

Spotsylvania County Planning Commission

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: December 5, 2018

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

Richard Thompson	Courtland
Howard Smith	Livingston
Jennifer Maddox	Berkeley
Michael Medina	Salem
Mary Lee Carter	Lee Hill
C. Travis Bullock	Battlefield
Gregg Newhouse	Chancellor

Staff Present:

Paulette Mann, Planning Commission Secretary
Wanda Parrish, AICP, Director of Planning
Patrick White, Planner III
Alexandra Spaulding, Senior Assistant County Attorney
Jacob Pastwik, AICP, Planner III
Leon Hughes, AICP, Asst. Director of Planning
Ben Loveday, Director of Utilities/Public Works
Jay Cullinan, Fire Chief
Troy Tignor, Zoning Administrator
Richard Street, Deputy Director of Zoning
Donna Mayfield, Office Technician
Jane Reeve, Director of Information Services
Rich Maidenbaum, Assistant Director of Information Services

Announcements: None

Review & Approval of minutes:

Motion and vote: Ms. Carter made a motion, seconded by Ms. Maddox to approve the minutes of November 7, 2018. The motion passed 7-0.

Unfinished Business: None

Exception Request(s):

X18-0002; Viola G. Blount Estate

Ms. Parrish informed the Commission that this is a request for exception to 5:1 lot width to length ratio. She advised that the will provides for equal shares of TM 80(A)61 to 6 people. Five of the six own parcels adjacent to the property. Three of the six heirs can receive their land without needing an exception to the Subdivision Ordinance. Due to the size and configuration of

the heirs' lots and the willed parcel, there is no way to adjust 3 of the lots without exceeding the 5:1 lot to width ration. Staff recommends approval of the lot line adjustments for TM 80(A)61A, 80(A)61E, and 80(A)61C as proposed.

Motion and vote: Mr. Newhouse made a motion, seconded by Ms. Maddox. The motion passed 7-0.

Special Use(s):

SUP18-0001 - Charles Woolfrey Construction Inc., Robert S. Coleman, Jr., MWD Properties 2009, LLC, Goodwin Brothers Lumber Company LLC, Meadows Farms, Victor N. Meadows, II, David L. Meadows, Frederick L. Meadows, Berman J. Meadows, Betty Meadows, Jay Meadows, RiverOak Timberland Investments, LLC, Gary Thomas Woolfrey (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site A): Requests special use permit approval on multiple parcels to develop a 400 MW solar energy facility on Agricultural 3 (A-3) zoned properties together constituting a site of approximately 5,200 acres. The properties consist of 11501 W. Catharpin Rd., 12910 Orange Plank Rd., 10900 Buckland Rd., 13301 W. Catharpin Rd., 13001 W. Catharpin Rd., and 22 additional unaddressed parcels. The properties are located in western Spotsylvania County, south of Orange Plank Road, north of W. Catharpin Road, east of the Spotsylvania/Orange County line and west of Catharpin Rd. The properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential or Agricultural and Forestal Land Use development on the Future Land Use Map of the Comprehensive Plan. Tax Parcels 28-A-1, 28-A-78, 29-A-1, 17-A-7, 18-A-16, 30-A-1, 17-5-19, 17-A-3, 17-A-3A, 17-A-4, 17-A-48, 16-A-1, 17-A-47, 18-A-15, 18-A-20, 28-A-71, 28-A-77, 29-A-2, 29-A-2A, 29-A-22, 29-A-24, 29-A-25, 29-A-26, 29-A-27, 29-A-28, 29-A-7, and 28-A-79. Livingston Voting District.

Mr. White presented the case. He stated that the overall project contains 5,200 acres and that 2,800 will be disturbed acres. The use will provide 400 MW of power.

Mr. White explained Photovoltaic panels and that they are pre-assembled collections of integrated photovoltaic cells. They are produced from a number of manufacturers which use different materials. The applicant has indentified that they plan to use two panel manufactureres: Jinko panels and FirstSolar Series 5 panels. The panels are strung together into strings which are reacked into rows. The rows are equipped with hardware allowing them to automatically rotate in order to maximize sun exposure. Rows are supported by stell pilings which are driven into the ground. The applicant's GDP depicts an Array, which consists of 6 Sub-Arrays. Each Sub-Array is a collection of 32+/-rows. Each row is a collection of 90 PV panes. These feed two inverters wich collect the energy in DC form and convert it to AC power. This electricity is then transferred via underground conduit to an sPower substation, proposed near the existing Dominion substation, which increases the voltage, measurers it, and transfers it for connection to the power grid via the Dominion substation.

Mr. White stated that the inverters can easily be identified on the GDP as small black rectangles wihci sit slightly apart from panel rows or blocks. They're locations may change through final site design. They are proposed to be setback a minimum of 400 feet because they produce a

small electronic hum and they are often accompanied by small generators. The GDP depicts the general plan of the proposal and is not a final design. If the Special Use is approved, detailed engineering is submitted to the County for Site Plan review. The Site Plan Review process verifies compliance with County Codes, laws, and any conditions of the SUP. The Building Permit Review process would verify compliance with building and electrical codes. The GDP is also used to depict access points, setbacks, buffers, resource protection areas (RPA's), Stormwater collection features, and designates other significant points of interest.

He advised that three points of access are available from the north of the project site. Access 9 (leftmost) is for emergency access only via Gold Dale Lane in Orange County. Access 1 runs through an existing Dominion Transmission line corridor fronting on Orange Plank Road. Access 2 is proposed via the existing Windy Acres Lane and Buckland Road. Due to potential impacts from increased traffic on this path, staff is recommending that this access be for employee and light truck delivery only. Vehicles with more than 2 axels are proposed to be prohibited along this path. Two points of access are available from south of the project site, via West Catharpin Road. Access 8 (leftmost) is via Craigs Church Lane. Like Access 2, staff recommends this access include a prohibition on trucks with more than 2 axels to limit impacts on residents along this path. Access 3 is via the applicant's property and will serve as a permanent and principal entrance to the site.

The GDP depicts interconnected access throughout Site A, meaning that a vehicle could enter from any entrance, and traverse the site without having to exit and re-enter from another point. Vehicular routes off-site will be documented to record their current condition should roads be impacted by construction traffic. The applicant's preliminary estimates of construction trips are included in the Construction Access and Access evaluation. 40% of estimated construction traffic is expected to use Orange Plank Road access and 60% via West Catharpin. Estimated 467 daily employee trips (Site A), 70 total daily delivery trips (Sites A,B, and C). That document currently proposes a new left turn lane at Access 2, a new right turn lane at access 3, and an extension of Craigs Church Lane at Access 8. It is possible that due to staff conditions the turn lane improvement at Access 2 will not be necessary. The current construction access and access evaluation also provides estimated new trips due to construction which County Traffic Engineering used to estimate level of service impacts on major road segments. Staff found generally that through the construction period levels of service would decrease on all major roads providing access to the site. Following construction, these should return to normal operating levels.

Staff has requested that the applicant provide further details regarding the construction traffic impacts, and supply a final Traffic Mitigation Plan which shall include:

- A school bus avoidance plan to limit construction and employee traffic accessing the property during the hours of 6:10-8:40 a.m. and 2:45-4:30 during the Spotsylvania County Public Schools instructional year;
- A plan for on-site parking areas, off-site shuttle parking areas, and for shuttling at least 70% of the workforce to and from the site during construction;

- A plan coordinated with VDOT for video documentation of construction haul routes including pavement conditions along said routes, driveway corners, and aprons of any roads used for access to the site; and
- Details of temporary traffic control measures.

Notably, the requirement to plan for shuttling 70% of the applicant's construction workforce should have significant traffic reductions. Those reductions along with the vehicle restriction proposed will possibly remove the need for the turn lane at Access 2.

Mr. Tignor stated that Spotsylvania is a local VSMP authority, meaning that the County regulates Stormwater management in accordance with Virginia laws, rather than the Virginia Department of Environmental Quality. A conceptual, but more detailed design of the applicant's first phase was provided to E&S staff for consideration, it identifies a Zone E in the SE corner of the overall site. It presently includes details on resource protection areas, perimeter controls, silt fencing, sediment traps, ponds and basins, etc. If this special use permit is approved, this plan will be further developed to a fully designed site plan for Phase 1 of the project. The concept plan provides a template for how the rest of the site will be constructed. There are additionally a significant number of E&S conditions provided in the staff report which allow the County to confidently mitigate the substantial erosion and sediment control concerns resulting from a project of this magnitude. Example slides were displayed showing silt fence & pond construction.

Mr. Tignor stated that the proposed E&S and stormwater management plans are in technical compliance with code requirements and the County is using a 3rd party engineer for the review. There will be a limit of 400 acres land disturbance in aggregate which is manageable area for mandated inspections given staffing levels. Inspections will occur during construction by county staff and three engineering firms under procurement contract. The inspection costs to the county will be addressed with recent adoption of new fee schedule for erosion inspections and large scale projects like this. Mr Tignor displayed a slide showing the minimum required by code and the sPower Plan Zone template for the environmental construction concerns that have been raised. The applicant intends to provide the following:

- Adding super silt fencing and filtering barriers
- sPower will clean at 25% capacity
- Upslope siltation socks – left or cut
- Basins to be converted to permanent facilities
- On site ready response force for ESC
- RLD on site
- Additional windrow barrier to direct to basins
- Drill seeding for quicker seed ESC germination
- Soil testing before drill seeding
- On site equipment for ESC controls/repairs
- Use of drone technology points to focus area.

Apart from the large land disturbance which this project proposes, another contributing reason

for the additional concerns over E&S concerns is due to the finding of protected species; two in particular reside downstream. The Dwarf Wedgemussel, a federal and state listed endangered mussel since 1990 resides in silt-free streams and is known to inhabit the Po River. The Yellow Lance is proposed to be similarly protected in the future and shares a similar habitat to the Dwarf. The introduction of sediment into on-site waterways could negatively affect these mussels. Staff has recommended conditions which should mitigate impacts on their habitats.

Also, the Loggerhead Shrike, aka the Butcher Bird, was spotted approximately 3,000 feet north of the site. The bird is a threatened species. The Northern Long-eared Bat may reside in the area, although no identified habitats or roost trees were identified. Staff has recommended a condition to train employees to identify and report potential sightings of these two species to DGIF.

Mr. White discussed protected species. He stated that the Small whorled pogonia is a perennial orchid classified as threatened by the United States Fish and Wildlife Service and endangered by the Virginia Department of Agriculture and Consumer Services. Only one potential likely habitat was identified via survey, although no actual orchids were found. The survey was coordinated through the Virginia Department of Conservation and Recreation (VDCR). Staff has conditioned that this small habitat area be preserved. VDCR also noted concerns over the fragmentation of existing forests. Efforts to mitigate forestal fragmentation are proposed through the use of wildlife compatible fencing at regular intervals and prescribed locations. However, the large loss of existing forested land from timber harvest operations has already occurred.

Mr. White advised the Commission that Archeological and Architectural Surveys were conducted with cooperation of the Virginia Department of Historic Resources. The surveys examined above and below ground resources for potential inclusions in the Virginia Landmarks Register or the National Register of Historic Resources. Although a number of resources were identified, there were generally no significant impacts were identified. Two cemeteries were identified and are protected. One railhead was identified which staff has proposed to be provided with a trail easement for future trail construction of the VCR Trail. The National Park service provided comments noting that an agreement exists preserving the existing intersection of Orange Plank and Brock Roads and notes that a permit shall be required from the NPS for commercial traffic on Fredericksburg & Spotsylvania National Military Park Roads.

The applicant has provided viewshed studies depicting conceptual future views. Staff has conditioned revised setbacks and buffering for the site which exceeds that proposed in the GDP and depicted in the viewsheds.

Prescribed setbacks are 50 feet except that:

- Fencing, berms, landscaping, roads, bridges, utility poles are exempt.
- No trees shall be removed from any of 50 setback or 50 buffer except for exotic species removal, hand-clearing of dead or dying trees, or any clearing for ingress/egress or infrastructure connections.
- Inverters and generators shall be setback 400 feet.

- Any property adjacent to the site containing a home triggers a 350 foot setback of solar arrays and supporting structures along the shared property line.

The applicant has provided viewshed studies depicting conceptual future views. Staff has conditioned revised setbacks and buffering from the site which exceeds that proposed in the GDP and depicted in the viewsheds. Buffer plantings are as proposed on the GDP except that residential structures within 300 feet which are not separated by an existing 40 preserved buffer will not be screened with a bermed buffer.

- The berm shall be 8 feet in height, shall have a minimum 6 foot planting area atop the berm.
- The berm shall not exceed a slope of 1 foot of vertical rise to 2 feet of vertical run.
- Plantings shall be atop and outside of the berm.
- The berm shall be outside of any fencing.
- The berms shall be installed coincident with each phase of construction and before any pile driving within 1,000 feet of the berm.

Residential structures within 300 feet which are not separated by an existing 40 preserved buffer will be screened with a bermed buffer.

Plantings on and outside the bermed buffer:

- Shall be designed by certified landscape designer or landscape architect to minimize visibility, maximize survivability, and minimize losses from deer or other wildlife consumption.
- Shall consist of a minimum of:
 - One (1) evergreen tree with a minimum height of six (6) feet every ten (10) feet
 - One (1) large deciduous tree with a minimum trunk caliper of two (2) inches measured six (6) inches from the ground every fifteen (15) feet
 - One (1) understory deciduous tree with a minimum trunk caliper of two (2) inches measured six (6) inches from the ground every fifteen (15) feet
 - One (1) evergreen shrub with a minimum height of four (4) feet every ten (10) feet.

Residential structures within 300 feet which are separated by an existing 40 preserved buffer AND any adjacent residential structures within 600 AND any VDOT maintained right-of-way shall be screened with a supplemental buffer which shall consist of a minimum of:

- one (1) evergreen tree with a minimum height of six (6) feet every fifteen (15) feet
- one (1) large deciduous tree with a minimum trunk caliper of two (2) inches measured six (6) inches from the ground every ten (10) feet.

These buffers shall also be designed by a certified landscape designer or landscape architect to minimize visibility, maximize survivability, and minimize losses from deer or other wildlife consumption.

Existing landscaping is expected to provide a significant contribution to screening.

The construction of the proposed facility will generate construction noise from onsite vehicles and activities. Construction noise will reach its highest point when the support pilings are being driven into the ground near residential homes. This activity should last approximately 4 days and then lessen substantially as the pile driving is completed in proximity to the homes. The applicant's submitted noise map should be substantially improved by the new conditions related to setbacks and buffering.

Construction activities are exempt from County noise ordinances, but staff has proposed conditions to mitigate noise on neighboring residents. Exclusive of additional setbacks or buffers, other conditions include:

- All clearing, grading, and construction of the Property shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday and Sunday;
- Pile driving within 500 feet of any residence shall cease at 5:00 p.m. daily and shall be prohibited all day on every first and third Sunday of the month
- Advance notice shall be mailed by first class mail to properties within 1,000 feet of a pile driving location no less than seven (7) days prior to the start of such activities and shall include the estimated start date, estimated end date, and the liaison's contact information. The notice and a list of recipient addresses shall also be mailed to the Zoning Administrator.
- The following noise-reducing practices shall be followed to reduce construction noise:
 - Trucks and engine-powered equipment shall include mufflers and engine shrouds no less effective than those originally installed by the manufacturer;
 - Trucks and engine-powered equipment shall be maintained in proper tune according to manufacturers' specifications;
 - Truck engine exhaust braking shall be limited to emergencies; and
 - The use of noise-producing signals, including horns, whistles, alarms, and bells shall be for safety warning purposes only.

Solar energy facilities are known to be relatively safe land uses with respect to electric shock, fire, toxicity and EMF fields. The proposed facility will also be monitored via Supervisor Control and Data Acquisition (SCADA) systems. Additionally, the applicant's supplied Emergency Operations Plan – Construction and Emergency Operations Plan – Operations are proposed to be conditioned. These documents were created with the collaboration of County FREM and Planning staff and provide information on varying topics including but not limited to:

- Employee roles, training, and communication procedures
- Unique concerns from PV systems
- Fire prevention and response
- Storms and natural disasters
- Spills
- Hazardous materials

Presently, staff has not recommended a condition to completely prohibit burning of timber wastes onsite, but has conditioned limitations on burning.

Additional burning conditions exist within the Emergency Management Plan – Construction which apply expressly to burning of timber waste, those include:

- A permit shall be acquired from Spotsylvania County.
- All combustible materials shall be removed within 35 feet of trench burning.
- A water truck shall be on standby.
- Trench burners shall be equipped with fire extinguishers.
- Check wind forecasts for the day and do not burn on high wind days (sustained winds more than 25 mph) or when prohibited by Spotsylvania County Fire Department.
- Burning shall take into consideration sensitive receptors and prevailing wind direction at lower speeds (<25 mph).
- Burning shall cease 2 hours prior to end of work day.
- A Fire Watch Person will be designated to monitor all trench burning activities.
- The Fire Watch Person shall remain within the immediate area of the trench burning at all times and shall not be assigned any other duties.
- If the burn area is still producing smoke, it is technically still burning and must be attended.

The County requested input from Dewberry consulting regarding the safety of PV panels containing Cadmium Telluride. They responded:

- “Cadmium Telluride (CdTe) is a compound that contains cadmium and tellurium. It is a black crystalline powder that is odorless, not water soluble and non-flammable. It has a melting point of above 1000 °C and the boiling point is above 1100 °C. Cadmium by itself is a highly toxic material, however, based on research cadmium telluride is much less toxic than pure cadmium. CdTe can be toxic if it is ingested, inhaled or comes in direct contact with skin.”
- “If they are handled properly during all phases of construction and disposal, they will not emit any toxicity into the environment.”

Staff has requested further information from the applicant regarding their plans to test and remediate any affected soils and has modified their recommended conditions accordingly.

The County requested input from Dewberry consulting regarding any potential heat island effect. They acknowledged the presence of a heat island effect, though difficult to measure and recommended:

- Enhanced setbacks of 350 from residences
- Buffers and berms should include shade trees and shrubs to create dense screens to absorb radiative heat and should be maintained.
- Vegetative coverage must be maximized with grasses to assist in evapotranspiration and soil heat absorption.

Staff has modified their recommended conditions accordingly.

The County requested input from Dewberry consulting regarding the Decommissioning documentation. They provided a number of suggestions, including but not limited to:

- The Decommissioning Plan does not address restoration of compacted soils, resulting from construction traffic and activities during decommissioning of the site.
- Additional information/detail shall be provided on the restoration of the ground after the existing underground conduits and lines are removed
- Clarification should be provided regarding the restoration of the proposed gravel access roads and stormwater management facilities.
- That the County require bonding the actual cost of the decommissioning before the recycling amounts are figured in.

Staff has accordingly requested further information regarding the sPower Decommission Plan.

The County outsourced review of sPower Hydrological information to Golder Associates, a subcontractor of Dewberry. They responded: 'We estimate that a minimum of 470,000 gpd, or 10% of the total estimated recharge amount, can be sustainably withdrawn from the property without regional impact to the aquifer system. This is more than the 100,000 gpd to 400,000 gpd estimated by sPower that would be required during construction. After construction is complete and normal operational water use decreases substantially, aquifer water levels and water quality should fully recover to preconstruction conditions.' Golder Associates provided additional information on studies and evaluations that the county should request should the applicant propose any substantial withdraws. County staff then inquired whether the applicants requested 50,000gpd could be withdrawn safely, without further evaluation due to the small amount requested and was informed that the said withdraw amount could safely be pulled for an extended period of time without posing any risk to neighboring wells, water quality, or underground aquifer systems.

Mr. Loveday discussed the public drinking water and connection considerations. He discussed the overall pressure zone health and system improvement opportunities. He displayed slides showing the existing zone condition.

Potential sPower Connection

- Desired volume
 - 100,000 gallons/day - construction
 - 350 gallons/day - operation
- Not mandated by ordinance
- Nearest connection point is Fawn Lake
- County controlled
 - No adverse impacts
 - Based on maximum daily demands
 - Volume, pressure and time

- Regulated to ensure no adverse impact
 - Volume of withdrawal
 - Time of withdrawal
 - Protect existing customer pressure

Terms of connection

- Limit of withdrawal
 - 10:00 pm to 4:00 am
- October to April
 - 69,000 gallons/day
- May to September
 - 56,000 gallons/day
 - Additional water could be obtained through existing bulk water program (i.e. tanker trucks)

Mr. Loveday stated that there will be no observable pressure change, no change to fire flow conditions and no change to water quality conditions.

He discussed the improved system connection to public water:

Terms of Connection

- Limit of withdrawal
 - 10:00 pm to 4:00 am
- October to April
 - 166,000 gallons/day
- May to September
 - 153,000 gallons/day
- Additional water could be obtained through existing bulk water program (i.e. tanker trucks)

Zone Feed Improvements

- Existing Utility Capital Plan (since 2000's)
- Age and capacity
- Ex. 12" Asbestos Cement (end of life)
- Proposed 16" Ductile Iron
- Project Timeline
 - County Project
 - 5 to 7 years
 - sPower Project
 - 12 to 18 months or less

Mr. Loveday displayed maps and slides showing the proposed improvements. He stated that the

system impacts:

- Accelerate project timelines
- Improved system pressures
- Improved fire flows
- Improved flushing ability
 - Improved water quality
- Allows future system improvements

He discussed the future public water county system improvements:

- Improved Lake Bottom Booster Station
- 400,000 gallon storage tank
- New Fawn Lake Booster Station
- Improved system pressures
 - Static pressure as much as 15 psi
 - Residual pressures as much as 25 psi
- Improved fire flows
 - <1% below 1,000 gallons/minute
- Improved flushing ability
 - Improved water quality
 - Less water loss

Mr. Loveday discussed the fiscal impact on public water:

- Potential Cost Share Opportunities
 - Tank construction
 - Transmission main upgrade/replacement
 - After SUP determination
- Availability Fees: \$74,970
- Consumption Revenue
 - \$400,000 per year at 100,000 gallons per day
 - \$1,630 per year at 350 gallons per day

Ms. Parrish discussed the fiscal impact of the project:

- Rollback tax is approximately \$600K (one time payment)
- Code of Virginia provides tax exemptions from local property taxes
- For the sPower project (500 MW) the exemption is 80%
 - The County collects taxes at the real estate tax rate on 20% of the assessed value of the facility
 - This project will be assessed by the State Corporation Commission (SCC)
- sPower provided a Fiscal and Economic Impact Analysis

- o Based on value of \$552.5M (at build out) & at current tax rate and the composite index:
 - Year 1 = ~\$715K
 - Year 10 = ~\$604K
 - Year 20 = ~\$262K
 - Year 24 on = ~\$79K
 - Year 1 = ~\$436K
 - Year 10 = ~\$368K
 - Year 20 = ~\$160K
 - Year 24 on = ~\$48K

The Comprehensive Plan analysis and 2232 Consistency Review are within the public hearing packet and summarized below. The Comprehensive Plan Consistency Review examines whether the location, character, and extent of the facility is substantially in accord with the Comprehensive Plan. Staff cannot find that the project is substantially in accord with the Comprehensive Plan at this time due to the lack of certain finalized plans that should be conditioned to address health, safety, and welfare. Specifically, those Plans include:

- Traffic Mitigation Plan
- Landscape Cover and Buffer Maintenance Plan
- Soil Testing and Remediation Plan
- Decommissioning Plan

A Comprehensive Plan analysis is included within the staff report covering the various elements of the Comprehensive Plan:

- Introduction and Vision
- Land Use
- Transportation
- Historic and Cultural Resources
- Natural Resources

Generally the proposed solar energy facility is complementary to agricultural and rural resources and compatible from a land use perspective. Staff notes that the conditions proposed substantially assist in reaching compatibility with Comprehensive Plan goals and policies. As noted on the prior slide, staff cannot recommend that the application is in conformance with the Comprehensive Plan at this time.

Staff's analysis of the subject case with respect to the 8 Standards of Special Use Permit approval is contained within the staff report though subject to change. At this time, staff cannot find the project consistent with all 8 Standards.

Staff recommends postponement of the Planning Commission's recommendation so that staff may obtain four additional plans from the applicant which shall be integrated into staff's recommended conditions. Those include:

1. Landscape Cover and Buffer Maintenance Plan as recommended by the County's consultant to mitigate any negative impacts of any heat island effect from the Facility and to establish procedures for the planting and maintenance of vegetation. This plan shall include the recommendations from Dewberry in Appendix D and further shall:

- a. Include a general plan for management of the property's internal access roads,

- firebreaks, panel rows, required buffers, preserved vegetative buffers, and growth underneath of solar panels;
 - b. Describe the seed mix proposed for use on the property. The mix shall be selected based on their abilities to quickly germinate to stabilize soils and attract pollinators;
 - c. Include a Pollinator Support strategy which shall provide details on the pollinator attractive seeds proposed for use during construction or operation and best management practices proposed to increase pollinator activity during operation of the facility.
 - d. Include an Invasive Species Management strategy to prevent noxious and invasive growth of weeds and species on the property; and
 - e. Identify herbicides and pesticides proposed for use.
2. Soil Testing and Remediation Plan as recommended by the County's consultant to monitor for any soil contamination from the cadmium-telluride panels and other heavy metals (Appendix D).
 3. Decommissioning Plan revisions as recommended by the County's consultant to address the full breadth of decommissioning a SEF (Appendix D)

Pursuant to the documentation received from the National Park's Service, staff wishes to amend recommended condition 4:

4. A final Traffic Mitigation Plan that shall include, at a minimum:
 - a) A school bus avoidance plan to limit construction and employee traffic accessing the property during the hours of 6:10-8:40 a.m. and 2:45-4:30 p.m. during the Spotsylvania County Public Schools instructional year;
 - b) A plan for on-site parking areas, off-site shuttle parking areas, and for shuttling at least seventy (70) percent of the workforce to and from the site during construction;
 - c) A plan coordinated with VDOT for video documentation of construction haul routes including pavement conditions along said routes, driveway corners, and aprons of any roads used for access to the site; and
 - d) Details of temporary traffic control measures

Staff's further recommended conditions are contained within the staff report and may be read or displayed into the record pursuant to the Planning Commission's Request.

Applicant, Charlie Payne representing sPower: Mr. Payne stated that sPower is a leading independent power producer that owns and operates more than 150 utility and commercial distributed electric generation systems in 12 states. sPower is owned by two major investors, AES Corp., headquartered in Virginia and is a Fortune 500 company and Alberta Investment Management Investment Corp, one of the world's largest institutional investment companies. He discussed the SCC Approval process and that they were issued a certificate of public convenience and necessity on August 8, 2018. Mr. Payne gave an overview of the proposed project and that it will only utilize 3,500 acres and 2,800 acres will be preserved. The property was selected due to its rural location, contiguous area of vacant land and proximity to the

existing adjacent Dominion Substation, which eliminates the need for further transmission lines spanning across the County. He discussed the economic development benefits that the proposal provides and the environmental impacts and how they will be addressed and handled. He discussed cultural resources and open space and buffering. If approved, construction could begin in early 2019 and be completed by the summer of 2020. He discussed construction traffic and how it will be handled. Mr. Payne stated that they will have an Emergency Response Plan during construction and operations. The property is consistent with the comprehensive plan and is designed in a manner to mitigate any impacts to our neighbors. The project is anticipated to employ 25-30 full-time positions at the project site once construction is complete. The project will also include a traffic management plan to address and mitigate construction traffic impacts on peak hour and school traffic. Mr. Payne stated that the Decommissioning Plan includes all costs to remove solar equipment and return the site to its pre-existing condition and will be updated every two years. It included bonding requirements adjusted according to aforesaid update. In approximately 35 years, the project will be decommissioned and returned to its previous land use. Lastly, Mr. Payne summarized the benefits to the County. He stated that over \$600 million investment in the county to develop a 21st century innovative and clean energy generating facility. Creation of over 700-800 local new jobs that will immediately pump approximately \$54 million in the local and regional economy. New and expanded County tax revenue generation exceeding \$10 million over the life of the project vs. approximately \$700,000 under current use during the same period or approximately a 1,328% greater return. Payment of \$575,000 in County rollback taxes upon approval of the SUP, etc.

Mr. Newhouse reviewed the public hearing procedures and opened the public hearing.

Speaking in favor or opposition:

Russ Mueller, Livingston District, Speaking on behalf of the Concerned Citizens of Fawn Lake: He read a letter from the group's attorney, Clark Leming. The letter discusses the decommissioning plan, water, setbacks, cad tel, and the Comprehensive Plan review being insufficient.

Kevin McCarthy, Livingston District: He discussed that this is number five out of 10 of the largest solar farms in the nation. He discussed two articles about where solar goes, trouble follows. He stated that Trump is pursuing nuclear power, not solar.

David Hammond, Livingston District: He stated that this proposal was deemed complete eight months ago, however the presentation seems to be incomplete in regard to cadmium-tel panels and the encapsulation. They failed to address this as suggested by Dewberry. He suggested that the report be updated once all data is received and another public hearing be held.

Trae Taylor, Livingston District: He discussed that he is opposed due to the decreased property values that this will bring. He stated that the buffers will remain insufficient since most homes are two stories. He stated the proposal is too large and too risky.

Irv Boyles, Livingston District: He stated that he feels like the Board and Planning Commission are not taking the proposal seriously and that the proposal makes the county vulnerable to terrorist and cyber attacks.

Sean Fogarty, Livingston District: He stated that the 2232 review of the Comprehensive Plan should be independent of the review of the proposal since it's a separate process. He urged the Commission to vote no.

Mike Mikolosko, Livingston District: He stated that the proposal is not consistent with the Comprehensive Plan due to its location and character.

Mike Anastasio, Livingston District: He stated that that the buffers should be applied to all sites and that what is proposed is inadequate.

Charmaine Mueller, Livingston District: She stated that she has lived in the county for 15 years and is a wife and mother of four children. She stated that she is strongly opposed to the proposal and that it is too large for our county. She discussed the risks associated with potential earthquakes, micorbursts, etc. and the damage that could be done to a panel.

Kathleen Hayden, Livingston District: She stated that she is a realtor and that this proposal will reduce housing values. She said that buyers will avoid purchasing homes in Fawn Lake and that is why NTS is selling lots to sPower.

Dan Kulig, Livingston District: He stated that the scale of the project is too much. He stated that this is the fifth largest in the country and too close to homes.

Moya Doss, Livingston District: She discussed trench burning and that it should not be allowed. The smoke from wet soggy wood becomes a smoky mess. She stated that she has a child with asthma and that even trench burning is not good for adjacent property owners.

Judy Genaille, Livingston District: She also discussed burning and that it should be prohibited. The CDC warns of burning and the health risks associated. It is highly toxic to lung tissue.

Dick Genaille, Livingston District: He stated that 24/7 firefighting capability and support will be needed for the site.

Russ Mueller, Livingston District, Speaking on his own behalf: He discussed that the use of wells should be prohibited. He discussed that NPS has also stated that they need additional information and further study is needed.

Rebecca Nunn, Livingston District: She stated that she is new to the area from Chicago. Her husband recently moved his large business here and is looking for additional factory space. She stated that she has heard great things about Fawn Lake and that she has read the report and feels that the proposal is a good one and is in support of green power.

Steve Nunn, Livingston District: He is supportive of the SUP and the job creation potential.

Nancy McNamara, Livingston District: She stated that this is part of the post truth era and that the applicant has only provided a partial truth. The proposal is an industrial use, not a solar farm.

Stephanie Taylor, Livingston District: She stated that her son has severe asthma and that open burning is of concern. She stated that the Commission needs to tell sPower to go home. The proposal is too large and that the wording needs to be revised in regard to burning.

Lew Sherman, Livingston District: He stated his concerns about an underfunded surety bond.

Bill Hayden, Livingston District: He stated that he has concerns about the setbacks. He discussed that a systems and disaster recovery plan is necessary.

Kathy Lovello, Livingston District: She urged the Commission to please vote no. She stated that there is likely to be muddy runoff due to rains. The decommissioning plan has no solution for getting rid of the panels.

Kevin Schiedel, Livingston District: He stated that sPower will define our legacy. He stated that there is a lack of recourse for performance.

Vivian Stanley, Livingston District, representing We the People: She stated that she has serious concerns regarding home values and that every person affected by the deadly sPower camp should be paid two times the value of their home and \$15k in moving expenses.

Michael O'Bier, Livingston District: He stated that he provided documents to the Commission showing sPower misconduct in other locations.

David Wilson, Livingston District: He stated that he has lived here for 25 years and has a birds eye view of the proposal. He stated that the property has already been deforested and no silt fence was ever put up. He stated all of the burning complaints he's been hearing about, the burning is already occurring as part of the deforestation. He is in support of the proposal.

Kalea Wilson, Livingston District: He stated that many of the discussions and literature that has been passed out is falsified propaganda. He suggested that the Fawn Lake residents should be more concerned with the commercial herbicide applications occurring in their neighborhood on their lawns, golf course, and by mosquito spraying. He stated that the proposal will not be noisy once completed.

Dave Meadows, Livingston District: He stated that the land is owned by he and many of his relatives. He stated that they can no longer farm the land themselves and so they feel they made an adequate, good faith decision regarding the proposed development. He stated that green energy reduces global warming. Most complaints are being received by the Fawn Lake residents.

Fred Meadows, Livingston District: He stated that he is one of the long term landowners of the property. He stated that renewable resources are good and that they cannot continue to maintain the land due to age. He stated that he is 82 years old.

Vic Meadows, Livingston District: He stated that four years ago, the timber was cleared for

harvest. He stated that the Meadows family is aging and that the youngest is 67, oldest is 87 and that it is time to sell their property. He stated that they have received the clean farm award. He urged the Commission to support the proposal.

Tim Tarzier, Livingston District: He stated that no chemical cleaning agents should be used on the panels.

Sara Meadows, Chancellor District: She stated that sPower has been listening and has revised their proposal based on comments. They should be applauded. She is in full support of proposal.

Jim Meadows, Livingston District: He stated that he was raised on this land and that he is in favor of the proposal. He stated that it is good for the environment.

John Vagnetti, Livingston District: He stated that the proposal is the wrong technology, wrong scale, in the wrong location.

James Bauslaugh, Livingston District: He stated that he has many concerns to include traffic and weather events that could effect the panels. He also raised concerns about property values.

Jackie Williams, Berkeley District: She raised concerns about the decommissioning plan and stated that it doesn't adequately bind the applicant. She stated that the tax exemption was incorrectly done.

Smoky Greene, Livingston District: He stated that the proposal is enormous and unprecedented on the boundary of Fawn Lake. The project should be scaled back significantly to reduce risks.

Dr. Yvonne Athanasaw, Livingston District: She stated that Mr. Wilson, who spoke in favor, didn't disclose that he works for NTS. She raised concerns about property values, traffic, berm maintenance, and bird migration.

Danny Pemberton, Chancellor District, representing Spotsylvania Landowners Association: He stated that he is in full support of the proposed project and green energy. He stated that this is a property rights issue and that his group supports this project.

James Morris, Livingston District: He stated that he built his dream home in 2007 and that he wonders if citizens will get ½ off deals like sPower is getting for water.

Darrell Dupont, Livingston District: He stated that he applauds the Commission for listening and hopes that they think hard about all that has been discussed this evening.

Richard Schwartzman, Livingston District: He thanked staff and the Commission for listening and stated that he is opposed to the proposal.

David Garofolo, Livingston District: He stated that he is a mortgage lender and that this will make getting loans much harder. The residents will face catastrophic property value loss. He

stated that he has toxic chemical concerns.

Alan Branfman, Livingston District: He stated that he is being told the deal has already been made and that sPower is lying and their flyer is full of lies.

Jim McCloud, Livingston District: He discussed that Dominion will have additional energy production options. He stated that if this type of panel is so deadly, why is the industry growing. He stated that in N. Carolina, goats & sheep mow the panel areas.

Jason Williams, Berkeley District: He stated that he has grown up here and is in support of the project.

Rusty Foley, Richmond, Va: He stated that this is a wonderful project and that they will be a long term good neighbor.

Al Palmer, Livingston District: He stated his concerns regarding traffic and water quality and that Dewberry have a peer review done of the water quality calculations.

Dale Simmonds, Livingston District: He stated that he came from Jamaica where many of his relatives didn't even have water or electricity. He stated that he is a first generation college graduate and that he has serious concerns for the community because of the unknown potential for harm. He stated that homes are often people's largest investment.

Stephen Kerr, Livingston District: He stated that there is no analysis as to whether the solar farm will work.

Gerry Bradshaw, 11414 Meade Point: He stated his concerns in regard to lack of jobs provided by this development.

Jennifer Mackowski, 7803 Chancellors Pond Lane: She stated that we need this type of development for energy sustainability and that she is in full support of the proposal.

Ronald Little, Livingston District: He stated that this development will change the landscape of the county.

Kirk Byers, Livingston District: He stated that there are far too many maybes. He suggested that \$3-\$5 million dollars be held in escrow in case the corporations go bad.

Melissa Watson, Livingston District: She stated that this proposal doesn't pass the eye and smell test.

Susan Ball, Livingston District: She stated that she lives in Fawn Lake and doesn't like the idea of the use changing from an agricultural use to an industrial use.

Woody Woodyard, Livingston District: He discussed that property values will be in jeopardy with the proposed use coming in.

Applicant, Charlie Payne, representing sPower: he stated that he appreciates all of the comments and that his family has been here since 1721. He stated that the spreading of misinformation occurs during public hearings. He stated that they have had to put a lot of time and energy into debunking false statements and fears. He stated that the proposal includes 96 conditions and that the county and applicant have heard the citizens loud and clear.

Garret Beam, sPower: He stated that they have been listening and to date have found a new source for water where they will be fronting a lot of that cost. He stated that they intend to keep working to make it a better project.

Mr. Newhouse stated that given the hour, much work still needs to occur. It will give the Commissioners time to formulate questions and comments.

There was discussion on whether to leave the hearing open or not. The discussion and potential vote will be moved to the January 2, 2019 meeting.

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Newhouse made a motion, seconded by Ms. Carter to continue the discussion and vote on SUP18-0001 to January 2, 2019 to provide an opportunity for the applicant to supply the Plans recommended by staff and respond to any other noted deficiencies and so Planning Commissioners can continue to review the application and consider the input received during the public hearing. The motion passed 5-2, with Ms. Maddox and Mr. Thompson voting no.

New Business

At a meeting of the Spotsylvania County Planning Commission held on December 5, 2018 on a motion by Mr. Newhouse, seconded by Mr. Smith, and passed 7-0, the Planning Commission adopted the following resolution:

RESOLUTION NO. 2018-03

Location Change for Planning Commission Meeting

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on December 5, 2018 for SUP18-0001, which is the first of three Special Use Permit applications submitted by Sustainable Property Holdings, LLC for a solar energy facility; and

WHEREAS, the application has received considerable public interest and there was a large audience for the public hearing; and

WHEREAS, the Spotsylvania County Planning Commission, under its Bylaws, may determine the location for any of its meetings and desires to hold future meetings in which these Special Use Permit applications will be considered at a larger venue to accommodate the anticipated audience;

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Planning Commission does hereby move the location of its next three regularly scheduled meetings on December 19, 2018, January 2, 2019, and January 16, 2019, to the Marshall Center Auditorium, located at 8800 Courthouse Road, Spotsylvania, VA 22553. These meetings will begin at the regularly scheduled time of 7 p.m. Planning Commission meetings will return to their regular location in the Board Room at the Holbert Building at 7 p.m. beginning February 5, 2019.

Public Comment:

Judith Genaille, she stated that she has sent emails to staff and the applicant for sPower is getting included on those emails. She stated that she has had her computer hacked previously and doesn't want her emails going to sPower, only staff.

Adjournment:

Motion and vote: Mr. Thompson made a motion, seconded by Mr. Smith to adjourn. The motion passed 7-0.

The meeting adjourned at approximately 11:40 p.m.

Paulette Mann

Paulette L. Mann

December 19, 2018

Date

Spotsylvania County Planning Commission

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: January 2, 2019

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

Richard Thompson	Courtland
Howard Smith	Livingston
Jennifer Maddox	Berkeley
Michael Medina	Salem
Mary Lee Carter	Lee Hill
C. Travis Bullock	Battlefield
Gregg Newhouse	Chancellor

Staff Present:

Paulette Mann, Planning Commission Secretary
Wanda Parrish, AICP, Director of Planning
Patrick White, Planner III
Alexandra Spaulding, Senior Assistant County Attorney
Jacob Pastwik, AICP, Planner III
Leon Hughes, AICP, Asst. Director of Planning
Ben Loveday, Director of Utilities/Public Works
Jay Cullinan, Fire Chief
Troy Tignor, Zoning Administrator
Richard Street, Deputy Director of Zoning
Karl Holsten, County Attorney

Announcements: None

Review & Approval of minutes:

Motion and vote: Ms. Carter made a motion, seconded by Mr. Thompson to approve the minutes of December 19, 2018. The motion passed 7-0.

Unfinished Business: None

Special Use(s):

SUP18-0001 - Charles Woolfrey Construction Inc., Robert S. Coleman, Jr., MWD Properties 2009, LLC, Goodwin Brothers Lumber Company LLC, Meadows Farms, Victor N. Meadows, II, David L. Meadows, Frederick L. Meadows, Berman J. Meadows, Betty Meadows, Jay Meadows, RiverOak Timberland Investments, LLC, Gary Thomas Woolfrey (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site A): Requests special use permit approval on multiple parcels to develop a 400 MW solar energy facility on Agricultural 3 (A-3) zoned properties together constituting a site of approximately 5,200 acres. The properties consist of 11501 W. Catharpin Rd., 12910 Orange Plank Rd., 10900

Buckland Rd., 13301 W. Catharpin Rd., 13001 W. Catharpin Rd., and 22 additional unaddressed parcels. The properties are located in western Spotsylvania County, south of Orange Plank Road, north of W. Catharpin Road, east of the Spotsylvania/Orange County line and west of Catharpin Rd. The properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential or Agricultural and Forestal Land Use development on the Future Land Use Map of the Comprehensive Plan. Tax Parcels 28-A-1, 28-A-78, 29-A-1, 17-A-7, 18-A-16, 30-A-1, 17-5-19, 17-A-3, 17-A-3A, 17-A-4, 17-A-48, 16-A-1, 17-A-47, 18-A-15, 18-A-20, 28-A-71, 28-A-77, 29-A-2, 29-A-2A, 29-A-22, 29-A-24, 29-A-25, 29-A-26, 29-A-27, 29-A-28, 29-A-7, and 28-A-79. Livingston Voting District.

Mr. White provided a brief update to the Commission. He advised that on December 5, 2018, staff recommended postponement of the Planning Commission's recommendation so that staff could obtain four additional plans from the applicant to integrate them into staff's recommended conditions. Those included:

1. Landscape Cover and Buffer Maintenance Plan as recommended by the County's consultant to mitigate any temporary temperature increase caused by the Facility, and to establish procedures for the planting and maintenance of vegetation;
2. Soil Testing and Remediation Plan as recommended by the County's consultant to monitor for any soil contamination from the cadmium-telluride panels and other heavy metals;
3. Decommissioning Plan revisions as recommended by the County's consultant to address the full breadth of decommissioning a SEF; and
4. A final Traffic Mitigation Plan.

Staff received those Plans from the applicant and has conditioned them. Additionally, staff is recommending conditions to address deficiencies in the Plans. Staff is recommending approval with conditions. Staff believes the conditions are critical to mitigate impacts of the project, during the construction phase, and also during the operations phase. Planning staff consulted with experts in different fields to craft conditions to address public health, safety, and welfare. Those experts came from within the County, including the Fire Chief and Director of Environmental Codes, and Director of Utilities, from state agencies such as VDOT, DCR, DOF, and NPS, and also included a County-hired consultant, Dewberry Engineers, Inc., to provide analysis and recommendations related to hydrology, decommissioning, Cadmium Telluride, and heat island/temporary temperature increase. Staff is available for questions this evening.

Mr. Thompson inquired about the buffers and setbacks. We talked about how far they would be from the neighbors, where will they begin.

Mr. White explained that it varies. Condition #2 under landscaping, maintenance, setbacks, and buffers states that inverters and generators shall be set back a minimum of 400 feet from the boundary of the property. He advised that that is a global setback. For properties that contain a residence or that is within a platted neighborhood, then that sets a further setback of 350 feet if there is a current house or the potential for a home to be built.

Mr. Thompson inquired if that applied to 5 acres or less.

Mr. White stated that there is not a minimum acreage requirement at this time but believes the applicant may speak to that. If there is not a home, it is currently set at 50 foot setback.

Mr. Thompson inquired about the wells that were dug and the status of those.

Mr. White stated that several test wells were dug but they do not intend to use them but could use them in the event that the County cannot provide water to the property. The applicant will be using county water but reserves the right to use ground water should the county not be able to provide water. This would be permitted for a 10 day period and there are provisions in the conditions to allow us to monitor that.

Mr. Smith stated that they intend to cap them off and not use them.

Mr. White stated that he does not understand it that way that the applicant must have the ability to use ground water should county water not be available.

Ms. Carter agreed with Mr. Smith and that she thought Utilities would be in charge of that.

Mr. Payne introduced their team that was present for the evening. They have agreed to cap those wells. In various community meetings, citizens expressed concerns about the aquifer and they have agreed to cap those wells even though there is adequate aquifer present. They will be using public water. The county controls the whole process as they must provide us water.

Ben Loveday, the connection to public water would be controlled by Spotsylvania County Utilities. When it comes to the wells, the utility department would not be involved. The zoning office would be in charge of enforcement. That said, it would take a catastrophic event for the Utilities to not be able to provided water.

Mr. Smith stated that there is no way for the county to monitor if the applicant is using water from the wells.

Mr. White stated that there is a condition that reads that the cumulative on-site ground water withdrawal shall be limited to a maximum of 50,000 gallons per day and for no more than 10 days per calendar month during the construction phase. The wells shall be equipped with meters to monitor withdrawal.

Mr. Smith stated that the County intends to provide water, so why are they not going to be capped.

Mr. Payne stated that they absolutely agree to cap the wells. Water usage is mainly for construction and very little usage will occur after construction.

Ms. Carter understood that they would be capped off, but thought it would have to go through the utilities should they end up needing to use well water.

Mr. Loveday stated that the Utilities Department does not have the authority to cap or uncapped the

wells. That is done through the Zoning office since they enforce conditions.

Mr. Tignor stated that his department is going to be out there enforcing conditions and is very comfortable with this condition. He stated that he will have inspectors or third party inspectors on site and they will see if there is a pump there for withdrawal. You don't have to worry about that. There will be either a padlock on the well or no pump inserted to extract water.

Mr. Bullock inquired if there is adequate staff to do this or will he need to hire staff.

Mr. Tignor stated that they have estimated costs over the next 18 months and we believe it will be \$1.8 million dollars. They will be paid by the applicant through the fee structure that was recently adopted. He advised the Commission that he also has access to three civil engineering firms that will provide up to 12 field inspectors at any one time.

Mr. Bullock inquired about the fees and the applicant paying those fees to offset the cost.

Mr. Tignor stated yes, they will be paying for their reviews through the fee structure.

Ms. Maddox stated that the way the condition is written, it appears a report would be provided to the county and not staff on site.

Mr. Tignor stated that their eyes, boots, and feet would be all over this site. He stated that they will be enforcing the conditions.

Ms. Maddox stated that as written it appears to be a report that is provided.

Mr. Tignor stated that the report is written should there be a catastrophic event.

Ms. Maddox expressed concern about the way it is written.

Mr. White displayed the conditions relative to the use of ground water.

Ms. Parrish stated that she believes that we need to look at condition #H1. She read that it reads, the applicant shall only utilize public water during the construction and operations phases of the Facility, except in the event that sufficient public water is not available to the Applicant, in which event the Applicant may utilize ground water during the construction phase only. She stated that this condition really states that public water must be used first unless the county cannot provide water for some reason. If the Planning Commission doesn't believe this condition to be sufficient, then certainly the Planning Commission can make changes or suggestions. We do feel comfortable with the 50,000 gallons per day based on the County's consultant.

Mr. Smith stated that as far as the water, he would like to see that no water be taken from the ground. He was advised by the applicant that they have no intention of using ground water and expects that they hold true to their word.

Mr. Payne stated that they will cap the wells and no ground water will be used on the site.

Mr. Bullock stated that he would like to talk about decommissioning. He would like to know about whether the project goes defunct, who will pay for the decommissioning.

Mr. White stated that the applicant has provided three decommissioning documents. Staff has identified several issues and has addressed those under general condition 17. Generally, it should serve two purposes. The one issue is whether there should be a credit for future recyclable value once the life of the project has run its course. To date, staff and the applicant don't quite see eye to eye on this subject. The applicant believes that by the time they decommission the project at the end of its life cycle that there will be some recyclable value of the panels. Staff has taken a more conservative approach because we don't know at what point the applicant could potentially walk away and we would have to pull the bond and decommission it ourselves. The ordinance requires that we review the bond every two years. Our position has been that the decommissioning bond should start high. We don't know what the future value of the PV panels will be. Staff has also seen evidence that there is an actual cost to recycle them rather than a credit to do so. Staff is suggesting that the bond begin high and come down with each review of the bond as more evidence regarding the recyclable value comes to light. That would provide staff a more clear value as to what those recyclable values are. There is distance between what the applicant is proposing and what the condition reads. Staff is suggesting no credit be given for the recyclable value.

Mr. Newhouse inquired whether because the equipment is at the end of its lifecycle doesn't mean that the facility would cease, correct.

Mr. White stated that is correct.

Mr. Newhouse stated that the purpose of the bond and it being reviewed every two years is to take into consideration current market conditions and that the bond is at least reflective of current market conditions, including the volatility, recycling, and those types of things.

Mr. White stated that is correct. The future is too unknown to us.

Mr. Newhouse stated that he doesn't like the term, "walk away." He stated that he believes that the applicant plans to make use of the facility for as long as possible, even though equipment may need to be replaced.

Mr. Payne stated that of the 150 sites that his client owns today, they have never walked away from their energy producing facility. They are building the facility because they have folks that are going to buy the energy through long term power contracts. The facility is a valuable asset in and of itself. If it's generating energy, it will be valuable for its entire life and perhaps, extended life. The bottom line is that they hope to exhaust this facility far into the future. The county has a condition that requires that the bond be reevaluated every two years. If the cost of materials goes down, then the bond value goes up. The asset is \$600 million dollars and it allows the business owner to get up on their feet and get the project going. This is a valuable asset being invested in in Spotsylvania County. He stated that they are asking for a fair approach and the

safety net is that the County can reevaluate every two years.

Mr. Thompson inquired about the comment made by staff that there may be a cost to recycle the panels.

Mr. White stated that they have seen research that there is a cost associated with CadTel panels and recycling those. He believes the cost was \$6 per panel.

There was discussion about the cost to recycle and review of the spreadsheets provided by the applicant.

Ms. Spaulding wanted to make sure that everyone was looking at the same Decommissioning report and it was determined that everyone was on the same page, dated November 15, 2018.

Mr. Newhouse stated that it doesn't appear that the applicant and the County are in alignment on the costs to decommission.

Mr. Newhouse stated that he would like to walk through the conditions and discuss the ones that people have questions about. He stated that he would like to begin by discussing #8 of General conditions. He stated that the applicant will likely not have acquired the property within 15 days.

Ms. Parrish stated that they can amend the condition to reflect that this occur at site plan rather than special use approval.

Mr. Medina inquired about paragraph 3 under general and the insurance values. He stated that they seem pretty low for a project of this magnitude. He inquired if staff has had discussions with our insurance carrier.

Ms. Parrish stated that the values came from our insurance provider.

Ms. Carter asked for further clarification of that condition.

Ms. Parrish stated that the insurance would cover the county as well as the applicant.

Ms. Maddox stated that with the county reviewing the surety bond every two years, she would suggest that we look at current market value of insurance at the same time to ensure that we have adequate coverage 20 years from now.

Mr. Newhouse inquired about #10 regarding batteries on site and wanted to confirm that none would be stored on site.

Mr. White confirmed this.

Mr. Newhouse inquired about item #12 and where it came from. He stated that this is private property and that the county doesn't need to be dictating speed limits on the developer.

Mr. White stated that it was included as a dust control measure. He stated that this is a common condition on other solar facilities to ensure they slow down and don't kick up as much dust.

Mr. Smith stated that there is no way to enforce that speed limit on site.

Ms. Spaulding stated that there is the ability to enforce this condition and the Commission has the legal authority to recommend this condition.

Mr. Smith stated he doesn't know how this condition is enforceable.

Mr. Newhouse stated that there are other means to control dust. Mr. Newhouse stated that he is going to make a motion that this condition be struck.

Mr. Tignor stated that there is no problem enforcing this condition with the assistance of the Spotsylvania Sheriff's office using a radar gun.

Mr. Newhouse stated that if it's a safety issue than he can appreciate that but if it's to control dust, there are other means to do so.

Mr. Tignor stated that his employees and third party inspectors will be on this site routinely and the speed limit is reasonable to protect the employees.

Mr. Newhouse stated that it would seem reasonable to him to include a condition in the site safety plan when the applicant goes to construction.

Mr. Payne stated that it is a great idea and they already include a speed limit in their plan.

Mr. Newhouse proposes that it be handled through the applicant's safety plan.

Ms. Carter inquired if Mr. Tignor would be okay with that.

Mr. Tignor stated that as long as they have safe conditions out there for the employees, then he is satisfied.

Mr. Newhouse stated that under item #15, he would like to make sure it would allow for the most effective and efficient way to get the site stabilized in terms of growing grass or whatever it is.

Mr. Street stated that it would have to be a minimum of four weeks before they planted any seed.

Mr. Newhouse stated that he would like to come up with the most appropriate language so that we can move forward with getting the grass to grow.

Mr. White stated that staff concurs and feels the condition reflects those desires.

Ms. Carter inquired what would be used to get the grass to grow faster and inquired if there is any danger to the lake for what is being proposed.

Mr. Street stated that it is provided for in the state requirements. You will need some sort of phosphorus and nitrogen to get the grass seed to take. Without that, our soil, as acidic as they are, will not take, to include native grasses.

Ms. Carter stated that she wants to ensure that the lake is protected and feels like the golf course folks are aware of what is acceptable without hurting their lake.

Mr. Street stated that every project that is not residential have guidelines that must be followed.

Mr. White called their attention to Biological conditions 3 & 4 regarding fertilizers.

Mr. Newhouse discussed land disturbing permit and the removing of fencing and is interested in the thought process about the fencing when writing this condition.

Mr. White stated that staff envision when the site is decommissioned and restored that the larger above ground items such as fencing be removed.

Mr. Newhouse stated that the reason he brings this up is because in the estimate provided by the applicant, there is a \$400,000 credit and this is a \$600,000 item.

Ms. Parrish stated that the fence isn't necessarily around the perimeter of the property. It's going to be in and out and all around the different sets of solar arrays and may not be useful to other users in the future.

Mr. Newhouse stated that he would like to see some flexibility for the future in regard to this recommendation. He also inquired about item Q.

The present estimate for decommissioning provides no reserves for weather delays.

Mr. Newhouse inquired what staff would consider a weather delay. He stated that even if it's raining, the panels could be taken down.

Mr. White stated that could be true. The reason they included this, if you look at the same section regarding workforce. It was staff's determination that it didn't seem accurate that the facility could be taken down with so few people in such a quick speed without any contingency of a weather delay.

Mr. Newhouse inquired about item R. He stated that he is unclear as to whether we are accounting for any disposal cost.

Mr. White stated that the present estimate declares that they taking down of these panels will have a value.

Mr. Newhouse stated that he would like to suggest a change that the engineers provide a testament of certification.

Mr. Newhouse inquired how staff would like to see this move forward. He asked if he should make a motion on the suggested changes and then staff bring back those requested changes.

Ms. Spaulding stated that she feels that they have given staff enough but in the wording of your motion, you should have the complete motion formed. If you want a provision struck, you should us that that's what you want to do and how exactly you want these changed. She stated she has taken notes but would likely need to consult the Chairman for exactly how you wish for them to be changed.

Mr. Newhouse stated the following:

- Item #8 - Reword that to reflect at site plan.
- Item #12 – Strike or revise it to say that speed limits will be included in the applicant's Health/Safety Plan for the project.
- Item #3 - The insurance is reviewed every two years with the decommissioning bond. (Ms. Maddox stated that she doesn't know what the proper time frame is to review your insurance coverage as she never worked in Commercial. Ms. Parrish stated that she would consult with the County's insurance provider.)
- Item S – Changing testament to certification.

Ms. Spaulding asked for clarification on G. She stated that it was discussed and she confirmed whether the Commission is good with leaving G the way it is.

Mr. Newhouse stated that he is fine with it but if there is a way to provide a little bit of flexibility to it because he would think that perhaps a future applicant or this owner could potentially want to keep the fence. His interpretation is that all fences must be removed.

Ms. Spaulding stated that also discussed was Q & R.

Mr. Newhouse stated that he is fine with both of those.

Ms. Maddox inquired about the solar panels themselves and wonders where it is mentioned as to what kind of panels will be used.

Mr. White stated that he doesn't believe you will find that in the decommissioning plan. There is no drafted condition restricting the use of Cadmium Telluride panels in the general conditions or elsewhere. He stated that staff does have the representatives from Dewberry to speak on that if the Commission has questions.

Mr. Medina stated that he does believe that the applicant at some point stated there would be a mix of panels.

Mr. Thompson stated it begs the question, why are we using CadTel panels at all. We must look out for our citizens that have expressed concerns about the use of those types of panels.

Mr. Payne stated that as you may recall in their report and the work by the County's consultant, Cadmium Telluride is not Cadmium. It is a different compound that is safe, reliable, and used throughout the country. The mix is 70% silicone and 30% Cad Tel panels. He stated that they have present one of the foremost experts on all panels, heat island effects, etc, Dr. Fthenakis from Columbia University. The County's consultant reviewed his study and he is present to answer questions.

Dr. Fthenakis stated that he has been working on this for 36 years. He updated the Commission on his experience. He has written four books and written over 400 studies and articles. He has also worked for the Department of Energy. He discussed that he has developed two patents on CadTel cells and his studies have been used and reviewed in at least 20 countries. CadTel is a very safe technology. There are chemicals used in every module and the chemicals are encapsulated and nothing comes out of the panels. He stated that he knows this because they have burned, broken, and exposed them to many conditions and nothing comes out from any type of panels. He stated that you can burn them at 1100 degrees Celsius and only 4% may come out. He stated that cadmium telluride is a very stable compound. If you were to digest it, it could harm you but otherwise it is very safe. We have studied it many times and it is fine to use. The people that manufacture the panels could potentially be exposed but nothing comes out and they are enclosed under negative pressure. Any issues would occur during manufacturing or disposal. He stated that we don't want any type of PV panels to end up in landfills because they have value. CadTel panels have more value than silicone for two reasons.

1. They have two sheets of glass
2. Silicone only has one sheet of glass

He stated that he is an independent consultant to sPower and a professor at Columbia University. He stated that he has worked also with the oil industry regarding safety. He has worked for many companies to include Exxon 3M, Dow Chemical, Mobile, etc. to provide safety recommendations for their companies. He stated that he is a Safety, Chemical, and Environmental Engineer.

Mr. Newhouse inquired when decommissioning a panel, he is clear in his understanding that disassembly does not happen on site. Are the panels packaged and sent offsite for recycling?

Dr. Fthenakis stated that currently the recycling occurs for CadTel panels where the manufacturing occurs. He stated that this is a modern technology. He said that the patents are available to everyone, royalty free. He discussed capacity and that it doesn't take years.

Mr. Newhouse stated that if he understands correctly, the risk to the citizens in this area is only if it is directly ingested versus if a panel breaks.

Dr. Fthenakis stated that is correct, the CadTel would have to get out of the panel first which is highly unlikely.

Mr. Newhouse inquired if the panel were to fall to the ground and break, could the CadTel leech into the groundwater and cause harm.

Dr. Fthenakis stated that there are many studies on leeching and the only potential is for a significant concentration on the ground if the panels are ground into dust, only then would this be an issue. A study was done breaking the modules into several pieces and exposing them into rainwater for 1.5 years, there was no leeching. Unless broken into very, very small pieces, there would be no leeching. Even at one square centimeter pass the test. That is the test that is official for all panels. If you grind them, things will come out in time.

Mr. Newhouse stated that there has been a lot of discussion about the panels and damage due to high winds, tornadoes, hurricanes. The potential risk would only come if the panels were to be ground up versus just cracked due to Mother Nature. He inquired if that was a fair statement.

Dr. Fthenakis stated yes, that is correct. He discussed experience in Texas in regard to storms. He said he has had panels on his roof for 21 years and they have weathered storms and nothing has occurred. He discussed damage to one in New Jersey on a commercial building, but he knows of no damage to panels in Florida or North Carolina due to storms.

Mr. Newhouse inquired if these are the same types of panels used in residential homes.

Dr. Fthenakis stated that CadTel panels are only used in commercial uses. They are not used for residential uses. They are safe for any use in his opinion. He discussed seeing photos of buildings in Japan that have had tsunamis and whole buildings have collapsed with the PV panels still totally intact. He stated that he feels they protect his home. He stated that there was one storm in the Caribbean and he saw panels that came apart from the base and the panels were intact, only the fasteners were the issue. The panels blew away, but didn't break. He said when they have done recycling studies, they try to break them and couldn't. He said you have to saw them. The glass is tempered and very difficult to break.

Mr. Thompson inquired why they just don't use the silicone version of panels. Why is there a mix of panels?

Mr. White stated that staff has not suggested the restriction of the use of CadTel panels. The applicant and the county's consultant are on the same page and feel they do not pose a risk and are safe to be used.

Mr. Thompson stated that he wants to know why we can't just have the silicone.

Mr. Payne stated that this is a commercial use and the silicone and CadTel panels are conducive for that purpose. You wouldn't put a CadTel panel on a house because of its size. This is for a commercial use, very safe and is used across the country for many years.

Mr. Thompson inquired if the applicant is using them just because they want to.

Mr. Payne stated that this is a pro-business county and from an investment and commercial perspective, it's a reasonable use.

Ms. Carter stated that she understands that you cannot break the panels unless they are sawed.

Mr. Payne stated that it would have to be a catastrophic event per Dr. Fthenakis. You would have to have an 1100 degree Celsius temperature to even try to melt them. He stated that he cannot even think how that could happen on this site. He stated that the opposition has been talking about how dangerous these panels are which is completely untrue. The property is just a few miles from a nuclear power facility. He urged the Commission to be realistic and keep things in context.

Ms. Carter inquired if the consultants agree with Dr. Fthenakis.

Ms. Jessica Robbins with Dewberry Engineers stated that they agree that they are very robust panels and they also agree that they are safe. She stated that they would like to hear if a panel were to be broken, what the procedure is to take that panel offsite for recycling or repair. She stated that they believe there to be very low probability of that happening. The tempered glass is testing with hail guns that shoot hail at close proximity into them.

Mr. Newhouse inquired if there is an event where a panel were to break, does that require chain of custody for them.

Ms. Robbins stated yes, there is a process and the applicant could speak as to the return process they would have with First Solar.

Garret Bean stated that they do have a process and that these panels are installed throughout the country. At our facilities in California, it is important to keep in mind that these panels are under warranty as well. The process would be that we go and grab them from the facility by detaching them, store them in a box or other material and then they come and pick them up immediately. We do fill out chain of custody to properly manage all of our panels that are on our site and leave our site.

Mr. Newhouse inquired about the storing of them and how that works.

Mr. Bean stated that the panel remains encapsulated and are put into crate containers and First Solar will come and pick them up. These facilities are monitored 24/7 so if a panel is out or malfunctioning, we are aware. sPower will also have 30 people on site that will be monitoring them.

Mr. Smith stated that in that rural part of the County, we have a lot of hunters that hunt with rifles and shotguns. He inquired if the panels would withstand those if hit.

Ms. Robbins stated that she is unsure whether a test has been done on that. The applicant may have data on that. She stated that she does know that the site is monitored and it's in the applicant's best interest to keep all panels up and operational.

Mr. Smith stated that he understands but wonders if several of them were to break and cause exposure, would they be hazardous to the community. He also questioned how we prevent them in this rural part of the county from not getting hit during hunting season.

Mr. Bean stated that one of the important things about this facility is that it is a power plant and we are monitoring this with our team out in the field 24 hours per day 7 days per week. Could a rifle or shotgun hit one of these panels, yes. Will they be pulverized into dust or very small pieces, no? Supervisor Benton did request that we go out and sample soil at one of our facilities and it came back completely clean. Nothing had leached into the soil.

Mr. Medina inquired regarding the two types of panels and which one is most efficient as far as an output perspective and which are most efficient from an output to cost perspective.

Dr. Fthenakis believes them to have about the same efficiency. First Solar has the lowest production cost in real terms. They have the whole infrastructure. Perceptions have been addressed and he believes that CadTel could now be put on homes. One C size battery has more cadmium than one panel on the roof. This is a very safe panel and that this is there business plan.

Mr. Medina inquired about the 1.8 million panels, are the two manufacturers the only two that recycle the panels?

Dr. Fthenakis stated that there used to be two companies, now only one. All of the manufactures can use recyclers. If the company doesn't have the ability, they will send it out to others.

Mr. Medina inquired if the panels have already been purchased.

The applicants shook their head yes, they have already been purchased.

Mr. Medina stated that he understands the 70/30 mix because there is lead time and they only had the ability to purchase what they did in advance.

Mr. White stated that he would like to point out under General Conditions 14 which is for cadmium and the soil and 16 about sealed dried waste container for any precautionary damaged solar panels.

Mr. Payne stated that the CEO of sPower would like to say a few words if the Commission agreed.

Ryan Creamer, Founder and CEO of sPower: He thanked the Commission for having them. He stated that the question about the two types of panels, yes they have been purchased and as far as why not only silicone. sPower make wise decisions and the panels that have been purchased are from First Solar, and American company and Jenko, a Chinese company. The panels come from Malaysia. They are the two strongest balance sheets for manufacturer providers in the industry. If one if the companies were to go belly up and we are signing thirty year warranties, we need to diversify our manufacturers to lessen the risk. We have only procured from 4-5 different companies total.

Mr. Medina inquired what sPowers largest facility is to date.

Mr. Creamer stated that to date it's about 500,000 panels in California.

Ms. Maddox inquired if they have a mix of panels at their other projects as well.

Mr. Creamer stated that this is a good size project. The previous project was all Jenko panels. If you look at this as an aggregate, we view this as multiple projects. We do try to put the same type of technology at these locations.

There was discussion about how many panels were at the project in Lancaster.

Mr. Creamer stated there are roughly 1.5 million panels in Lancaster. Lancaster is a total of 19 projects total.

Mr. Thompson discussed the disposal of refuse on this property and we talked about trench burning and chipping. He suggested he would like to see that mulching be done for all of it. He stated that they had a demonstration from a citizen that shows the equipment necessary for that to be done rather than burning.

Mr. White stated that staff has not presently recommended a no burning condition. We have instead provided a number of conditions to limit the applicant's burning and the requirement for air and trench burning system. Staff has provided conditions to help with the mitigation of that. He discussed that forestry operation on the land allow for open burning.

Mr. Thompson stated that they didn't need an SUP to do that.

Mr. White stated correct.

Mr. Thompson stated that he doesn't believe it's unreasonable at all to mulch all of it. You can run a log through a mulcher much faster than you can burn the log.

Mr. White stated that if that is a condition that he would like to recommend be added, that can be done at this point.

Mr. Thompson stated he has said this from day one.

Chief Cullinan stated that there are currently no requirements within the county code that prohibit a burning operation. Would we be opposed to them only mulching, no, but there is currently nothing in our county code that would prohibit them to do that unless it was a condition.

Mr. Medina stated that he may be uniquely qualified to shed some light on this subject. He stated that he is currently a CEO of a mulch company. The ability to mulch is fine. Mulch as it piles up creates its own issues whether when piled it breaks down the organic chemicals and becomes very hot and combusts on a regular basis. The ability to spread it out on site may be feasible but it can become quite hazardous unless they are put into wind rows or spread out on

the site. It will take a very long time for it to breakdown enough to be able to plant anything on top of it. Absolutely it can be done but fires are a serious concern in the mulching industry.

Mr. Payne stated that burning is only one of three methods that they are using. One method is hauling it off, using mulch onsite, and burning. Any construction use would be permitted to do so. In addition to that, you cannot burn May through September so it would be a limited process. If we were to mulch everything or haul off debris, this would mean more truck traffic not to mention that the county would require us to be 3000 feet away from any residence. Deep trench burning process will actually be 1000 feet further than they would require burning to occur from any school, hospital, and nursing home. We are already being held to a higher standard than the ordinance.

Ms. Maddox inquired about the 70/30 split on panel types. Is there a specific site that the CadTel panels would be placed? Is there a benefit about having them further away from people? Has that been considered?

Mr. White stated that right now there is not a condition that isolates or confines the CadTel panels to a certain location within the development because the documentation that staff has seen does not demonstrate that they are hazardous. It is nonetheless possible, to isolate them to a certain location by condition.

Mr. Bean stated that it is important to remember that all of the testing has been done. They have been shown to be safe for many years. With that said, we do have to maintain some flexibility to be able to move things around so that we can get the production that we need to meet per our PPA. We are being constrained whether through setbacks or wetlands and feels this would constrain them even further. It's very important for us to have flexibility and the panels are safe. He said that it's also very important to remember that Fawn Lake and the other communities around them are uphill. Fawn Lake drains into a stream adjacent to their project.

Dr. Fthenakis stated CadTel PV panels, encapsulated in glass are very, very safe. There is no way for these particles to enter a human body.

Mr. Medina inquired if CadTel is the safest of all the technologies.

Dr. Fthenakis stated that in terms of anything coming out of the panels, they are as safe as any other technologies encapsulated with glass.

Mr. Medina inquired if there are issues with silicone panels.

Dr. Fthenakis stated that there is more lead in silicone panels than in CadTel panels. There is also silver, which can also be toxic. He stated that the facts are that it is not coming out. CadTel panels use less energy in manufacturing.

Mr. Medina inquired about the panels that have already been purchased and whether more panels have been purchased above and beyond this project. If the Commission were to say that they only want the applicant to use silicone, do you have those readily available? Also, why purchase

so many for a case that hasn't been approved yet.

Mr. Creamer stated that lead time is a reason for the early purchase and CadTel panels are exempt from tariffs, section 201. Over a year ago, we made a commitment to purchase and we look at our inventory on an annual basis, looking at the number of contracts we've signed versus not signed. It's a good safe technology.

Mr. Medina inquired if sPower or any affiliated companies have interest in the panel manufacturers.

Mr. Creamer stated no.

Mr. Newhouse stated that he wishes to move on to Section B. of the construction conditions. On B.2, explain the 70% shuttling of the workforce.

Mr. White stated that the condition was recommended to significantly reduce the traffic or number of trips and the potential impacts regarding volume and the pavement. When we toured a solar facility in North Carolina, one of the things that struck us was the large amount of buses that were present onsite. Staff thought this to be a reasonable condition to help mitigate the traffic impacts.

Mr. Newhouse stated that he would envision the majority of the staff would be onsite early in the morning, as most construction workers are. He asked if that was considered or if this is based upon peak hour.

Mr. White stated it was an overall concern of average daily volume.

Mr. Newhouse inquired what the contingency plan would be for an employee who could potentially have an emergency and they were bussed to the site.

Mr. White stated that 30% of the workers would be driving to the site and would likely be able to shuttle the person back to their car should that be necessary.

Mr. Newhouse would propose to strike this condition because he doesn't see any benefit from the shuttling in of employees.

Mr. Smith stated that he respectively disagrees with Mr. Newhouse. The roads are very narrow and there needs to be consideration for the impacts and increase of traffic on already over used roads.

Mr. Newhouse stated that he would like to address that comment and whether analysis has been done about the structural integrity of the road.

Mr. White stated that based on the preliminary trip generation data we have thus far, we did observe level of service decreases on all four of the road segments that were looked at.

Mr. Newhouse stated that he is concerned about the structural capacity based on Mr. Smith's comments.

Mr. White stated that that analysis has not been done but that we do have a condition that would require that the roads be recorded and that bonds be in place should road repairs be necessary throughout or after construction has been wrapped up.

Mr. Newhouse inquired if it would be a fair statement to say that if we recommend a road structural analysis be done and they deemed to be sufficient, would you still be concerned.

Mr. Smith stated that he has concerns about eliminating that condition because he travels that roadway almost every day and that he was once sheriff of this county and knows the conditions of these roads.

Mr. Newhouse inquired if the National Park Service (NPS) has purview over that section of roadway.

Mr. White stated that they have received comments back from NPS that they would need to issue a permit for commercial vehicles that use that intersection or segment of Orange Plank Road which lies within the battlefield district.

Mr. Newhouse inquired if that is a VDOT right-of-way or is it actually owned by the NPS.

Mr. White stated that he believes it to still be within the VDOT right-of-way but is within the purview of the NPS.

Mr. Medina inquired about the process.

Mr. White stated that he is unaware of the process.

Mr. Newhouse inquired about private roads and how we legal access on these roads.

Mr. White explained that the applicants have an existing easement on the private roads.

Mr. Newhouse encourages wordsmithing on definition of private roads.

He also mentioned Item 9C wide load deliveries, and appreciates staff's definition but believes it better to use the DMV definition of a wide load.

Mr. White agreed.

Mr. Medina inquired about 9B and stated that he knows why but it seems odd to say the first and third Sundays. He asked why we don't just say all Sundays.

Mr. White stated that he believes this to be somewhat of a compromise condition based on feedback from citizens. The noise that is created from pile driving is significant and we thought

it a compromise for the neighbors of the project to have a few Sundays where they don't have to listen to that.

Ms. Maddox agreed. He stated that she had staff investigate this with the Culpeper project and it was found that they had a condition for no Sunday construction. She stated that if they aren't permitted to work on some Sundays however, it could prolong the project but is fine with having a condition that states no Sundays.

There was consensus to eliminate construction of any kind on Sundays.

Mr. Medina stated that he wanted to talk through public liaison. Paragraph ten, understands the intent and is not quite sure about it.

Mr. White stated that this condition came from review of other solar facility applications. The concept was that the applicant would designate a primary point of contact and that person would look to resolve any problems that could arise and working with the County. He explained that it would provide for the County to get a sense of the regular occurring issues onsite, if any.

Mr. Medina stated that the liaison would be employed by the applicant. He inquired if it would cause Mr. Tignor's office more or less work potentially in a zoning violation. Is this a benefit or issue for his office?

Mr. Tignor stated that ultimately, they would have to come to the Zoning office. He believes the calls will be direct to the zoning office or administrator on issues that would have to be addressed. A lot of things can be taken care of with a phone call but the only way to enforce this condition of a special use permit is through his office. It's a significant responsibility with this many facets, the bigger picture is the whole ball of wax. He appreciates the condition but doesn't believe it will resolve a high volume of the potential zoning complaints.

Mr. Medina stated that in the conditions to call out an entity or publication that may or may not exist through the life of the project. He suggested removing the title of the Free Lance Star and stating publication instead.

Mr. Newhouse suggested a website.

Ms. Parrish stated that this condition is only for the construction phase.

Mr. Bullock inquired if #10 would be a burden on Mr. Tignor's office.

Mr. Tignor stated that it wouldn't be a burden on them.

Mr. Newhouse mentioned item #14. He stated that he wanted to be very clear that this should state as related to the project and seems ambiguous. The language should be tightened there.

Mr. Smith inquired if item #14 includes the Sheriff and state police since they are responsible for enforcement on the roads.

The Commissioners agreed.

Moving onto section c, E&S – Mr. Newhouse stated that he discussed with Mr. Street earlier in the day and that he understood that it would be a two phase approach to E&S control.

Mr. Street agreed.

Mr. Newhouse stated that the first phase would be establishment of perimeter controls and it would be for the entire area.

Mr. Street stated yes.

Mr. Newhouse stated that the second phase would be per bay or area that they plan to develop.

Mr. Street stated correct.

Mr. Newhouse moved down to C1C, he doesn't have a problem with the condition but believes we need to strike how we dictate means and methods. He is very cautious but feels we need to strike what we dictate telling them that they need as a crew. He feels that to be up to the applicant.

Mr. White stated that before we move away from E&S control. He stated that he had asked Mr. Street whether the perimeter controls would be in place for the entire site and he stated that he wanted to revisit that and make sure he understands correctly. By the entire site, Site A being 3000 acres, is Mr. Street saying that the perimeter controls of the entire 3000 acres would be set up because he didn't understand it that way.

Mr. Street stated that perimeter controls are the first step. They are proposing this to be done in waves.

Mr. White stated that he understood it to be done in phases of sections of disturbance, not the entire 3000 acres.

Mr. Street agreed.

Mr. Newhouse stated that there was some comments from the public regarding the 400 acres. Once the areas of 400 acres are stabilized, then the applicant can move forward to other areas and begin disturbance and whether that is the intent.

Mr. White agreed and stated that to be the intent, as they stabilize a portion of that 400 acres, then the same portion could be opened up in a new disturbance area.

Mr. Newhouse inquired what the process is for determining it's stabilized.

Mr. Street stated that temporary seeding would be required and then DEQ requires 80% vegetative ground cover.

Mr. Newhouse asked that it be clarified as to what the definition of stabilized is so that we are clear.

Mr. Thompson inquired if stabilized means after seeding or after the grass begins to grow.

Mr. Street stated that the grass has to start showing.

Mr. Newhouse stated that according to DEQ, it's not showing, but a percentage of growth.

Mr. Street agreed and discussed that during the winter months, they can continue construction activity by using the winter mix that would be required and changed in the spring.

Ms. Maddox inquired if rather than the calling it the project, be more specific and call it all three together.

Ms. Parrish stated that it is all three SUPs together and we actually have that defined under general, number 1.

Mr. Medina inquired about 2C and where we are measuring rainfall. Will there be a weather station onsite.

Mr. Street stated that there are two weather stations located in Fawn Lake. One is owned by Fawn Lake and the other is a private residence and we've been monitoring those. He stated that regionally we are finding that the Fawn Lake weather station is actually running lower than Lee's Parke. Lee's Parke registered almost 90 inches of rain this past year where Fawn Lake only registered 70 inches of rain. We can ask the contractor or applicant to put in their own rain gauge because they have to report it to several different agencies, not just us. He stated that Mr. Tignor reported that this is the wettest year since the 1800s and he does have farmers reporting that springs that have not been around for over 60 years are coming back up and they are worried that they will be qualified now as wetlands because they are producing a stream.

Mr. White stated the applicant's GDP does depict a weather station be constructed near entrance 3.

Mr. Newhouse stated that he'd like to move on to Section D, 3. One that struck him is the berm and is this in conflict with the visual berm. The applicant has proposed to use mulching for a berm and wants to be sure it is not in conflict with that.

Mr. White stated he would agree. He stated that if the Commission were to prohibit the use of a mulch berm than this condition would still stay in place.

Mr. Thompson stated that he would agree with that. The mulch will just rot away and be gone.

Mr. Smith inquired about item 11 and how we went from an 8 foot fire break to a 20 foot fire break. He stated that he doesn't believe it to be a bad idea but wondered where it came from

Mr. White stated that it was a recommendation made by the Fire Chief based on further analysis and research.

Ms. Maddox stated that she would really like to see a way where burning wasn't going to occur.

Mr. Smith agreed and stated that it is an SUP and feels we could make that a condition of the project.

Ms. Maddox stated that she has so many students in her classroom that have asthma and knows that it is above and beyond, but this project is above and beyond anything she has seen around here. That is one of the biggest things to stand in the way for this project because she believes it to affect public health.

Ms. Parrish inquired if there is consensus among the Planning Commission related to that.

There was consensus related to eliminating the ability to burn.

Section E – Setbacks & Buffers – Mr. Newhouse stated that he would like to discuss the 350 feet that was being reported, he asked for clarification on that and why 350 feet?

Mr. White stated that it was recommended by the County consultants. He stated that any temperature difference is negligible at 350 feet away and we were thinking that in addition to managing the potential for increase heat, we also help with potential noise during construction and also increasing the distance where natural vegetation could occur and settled on that number.

Mr. Newhouse inquired if it is it related to the heat island effect.

That was a component but it also helps to attenuate noise and serves to allow for vegetation to grow in and form a visual buffer.

Mr. Newhouse inquired if we were to have an earthen berm, 8 feet high with vegetation, what impact does that have on noise.

Mr. White stated that it would have a significant impact on noise and potentially visibility.

Mr. Newhouse stated that the current plan is to install an 8 foot earthen berm and landscaping where there are homes within 350 feet and where there was no established buffer in place.

Mr. Newhouse inquired if there is a sense as to what the positive impact would be in terms of feet.

Mr. White stated that he doesn't have a number for what could be discounted.

Mr. Newhouse stated he would like to look at that because in his line of work, a lot of the studies that they do with earthen berms and landscaping have a tremendous impact on noise and visual barriers. He stated that he also feels that the 350 feet in some cases from the boundary line is

probably very restrictive. He would like for staff to take a look to find out what the positive effect would be if the issue is noise and visibility. He stated what he is proposing is that some jurisdictions have 100 feet but is thinking that if we are looking at 150 feet within the inclusion of a berm and landscaping, he would like that to be evaluated.

Mr. White stated that he can state for the record that the county has existing transitional screening requirements and when using those, when the applicant is to install a wall, they can reduce that by half.

Mr. Newhouse stated that that is his point and feels it to be applicable there.

Ms. Carter stated that recently in Culpeper they approved a project with only 150 foot setback requirement. Was the 350 foot setback recommended by the consultant?

Ms. Robbins stated that the 350 foot setback was a starting point for discussion based on heat island effects; we are in agreement that the setback could vary based on the berms or vegetation installed.

Mr. Newhouse inquired if the berms and vegetation would have a positive impact on the heat island affect?

Ms. Robbins stated that to be correct. She stated that a study could be performed to see those impacts.

Mr. Payne stated what's the effect of the 350 foot setback that staff is proposing and what had we proposed as part of their project. The 350 came from the discussion about the potential heat island effect on adjacent properties. Dr. Fthenakis stated that his conclusion is that there would be no heat island effect on adjacent properties and that there is no need for the 350 foot setback. That large of a setback has a huge impact on the project on all three sites, but especially sites B & C. They proposed a minimum 100 foot setback with berms and vegetation in areas where there has been clearing and visibility. Some of the opposition has stated that the visibility would impact property values as well. He stated that Chris Kaila is present and hopes that the Commission has had a chance to review his comments. There is no impact so long as there is shielding. We aren't against berming and vegetation regrowth and replanting. He displayed a slide showing what it would look like and how far from adjacent properties and the property line versus the actual home. The key is to block and shield the area of the adjoining property owners.

Mr. Newhouse inquired if the vegetation is larger than saplings.

Mr. Payne stated yes, six foot evergreens.

Mr. Thompson stated that he feels the 350 feet property setback is good and we shouldn't be measuring from each house. He still owns the property all the way to property line.

Mr. Smith inquired about the 350 feet and whether that is on the entire piece.

Mr. White stated yes.

Mr. Smith inquired if he has five acres there without a home yet, are we talking 350 for that also.

Mr. White stated no, not unless it is part of a platted neighborhood.

Mr. Smith stated he finds that unfair and everyone should be treated the same.

Mr. Thompson stated that there are plenty of people who own acreage all over and people and relatives may want a piece of the property in the future and they should be treated the same. We aren't fairly considering the future at all.

Mr. White stated that it appears that the condition should be a blanket setback. It should be a masterplaned or divided.

The Commission was concerned about large tracts and them not being considering the future of the land.

Mr. White stated that a blanket setback may be the way to go.

Ms. Parrish clarified that it states, platted or master planned. Platted would include a family division even if no house has been built.

Mr. Thompson stated that the plats may not occur until sometime in the future.

Ms. Parrish stated that is correct.

Mr. Payne stated that what they are asking for is a balance. Why is 350 feet the magic number? In Culpeper County, they thought the 150 feet was reasonable and other localities have 50 feet setbacks. It penalizes the applicant in many ways if you apply the 350 feet buffer to them, some homes are 2000 feet away.

Mr. Thompson stated that the man still owns the whole piece of property not just the house site.

Mr. Payne stated that he appreciates that but a sawmill could be put there byright in the A3 zoning classification with 100 feet away from the property line.

Mr. Thompson stated that is byright and this is an SUP.

Mr. Payne stated that a sawmill is very loud and will occur for a very long time. This is a quiet use once built and safe.

Mr. Thompson feels it should be fair and equal to all.

Ms. Maddox stated that given the size of this project the unknown in this area. To be straight when she first heard about this, she would want it to be 1000 feet away. She stated she likes the 350 feet across the board.

Mr. Payne understands, and other jurisdictions don't have quite this large a setback. He stated it is his job to tell you that it has adverse impacts on his clients. He would like to see a more fair and reasonable setback.

Ms. Parrish stated that for clarification, we provided that position to our consultant and they responded that the 350 feet is consistent with the studies and findings that he is referencing. When the temperature dissipated it was observed at 328 feet and we saw the 350 feet setback as a conservative approach. We don't feel there is a misinterpretation.

Mr. Newhouse stated that he wants to see a fair and consistent application to everyone and even though this is an SUP, we have approved many SUPs in the past where an applicant installs a fence or berm and it reduces their setback requirement. He wants to see fairness across the board. If they are

Mr. Smith stated that he is not in favor and the same setback should be for everyone.

Mr. Newhouse stated that they should be afforded the same reduction of setback. They should be afforded the same courtesy.

Mr. Smith stated that if someone has some land out there and just because they don't have a home on it today, treating them any differently.

Mr. Newhouse completely agrees but when an applicant provides for a berm or fencing, they are allowed to reduce their setback by half and we are saying that cannot. He would like to see analysis on that so we can be fair to everyone.

Mr. Medina inquired if the County has Dewberry on retainer or the ability to do further analysis on the original plan to get this information.

Ms. Parrish stated yes.

Ms. Carter inquired about the drop in property values that has been discussed.

Mr. Payne stated that the applicant has consulted with Chris Kaila and he can speak to property values.

Chris Kaila stated that he has been a real estate broker and appraiser since 1979, almost forty years. He has lived continuously in Spotsylvania County and owns the largest appraisal firm in the Fredericksburg Region and has prepared or supervised the appraisal of approximately 40,000 residential properties and over 5,500 commercial or non-residential properties. He stated that he has testified as an Expert Witness on property value in the Spotsylvania, Stafford, Fredericksburg and other courtrooms. He discussed the process of using match pairs method. He stated that his research is both from primary and secondary sources. Primary sources are his firsthand accounts of actual studies or interviews he has conducted. Secondary sources are studies from other appraisers or those knowledgeable on the subject of solar farms and property

values. He stated that it is his opinion, based on my extensive research and past experience as an expert in property valuation, that there is no consistent negative impact to adjacent property that is attributed to proximity to an adjacent solar farm. There is no evidence that there is any negative impact on neighboring property values, despite unsupported claims to the contrary. The studies that have been done on this issue, and that he finds to be credible, also conclude and agree that there is no negative impact on property value resulting from proximity to solar farms.

There was discussion as to whether he believes there would be a negative impact on property values with only a 100 ft. setback.

Mr. Kaila stated he didn't believe there would be an impact to the values. He stated that he could almost make a determination that the solar farm could increase property values.

Mr. Medina inquired if there was a case, independent of this where a land use decreased the value of properties.

Mr. Kaila stated that it has happened.

Mr. Medina inquired if it only affected those that actually touch the development.

Mr. Kaila stated yes, for the most part it is only those directly adjacent. He discussed research he had done some time ago and whether a cell tower decreased property values. It did decrease the value of the property directly adjacent to the tower. He stated that it had much to do with the visual impacts.

Mr. Newhouse stated that he would like to finish up this section very quickly and wants to confirm that under 7a we are referring to earthen berm not mulch berms.

Mr. White stated correct that staff hasn't recommended any conditions regarding mulch berms.

Mr. Newhouse stated that he would like to add a condition of the establishment of a three year reestablishment period on the landscaping that is meant to address any dead and/or dying plants, shrubs, trees. He would like it to be reflective of the based the VDOT standard.

Mr. Newhouse stated that he doesn't have any comments on F.

Ms. Spaulding inquired about the comments regarding soil testing being moved to biological section and wondered if he meant that he would want to see that as a change he'd like to see.

Mr. Newhouse stated that it's a change he'd like to see but is unrelated to the soil testing described in the previous section and has to do with the use of the panels. This is to strictly establish erosion control as quickly as we can. Whether that's in this section or another applicable section, doesn't matter to him. It's strictly to test the soil to determine the best fertilizer.

Ms. Parrish stated that she believes we can add language to F4 to address that.

Mr. Newhouse stated that to be fine.

He stated that at this point, he would like to recess for a 10 minute break.

Mr. Newhouse thanked everyone for their patience. At this point in the evening, there is much work to be done. This will allow staff time to analyze the comments and respond accordingly.

Mr. Medina inquired if we will pick up with item F.

Mr. Newhouse stated that he is done with F but if the Commissioners have comments or questions, contact staff.

On a motion by Mr. Newhouse and passed 5-2, the Commission voted to continue the meeting to January 16, 2019.

VOTE:

Ayes: 5 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, and Ms. Carter
Nays: 2 Mr. Smith, Mr. Thompson
Absent: 0
Abstain: 0

SUP18-0002 - RiverOak Timberland Investments, LLC (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site B): Requests special use permit approval to develop a 30 MW solar energy facility on an Agricultural 3 (A-3) zoned and unaddressed property constituting a site of approximately 245 acres. The property is located in western Spotsylvania County approximately 650 feet south of the intersection of W. Catharpin Road and Post Oak Road. The property is located outside of the Primary Development Boundary. The property is identified for Rural Residential development on the Future Land Use Map of the Comprehensive Plan. Tax Parcel 28-A-58. Livingston Voting District.

Mr. Newhouse stated that the next item on the agenda is SUP18-0002. For the sake of time, he would like for comments and changes to conditions are incorporated for site B.

On a motion by Mr. Newhouse and passed 5-2, the Commission voted for comments and changes to conditions are incorporated in Site B.

VOTE:

Ayes: 5 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, and Ms. Carter
Nays: 2 Mr. Smith, Mr. Thompson
Absent: 0
Abstain: 0

Mr. Medina inquired if there are any conditions that differ across the applications.

Mr. White stated that there are less environmental conditions and less water related conditions because the applicant has indicated that they will not be using ground water. There is also a specific mention to a property related to a berm and landscape buffer to be added to a particular property. We will update to include that reference.

On a motion by Mr. Newhouse and passed 5-2, the Commission voted to continue the meeting on Site B to January 16, 2019.

VOTE:

Ayes: 5 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, and Ms. Carter
Nays: 2 Mr. Smith, Mr. Thompson
Absent: 0
Abstain: 0

SUP18-0003 - RiverOak Timberland Investments, LLC (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site C): Requests special use permit approval on two parcels to develop a 70 MW solar energy facility on Agricultural 3 (A-3) zoned and unaddressed properties together constituting a site of approximately 905 acres. The properties are located in western Spotsylvania County south of W. Catharpin Road, north and east of Post Oak Rd. The properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential development on the Future Land Use Map of the Comprehensive Plan. Tax Parcels 29-A-7 and 43-A-3. Livingston Voting District.

On a motion by Mr. Newhouse and passed 5-2, the Commission voted for comments and changes to conditions are incorporated for site C.

VOTE:

Ayes: 5 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, and Ms. Carter
Nays: 2 Mr. Smith, Mr. Thompson
Absent: 0
Abstain: 0

On a motion by Mr. Newhouse and passed 5-2, the Commission voted to continue the meeting on Site C to January 16, 2019.

VOTE:

Ayes: 5 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, and Ms. Carter
Nays: 2 Mr. Smith, Mr. Thompson
Absent: 0
Abstain: 0

On a motion by Mr. Newhouse and passed 5-2, the Commission voted to continue any action on the Substantially in Accord Review for Sites A, B, & C to January 16, 2019

VOTE:

Ayes: 5 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, and Ms. Carter
Nays: 2 Mr. Smith, Mr. Thompson
Absent: 0
Abstain: 0

New Business: None

Public Comment:

Moya Doss, Livingston District: She mentioned that she and her husband purchased a dream lot in Fawn Lake and now cannot sell it.

She was advised that she couldn't speak to this under public comment as it relates to sPower applications.

Adjournment:

Motion and vote: Mr. Newhouse made a motion, seconded by Mr. Thompson to adjourn. The motion passed 7-0.

The meeting adjourned at approximately 10:45 p.m.

Paulette Mann
Paulette L. Mann

January 16, 2019
Date

Spotsylvania County Planning Commission

DRAFT

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: January 16, 2019

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

Richard Thompson	Courtland
Howard Smith	Livingston
Jennifer Maddox	Berkeley
Michael Medina	Salem
Mary Lee Carter	Lee Hill
C. Travis Bullock	Battlefield
Gregg Newhouse	Chancellor

Staff Present:

Paulette Mann, Planning Commission Secretary
Wanda Parrish, AICP, Director of Planning
Patrick White, Planner III
Karl Holsten, County Attorney
Jacob Pastwik, AICP, Planner III
Leon Hughes, AICP, Asst. Director of Planning
Ben Loveday, Director of Utilities/Public Works
Jay Cullinan, Fire Chief
Kimberly Pomatto, Interim Zoning Administrator
Richard Street, Deputy Director of Zoning

Announcements: Mr. Newhouse expressed heartfelt condolences, thoughts, and prayers to the Tignor family and Ms. Spaulding's family.

Ms. Parrish advised the Commission that the Board of Supervisors has called a special meeting on February 5, 2019 at 4:30 p.m. to consider the three sPower special use cases. The location is set for the Marshall Center however they directed staff to look for a school to host the meeting so the location may change.

Mr. Holsten stated that the Board set the February 5, 2019 meeting as part of their regular meeting schedule. It's special in that it's intended to be only devoted to sPower but was adopted as a regular meeting.

Review & Approval of minutes:

Motion and vote: Mr. Thompson made a motion, seconded by Mr. Smith to approve the minutes of January 2, 2019. The motion passed 7-0.

Unfinished Business:

sPower Site A Substantially in Accord Review

Ms. Parrish stated that the Code of Virginia requires that the Planning Commission review solar energy facilities that are not shown on the Comprehensive Plan to determine whether the location, character, and extent of the facility are substantially in accord with the Comprehensive Plan (Code of VA Sec. 15.2-2232).

While the '2232 review' is separate from the Special Use Permit process, the use cannot be established with only a finding of 'substantially in accord'. Establishment of the use requires approval of a Special Use Permit and any conditions approved by the Board of Supervisors become integral to the Facility. While the review of Site A was originally bundled with SUP18-0001, procedurally the code does not allow concurrent review. Therefore, we broke the review out separately from the SUP review.

sPower has proposed a 400 MW solar energy facility known as Site A on 5,200 acres in western Spotsylvania County, of which approximately 2,800 acres are proposed to be disturbed in the construction of the facility.

Staff offers the following information related to the Planning Commission's determination of whether Site A's Location, Character, and Extent are substantially in accord with the Comprehensive Plan:

Location – The Comprehensive Plan specifically references renewable energy generation and/or solar energy facilities at three locations within the Plan. The first two policies are in the Introduction and Vision chapter in which the County encourages innovative land uses as a business-friendly community with a focus on local job creation, and identifies agricultural and rural areas as appropriate for renewable energy generation. In the Land Use chapter, the policy statement related to all land uses is that "renewable energy generation facilities, such as solar, geothermal, or wind, should be sited and designed to minimize detrimental impacts to neighboring properties, uses, and roadways". The site is located in an agricultural and rural area near both an existing transmission line and a substation with adequate capacity. The location of Site A appears to be substantially in accord with the Comprehensive Plan.

Character – The facility is proposed in an area characterized by low-density residential development, neighborhoods with rural character, agricultural, and forestry uses. While the use will cover a large acreage, it will have a low profile to the ground and has limited public road frontage. Appropriate setbacks and buffering will help to maintain the rural character of the area and provide transitions to the surrounding uses. Establishment of the use would have two distinct phases: the construction phase, which is expected to be disruptive although temporary in duration. Conditions are recommended that minimize the disruption to the surrounding community. Once the operations phase begins, the impact on the surrounding community is significantly decreased and its character should be in keeping with the surrounding area, especially as time passes and landscaping has the opportunity to mature and further screen the facility from view. The character of Site A appears to be substantially in accord with the Comprehensive Plan.

Extent – The facility is proposed on 5,200 acres with a disturbance area of approximately 2,800 acres. The proposed facility covers a large land area that has historically been under forestry operations. When evaluating a public facility or utility for extent, typically the evaluation looks at the size in relation to the area served. For example, is a proposed park the appropriate size and type to serve the identified need? In this case, the extent is proposed by the applicant to meet the needs of their end users, which is not the public, but corporate customers. While the proposed facility will encompass a large land mass, there is no policy in the Comprehensive that recommends limits on the size of individual uses or projects. Conditions are proposed with the SUP that help to mitigate impacts associated with the project's size. The extent of the Facility that encompasses Site A appears to be substantially in accord with the Comprehensive Plan.

On a motion by Mr. Smith and passed 4-3, the Commission voted to find Site A substantially in accord with the Comprehensive plan.

VOTE:

Ayes: 4 Mr. Bullock, Ms. Maddox, Mr. Smith and Ms. Carter
Nays: 3 Mr. Thompson, Mr. Medina, & Mr. Newhouse
Absent: 0
Abstain: 0

sPower Site B Substantially in Accord Review

Ms. Parrish advised that again the Commission is tasked with determining whether Site B is substantially in accord with the Comprehensive Plan (Code of VA Sec. 15.2-2232) in terms of location, character, and extent. sPower proposes a solar energy facility on a total of 245 acres known as Site B with 200 acres of disturbance providing 30MW of power. The analysis would be the same as what was provided under Site A. She advised that Site B is the smallest of the three sites.

On a motion by Mr. Smith and passed 6-1, the Commission voted to find Site B substantially in accord with the Comprehensive plan.

VOTE:

Ayes: 6 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, Mr. Smith and Ms. Carter
Nays: 1 Mr. Thompson
Absent: 0
Abstain: 0

sPower Site C Substantially in Accord Review

Ms. Parrish advised that again the Commission is tasked with determining whether Site C is substantially in accord with the Comprehensive Plan (Code of VA Sec. 15.2-2232) in terms of

location, character, and extent. sPower proposes a solar energy facility on a total of 905 acres known as Site C with 500 acres of disturbance providing 70MW of power. The analysis would be the same as what was provided under Site A & B Site C is the medium sized property of the three applications.

On a motion by Mr. Smith and passed 6-1, the Commission voted to find Site C substantially in accord with the Comprehensive plan.

VOTE:

Ayes: 6 Mr. Newhouse, Mr. Medina, Mr. Bullock, Ms. Maddox, Mr. Smith and Ms. Carter
Nays: 1 Mr. Thompson
Absent: 0
Abstain:

SUP18-0001 - Charles Woolfrey Construction Inc., Robert S. Coleman, Jr., MWD Properties 2009, LLC, Goodwin Brothers Lumber Company LLC, Meadows Farms, Victor N. Meadows, II, David L. Meadows, Frederick L. Meadows, Berman J. Meadows, Betty Meadows, Jay Meadows, RiverOak Timberland Investments, LLC, Gary Thomas Woolfrey (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site A): Requests special use permit approval on multiple parcels to develop a 400 MW solar energy facility on Agricultural 3 (A-3) zoned properties together constituting a site of approximately 5,200 acres. The properties consist of 11501 W. Catharpin Rd., 12910 Orange Plank Rd., 10900 Buckland Rd., 13301 W. Catharpin Rd., 13001 W. Catharpin Rd., and 22 additional unaddressed parcels. The properties are located in western Spotsylvania County, south of Orange Plank Road, north of W. Catharpin Road, east of the Spotsylvania/Orange County line and west of Catharpin Rd. The properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential or Agricultural and Forestal Land Use development on the Future Land Use Map of the Comprehensive Plan. Tax Parcels 28-A-1, 28-A-78, 29-A-1, 17-A-7, 18-A-16, 30-A-1, 17-5-19, 17-A-3, 17-A-3A, 17-A-4, 17-A-48, 16-A-1, 17-A-47, 18-A-15, 18-A-20, 28-A-71, 28-A-77, 29-A-2, 29-A-2A, 29-A-22, 29-A-24, 29-A-25, 29-A-26, 29-A-27, 29-A-28, 29-A-7, and 28-A-79. Livingston Voting District.

Ms. Parrish advised that the conditions are currently updated online. There were some last minute changes made this afternoon so a copy has been provided to each Commissioner. (Two sets of the revised conditions were available for all three Special Use Permit cases for the public to review prior to the start of the meeting.) She stated that they would walk through the changes made as recommended by the Commission at the January 2, 2019 meeting. Anything that is struck through or underlined is a staff edit. A lot of those are typos, internal consistency, and terminology to ensure that a condition is clear and enforceable. The items marked in yellow are the changes that the Commission ask be edited.

A General

6 - Amended the condition related to insurance as directed by the PC to require 2-year review

and increases as necessary to protect the County.

9 – Linked proof of insurance to issuance of a land disturbing permit rather than issuance of the Special Use Permit.

13 – Added prohibition of photovoltaic panels manufactured using GenX based on applicant's confirmation that GenX is not used in the manufacturing process for the panels.

Mr. Smith stated that while at the panel discussion he would like to suggest that no CadTel panels be used in this proposal, only silicone.

Mr. Thompson stated that he is in total agreement with that.

Former 12 – removed vehicle speed condition

18 – Eliminated the applicant's decommissioning plan as conditioned due to large number of change recommended by staff. Instead all of the decommissioning and bonding requirements are conditions of the Special Use Permit.

B Construction

2 - Changed term from wide load to Oversize Load and referenced DMV definition requiring a Hauling Permit.

9 – Disallowed any construction on Sundays except broken panel replacement.

Mr. Newhouse stated that the only comment he has on that is that he believes there is other language where we require them to make erosion control repairs within 24 hours and if that takes place over the weekend, they have that ability to make those repairs to be compliant.

10 – Allowed for the public liaison to be advertised via the internet with notification to the County's PIO.

14 – Included Sheriff and State Police in the Joint Construction Traffic Reaction Team.

C Erosion and Sediment Control

1.c – Removed specific crew member requirements for the remediation crews.

2 – Clarified that the 400 acres is rolling and does not include land fully stabilized in the 400 acres.

D Burning and Fire, Rescue, and Emergency Management

2 – Condition prohibits the burning of timber waste or any other matter.

Staff noted concerns about mulch pile and the potential for fires. As a result, staff is recommending additional conditions be added at the end of this section:

11- The storage of mulched timber waste ("Mulch") on site shall be limited in accordance with the following:

- a. Mulch storage shall be set back a minimum of 500 feet from the Property boundary.
- b. Mulch storage shall not be located within any RPA.
- c. Stored Mulch shall be kept in piles or rows which shall not exceed ten (10) feet in height, fifteen (15) feet in width, and 150 feet in length.
- d. Stored Mulch shall not be compacted.
- e. Piles and rows of stored Mulch must be separated by a minimum of ten (10) feet from any other mulch pile or row.
- f. Piles and rows of stored Mulch shall be regularly wetted to maintain a minimum fifty percent (50%) moisture content.
- g. Piles and rows of stored Mulch shall be turned or reassembled at least once every ninety (90) days.
- h. Piles and rows of stored Mulch shall be monitored weekly by taking an internal temperature reading at the center of the pile; if mulch is stored in a row then internal readings shall be taken every twenty (20) linear feet.
- i. Piles and rows of stored Mulch shall be immediately wetted and turned or reassembled in the event an internal temperature reading reaches a minimum 160 degrees Fahrenheit.
- j. Piles and rows of stored Mulch shall be immediately turned or reassembled if the internal temperature reaches a minimum 140 degrees Fahrenheit.

Mr. Thompson inquired if this includes mulch berms.

Ms. Parrish stated that there is a condition elsewhere stating that all berms shall be earthen berms made of dirt, not mulch.

Ms. Carter inquired about the prohibition of burning and whether that was included.

Ms. Parrish stated that yes, no burning will be permitted.

Mr. Holsten that the no burning condition is what led to the mulch conditions.

E Landscaping, Maintenance, Setbacks, and Buffers

3 – The condition provides for a consistent setback no matter the use of the adjoining property. There was discussion last meeting about the setback distance and impact of landscaping and berms on noise dissipation, visual impacts, and the temporary temperature increases. While the County's consultant, Dewberry Engineers, could not recommend a specific setback reduction since it would require modeling various scenarios at specific locations around the periphery of the facility taking into account several factors that could affect the outcome, including panel groupings, topography, types of vegetation, prevailing wind directions, and height and composition of the berms. The setback would likely need to vary in width to achieve the same result based on these factors.

To further the discussion about setbacks, staff offers the following:

Considering the size of the facility, the topography of the area, and policies of the Comprehensive Plan, staff took a conservative approach in crafting the conditions related to setbacks.

The 350' setback is the recommended setback to address noise, visual impacts, and temporary heat increases.

Bright, sunny, hot days are when the largest heat increase may occur. The actual distance at which heat was observed to dissipate to ambient temperatures (within 0.5 degrees) was 328'. Dewberry agrees that landscaping and berm will aid in mitigating any temporary differential in temperatures.

As related to visual impacts, the Virginia Department of Conservation and Recreation provides guidance that "under most circumstances, a 300-foot strip of forested area provides adequate buffer to give a passerby or homeowner the sense that the area is preserved in its natural state". Transitional screening in the County Code ranges between 25 and 50 feet in width. The largest setback in A-3 zoning currently is 100' side and rear setback for a sawmill. It is important to note that a sawmill does require a special use, so setbacks and transitional screening may be conditioned to be wider by the Board of Supervisors.

Also in this section, since the conditions supersede so much of the Applicant's Landscape Plan, all of the requirements are now noted as conditions with only the Applicant's Invasive Species Management Plan being conditioned.

7.O – The landscape bond is changed to a 3-year term (vs 2 year as required by County Code).

Mr. Newhouse mentioned under the bond language, he had made a comment about a maintenance period and whether that is intended to be here or elsewhere.

Ms. Parrish stated that is correct, for a three year period, the County holds a bond for the landscaping to allow it to establish and only once it's established is the bond released.

Mr. Newhouse stated that his concern is that the language of that bond include provisions that sPower, as part of the maintenance replace dead and dying landscaping.

Ms. Parrish stated that is included within this.

F Biological

5 – Clarifies that fertilizer composition needs to be based on soil testing.

H Water

1 - The condition requires the use of public water only for all phases of the project.

Ms. Parrish stated that concludes the review of the conditions.

Ms. Carter inquired how many conditions there are.

Ms. Parrish stated she doesn't know the total because there are sub-conditions within each section. She stated that there are 20 pages of conditions.

Mr. Holsten stated that we have enough information to be able to add tonight, the changes mentioned this evening. He asked for clarification on the E&S work on Sundays. He inquired if it was meant to state in the event of a storm, not site stabilization.

Mr. Newhouse stated correct.

The conditions would apply to the other special use permits.

Mr. Holsten stated that if the Commission is prepared to vote, he asked that they take a recess to allow him and staff to add those conditions and present them in a final version prior to taking action.

The meeting was recessed.

Mr. Newhouse reconvened the meeting and thanked everyone for their patience.

Mr. Holsten went over the conditions that have been revised. He stated that there is a new number 14 under General that reads, "Photovoltaic panels containing Cadmium Telluride, also referred to as 'CadTel', are prohibited on the property."

Under Construction, B9a – He stated that this new condition includes some previous language and read, "The act of replacing a broken panel on an already established array, even if located within the 400 acres of then currently disturbed land area, and the repair work required to be undertaken within twenty-four (24) hours as set out in Sections C(1)c, C(2)(c), and C(3)(c) herein, shall be exempt from this provision."

Mr. Holsten stated that they are the suggested changes and they have been added to all three of the applications before the Commission.

Mr. Thompson inquired how it is determined what is broken and needs to be repaired within 24 hours.

Mr. Holsten stated that we have inspectors will be on the project on behalf of the County. They will also have the benefit of knowing when those types of rain events occur and how much rain has fallen and will then go out to the site to see when those repairs would be necessary.

Mr. Thompson inquired if this includes regular repairs.

Mr. Holsten stated that this is only for the repairs outlined in the condition and that it would be unfair to state they must make those repairs within 24 hours but not allow them to do so on Sunday.

On a motion by Mr. Smith and passed 5-2, the Commission voted to deny the special use request.

VOTE:

Ayes: 5 Mr. Smith, Mr. Medina, Mr. Bullock, Mr. Newhouse, and Mr. Thompson
Nays: 2 Ms. Maddox and Ms. Carter
Absent: 0
Abstain: 0

SUP18-0002 - RiverOak Timberland Investments, LLC (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site B): Requests special use permit approval to develop a 30 MW solar energy facility on an Agricultural 3 (A-3) zoned and unaddressed property constituting a site of approximately 245 acres. The property is located in western Spotsylvania County approximately 650 feet south of the intersection of W. Catharpin Road and Post Oak Road. The property is located outside of the Primary Development Boundary. The property is identified for Rural Residential development on the Future Land Use Map of the Comprehensive Plan. Tax Parcel 28-A-58. Livingston Voting District.

On a motion by Mr. Smith and failed 3-4 the Commission voted to deny the special use request.

VOTE:

Ayes: 3 Mr. Smith, Mr. Thompson, and Mr. Bullock,
Nays: 4 Mr. Newhouse, Mr. Medina, Ms. Maddox, and Ms. Carter
Absent: 0
Abstain: 0

On a motion by Ms. Maddox and passed 4-3 the Commission voted to approve the special use request

VOTE:

Ayes: 4 Mr. Newhouse, Mr. Medina, Ms. Maddox, and Ms. Carter
Nays: 3 Mr. Smith, Mr. Thompson, and Mr. Bullock
Absent: 0
Abstain: 0

SUP18-0003 - RiverOak Timberland Investments, LLC (Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site C): Requests special use permit approval on two parcels to develop a 70 MW solar energy facility on Agricultural 3 (A-3) zoned and unaddressed properties together constituting a site of approximately 905 acres. The properties are located in western Spotsylvania County south of W. Catharpin Road, north and east of Post Oak Rd. The

properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential development on the Future Land Use Map of the Comprehensive Plan. Tax Parcels 29-A-7 and 43-A-3. Livingston Voting District.

On a motion by Mr. Smith and passed 4-3, the Commission voted to deny the special use request.

VOTE:

Ayes: 4 Mr. Smith, Mr. Medina, Mr. Bullock, and Mr. Thompson
Nays: 3 Ms. Maddox, Mr. Newhouse, and Ms. Carter
Absent: 0
Abstain: 0

The Commission asked that all recommended conditions be forwarded to the Board of Supervisors for their consideration.

Mr. Newhouse thanked planning staff for all their hard work on the three applications. He knows a lot of work and effort went into the review and preparation to bring them to public hearing. He thanked the public for all of their input. Finally he thanked the applicant as well.

Ms. Carter stated that these applications really made her work hard and study the proposal. She stated that her main concern as part of the applications was the proposed burning and that has now been recommended to the Board of Supervisors to be eliminated. Also, the panels were of concern and that has also been revised to only allow for silicone.

New Business: None

Public Comment: None

Adjournment:

Motion and vote: Mr. Newhouse made a motion, seconded by Ms. Carter to adjourn. The motion passed 7-0.

The meeting adjourned at approximately 9:00 p.m.

Paulette L. Mann

Date