



COUNTY OF AUGUSTA
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMUNITY DEVELOPMENT
P.O. BOX 590
COUNTY GOVERNMENT CENTER
VERONA, VA 24482-0590



MEMORANDUM

TO: Augusta County Planning Commission
FROM: Leslie Tate, Planner II
DATE: February 6, 2018
SUBJECT: Regular Meeting

The regular meeting of the Augusta County Planning Commission will be held on **Tuesday, February 13, 2018 at 7:00 p.m.**, at the Augusta County Government Center, in the Main Board Meeting Room, 18 Government Center Lane, Verona, Virginia.

Please arrive to the Main Board Meeting Room no later than 7:00 p.m.

Attached are the agenda and meeting materials for Tuesday's meeting and the minutes from the January meeting. If you have any questions about any of the material, please feel free to contact me. If you won't be able to attend the meeting, please let Jean or me know as soon as possible.

LT/jm

**ADVANCED
AGENDA**

Regular Meeting of the Augusta County Planning Commission

Tuesday, February 13, 2018, 7:00 P.M.

1. CALL TO ORDER
2. DETERMINATION OF A QUORUM
3. MINUTES

Approval of the Called and Regular Meetings on January 9, 2017.
4. STAFF BRIEFING
 - A. Review proposed ordinance to amend Chapter 25 of the Augusta County Code to add Article VI.D. Solar energy systems.
5. PUBLIC HEARINGS
 - A. An ordinance to amend Chapter 25 of the Augusta County Code to add Article VI.D. Solar energy systems. The proposed ordinance regulates Solar energy systems operating as principal land uses.
6. MATTERS TO BE PRESENTED BY THE PUBLIC
7. NEW BUSINESS
8. OLD BUSINESS
9. MATTERS TO BE PRESENTED BY THE COMMISSION
10. STAFF REPORTS
 - A. Information for Commission – Code of Virginia, Section 15.2-2310
(Board of Zoning Appeals Items)

 - B. Update on the Stuarts Draft Small Area Plan Process
11. ADJOURNMENT

PRESENT: T. Jennings, Vice Chairman
G. Campbell
L. Howdyshell
K. Shiflett
L. Tate, Planner II and Secretary
J. Wilkinson, Director of Community Development

ABSENT: J. Curd, Chairman
S. Bridge
K. Leonard

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, January 9, at 4:30 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

The Planning Commission met to review the request coming before them at the Public Hearing. There were no questions or comments from the Commissioners. They traveled to the following site being considered for rezoning:

1. Stuarts Draft Town Center, LLC

Chairman

Secretary

PRESENT: J. Curd, Chairman
T. Jennings, Vice Chairman
S. Bridge
G. Campbell
L. Howdyshell
K. Leonard
K. Shiflett
J. Wilkinson, Director of Community Development
L. Tate Planner II and Secretary

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, January 9, 2018, at 7:00 p.m. in the Board Room, Augusta County Government Center, Verona, Virginia.

DETERMINATION OF A QUORUM

Mr. Curd stated as there were seven (7) members present, there was a quorum.

MINUTES

Mr. Jennings moved to approve the minutes of the called and regular meetings held on November 14, 2017.

Mr. Bridge seconded the motion, which carried unanimously.

Stuarts Draft Town Center, LLC

A request to add the Public Use Overlay zoning designation with proffer to approximately 0.65 of an acre owned by Stuarts Draft Town Center, LLC located directly northeast of the intersection of Draft Avenue (Rt. 608) and Wayne Avenue (Rt. 639) in Stuarts Draft in the South River District.

Mrs. Tate explained the request as presented on PowerPoint. She stated the only proffer is that the additional permitted uses of the site will be a school with a maximum occupancy of 49, including students and staff, and unlit outdoor recreation associated with the school use.

Robyn Puryear, Vice-president of Keys Academy and of 14095 Lovers Lane, Culpeper stated the request is for a private special educational facility. The school is licensed by the Virginia Department of Education and will serve students who range in age from five years to 22 years old. Under Federal law, special education students have the right to a free and appropriate education until the age of 21. Once the student turns 22 years old, they are no longer eligible to receive educational services with Keys Academy. The school will serve students who primarily have a special education disability classification of emotional disability. It will also service students with high functioning Autism, other health impairments, speech/language disabilities and learning disabilities. The school serves students who will benefit from blended instruction which combines computer generated instruction and teacher facilitated instruction. All students should have a cognitive ability to receive instruction by a computer and do not require one on one instruction. All of the students are placed by IEP team decisions made by the local public school. If the public school feels they can no longer meet the needs of the student, they look for private day placement that can meet the student's needs. The goal is to keep the student in their community or near their community to avoid the students being on a school bus for a long period of time. The mission of the school is to provide a unique learning experience to students that have difficulty regulating their behavior. Many students are not ready for the public school educational setting. The goal of Keys Academy is to help the students at their current level to get them to a state of well-being so they are available for learning. Once they are available to learn, they are educated and are regulated until they have the learning ability to go back into the public school setting. The school wants to provide a secure, caring, and stimulating environment. The academy will strive to build relationships with the local schools, parents, caregivers, social workers, school psychologist, FAPT teams, and DSS. There are many students who are able to go back into the public school system in order to participate in extracurricular activities such as sports programs. The school will keep a 1-3 staff to student ratio. The academy will follow the Augusta County public school schedule and will operate on a 180 day school year. There is a six week program in the summer to help students go out into the community to places such as the library, restaurants and parks in order to practice the skills they have learned. In addition to Augusta County, the academy will also serve Nelson County, Waynesboro City, Staunton City, and potentially Harrisonburg City and Rockingham County. The academy is licensed by Virginia Department of Education and credited by Virginia Association of Independent Special Education Facilities. Many of the students will graduate from their home public school after finishing the program at the academy and will receive a Standard Diploma. The goal is to return the majority of the students back into the public school system or to have them ready to transition into the work force, trade school or college. The academy focuses on student's social and emotional gains. When the student enters the academy they don't act in socially expected ways. The goal is to get the students to

where they know what to do and how to act when they get upset. The building currently is not finished on the inside, which will allow Keys Academy to finish the building best suited to the needs of the students. The location is a student friendly area in terms of safety and is located next to the green space and the Stuarts Draft Park. The academy would like to apply for VDOE licensing by the end of February or early March, with an anticipated open date of June for the summer program or August to begin the regular school year.

Mr. Leonard asked for clarification on the 1-3 student/teacher ratio.

Mrs. Puryear stated they are required to maintain a 1-3 staff to student ratio.

Mrs. Tate explained the maximum of 49 that was proffered is not what they envision the number of students to be. They envision having a maximum of 25 students. At any given time the maximum they have proffered would be no more than 49 students and staff in the building.

Mrs. Puryear stated for 25 students, they will have 12 to 14 staff members on site.

Mr. Jennings asked for more detail on the plans for the parking area, drainage channel in the back of the property, and the recreational area.

Mrs. Puryear stated they are trying to decide the best location for the recreational area. Part of the parking lot could be the paved basketball court recreation area. It would make more sense to have the recreation area closest to the building. The green space would be the larger play area.

Mr. Bridge stated the grassy area behind the next building down does not appear to be part of the property. Will the academy be able to use that grassy area?

Mrs. Puryear stated that they will be able to use it. There is a right-of-way through that area that is part of this property. The property owner of the grassy area is excited to have a school next door.

Mr. Bridge asked how the students will be transported to the academy.

Mrs. Puryear stated the majority of the students are transported by cars or small vans provided by the local public school system. Some students are brought by buses. It depends how many students they are servicing and where the students are located geographically.

Mr. Bridge asked for an estimation of the volume of cars, buses and staff vehicles that will be in and out in the mornings and evenings.

Mrs. Puryear stated at max capacity there would be no more than 12 staff cars coming in and possibly three to four cars and two to three buses, depending on how the local school systems want to provide that transportation. The local school system will look at the safety needs of the students, the geographic area, and the most inexpensive way to transport the students. From time to time there will be vehicles there from outside agencies.

Mr. Bridge stated obviously the building is near two streets that have a lot of traffic all day, morning and evening. Given the possibility of some of the students acting inappropriately, what are the safety concerns being that close to the road?

Mrs. Puryear stated safety is the number one concern of the academy. It is hard to find property far removed from the main road that is adequate for a school of the right size with the needed infrastructure such as internet access. The entrance on Wayne Avenue will only be for public access and will not be a student entrance/exit. The other entrance/exit opens into the parking area side of the building. The entrance/exit that is currently on the front of the building will become a window and will no longer be an entrance/exit to the street. Draft Avenue has been the biggest concern because it is a busier street. The space between Rt. 268 and the small building next door will be fenced off so there will be no access onto Draft Avenue. With the 1-3 staff to student ratio, students are never left unattended and students with significant needs always have someone with them. Having most of the student traffic on the internal side of the building, which opens up into the parking area and with no access to Draft Avenue, meets the goal of making the property safer. She stated she strongly believes students will be kept safe at this property or it would not even be considered.

Mr. Bridge asked if the tattoo shop that is part of the property will continue to operate at that location and if so, where will parking for that business be located.

Mrs. Puryear stated the building is still being leased to that business owner. It is unclear where parking for the business will be, but hopefully it will not be beside the school. The business operates by appointment only, so they only have one customer at a time.

John Tsakis of 1279 Nova Dr., Waynesboro, registered agent of the Stuarts Draft Town Center, LLC (property owner of the request), explained where parking for the tattoo business would be on the Draft Avenue side. He stated the business is very low impact and customers can park along the street.

There being no further questions from the Commissioners, Mr. Curd opened the Public Hearing.

Mr. Tsakis stated he is very much in favor of the request. It is a very low impact situation having Keys Academy as the tenant. As stated, the academy does not want to have more than a total of 49 students and employees combined and there will be very few trips in and out of the property. Overall, for the size of the building it would be beneficial for everyone concerned.

There being no one further to speak in favor of or against the request, Mr. Curd closed the Public Hearing.

Mr. Bridge stated he has reservations about the safety with the school being close to the main roads. It is a small place to get buses in and out. However, with the information that has been presented he can overlay his safety reservations. He moved to recommend approval of the request with proffer.

Mr. Jennings stated he is not comfortable with the drainage situation.

Mrs. Tate stated there is an existing zoning violation on the property for the placement of the drainage pipe that runs under the gravel drive. There are two options to bring the property into compliance. One is to provide drainage calculations to demonstrate that the pipe is adequate for the drainage channel or the pipe can be removed and returned back to a swale, which was the original means for drainage.

Mr. Jennings stated it was his understanding the pipe would be removed.

Mr. Tsakis stated he has contacted Sandy Bunch, Zoning Administrator regarding the violation and that the pipe will be removed by the end of January.

Mr. Jennings asked how removing the pipe would affect the parking and turn around area for the larger buses.

Mr. Tsakis stated removing the pipe will make that area more level and will allow for more parking spaces.

Mr. Jennings stated he is not convinced this is the best use of this property or the best location for this business. However, given the fact this building has been vacant for so long and fits into the revitalization of downtown Stuarts Draft, he is not opposed to the request.

Mr. Bridge stated being a bus driver, he is not sure how more parking will be created by removing the pipe. Most of the parking lot is beyond the swale.

Mr. Tsakis stated with the pipe not being there, there will be additional footage for parking; however, the additional parking is not needed. The parking area meets the requirements of the County for this business.

Mr. Bridge asked if the parking requirements of the County took into consideration space needed for buses.

Mr. Tsakis stated on Wayne Avenue where the building is inset it is approximately 15.5' from the corner up to the street pavement. There is a small ramp on that side of the building. If the ramp is taken away, there is approximately 9.5' where there is room for two buses to pull up. Buses will only be there briefly to drop students off in the mornings and pick them up in the evenings.

Mrs. Shiflett stated it is her understanding that a lot of water goes through the property when it rains. If there is a water event in that area, how will the back part of the property be accessed?

Mr. Tsakis stated water occurs only with extreme downpours. The ditch is usually very dry.

Mrs. Shiflett stated she understands the ditch is usually dry, however, if a large amount of water would go through that part of the property, the back part of the property could not be accessed.

Mr. Tsakis stated the water is very shallow. Maybe several inches deep in the case of extreme weather.

Mr. Bridge stated it doesn't happen often, but if there was a large water event, it will be more than several inches and will more than likely be a couple feet.

Mr. Howdysshell asked if there have been any calculations done with the culvert.

Mr. Tsakis stated he has not done any calculations but the County had done calculations about 25 years ago. After talking with Doug Wolfe, County Engineer, without updated drainage calculations, Mr. Tsakis has decided to take the pipe out.

Mr. Howdysshell, Mr. Bridge, and Ms. Shiflett expressed that they preferred that the pipe be left in place. Mr. Tsakis said he appreciated their comment.

Mr. Howdysshell stated he appreciates them taking an abandoned building and making use of it. He seconded the motion made by Mr. Bridge to recommend approval of the request with proffer. It passed unanimously.

OLD BUSINESS

Planning Commission By-laws

Mrs. Tate reviewed the revised draft of the by-laws to the Commission. She stated revisions were made based upon the recommendations of the Commission at the November meeting and also recommendations by the County Attorney.

Mr. Jennings commended Staff for the time and effort put in to updating the by-laws. He moved to approve the by-laws as written. Mr. Leonard seconded the motion, which carried unanimously.

STAFF REPORTS

A. Annual Report

Mrs. Tate reviewed the Annual Report with the Planning Commission. There were no questions or discussion by the Commissioners.

Mr. Campbell moved to recommend approval of the Annual Report.

Mrs. Shiflett seconded the motion, which carried unanimously.

B. CODE OF VIRGINIA – SECTION 15.2-2310

Mrs. Tate reviewed with the Commissioners the requests coming before the BZA at the February meeting.

The Planning Commission took no action on the BZA items.

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

Chairman

Secretary

**COUNTY OF AUGUSTA
STAFF REPORT
Ordinance Amendment
ARTICLE VI.D. Solar energy systems.
February 13, 2018**

PROPOSED ORDINANCE TEXT:

**AN ORDINANCE TO AMEND CHAPTER 25 ZONING DIVISION A. IN GENERAL
OF THE AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to permit solar energy systems, operating as a principal land use and occupying less than one half acre of total land area, through a Special Use Permit in General Agriculture, General Business, and General Industrial zoning districts; and

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to permit solar energy systems, operating as a principal land use and occupying one half acre or more of total land area, through the Public Use Overlay in General Agriculture, General Business, and General Industrial zoning districts; and

WHEREAS, such reasonable provisions are set forth to promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Division A. of Chapter 25 of the Augusta County Code is amended to add Article VI.D. Solar energy systems. and read as follows:

ARTICLE VI.D. Solar energy systems.

§ 25-70. Purpose

§ 25-70.1 Definitions.

§ 25-70.2 Applicability

§ 25-70.3 Uses permitted by Special Use Permit.

§ 25-70.4 Uses permitted in public use overlay (PUO) districts.

§ 25-70.5 Applications and Procedures

§ 25-70.6 Location, Appearance and Operation of a Project Site

§ 25-70.7 Safety and Construction

§ 25-70.8 Decommissioning

§ 25-70.9 Bonding

§ 25-70. Purpose

The purpose of this ordinance is to provide for the siting, development and decommissioning of solar energy systems, as a principal land use in Augusta County, subject to reasonable conditions that promote and protect the public health, safety and welfare of the community while promoting development of renewable energy resources.

§ 25-70.1 Definitions.

Applicant means the owner or operator who submits an application to the locality for a permit to install a solar energy system under this ordinance.

Disturbance Zone means the area within the site directly impacted by construction and operation of the solar energy project.

Integrated PV means photovoltaics incorporated into building materials, such as shingles.

Landowner means the person who owns all or a portion of the real property on which a solar energy project is constructed.

Non-participating landowner means a person who owns real property that may be affected by a solar energy project and is not under lease or other property agreement with the owner or operator of the solar energy system.

Operator means the person responsible for the overall operation and management of a solar energy system.

Owner means the person who owns all or a portion of a solar energy system.

Photovoltaic or PV means materials and devices that absorb sunlight and convert it directly into electricity by semiconductors.

Rated capacity means the maximum capacity of a solar energy project based on the sum total of each photovoltaic system's nameplate capacity.

Site means the area containing a solar energy system.

Small solar energy system. An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying less than one-half acre of total land area.

Large solar energy system. An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying one-half acre or more of total land area. Also known as solar energy arrays or solar energy farms.

§ 25-70.2 Applicability

This ordinance applies to all solar energy systems, operating as principal land uses, proposed to be constructed after the effective date of this ordinance. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.

§ 25-70.3 Uses permitted by Special Use Permit.

- A. **General standards applicable to all Special Use Permits.** No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:
1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.
 2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.
- B. **Small solar energy systems** shall be permitted in General Agriculture (GA), General Business (GB), and General Industrial (GI) zoning districts subject to compliance with this article.
- C. **Standards applicable to solar energy systems permitted by Special Use Permit.**
1. Setbacks. All equipment and accessory structures associated with the small solar energy system shall be setback twenty five (25') feet from side and rear property lines and fifty (50') feet from the right of way of any public or private street, unless the Board of Zoning Appeals determines that a greater setback would more adequately protect adjoining land uses.
 - a. Setback areas shall be kept free of all structures and parking lots.
 - b. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.
 2. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
 3. Site control. The applicant shall submit documentation of the legal right to install and use the proposed system at the time of application.
 4. Solar energy systems shall meet or exceed all applicable federal and state standards and regulations.
 5. Signs. No signs or advertising of any type may be placed on the small solar energy system unless required by any state or federal agency.

6. The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy system complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy system.
7. Any glare generated by the system must be mitigated or directed away from an adjoining property or from any road when it creates a nuisance or safety hazard.
8. The parcel shall have frontage on a state maintained road or the expected traffic on a legal right of way can be accommodated by the intersection with the state maintained road per approval by the Virginia Department of Transportation.

§ 25-70.4 Uses permitted in public use overlay (PUO) districts.

Large Solar Energy Systems shall be permitted by the designation of a Public Use Overlay (PUO) district, as permitted in ARTICLE XLIX of this chapter, through a public hearing before the board of supervisors:

1. Where the primary use of the system is electrical generation to be sold to the wholesale electricity markets and not used primarily for the onsite consumption of energy by a dwelling or commercial building.
2. A Public Use Overlay for a large solar energy system shall be permitted in General Agriculture (GA), General Business (GB), and General Industrial (GI) zoning districts.

§ 25-70.5 Applications and Procedures

In addition to the requirements of article LXVII, "Site Plan Review", article LVIII, "Special Use Permits Procedures", and article LX, "Rezoning and other Amendments," applications for a large solar energy system shall include the following information:

A. Community Meeting

Prior to submittal of an application, the applicant shall hold a meeting to inform the community about the planned solar energy system installation. Said meeting shall be open to the public. Notice of the date, time, and location of the meeting, as well as a contact name and phone number of the project representative and a summary of the request, shall be delivered by first class mail to all property owners as noted in the Augusta County tax records within one (1) mile of the perimeter of the project. Such notice shall be mailed so as to be delivered at least five (5) and no more than twenty-one (21) working days prior to the community meeting. Upon conclusion of the community meeting, a mailing list of property owners notified, a sign-in sheet from the meeting, an agenda from the meetings, and a written summary of the meeting shall be included with the application.

B. Project description

A narrative identifying the applicant and describing the proposed solar energy system, including an overview of the project and its location; approximate rated capacity of the solar

energy system; the approximate number, representative types and expected footprint of solar equipment to be constructed; and a description of ancillary facilities, if applicable.

C. Site plan.

The site plan shall conform to the preparation and submittal requirements of article LXVII, "Site Plan Review," including supplemental plans and submissions, and shall include the following information:

1. Property lines and setback lines.
2. Existing and proposed buildings and structures, including location(s) of the proposed solar equipment.
3. Existing and proposed access roads, drives, turnout locations, and parking.
4. Location of substations, electrical cabling from the solar systems to the substations, accessory equipment, buildings, and structures, including those within any applicable setbacks.
5. Additional information may be required, as determined by the Zoning Administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed solar energy project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.
6. Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.
7. The application shall include a decommissioning plan and other documents required by Section 25-70.8 of this ordinance.
8. The applicant shall provide proof of adequate liability insurance for a large solar energy system at the time of application.

§ 25-70.6 Location, Appearance and Operation of a Project Site

A. Visual impacts

The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of a scenic landscape, vista, or scenic corridor.

B. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.

C. Signage

Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except as follows: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a state or federal agency; and (d) signs that provide a 24-hour emergency contact phone number.

D. Noise.

Audible sound from a solar energy system shall not exceed 60 dBA (A-weighted decibels), as measured at any adjacent non-participating landowner's property line. The level, however, may be exceeded during short-term exceptional circumstances, such as severe weather.

E. Setbacks.

All equipment, accessory structures and operations associated with a large solar energy system shall be setback at least two-hundred (200) ft. from all property lines and at least 1,000 ft. from any residentially zoned properties.

- a. Setbacks shall be kept free of all structures and parking lots.
- b. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.

F. Ocular impact study.

An ocular impact study shall be performed for airports within five miles of the project site, for public roads within sight of the system, and from scenic highways and overlooks. The analysis shall be performed using FAA Solar Glare Hazard Analysis Tool (SGHAT) to demonstrate compliance with FAA standards for measuring ocular impact.

G. Buffering

A buffer yard shall be provided and maintained adjacent to any property line, except those property lines interior to the solar energy system, and landscaped in one (1) of two (2) ways. If a property ceases being used for the solar energy system, buffering will be required along all property lines adjacent to the property which has been removed.

Alternative 1: A ten foot (10') wide strip of land with a six foot (6') opaque privacy fence, wall, berm or combination thereof. Opaque privacy fences shall be construction of good quality materials such as vinyl, pressure treated lumber, brick, stone, or similar materials approved by the Zoning Administrator. For the purposes of this chapter tarps, car covers tents, fabric, chain link fences with slats, or similar materials shall not be deemed to satisfy the requirements of opaque fencing.

Alternative 2: A twenty foot (20') wide strip of land with 2 evergreen trees, 2 canopy trees, 2 understory trees and 24 shrubs planted per fifty linear feet (50')

of buffer. The trees shall be a minimum of six feet (6') at the time of planting and the shrubs shall be a minimum of eighteen inches (18") at the time of planting.

- A. The applicant is free to choose from Alternatives 1 or 2. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two (2) understory trees per required canopy tree.
- B. Plant and structure location within buffer. The placement of required plants and structures shall be the decision of the applicant; however, they shall be located so as to achieve the maximum level of protection. Plant material shall meet the buffer requirements every fifty feet (50'). Buffer areas not retained in native habitat shall be seeded or sodded with lawn and maintained at a height of no more than 15 inches, established with ground cover, or mulched with organic mulch. Inorganic ground cover shall not exceed fifty percent (50%) of the total required area of the buffer.
- C. Where a fence or wall is used as part of a buffer, the decorative side of the fence or wall shall be faced to the adjacent property.
- D. Permitted structures in buffer area.
 1. Where walls are placed within any required buffer area:
 - a. No walls of exposed concrete block are permitted, whether painted or not.
 - b. The applicant shall be required to demonstrate provisions for access and maintenance of landscaping and the wall structure at the time of site plan approval.
 - c. Breaks in the wall may be provided for pedestrian and vehicular connections to adjacent developments.
 2. Where berms are placed within any required buffer area:
 - a. A berm or combination of materials such as a berm and a fence shall be a minimum six feet (6') in height.
 - b. Berms shall have slopes of not less than three feet (3') horizontal for each one foot (1') vertical.
 - c. Slopes in excess of three feet (3') horizontal for each one foot (1') vertical may be permitted if sufficient erosion control methods are taken and deemed by the Zoning Administrator to be maintainable.
 3. Where opaque privacy fences are placed within any required buffer area:

- a. No reduction in buffer width shall be provided based on the provision of a chain-link fence.
 - b. Fences shall be a minimum of six feet (6') in height unless paired with a berm and in such case the combination of berm and fence shall be a minimum of six feet (6') in height.
 - c. Breaks in the fence may be provided for pedestrian and vehicular connections to adjacent developments.
 - d. Fences shall be maintained in a structurally safe and attractive condition and with finished faces located towards the adjacent property.
- E. Permitted use of buffer area. A buffer area shall not be used for anything except:
1. Passive recreation and picnic facilities, including pedestrian and bike trails.
 2. Other appurtenances which require high visibility and easy access, such as fire hydrants and utilities, public and emergency telephones, mail boxes, and bus shelters, or benches, are also permitted in a buffer. No screening of such appurtenances shall be required or permitted.
 3. Access ways when necessary to provide access to adjacent properties.
 4. A required buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater management facilities. However, the minimum width of the buffer shall be preserved as a planting area and there shall be no reduction in buffer width based on the stormwater management facilities.
- F. Alternative compliance. The buffer requirements may be modified by the board of supervisors upon a finding that a modification would be consistent with the purpose of this ordinance, this section, and the adopted plans and policies of the county; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one (1) or more of the following criteria:
1. The buffer is parallel and adjacent to an existing utility or drainage easement of at least one hundred feet (100') in width.

2. The buffer is between uses that are to be developed under a common development plan or series of development plans.
3. The buffer is parallel and adjacent to an existing railroad right-of-way;
4. The topography of the parcel is such that buffering would not be effective;
5. The property is adjacent to an established industrial use;
6. There is existing vegetation either on this lot or the adjacent lot to provide the required buffer benefits.

Financial hardship due to meeting the requirements of this section shall not be sufficient justification for alternative compliance.

G. Site Plan. Landscaping of buffer yards shall be shown on the site plan in accordance with the standards in division J ARTICLE LXVII "Site Plan Review" and shall be provided and maintained in accordance with sound horticultural practices.

H. Fencing

All property containing panels must be enclosed with chain link fencing seven feet (7') tall, topped with barbed wire, and secured with gates.

§ 25-70.7 Safety and Construction

A. Design

The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy project complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy project.

B. Construction and installation

In the construction and installation of a large solar energy system, the owner or operator shall install all electrical wires associated with the large solar energy system underground unless the applicant can demonstrate the necessity for aboveground installations as determined by the Board of Supervisors.

C. Ground water monitoring

Ground water monitoring to assess the level of groundwater contamination shall take place prior to and upon completion of construction of the project throughout the area of the solar energy system. Ground water monitoring shall take place every five (5) years of the operation of the project, and upon completion of decommissioning. Results from said monitoring shall be delivered to the Virginia Department of Health, Augusta County Department of Community Development and the Augusta County Service Authority.

D. Traffic Impact Statement and/or Analysis

As part of the project application, the applicant shall submit a traffic impact statement. If required by the Virginia Department of Transportation, the applicant shall submit a

Traffic Impact Analysis found to be in compliance with the requirements of Chapter 527 (24VAC30-155).

§ 25-70.8 Decommissioning

A. Decommissioning plan

As part of the project application, the applicant shall submit a decommissioning plan, which shall include the following: (1) the anticipated life of the project; (2) the estimated decommissioning cost in current dollars; (3) how said estimate was determined; (4) the method of ensuring that funds will be available for decommissioning and restoration; (5) the method that the decommissioning cost will be kept current; and (6) the manner in which the project will be decommissioned and the site restored.

B. Discontinuation or Abandonment of Project

1. Thirty (30) days prior to such time that a large solar energy system is scheduled to be abandoned or discontinued, the owner or operator shall notify the Director of Community Development by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Any solar project that has been inoperable or unutilized for a period of 12 consecutive months shall be deemed abandoned and subject to the requirements of this section.
2. Within 365 days of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Supervisors.
3. Decommissioning of discontinued or abandoned large solar energy systems shall include the following:
 - a) Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to transmission lines, equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the Board of Supervisors that such roads remain.
 - b) Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be removed: however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the Board of Supervisors.
 - c) Compacted soils shall be decompacted to a depth of three (3) feet.
 - d) Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a

written request is submitted by the landowner and a waiver is granted by the Board of Supervisors.

- e) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.

§ 25-70.9 Bonding

Prior to the issuance of a Building Permit for a solar energy system which requires a Public Use Overlay (PUO) designation, the applicant shall:

- A. Submit to the Zoning Administrator an itemized cost estimate of the work to be done to completely remove the entire solar energy system plus twenty-five percent (25%) of said estimated costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities.
- B. Submit a bond, irrevocable Letter of Credit, or other appropriate surety acceptable to the County in the amount of the estimate as approved by the Zoning Administrator shall:
 - 1. Secure the cost of removing the system and restoring the site to its original condition to the extent reasonably possible; and
 - 2. Include a mechanism for a Cost of Living Adjustment after ten (10) and fifteen (15) years.
- C. The applicant will ensure the bond, irrevocable Letter of Credit, or other surety shall remain in full force and effect until the Community Development Department has inspected the site and verified that the solar energy system has been removed. At which time the Community Development Department shall promptly release the bond, irrevocable Letter of Credit, or other surety.

COMMUNITY DEVELOPMENT STAFF COMMENTS: The proposed ordinance only applies to solar energy systems operating as a principal land use. This ordinance does not regulate solar energy systems used to power uses permitted by-right. Staff considers systems powering by-right permitted uses to be accessory to the permitted use.

The proposed ordinance permits solar energy systems, operating as a principal land use, in General Agriculture, General Business, and General Industrial zoning districts either through the Special Use Permit process (less than ½ acre) or through the Public Use Overlay process (1/2 acre or greater). While the Comprehensive Plan does not specifically identify zoning districts appropriate for such systems, it is clear in its desire to “prevent conflicts between residential, business, and industrial land uses as well as agricultural uses located in adjacent Rural Conservation and Agricultural Conservation Areas” (pg. 45). The Comprehensive Plan further specifies this minimization of land use conflict through the use of buffers and transitions in land use density and intensity.

Solar energy systems are difficult to categorize as they are often referred to as “solar farms” but have very different visual impacts than a traditional agriculture operation. Staff believes that solar energy systems, as principal land uses, could create negative visual impacts on residentially zoned districts. For this reason, the proposed ordinance does not allow for such systems in

residentially zoned districts and recommends a 1,000 ft. setback adjacent to residentially zoned property.

While the proposed ordinance does give the Board of Zoning Appeals or the Board of Supervisors the ability to approve solar energy systems on land zoned General Industrial, such deliberations should keep in mind excerpts from the "Economy" chapter of the Comprehensive Plan. Goal 4 of the "Economy" chapter of the Comprehensive Plan is to "identify key sites and ensure they have the physical infrastructure and site readiness necessary to be attractive to new businesses and industries" (pg. 24). Specific policies associated with such goal are as follows:

Policy 1: Identify Sites. Identify the best economic development sites in varying sizes which are suitably located and which have adequate land, roads, and utilities to support business and industrial development. Ensure that economic development sites are served by adequate public facilities and infrastructure so as to offer "ready sites" that are competitively attractive for investment.

Policy 2: Major Employment and Investment Sites. Identify and preserve Major Employment and Investment Sites for regional growth and encourage the development of these sites for high tax revenue generating uses (pg. 24).

The proposed ordinance also gives the Board of Zoning Appeals or the Board of Supervisors the ability to approve solar energy systems in General Agriculture zoning districts. Through the use of the Public Use Overlay process for large solar energy systems, the underlying zoning of the land remains unchanged. Therefore, after the lease of the land for solar energy use has ended, the land remains in General Agriculture zoning, which is in keeping with Goal 2 Objective B of the "Land Use and Development" chapter:

Goal 2: Maintain the county's predominantly rural character, including the small towns and villages.

Objective B: Provide sufficient incentives and protections for agricultural land uses so as to lose no more than 5% of the current total acreage of farmland in the Rural Conservation and Agricultural Conservation Areas over the next 20 years (pg. 47-48).

As you can see from the explanation above, the Comprehensive Plan does not speak specifically to solar energy systems but staff believes the proposed ordinance does comply with many of the goals and objectives outlined in various chapters of the Comprehensive Plan. For that reason, staff recommends the proposed ordinance as a hybrid of the review and compilation of ordinances from other localities as well as County specific goals and objectives.