUP LLC	SOLAR PROVIDER GROUP LLC	---
1050 KING ST W, SUITE 03A104, TORONTO, ON M8K 0C7	1050 KING ST W, SUITE 03A104, TORONTO, ON M8K 0C7	
PROJECT ENGINEER: dev@solarprovidergroup.com	PROJECT MANAGER: sbuchstein@solarprovidergroup.com	
CIVIL ENGINEER	GEOTECHNICAL ENGINEER	PROJECT DESCRIPTION
		MODULE: Q.PEAK DUO XL-GH1S.3-600
		INVERTER: SMA SHP 150-US-20
		SYSTEM AC SIZE: 3MW
		SYSTEM DC SIZE: 4.32MW
		PROJECT AREA: ---
STRUCTURAL ENGINEER	MANAGEMENT OF ENGINEERING	
	SOLAR PROVIDER GROUP LLC	
	1050 KING ST W, SUITE 03A104, TORONTO, ON M8K 0C7	
	eng@solarprovidergroup.com	
LANDSCAPE ARCHITECT	CONTRACTOR	







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SYSTEM SETTINGS:  
 • AC MANIPULATIVE RATING = 3MW  
 • DC OUTPUT OF PV ARRAY = 4.52MW

DEVELOPER:  
 MUDDY BUT SOLAR  
 1000 MIDWAY BLVD  
 CHANTON, ONTARIO, ON M1K 0Z7  
 (905) 881-8888  
 WWW.MUDDYBUTSOLAR.COM

CONTRACTOR:  
 (Blank)

NO.	REVISION / ISSUE	DATE
0	ISSUED FOR INTERCONNECTION	2023/12/04

PROJECT NAME:  
 MUDDY BUT SOLAR

SUPPLIER NAME:  
 SOLAR PROVIDER GROUP LLC

PROJECT ID NO.:  
 LDC PROJECT ID NO.:

LOCATION:  
 27445 BOSTON ROAD  
 DANFORTH, ON L2R 4K4

GPS COORDS:  
 43.7874383048922  
 -79.52626917046

DRAWING TITLE:  
 SINGLE LINE DIAGRAM - AC

AUTOCAD FILE NAME:  
 MUDDY BUT SOLAR\_REV01

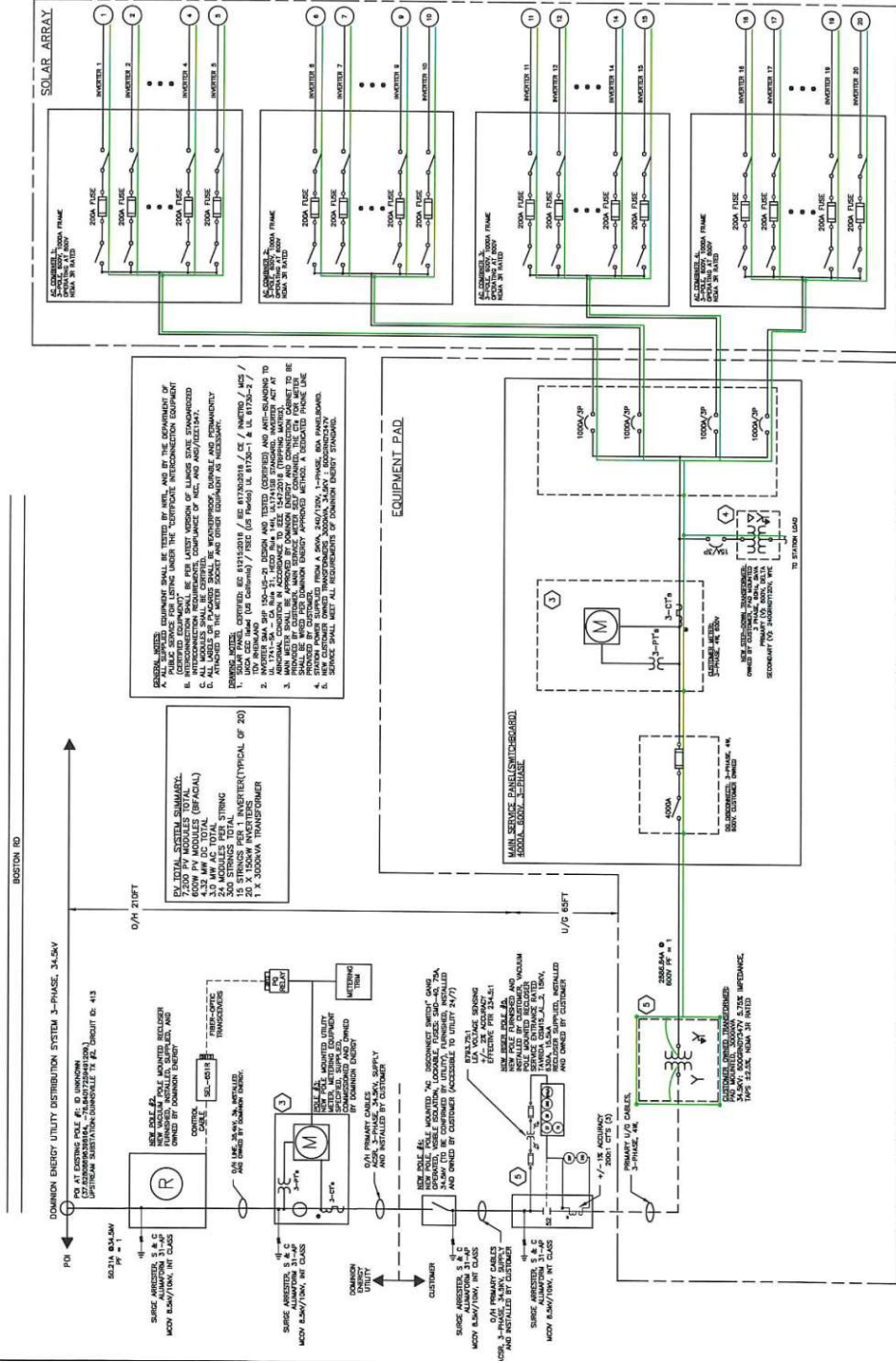
DATE:  
 2023-12-04

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CHECKED BY:  
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 NTS

PLOT TIME:  
 17:27









## THE NEXT-GENERATION OF SINGLE-AXIS TRACKERS

Providing Industry-Leading Ease of Installation, Performance, and Reliability

**SUPERIOR DESIGN FLEXIBILITY**  
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Easily optimize your system with a ground cover ratio (GCR) from 20 to 60 percent, 10-degree N/S slope tolerance, and maximized megawatt per acre capacity.

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Fastest in Industry Installation  
Voyager has the fastest module installation process in the world and uses up to 47% fewer posts than TP designs and up to 10% fewer ties than other 3P systems, resulting in lower caps and fewer rebar/bars.

**DESIGNED FOR RELIABILITY**  
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Our self-powered drive system requires no auxiliary power or communications systems, while providing data, diagnostics and updates from the cloud. The 4P software updates enable seamless upgrades.

**YIELD ENHANCEMENT SOFTWARE**  
Optimal energy yield for any project  
Sunpath software provides individual row backtracking, row-to-row backtracking, and row-to-row tracking that can add up to 6.2% in total energy output.



Datashheet

### YOYAGER+ DESIGN SPECIFICATIONS

Wind Speed Configurations	v105mph, v120mph
Module Architecture	Up to 120m/row as per ASCE7
Modules Supported	All framed Mono, Poly, Bifacial, UEM, FSUR6, FSUR6+
Module Attachment	4-A-Region/row PowerAttach clips per module, TSDIV Systems
String Architecture	1500V systems; 4 strings per row, up to 30 modules per string.
Power	Two Phase or Three Phase Inverter/Transformer DC self-powered drive system with up to 3-day battery backup
Drive Type	v105: 70M Stew Drive v120: v135: 100 NH Stew Drive per row
Posts per Row (typical)	7 posts per row (1 drive, 6 typical)
Post Size	1/2" (internal & external)
Post Type	Driven (primary), Screw, Concrete
Post Embed Depth (typical)	6'-10" (1.32m - 3.05m)
Operating Range of Motion	Up to 60° East - West
Stow Angle	0°
Stow Conditions	Wind Stow (7%), Optional Snow Stow (50%), Optional Flood Stow (0%), Optional Hail Stow (50° back to wind)
Backtracking	Individual Row Level (standard), Terrain-based Backtracking (included with SunPath)
Diffuse Light Capture	Available with optional SunPath
Ground Clearance	300mm (minimum)
Slope Tolerances	20-60% GCR supported 10° (17.5%) - North-South Unlimited - East-West
Snow Load	0psf - 50psf
Operating Temperature	0°C to +60°C (32F to 145F) (Opt), -4°C to +60°C (25F to 140F) w/AC Power
Sensor Package	Wind (50L), Snow and Flood (Optional) One Zone Controller for up to 99 rows (4x 0.1MW) Wireless ZigBee Mesh Network, Connects to SCADA/DAS through Modbus TCP communications
Communication Architecture	None
Special Installation Tools	None
Certifications	UL 2703, 2703 and IEC 62817, CE Declarations
Warranty	5 yr drive and control + 10 yr structure PowerGuard warranty backstop available



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**DEVELOPER:**  
SOLAR PROVIDER GROUP  
10000 WOODBRIDGE BLVD  
SUITE 100  
TOWSON, MD 21286  
+1 888-988-4877

**CONTRACTOR:**  
MUDDY CUT SOLAR

**REASON / ISSUE:**  
ISSUE FOR INTERCONNECTION

**DATE:**  
2023/12/26

**PROJECT ID NO.:**  
LSP PROJECT ID NO.:

**SUPPLIER NAME:**  
SOLAR PROVIDER GROUP LLC

**LOCATION:**  
2543 BOSTON ROAD,  
CARROLLTON, VA 22604

**GPE CODES:**  
374274330404922,  
743624240174740

**DRAWING TITLE:**  
DATASHEET - SOLAR TRACKER

**AUTOCAD FILE NAME:**  
SHEET:  
PLOT FILE: SOLAR\_TRACKER  
PLOT DATE:  
2023-12-04  
DRAWN BY: SOLAR\_PROVIDER  
SCALE:  
PLOT TIME:  
11:27





Section 36.404. - Solar energy, large-scale, power purchase agreement, and utility-scale.

(a) *Statement of intent.* The purpose of this section is to establish requirements for construction, operation, and decommissioning of solar facilities and to provide standards for the placement, design, construction, monitoring, modification, and removal of solar facilities; address public safety, minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for decommissioning.

(b) *Applicability.* This section shall apply to all solar facilities constructed after the effective date of this article, including any physical modifications to any existing solar facilities that materially alter the type, configuration, or size of such facilities or other equipment.

(c) *Applications and procedures.* In addition to other requirements of the Essex County Zoning and Subdivision Ordinance and conditional use permit requirements, conditional use applications for solar facilities shall include the following information:



(1) *Pre-application meeting.* Schedule a pre-application meeting with Essex County to discuss the location, scale, and nature of the proposed use and what will be expected during that process.

(2) *Comprehensive Plan review.* A 2232 review by the County as required by the Code of Virginia, § 15.2-2232 for utility-scale solar facilities. This Code provision provides for a review by the Planning Commission of public utility facility proposals to determine whether the general or approximate location, character and extent are substantially in accord with the Comprehensive Plan or part thereof.

(3) *Submit a complete conditional use permit application* including:

- a. Documents demonstrating the ownership of the subject parcel(s).
- b. Proof that the applicant has authorization to act upon the owner's behalf.
- c. A letter of commitment from the utility company who will interconnect to the facility.
- d. List of all adjacent property owners, their tax map numbers, and addresses.
- e. A description of the current use and physical characteristics of the subject parcels including identification and percentage of Prime Farmland and Farmland of Statewide Importance.
- f. A description of the existing uses of nearby properties.
- g. A narrative identifying the applicant, owner, or operator, and describing the proposed solar energy facility project, including an overview of the project and its location, approximate rated capacity of the solar energy facility project, the approximate number of panels, representative types, expected footprint of solar equipment to be constructed, and type and location of interconnection to electrical grid.
- h. Aerial imagery which shows the proposed location of the solar energy facility, fenced area, driveways, and interconnection to electrical grid with the closest distance to all adjacent property lines and dwellings along with main points of ingress/egress.
- i.

Fifteen sets (11" x 17" or larger), one reduced copy (8½" x 11") and one electronic copy of the concept plan in accordance with the requirements of Subsection (c)(4), including elevations and landscape plans as required.

- j. Payment of the application fee and any additional review costs, advertising, or other required staff time.

(4) *Concept plan.* A concept plan prepared by an engineer with a professional engineering license in the Commonwealth of Virginia, that shall include the following:

- a. A description of the subject parcels.
- b. Property lines and setback lines.
- c. Existing and proposed buildings and structures; including preliminary locations of the proposed solar panels and related equipment; the location of proposed fencing, driveways, internal roads, and structures; and the location of points of ingress/egress.
- d. The location and nature of proposed buffers and screening elements, including vegetative and constructed buffers and wildlife corridors.
- e. A grading plan, elevation plan, and a landscape plan.
- f. A landscaping maintenance plan.
- g. Existing and proposed access roads, drives, turnout locations, and parking.
- h. Location of substations, electrical cabling from the solar energy facility systems to the substations, ancillary equipment, buildings, and structures including those within any applicable setback.
- i. Fencing or other methods of ensuring public safety.
- j. Distance to all adjacent property lines and dwellings.
- k. Demonstration of compliance with applicable conditions set forth in the Chesapeake Bay Preservation Area Overlay District.
- l. An inventory of all solar facilities, existing and proposed, within a four-mile radius.
- m. Environmental inventory and impact statement regarding any site and viewshed impacts, including direct and indirect impacts and mitigations, to wetlands, waterways, floodplains, endangered and threatened species, national and state forests, national and state parks, wildlife management areas, conservation easements, recreational areas, or any known historic or cultural resources within three miles of the proposed project.
- n. The applicant shall consult with the Department of Wildlife Resources and provide a written recommendation regarding wildlife corridors.
- o. Additional information may be required as determined by Essex County such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project from potentially sensitive locations as deemed necessary by Essex County to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

- (5) *Decommissioning plan.* Submit a detailed decommissioning plan, certified by an engineer, who has expertise in the removal of solar facilities, which shall include the following:
  - a. The anticipated life of the project;
  - b. The estimated decommissioning cost explicitly detailing in current dollars;
  - c. The mechanism for calculating increased removal costs due to inflation and without reduction for salvage value;
  - d. How the estimate was determined;
  - e. The method, whether escrow, surety, or security, of ensuring that funds will be available for decommissioning and removal;
  - f. The method that the estimated decommissioning cost will be recalculated every five (5) years and the surety updated accordingly; and
  - g. The manner in which the project will be decommissioned and the site restored.
- (6) Traffic study submitted with application modelling the construction and decommissioning processes. County staff will review the study in cooperation with VDOT.
- (7) Large-scale solar facilities and PPA facilities shall provide a copy of any subdivision covenants and restrictions associated with the site.
- (8) An economic cost/benefit analysis describing generated property taxes, sales taxes, other taxes, proffered payment, real property, or construction improvements related to the project, construction dollars spent locally, estimated construction jobs and construction payroll, estimated permanent jobs and continuing payroll, and costs associated with impact on roads and other county infrastructure in the area.
- (9) An estimated construction schedule.
- (10) A community impact assessment including economic impact shall be required and shall assess the various project tax and revenue options, including, but not limited to those in: Code of Virginia, §§ 58.1-2636, 58.1-3660, 15.2-2288.8, and §§ 15.2-2316.6—15.2-2316.9.
- (11) A visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the solar energy facility minimizes impact on the visual character of the County, including, but not limited to, residences; historic, cultural, recreational, or environmentally sensitive areas; and scenic viewsheds.
  - a. The applicant shall provide accurate, to scale, photographic simulations showing the relationship of the solar energy facility and its associated infrastructure and development to its surroundings. The photographic simulations shall show such views of solar structures from locations such as property lines and roadways, as deemed necessary by the County in order to assess the visual impact of the solar energy facility.
  - b. The total number of simulations and the perspectives from which they are prepared shall be established by Essex County after the pre-application meeting.

**Neighborhood meeting.** A public meeting shall be held prior to the public hearing with the Planning Commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.

- (1) The applicant shall inform Essex County and adjacent property owners in writing of the date, time, and location of the meeting, at least seven but no more than 14 days, in advance of the meeting date.
- (2) The date, time, and location of the meeting shall be advertised in the County's newspaper of record by the applicant, at least seven but no more than 14 days, in advance of the meeting date.
- (3) The meeting shall be held within the County, at a location open to the general public with adequate parking and seating facilities that may accommodate persons with disabilities.
- (4) The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.
- (5) The applicant shall provide to Essex County and adjoining property owners, a summary of any input received from members of the public at the meeting and the developer shall provide an action plan with the concerns raised, to adjoining property owners.

(e) *Minimum development and use standards.*

- (1) *Location standards for large-scale, Power Purchase Agreement (PPA), and utility-scale solar facilities.* Facilities should locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible. The location standards stated below are intended to mitigate the adverse effects of such uses on adjoining property owners, the area, and the County.
  - a. The minimum area of a utility-scale solar energy facility shall be two (2) acres, and the maximum area shall be less than 500 acres, including the required open space.
  - b. The maximum area of a large-scale solar energy facility or PPA solar energy facility shall be less than 50 contiguous acres.
  - c. The equipment, improvements, structures, and percent of acreage coverage of a facility shall be shown on the approved concept plan and site plan.
  - d. Utility-scale solar facilities shall be located a minimum of 1 mile outside the banks of the Rappahannock River.
  - e. Utility-scale solar facilities shall preserve forest resources by maintaining natural buffers.
  - f. Wetlands, waterways, and floodplains shall be avoided.
  - g. Utility-scale solar energy facility shall be located at least three miles from a town boundary.
  - h. Unless on a brownfield or capped landfill, facilities shall be located at least one mile from identified Rural Service Centers as depicted on the Future Land Use Map.
  - i. Unless on a brownfield or capped landfill, facilities shall be located at least one mile from a Business and Employment district, a Deferred Development Service District, and Rural Residential Development as depicted on the Future Land Use Map.
  - j.

landforms providing the screening are disturbed, new plantings shall be provided which accomplish the same. Opaque architectural fencing may be used to supplement other screening methods but shall not be the primary method.

- (7) The facilities shall be enclosed by security fencing a minimum of eight (8) feet in height on the interior of the buffer area (not to be seen by other properties). A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the security fencing shall result in revocation of the conditional use permit and the facility's decommissioning.
- (8) Ground cover on the site shall be native vegetation where compatible with soil conditions and maintained in accordance with the landscaping maintenance plan and established performance measures. A performance bond reflecting the costs of anticipated landscaping maintenance shall be posted and maintained. Failure to maintain the landscaping shall result in revocation of the conditional use permit and the facility's decommissioning. Incorporation of native plant species that require no pesticides, herbicides, and fertilizers or the use of pesticides and fertilizers with low toxicity, persistence, and bioavailability is recommended. The operator shall notify the County prior to application of pesticides and fertilizers. The County reserves the right to request soil and water testing.
- (9) The utility-scale facility shall provide access corridors for wildlife to navigate through the Solar energy facility, at a number and design based on the Department of Wildlife Resources' guidance and acceptable to the County. The proposed wildlife corridors shall be shown on the concept plan submitted to the County and conditioned as part of the CUP. Areas between fencing shall be kept open to allow for the movement of migratory animals and other wildlife.
- (10) The design of support buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures.
- (11) The owner or operator shall maintain the solar energy facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the equipment and structures, as applicable, and maintenance of the buffer areas and landscaping. Site access shall be maintained to a level acceptable to the County. The project owner shall be responsible for the cost of maintaining the solar energy facility and access roads, and the cost of repairing damage to private roads occurring as a result of construction and operation.
- (12) A facility shall be designed and maintained in compliance with standards contained in applicable local, state, and federal building codes and regulations that were in force at the time of the permit approval.
- (13) A facility shall comply with all permitting and other requirements of the Virginia Department of Environmental Quality.
- (14) The applicant shall provide proof of adequate liability insurance for a solar energy facility prior to beginning construction and before the issuance of a zoning or building permit to Essex County.



- (15) Lighting fixtures as approved by the County shall be the minimum necessary for safety and/or security purposes to protect the night sky by facing downward and to minimize off-site glare. No facility shall produce glare that would constitute a nuisance to the public. Any exceptions shall be enumerated on the concept plan and approved by Essex County.
  - (16) During operation, a utility-scale solar energy facility shall not produce a noise level that exceeds 65 dBA as measured at the property line or 50 dBA as measured at the nearest neighboring inhabitable building.
  - (17) No signage of any type may be placed on the facility other than notices, warnings, and identification information required by law.
  - (18) All facilities must meet or exceed the standards and regulations of the Federal Aviation Administration ("FAA"), State Corporation Commission ("SCC") or equivalent, and any other agency of the local, state or federal government with the authority to regulate such facilities that are in force at the time of the application.
  - (19) Any other condition added by the Planning Commission or Board of Supervisors as part of a conditional use permit approval.
- (f) *Decommissioning.* The following requirements shall be met:
- (1) Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of one year shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
  - (2) The owner or operator shall notify Essex County by certified mail and in person of the proposed date of discontinued operations and plans for removal.
  - (3) Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural or forestall uses. The site shall be graded and re-seeded to restore it to as natural a pre-development condition as possible or replanted with pine seedlings to stimulate pre-timber pre-development conditions as indicated on the Preliminary Site Plan. Any exception to site restoration, such as leaving access roads in place or seeding instead of planting seedlings, must be requested by the landowner in writing and shall be subject to Zoning Administrator approval.
  - (4) The decommissioning, to include removal of solar facilities, regrading and reseeding and/or replanting shall be accomplished within 12 months.
  - (5) Decommissioning shall be performed in compliance with the approved decommissioning plan. The Board of Supervisors may approve any appropriate amendments to or modifications of the decommissioning plan.
  - (6) Hazardous material from the property shall be disposed of through any viable recycling methods and in accordance with federal and state law.

- (7) The estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a federally insured financial institution approved by the County.
- a. The applicant shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the solar energy facility.
  - b. The escrow account agreement shall prohibit the release of the escrow funds without the written consent of the County. The County shall consent to the release of the escrow funds upon on the owner's or occupant's compliance with the approved decommissioning plan. The County may approve the partial release of escrow funds as portions of the approved decommissioning plan are performed.
  - c. The amount of funds required to be deposited in the escrow account shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.
  - d. The owner or occupant shall recalculate the estimated cost of decommissioning every five years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), the owner or occupant shall deposit additional funds into the escrow account to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than ninety percent (90%) of the original estimated cost of decommissioning, then the County may approve reducing the amount of the escrow account to the recalculated estimate of decommissioning cost.
  - e. The County may approve alternative methods to secure the availability of funds to pay for the decommissioning of a utility-scale solar energy facility, such as a performance bond, letter of credit, or other security approved by the County.
  - f. If the owner or operator of the solar energy facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the surety and the County or hired third party may enter the property to physically remove the installation.
- ) *Coordination of local emergency services.* Applicants for new solar facilities shall coordinate with the County's emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.
- ) *Conditions.*
- (1) The Board may include other reasonable conditions as permitted by state law and as otherwise provided for in this Chapter, including, but not limited to:
    - a. A condition(s) that requires: (i) dedication of real property of substantial value; or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project.
    - b. The facility shall be constructed, maintained, and operated in substantial compliance with:
      - 1.

The development standards under this article.

2. The approved concept plan.
  3. Any other conditions imposed pursuant to a conditional use permit.
  4. Local, state, and federal requirements.
- c. The facility shall comply with decommissioning requirements as set forth and described in the application materials.
  - d. The conditional use permit shall require submission and compliance with supplemental plans, including, but not limited to, site plans, grading plans, traffic management plans, construction mitigation plans, landscaping maintenance plans.
  - e. The applicant shall consult with the Virginia Department of Conservation and Recreation's Division of Dam Safety and Floodplain Management to conduct an inspection and evaluation of the dams within the project area and assure compliance with the Dam Safety Regulations (4VAC50-20). The applicant shall make whatever repairs and renovations required by the Dam Safety Division prior to the issuance of final permits for construction of the solar energy facility.
  - f. The conditional use permit shall require the applicant to submit an erosion and sediment control plan for review and approval by the County or by a qualified third-party, however, the third-party review shall not supersede any requirements imposed by state agencies. The erosion and sediment control plan shall be prepared and implemented as a sequential progression, demonstrating that not more than 25% of the Site be disturbed and unstabilized at any one-time during construction. The erosion and sediment control plan will provide the means and measures to achieve stabilization of the disturbed areas to comply with this condition. The applicant shall construct, maintain, and operate the solar energy facility in compliance with the approved plan.
  - g. The applicant shall submit a stormwater management plan for review and approval by the County or by a qualified third party. The applicant shall construct, maintain, and operate the solar energy facility in compliance with the approved plan.
  - h. The applicant shall pay additional fees to cover the reasonable and actual cost of any review of the erosion and sediment control plan, the stormwater plan, and inspections performed by County approved qualified third parties.
  - i. If the solar energy facility does not receive a building permit within twenty-four (24) months of approval of the conditional use permit, the Permit shall be terminated.
  - j. If the solar energy facility is declared out of compliance with any local, state, or federal codes, or any of the Special Use Permit conditions by the Zoning Administrator or the building official, the facility must be brought into compliance within fourteen (14) days or the conditional use permit shall be terminated through Board of Supervisor approval, and the Solar Facilities shall be decommissioned.
  - k. The owner and operator shall give the County written notice of any change in ownership,

operator, or Power Purchase Agreement within thirty (30) days.

- l. Applicant agrees to provide County with a list of capital equipment, including but not limited to solar photovoltaic equipment proposed to be installed, whether or not it has yet been certified as pollution control equipment by the State Corporation Commission or Virginia Department of Environmental Quality, all equipment related to any proposed battery storage facilities, and lists of all other taxable tangible property for taxable valuation. Thereafter, on an annual basis, Applicant shall provide County with any updates to this information. Further, Applicant agrees to provide the County all information it may in the future provide to the Virginia State Corporation Commission for the Commission's use in valuing such property for taxation purposes.
- m. The conditional use permit may require other use and operating requirements, such as requirements for lighting, noise, and vegetation, to mitigate impacts associated with the use.

In the meantime, I discovered some things about the ordinance that you all modified and that is that the Essex County utility scale ordinance allows you to consider a solar project in light of the comprehensive plan before they apply for the conditional use permit. In a way that it good because the company doesn't have to spend a whole lot of money to do a "trial" balloon with you all to gauge the values of the community. I try to do the best I can with them by sending them links to old newspaper articles, whether it's fair or not, to show them what they are up

against with things that went wrong before. They are going to get a different impression of a chance with the conditional use permit when they talk to you all. Once that occurs you all will find a finding whether you are substantially in accord with the comprehensive plan or not in accord with the comprehensive plan. Then they come back either the next month or six months later with a conditional use permit application. That will then begin the legislative process. This is a little weird to me because when I would do solar farms before we would have a 2232 review before, but it would usually be the hearing right before the hearing on the special exception and then go to the Board. Think about that as you look through the Comprehensive Plan. How do you find a project substantially in accord with the Comprehensive Plan?

Commissioner Walters said so what you are saying is when someone comes to us it is preliminary and to start a dialog with us? It doesn't start any time or anything.

Mr. Barnes said "exactly. "There is no time limit after that where you guys have to see an application from them for a land use application. I think what was anticipated when that language was put in your ordinance in conversation with people, their intention was a company might do a 2232 review with you all and find out that this is not in accord with the comprehensive plan. The company might then put it on the back burner if they have 4 or 5 projects in the que. Maybe it will work for Essex County but not for this location. 2232 review refers to the code section it is in 15.2 – 2232 of Virginia code. In one sentence or less that code asks you to look at the location, the character, and the extent of the project before you. The Comprehensive Plan doesn't have a lot of mention about solar now that you could really back up to. This project is small, it's 20 acres and I think 3 megawatts.

Commissioner Taliaferro said that once upon a time I said we should do away with the Comprehensive Plan all together and make every single application conditional use. Nobody liked that idea.

Mr. Barnes said that you are required to have a Comprehensive Plan, but the code doesn't say blue has to be in it. It can be 2 pages. Most rural counties are proud of their county, and they want to drive where things are. Electronically I will let you know where it is happening and when.

Commissioner Walters said that he believes where the challenge is going to be is that the ordinance is going to be much more specific as far as solar panels and the application especially at the utility scale compared to what the 2015 comprehensive plan says. Whatever we decide it has the match the ordinance.

Mr. Barnes said that may be a good exercise for you all because seeing that may trigger some ideas that you all might have that you want to see to guide that.

Mr. Barnes said that the last update that he has for you is Davis. You had the Charles Davis rezoning before you and the latest on that is still pout there and coming back to you for

rezoning request. He had to do the soil work as you know because he was lacking that before. There are flags all over the fields now and I think they have identified septic sites, so they are in that process now which is slow right now. I think when then they come back with that one lot that would be about 9 and a piece acre to show you the additional 6 lots, they want to create that would be zones R-2. Unfortunately, that is going to have to come back to you as a major subdivision because it is over the 5-lot limit. If that goes to the Board and they approve it, then it will come back to you for rezoning. I think he is still a couple months away.

Commissioner Stevens asked how many times has he broke that property up?

Mr. Barnes said several. The key date you need to remember is February 1988. Anything from February 1988 then counts towards that 5-lot total limit for minor subdivisions. After the last hearing with them, I had a sit down with his surveyors and that is one thing I wrote out that I want to see from them. You don't want to necessarily require them to do a title search or a deed search but you kind of should if they are coming forward. I said give me a map and a plat because some adjustments have been made too. That makes it confusing because of the adjustments and it is hard to tell how many times it has been divided. I said give me a snapshot of what it looked like in February 1988 and show me a chronology since then so I can show the Planning Commission and then the Board.

Commissioner Stevens said keep on breaking up lots.

Mr. Barnes said that is called circumvention.

Commissioner Stevens said you are not supposed to do that.

Mr. Barnes said right, you are not supposed to do that. The by rights subdivision can keep on going in perpetuity. In 1988 Essex adopted a language that said basically from now on you can't do that. Those cumulatively can be counted towards a major subdivision. So, once you get to five and above you have to meet the requirements of road frontage, of publicly adopted roads, etc.

Chairman Jones asked if anyone had any questions of the five things that are coming up?

No one asked any questions.

Chairman Jones said now on to discussion of the Comprehensive Plan and if you read the minutes there was some homework that you were supposed to do. Between travelling and being sick I didn't do anything I was supposed to do.

Mr. Barnes said with his homework he talked to Richmond County about the Comp Plan update and how did it work. Richmond County created a little committee to help and still took a year and a half to complete. Your homework for me was to try to put the whole draft text on the website. I checked on that and there is a way Chuck showed me land use stuff where I can do that. I think Lauren will help with that. When we get a draft of a new section, we will do that. I

don't have a sample vision statement yet. Someone had said what direction do you want the county to go in.

Chairman Jones said we were going to start the process where some of the existing information number wise you were going to put the existing number and strike through it and put the new number.

Mr. Barnes said that I think what I need to have done before the next meeting is to have that draft the word document draft and those edits highlighted and send that to you electronically.

Commissioner Walters said it would be nice to see what the changes have been from year to year. If we determine what changes are needed that determines what housing we need, what kind of services we need. What are the needs of the people going to be?

Commissioner Andrews said that he looked at some of the census data and his recollection is to touch base what EDA has and what Tappahannock Main Street.

Mr. Barnes said do you think that is something Tim Smith on the EDA get access to?

Commissioner Taliaferro said that some of that data is available through the Chamber of Commerce.

Mr. Barnes said that he and Carlos had made some maps. I would love to have a map that shows all the electrical infrastructure. We ran into a lot of security issues with that which I think was kind of silly. Carlos made a really cool map that would be great to go in your Comprehensive Plan under your infrastructure section. You have a need for that in your solar facility planning. We asked Dominion for their help, and they said no. Carlos is also working on some road maps.

Commission Walters said that section one is actually your vision statement and might have to come back to section one.

Mr. Barnes said that if you want to do that, we will do that and move on to section 2.

Commissioner Walters said that if you can ask Carlos, can do a map of the population especially between 2010 and 2020 because that informs where we put the overlay. They are on the map and that was done in 2015 are they still in the right spot.

Mr. Barnes said that Carlos has made several population maps for you all to start working with as you get to those appropriate sections.

Chairman Jones said that he thinks Stephen is right if we had a map that should know where these people are.

Mr. Barnes said that when the Comp Plan is done it will be nice to see where we are today with new data.

Commissioner Taliaferro said there was an article in the Richmond Times dispatch where rural areas are growing faster than urban areas and with high-speed internet available the rural areas are growing faster according to that.

Mr. Andrews said that the training they had a few months ago they had a presentation that was done by the VA housing authority that we have a mess in housing in Virginia. They had all this data all over the state. We need to take a look at that if we could get some data like that. If we have it for the existing population and if we want to attract some, we need to see what the housing population should be.

Chairman Jones said that it sounds like we are skipping to section 2.

Mr. Barnes said that he would like to begin updating it.

### **NEW BUSINESS**

None

### **ADJOURN**

Having no further discussion, a motion to adjourn was made and seconded. AYES: 6, NAYES: 0, ABSENT:1

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David Jones, Chairman