

August 5, 2021

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

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, August 5, 2021 at 10:00 A.M., in the County Government Center, Verona, Virginia.

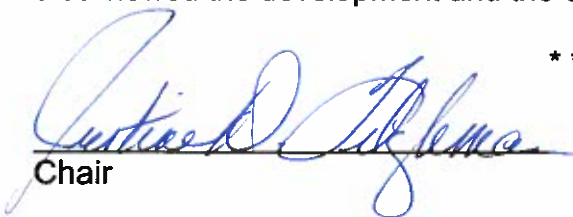
The staff briefing was held at **10:00 a.m.** in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.

VIEWINGS

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

- **JOE F. SURRATT, III OR MARK M. SHORE - SPECIAL USE PERMIT**
- **AUGUSTA CSG, LLC (DIMENSION RENEWABLE ENERGY) - SPECIAL USE PERMIT**

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


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ABSENT: None

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, August 5, 2021, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Coyner moved that the minutes from the July 1, 2021, meeting be approved.

Mr. Bailey seconded the motion, which carried unanimously.

JOE F. SURRATT, III OR MARK M. SHORE - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Joe F. Surratt, III or Mark M. Shore, for a Special Use Permit to have a short term vacation rental on property they own, located at 48 River Hill Lane, Swoope in the Pastures District.

Mr. Mark Shore stated they both work in the hospitality industry.

Mr. Coyner asked if this would be rented out for the weekend or week?

Mr. Shore said it would be rented out less than 31 days at a time using the Airbnb platform and he will market to families and couples. The clients have the opportunity to

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be on the Middle River and we also have livestock. This is really an opportunity for us to promote the agricultural nature of the area. There are only two houses on River Hill Lane. The occupancy in the recommended conditions stated four (4) people but he would like to extend that to six (6) people.

Ms. Bunch read the comments from the Health Department. She said if the Board approved the request for up to six (6) people, we would need Health Department approval.

Mr. Shore stated with only permitting four (4) you are limiting families with kids. This property was listed as a three bedroom home. He said he does want to market this to families that have children. They invested money in the septic system already.

Mr. Coyner asked if the applicant plans on upgrading the septic system to accommodate that number?

Mr. Shore said the septic is adequate and it could accommodate that number over a month's time because we will never have that equivalent. The short term rental will help with the cost of maintaining the property.

Mr. Coyner asked if he will use an organization to market the property?

Mr. Shore stated they will do it ourselves.

Mr. Coyner asked if he will try to target clients from urban areas?

Mr. Shore stated yes, DC, Richmond and families traveling the interstate.

Chair Tilghman stated I understand the reason you want to have six (6) but they cannot override the Health Department. If the applicant would like to have more than four (4), we would need Health Department approval.

Mr. Coyner stated we can approve six (6) contingent on getting the Health Department approval.

Chair Tilghman asked if they plan on operating twelve (12) months out of the year?

Mr. Shore stated yes but we would not be at full capacity all of the time.

Mr. Coyner stated there will be a challenge during the winter months to get into the property.

Mr. Shore stated we do have someone maintain it and keep the road clean for them.

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

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

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

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to lease the existing dwelling for short term vacations.
2. Be limited to a maximum of four (4) persons occupying the dwelling per Health Department comments unless Health Department approval is obtained and a copy submitted to Community Development to increase the number to a maximum of six (6).
3. Applicant reside on the adjacent parcel and be available at all times during rental.
4. Site be kept neat and orderly.

Mr. Coyner seconded the motion, which carried unanimously.

RUSSELL THOMAS AND CHANTELE BROWN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Russell Thomas and Chantelle Brown, for a Special Use Permit to use a 10' x 24' pre-fab building for office use and to modify the Operating Condition of SUP#17-10 to increase the number of

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employees on property they own, located at 106 Suffolk Lane, Bridgewater in the North River District.

Mr. Russell Brown stated our business was approved in 2017. When we applied back in 2017 our daughter was living with us but now she has moved out. She is the secretary and comes to work at the house. He said they will have three (3) employees coming to the site. They will show up to the site and get their paperwork and then leave. The secretary stays at the site. We would also like to put an office in their shed for the business.

Mr. Coyner asked if customers will be coming to the site?

Mr. Brown stated no.

Mr. Coyner stated it sounds like your business has been successful and that is great. He said you have three (3) employees but would you like to have four (4) so that you do not have to come back?

Ms. Chantelle Brown stated four (4) employees would be fine.

Mr. Coyner asked if they operate locally?

Ms. Brown stated we work all over.

Chair Tilghman asked how many vehicles are onsite?

Ms. Brown stated there are two (2) onsite and my daughter takes hers home. She said the only person it affects is their neighbor Sue but she is on vacation and unable to come but she has no issues.

Ms. Bunch read the Health Department comments. We would need Health Department approval.

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

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

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Mr. Coyner stated this makes sense on what the applicant wants to do, and moved to approve the request with the following conditions:

Pre-Conditions:

1. Applicant obtain building permit and provide a copy to Community Development.
2. Obtain Health Department approval and provide a copy to Community Development.

Operating Conditions:

1. Be permitted to place a 10' x 24' pre-fab building on the property to be used as a business office.
2. No more than four (4) employees to come to the site once Health Department approval is obtained.
3. All other conditions of SUP#17-10 remain in effect.

Mr. Glover seconded the motion, which carried unanimously.

AUGUSTA CSG, LLC (DIMENSION RENEWABLE ENERGY) - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Augusta CSG, LLC (Dimension Renewable Energy) for a Special Use Permit for a 3.88 MW small scale solar energy facility on approximately 12 acres of an approximately 50 acre parcel on property owned by Thomas Henry Curd, located southeast of Long Meadow Road (Route 608) and approximately 0.1 miles north of the intersection of Fishersville Road (Route 641) and Long Meadow Road, Fishersville in the Wayne District.

Mr. Kieran Siao, Dimension Renewable Energy, presented a Power Point to the Board (copy is in the file). These panels are 8.5' in height, stationary, they do not move, and they are facing the railroad.

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Chair Tilghman stated some projects have panels that move. She asked why do these not move?

Mr. Siao stated the tracker systems use more land and are taller. The fixed tilt uses less acres of land and are generally 8.5' tall where the trackers are 15' tall.

Chair Tilghman asked what is the percentage of how many more on a piece of land?

Mr. Siao stated 4-5 acres for fixed tilt per MW and the tracker is about 40-45 acres for 5MW.

Chair Tilghman asked if they could do both?

Mr. Siao stated they would elect one or the other based on criteria (site, available capacity, etc.).

Chair Tilghman asked if they have to hook up to the regular power line?

Mr. Siao stated this is distribution level solar and they will interconnect on the existing distribution line along Fishersville Road. There will not be a new substation.

Mr. Coyner asked if this is a three phase line?

Mr. Siao stated yes, which is the standard distribution line.

Mr. Coyner asked what is the lowest part of the panel?

Mr. Siao stated 2' above grade.

Mr. Coyner asked if there could be sheep there?

Mr. Siao stated the vegetation will be a mowed low growth and mowed seasonally. There have been instances where farmers use sheep or other methods of maintenance.

Mr. Coyner asked if the applicant will disturb much area of land?

Mr. Siao stated no. There will be minor spot grading here and there. These are a driven system which does not disturb the topsoil.

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Mr. Coyner asked what happens when you encounter rock?

Mr. Siao stated we will move the system either way but sometimes if there is shallow bedrock and there is an issue, we use limited rock quarrying. We did the geotechnical analysis and we do not expect this to be an issue.

Mr. Coyner asked what is the life span of the panels?

Mr. Siao stated 35-40 years. We will provide the County with a decommissioning plan and bond. The County will have the bond as surety.

Mr. Glover asked have you done resident subscribers with previous applications?

Mr. Siao stated this is new to Virginia but it is very common in other areas. We will work with the Board of Supervisors or local PTA to do this.

Mr. Coyner asked if the construction time would be about 3-4 months?

Mr. Siao stated there is a short construction time with these. He said about 4-6 months.

Mr. Coyner asked will you have to obtain all of their approvals?

Mr. Siao stated we will need to obtain a final site plan and building permit and they have to get the Dominion study approved in order to be accepted and enrolled into the program. They will plan to start to enroll in October but go online in early 2023.

Chair Tilghman asked if Dominion has to agree if they will accept this?

Mr. Siao stated Dominion has to decide whether they can connect to the grid or upgrade the line to get the interconnectivity agreement. There are measures we have to meet in order to apply and it usually takes 3-6 months.

Chair Tilghman asked is there rejection to this project?

Mr. Siao stated there is no rejection. We submitted the interconnectivity plans and the study results are eminent.

Chair Tilghman asked can people apply no matter where they live?

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Mr. Siao stated yes.

Chair Tilghman stated residential customers close by to this should benefit from it. She asked is criteria that you will have to meet?

Mr. Siao stated there is no criteria as long as you are a Dominion customer. There are no income limits.

Chair Tilghman asked if it has to be a certain number of low income applicants?

Mr. Siao stated yes a particular number of low income per project. When they are ready to have subscribers they usually go to this Board or the Community Development office and see where we can advertise this, like PTA, churches, etc. This is a voluntary program. If not all of the 575 spots are filled, then we will go to a larger market.

Chair Tilghman stated I do not want everyone in Richmond to benefit from this. Augusta County should benefit from this too. I would like to see this in the County and it be kept local.

Mr. Glover stated with 575 customers and if 600 apply, who decides who gets in and who does not?

Mr. Siao stated it is on a first come, first serve basis. There will be plenty of projects with the small scale. Once we have the 575, then we can see if the others that did not get in, have interest in another project.

Mr. Thacker stated we would like to see the ones in the area that are looking at these solar panels be ear marked so that they can take advantage of this. As this project moves along, they should be priority for signing up above someone else who is not even near the project and that has no connection to this area.

Mr. Siao stated we will advertise the project. I am sure there is a way to work that out.

Mr. Bailey asked if folks oversee this project after the panels are installed?

Mr. Siao stated a lot of monitoring is done after the fact. Operations and maintenance teams/crews will handle that.

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Mr. Coyner asked will the company hire locally to do that?

Mr. Siao stated they will hire operations and maintenance contractors to manage this. They are not identified yet.

Mr. Coyner asked does your company own the equipment?

Mr. Siao stated yes.

Chair Tilghman asked do you think at some point after the 25 years that these panels will not be relevant and would need to be replaced with changes down the road?

Mr. Siao stated we would not elect to change the project midstream. We cannot go larger or change it.

Mr. Coyner asked how do they find a site and determine if it is feasible?

Mr. Siao stated his real estate team looks at the substation and sees what they can handle and looks at which sites meet their criteria. This is a great site and it made sense and that is why we pursued it.

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

Mr. James Curd, 74 J Ranch Lane, Fishersville, stated this is his family farm. We are in favor of the project and we have been there for 55 years. The land is zoned General Agriculture. The best use of the property would be the small scale solar. We approached them. This was established by the Planning Commission that it is in substantial accord with the Comprehensive Plan. The 12 acre parcel is in the Urban Service Area and the Planning Commission still decided that it was in substantial accord. The Comprehensive Plan is a plan that looks into the future, not a rule. Small scale has been discouraged in the Urban Service Area but not prohibitive. Small scale is different than large scale. This 12 acre area is a small part of the Urban Service Area. Small scale is perfect for Urban Service Areas. The Service Authority spoke at the Planning Commission meeting that they will lose revenue of a big housing development and miss all of the hookup fees. They cannot lose money that they never had. I have no interest in developing the property for residential. The sewer line goes through the property and the Service Authority has recouped their investment for the 40 years since it has been there. Each case is different and unique. We think our parcel

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is suited for small scale solar. It is near the railroad tracks and not many people want to live near the railroad tracks. This will not cause any pressure with Fire and Rescue, law enforcement, or schools. It would be hard to put another residential development on Long Meadow Road. We do not want to have our property in a residential development. Whether we get approved or not, we have no intention of developing the property. We have tried to be good neighbors over the years. When we received complaints, we tried to do what we can. We cannot let the land just sit there because that is not practical. The small scale solar is a solution for us to make a little money on the property. We do not want to develop the land into houses or apartments or have intensive agriculture practices. The small scale solar does not negatively affect property values. The adjacent property values may increase because there will not be houses on the land for at least 25 years. They will not block anyone's view from the mountains. You cannot stop someone from using their property just because it blocks their view. This will have less impact than a residential neighborhood. No noise, odor, traffic, impact on schools, etc.

Ms. Allison Graves, 42 Fishersville Station Road, Fishersville, stated we look forward to talking to him about what beekeepers would like. She said I am looking forward to this project and I am in favor of it.

Mr. Phil Martin, Executive Director, with the Augusta County Service Authority said that our Board has asked me to come and address this Board. I am not speaking in opposition to this or in support. Augusta County language says that facilities and utilities will be considered. The Service Authority's Mission Statement states that we are to support the Comprehensive Plan. This is in an Urban Service Area and as such water and sewer are available to this property. The cost of the sewer line is not the major issue, there is always the cost of treatment of that specifically this property is served by the Fishersville Wastewater Treatment Plant. In 2010, we upgraded that plant and spent over \$28 million. We use the County's Comprehensive Plan to look at and try and determine what size we need to make it. We look at something so we do not have to come back and do another expansion to that plant in the near future. So that is what we did. The plant now has a capacity of 4 million gallons a day. We are currently seeing less than 2 million gallons a day there. So we have a substantial amount of excess capacity there. That is where we look at what the Comprehensive Plan envisions and the properties as being developed as. This is envisioned to be Medium Density Residential. We took the property and looked at what would happen if they have no intention of developing and obviously there would be no income. However, if it is developed with what the Comprehensive Plan envisions we look at 4-6 units per year put in, look at availability fees put in, and look at what our net revenue

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would be. Again, this is all potential and no guarantee. Our job is to get water or sewer available for areas that the County says is Urban Service and what is going to be developed. Get water or sewer for what the County says is going to be Community Development Area. That is what we have done in the Fishersville and Stuarts Draft area. We see that it could be if you did have it developed in a way that the Comprehensive Plan envisions, look at over most of these projects they end up being 35 years. I know I said the initial lease is 25. I am guessing that there is some ability to renew the lease or extend it. This could be \$800,000 to \$1 million. We do not have the ability to forecast the future. We will just take a look at what could happen. The Board did not tell me to support or oppose this but to just go by the Comprehensive Plan language.

Chair Tilghman asked if the utilities go under his farm?

Mr. Martin stated sewer does. The water line is near Long Meadow Road.

Chair Tilghman asked how much service area is undeveloped?

Mr. Martin stated a lot of service area is undeveloped. We did not size the plan on all the land being developed. Technology changes and regulations change.

Chair Tilghman stated there is a lot of potential land that could be developed. We have to consider that the Service Authority puts a lot of money in this but this is not 300-400 acres of land just being removed from the plant.

Mr. Martin stated when we had a large scale utility solar and the impact was much greater. We supported the Comprehensive Plan changes adopted a week ago. The more you take out of Urban Service than the less likely you will get a return on investment. We invest the rate payers money into this plant in good faith based on the proposition that things are going to be developed as the Comprehensive Plan envisioned. The more certainty we have as things are presented the easier to make a decision on the future. We need to have assurance or reasonable expectation if we spend the rate payers money because that is who we have to account to.

Mr. Thacker stated the line was put in on his property to get to another property. His property was in the way and an easement was given. There was not a guarantee that the property would ever develop.

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Mr. Martin stated most of the time with the lines the developer puts them in. The Service Authority would have purchased an easement. He said we do what we do based on what the Comprehensive Plan says.

Ms. Janet James, 1045 Old White Bridge Road, Waynesboro, stated this one will set a precedent on future solar farms. How will this affect property values? Will this cause a reflection on other people's properties? On May 11th, a different project went before the Planning Commission and many people were against it in the County that does not want it. What do you consider small if it is right next to your home? Will there be existing towers needed? How will they be upgraded and will there be more power lines needed for these projects? The neighbors should have priority subscription but on the other request it is actually not written down. Solar farms on hills cannot be hidden if it is in front of the neighborhood.

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

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

Mr. Siao stated each project is considered on their own merit. There was a Property Value Impact Study done. We look at real home sales and compare that to controlled properties away from solar projects to compare and what we found is the empirical evidence shows no impact on value. The panels here are fixed. At the May 11th meeting no neighbors spoke in opposition to the project. Small scale is 50 acres or smaller in size. The towers are low capacity and will have no impact on the transmission. Our application outlines local subscribers. This site is flat. The panels have anti-reflective coatings on them. We have performed a glare analysis on this project where you look at your different point of views. We looked at Eagle's Nest Airport, Long Meadow Road, Fishersville Road, and Jefferson Highway and what we found is basically the way this works is we use a piece of software called Forged Solar. It looks at the area where we are building and models the position of the sun every minute of every day of every year to assess what is the potential for glare. We found zero from Eagle's Nest, then from Long Meadow Road over the entire year creates 459 minutes of glare, 770 minutes of glare on Jefferson Highway. This did not consider structures or vegetation. We do not anticipate glare impact.

Mr. Glover asked if there is a fee for the subscription?

Mr. Siao stated there is no fee to subscribe.

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Chair Tilghman asked how long has your business been around?

Mr. Siao stated since 2018.

Chair Tilghman stated solar has been around for a while and there is not enough studies done.

Mr. Siao stated we select projects all over like Virginia, North Carolina, Minnesota, upstate New York, Colorado in the rural areas. We look at similar characteristics of the areas when we do the property study.

Mr. Coyner asked if they have any projects that are near completion or online?

Mr. Siao stated we have final approval in New York and they will be online soon. We have subscribers for that project.

Chair Tilghman declared the public hearing closed. She stated this is in the Urban Service Area and the County has put money in providing utilities to that area. This is a small piece of land that is only 12-15 acres vs. the 200-300 acres. There is a lot of other land in that area. This is different. I do not see the Service Authority's argument as substantial. There is basically no opposition from the neighbors. There is already a tower on the property. The local subscriber is very important and it is a big selling point. A good portion of the electricity comes from the people and they will be Augusta County residents. There will still be a lot of open land. The people who will be looking at the panels are the landowners. These are fixed solar panels, therefore, there would be no noise.

Mr. Coyner stated the neighbors will be more receptive to this than another subdivision which would impact the schools.

Mr. Glover stated we toured different solar farms that were very visible and could see that it could have a potential negative impact on property values. He said visibility is minimal.

Chair Tilghman stated this is flat land.

Mr. Bailey stated there are a lot of other possibilities for this land that could really affect the surrounding area.

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Mr. Thacker stated I agree with Mr. Glover. This will have minimal land excavation. The buffers are natural and this sits down in the swale. This is a most desirable site for a solar project. The citizens in the Fishersville area will get priority to sign up for the project.

Chair Tilghman stated there are many conditions that will have to be met.

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

Pre-Conditions:

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

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- a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.
- b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights.
- c. In areas where there is an existing timber buffer remaining on the Facility parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning Administrator and/or his/her designee. The use of existing timber and natural screening is preferable.
- d. In areas where sufficient existing timber does not remain, the landscaping requirements shall conform to the Concept Site Plan. The trees shall be planted during the appropriate time of year, subsequent to the completion of construction.
- e. A surety agreement for landscape maintenance in a form acceptable to the County Attorney shall be submitted and approved prior to the issuance of any building permits. The amount of the surety shall be determined by an independent landscape architect selected and reasonably compensated by the Applicant but approved by the Zoning Administrator and/or his/her designee. The amount of the surety shall be equal to a reasonable estimate of the amount needed to establish, and following establishment, to maintain the landscaping required by the approved landscaping plan for two (2) years after initial installation. Once the landscaping has been successfully established, the surety amount will be reduced to that amount required for two (2) years of maintenance

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- thereafter. The surety will be released only after decommissioning is complete.
- f. All landscaping will be reviewed by the Zoning Administrator and/or his/her designee following installation, at one-year following installation, and as necessary thereafter to ensure the landscaping is being maintained.
 - g. The Applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit, while also considering market availability.
 - h. The use of herbicides for perimeter landscaping shall be minimized to the greatest extent reasonably practicable.
6. Decommissioning Plan. Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County a Decommissioning Plan as outlined in the Augusta County Code Section 25-70.10, as amended. Any structure or equipment associated with the Facility that is not operating for a continuous period of 12 consecutive months shall be subject to decommissioning, per Augusta County Code Section 25-70.10, as amended. Within 6 months of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Zoning Appeals. Periods during which the Site is not operational for maintenance, repair, or due to catastrophic events beyond the control of the Applicant, during which the Applicant works diligently to return the Site to full operating status, shall not trigger the Decommissioning requirements herein. The Applicant must provide written notice and evidence of the above to the Zoning Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Site was fully operational. Regardless of the efforts of the Applicant to return the Solar Facility to full operational capacity, if the Solar Facility does not operate as a solar energy facility collecting and storing energy and transferring and distributing it to the Grid after the catastrophic event, for a period of two (2) years the Special Use Permit shall be rendered void and the Applicant shall commence Decommissioning no later than the 730th day after the last day the Site was fully operational.

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7. Decommissioning Estimate. Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County an estimate of the decommissioning costs as outlined in the Augusta County Code Section 25-70.10, as amended, and/or detailed below (the more stringent shall apply), by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The decommissioning cost estimate shall include, at least, the following delineated by line item:
 - a. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
 - b. Costs related to creating, maintaining, and re-stabilizing any construction entrances identified on the Property, with a separate line item for each such construction entrance, unless written waiver to the Board of Zoning Appeals is requested by the landowner.
 - c. Costs for mobilization.
 - d. Costs for removal and disposal of all materials, line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure," cost to remove inverters," etc.
 - e. Costs to de-compact soils and reestablish topsoil.
 - f. Costs to stabilize land disturbed by the decommissioning work.
 - g. Costs of trucking, hauling and equipment use.
 - h. Costs for removal of any landscaping in buffer zones, setback areas, or under panels
 - i. Costs of landfill fees associated with the disposal of commercial and industrial waste
 - j. Costs of all labor and estimated man hours to perform the decommissioning work.

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- k. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year thirty-five (35) of operation.
 - l. Costs must include a 25% contingency of the total estimate.
 - m. The certification of a third-party engineer licensed in Virginia affirming that the owner/operators' cost estimate is sufficient to satisfy the decommissioning required herein. The estimated amount for the salvaged materials shall not be part of the consideration in the decommissioning cost estimate.
 - n. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, the Applicant shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.
8. Decommissioning Bonding. Prior to the issuance of final site plan approval for the Facility, the applicant shall submit a bond, irrevocable letter of Credit, or other appropriate surety acceptable to the County in accordance with Augusta County Code Section 25- 70.11, as amended.
9. Panel Specification and Composition. At the time of site plan review the Applicant shall provide to the Zoning Administrator, a written panel specification disclosure document that includes the composition, toxicological information, and the physical and chemical properties of all of the solar panels, including coatings, being utilized for the Facility. The Applicant shall utilize crystalline solar panels for the Project. The Applicant shall not utilize any panels that of the type known as thin-film panels, including but not limited to not utilizing panels manufactured with or coated using lead, the GenX chemical, amorphous silicon (a-Si), cadmium telluride (CdTe), copper indium gallium selenide (CIS/CIGS), organic photovoltaic cells (OPC) panels, and/or any other material prohibited by state or federal law for use in solar photovoltaic panels. Moreover, to the extent any

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panel utilized has a Safety Data Sheet associated therewith under 29 CFR 1910.1200(g) and its Appendix D, the Safety Data Sheet shall be disclosed, as well.

10. The Facility, including, but not limited to, all areas covered by photovoltaic panel, any and all landscape or fencing buffer areas, any and all setback areas, any and all support equipment, and any and all access roads, shall be removed from Land Use Assessment and therefore subject to a rollback tax paid to the County for the difference between land use tax and the fair market value for each of the five most recent complete tax years. The remainder of the property not included in the Facility shall continue to meet current requirements for the County's Land Use Assessment program in order to remain included in the program, as determined by the Commissioner of the Revenue upon approval of the Special Use Permit.
11. The applicant shall disclose to the Augusta County Service Authority if corrosion control systems are part of the Facility.
12. ACSA Infrastructure.
 - a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of the Augusta County Service Authority.
 - b. No panels and/or appurtenances, including fences and landscaping shall be installed within 20 feet each way of the centerline of any existing water or sewer main to ensure adequate space for future operations and maintenance.
 - c. Where public water/sewer utilities are located on the same property as the Facility, the Service Authority shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.
13. The Applicant must obtain site plan approval within 12 months of the issuance of the Special Use Permit and shall substantially complete construction within 24 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.
14. Local Subscribers – Prior to beginning commercial operation of the utility-scale solar facility, the Applicant shall work in good faith and use its best efforts to

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identify residents of Augusta County, Virginia and its incorporated towns to voluntarily subscribe to its community solar program ("Local Subscribers"). Outreach efforts to Local Subscribers may include, among others, advertising in a local newspaper of record and hosting informational community meetings. The Applicant will give notice of such informational community meetings to the County Administrator.

Operating Conditions:

1. This Special Use Permit ("Permit") is granted solely for the subject property for operation of a small solar energy system (the "Facility"). This Permit shall be binding on Augusta CSG, LLC and any successor-in-interest, including but not limited to any current or future owner, lessee, sub-lessee, and permitted assignee ("Applicant").
2. The Permit shall not be assignable by Augusta CSG, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.
3. Any document memorializing or relating to the establishment of any successor-in-interest, e.g., lessee, sub-lessee, future owner, permitted assignee, etc., between Augusta CSG, LLC, and any such individual or business entity, shall include a recital as to the existence of the Permit, and the duties and obligations of the third party and now successor-in-interest thereunder the Permit, to ensure that successors-in-interest are on written notice of the Permit and its terms and conditions. A copy of these conditions shall be recorded in the clerk's office of the Circuit Court for the County of Augusta, Virginia.
4. The Facility, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), and setbacks (unless otherwise determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Concept Site Plan prepared by Christopher Consultants, dated March 15, 2021.
5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the Facility and its successors and assigns.
6. All non-operational, non-electrical site features along the perimeter of the Facility, such as landscaping and fencing, shall be properly maintained throughout the life of the Permit. Fencing shall be maintained in good repair and

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landscaping shall be maintained so as to provide the desired buffer benefits. Maintenance of such features shall be guaranteed by the surety agreement and surety as provided below. If the Zoning Administrator and/or his/her designee determines that site features identified are not being properly maintained, as described herein, then the Applicant shall be given a notice to remedy as is the standard zoning violation policy of Augusta County.

7. Setbacks, either as shown on the Concept Site Plan, or set by the Board of Zoning Appeals during their review, shall be measured from the property line and/or VDOT Right of Way to the fence line of the Facility.
8. The Applicant shall not add additional photovoltaic panel areas, change the entrance locations of access roads (unless otherwise required by VDOT in a written statement), or revise the height, placement, or design of landscaping buffer elements without prior approval by the Augusta County Board of Zoning Appeals.
9. The Zoning Administrator or any other parties designated by the Zoning Administrator shall be allowed to enter the property at any reasonable time to check for compliance with the provisions of this Permit, with at least 24 hours of advance notice and subject to the security, health and safety standards and regulations that apply to the Facility.
10. The Applicant shall preserve and maintain existing forest/vegetation where it serves to meet buffer standards or standards for alternative compliance as required by ordinance from adjacent property and public right of ways, and is not in conflict with the solar panels, as indicated on the Concept Site Plan. See 5.C and 5.D in the pre-conditions of this Special Use Permit.
11. All construction and decommissioning activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m., Monday through Saturday, and will be prohibited on Sundays. These conditions shall apply to noise generated during the construction of the Facility and to any construction needed during replacement, repair, or maintenance activities during the ongoing operation of the Facility. Replacement, repair, and maintenance activities conducted at nighttime and not involving construction shall comply with all applicable noise standards.
12. The Facility shall not be lit during ongoing operations, unless as required by the Uniform Statewide Building Code. Lighting used during construction shall be

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downward facing and shall be located at least 500 feet from any adjacent residential property.

13. All solar panels shall use anti-reflective coatings.
14. All topsoil shall not be removed from the site.
15. The Applicant shall implement the following additional measures during construction:
 - a. Maintain all construction-related vehicles in good working order.
 - b. Designate a specific individual and provide that individual's name and contact information to the Zoning Administrator and/or his /her designee, to which questions, complaints, or concerns during construction may be directed.
 - c. Prior to the initiation of construction, mail a notice of construction activity to all property owners whose properties are adjacent to areas on which the Facility will be constructed. The notice shall summarize upcoming construction activities, describe the areas in which construction will occur, including the main routes of delivery, and provide the name and contact information of the Facility representative to whom any complaints, concerns, or comments may be addressed.
 - d. Provide adequate portable sanitation facilities that are located in a manner that facilitates ease of disposal but that are not within one hundred and fifty (150) feet of any property boundary of a parcel on which a home is located and whose owner is not participating in the Facility.
 - e. Prohibit any personnel associated with the construction of the Facility from overnight lodging at the site.
16. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.

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17. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.
18. This Permit shall be valid from the time of issuance and thereafter for a period of 40 years from the start of commercial operations of the Facility, which shall be the date on which the Facility first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the 40 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant to the conditions herein, the Facility shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.
19. Solar Panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control.
20. Corporate Structure, Associations, and Information. Applicant and all successors-in-interest, including current and future owners, lessees, sub-lessees, and permitted assignees shall provide the Zoning Administrator, with a copy to the County Attorney, written notice of changes of ownership of the solar facility within thirty (30) days thereof.
21. Any substantial upgrades or changes made to the design or operation of the Facility that are planned shall be disclosed to the Zoning Administrator and/or his/ her designee at least ninety (90) days before the intended implementation of the upgrades or changes – except as provided herein. Any substantial upgrades and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.

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22. Upon completion of the installation of the Facility, Augusta CSG, LLC shall establish contacts with Augusta County Fire Rescue and Augusta County Sheriff's Office and provide both with an emergency management plan.
23. Any infraction of the above-mentioned conditions, or any Zoning Ordinance regulations, may lead to a stop work order and revocation of the Special Use Permit by the Board of Zoning Appeals.
24. Contribution for Public Improvements – The Applicant, and if different than the Applicant, the facility owner and/or operator, shall provide annual substantial cash payments for substantial public improvements in accordance with the provisions of Virginia Code § 15.2-2288.8. The amount of such annual substantial cash payment shall be equal to \$1,400 per megawatt as measured in alternating current (AC) generation capacity of the facility as listed in the Applicant's executed Interconnection Agreement with the interconnecting utility ("Contribution Amount"). The Applicant and the County acknowledge and agree that the County may identify in future budget years qualifying substantial public improvements that will be funded by the annual substantial cash payments to be provided by the facility owner and/or operator. The Contribution Amount will increase annually by two percent (2%), beginning on the first anniversary of the first payment of the Contribution Amount. The first payment will be due on or before the date that is 90 days following the commencement of commercial operation of the solar facility. Subsequent payments will be due on each anniversary of the commercial operation date until the solar facility is decommissioned as required by these Conditions. The Applicant, facility owner and/or operator shall provide written notice to the Zoning Administrator within ten (10) business days of when the solar facility commences commercial operation. The payment by the Applicant, facility owner, and/or operator of all annual substantial cash payments until the decommissioning of the solar facility is complete shall be a condition of this permit. The Applicant, facility owner and/or operator shall be jointly and severally responsible for the payment of all annual substantial cash payments required by this condition.

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

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unenforceable, the remainder of these conditions and this Permit shall nonetheless remain in full force and effect.

Mr. Coyner seconded the motion, which carried unanimously.

OLD BUSINESS

KEITH CLARK, AGENT FOR DWS PROPERTIES - SPECIAL USE PERMIT

A request by Keith Clark, agent for DWS Properties, for a Special Use Permit for an expansion of a non-conforming use to add additional apartment units within the existing structure on property owned by Teron W. Dewert located at 26 and 28 Mount Sidney School Lane, Mount Sidney in the North River District. – TABLED AT THE JULY 1, 2021 MEETING

The applicant was not present so the Board moved this request to the end of the agenda.

PAT HASTINGS, AGENT FOR WAYNESBORO BRIDGE SOLAR, LLC - SPECIAL USE PERMIT

A request by Pat Hastings, agent for Waynesboro Bridge Solar, LLC, for a Special Use Permit to use a forty (40) acre portion of the parcel as a small solar energy system on property owned by HW Farms, LLC located at 532 Old White Bridge Road, Waynesboro in the Wayne District. - TABLED AT THE JULY 1, 2021 MEETING

Mr. Coyner moved to bring the request forward.

Mr. Glover seconded the motion, which carried unanimously.

Mr. Derek Sheehan, Dynamic Energy, stated we proposed additional landscaping to go all the way up along the entire northeast portion of the fence line. In the fall and winter time, there will be a little more exposure to the view sheds so the proposed

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vegetative buffer that we are extending along that line will include conifers so we provide more buffering throughout the year.

Chair Tilghman said the surrounding farmland that is not within this project, the farmer could potentially have animals on it during the year. Obviously, the buffers are an important part of this project because we are at least to some degree, trying to change the view for neighbors that are passing by. Have you thought about any kind of fence around it because of the cattle? They eat mostly anything. It is important that those buffers remain.

Mr. Sheehan stated the landowners are here and they can speak to that a little more but right now I believe the cattle only runs along the southeastern portion of that parcel.

Mr. Wine stated there is an existing fence there.

Chair Tilghman asked if the area will be fenced so that they do not get into any type of vegetation?

Mr. Wine stated yes so the cattle will not get through the vegetation.

Mr. Coyner asked if the vegetation will be on the farming side now?

Mr. Wine stated the outside fence is to keep the cattle out.

Mr. Coyner stated they will need to be away from any vegetation.

Mr. Thacker asked in the north corner, why is it not included in the solar seed mix?

Mr. Sheehan stated it is outside of the area under panel.

Mr. Thacker asked if it will be seeded to ensure that there is no erosion or runoff?

Mr. Wine stated yes.

Mr. Thacker asked if the inside buffer will all be seeded?

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Mr. Wine stated yes.

Mr. Coyner asked if there will be sheep on the property and if you have an impact on the type of grass that gets placed on the site?

Mr. Sheehan stated yes. They will also use a solar seed mix to have a low mow seed blend and it is fine for sheep to graze on.

Mr. Coyner asked if it would be constructed so that sheep can be in there?

Mr. Sheehan stated yes.

Chair Tilghman asked what is the peak height?

Mr. Sheehan stated the peak height is 13'-14' for the tracking panels. The panels will flatten out at noon and be 9'-10' high.

Mr. Coyner asked if the panels have a non-glare material?

Mr. Sheehan stated it has an anti-glare resistant material covering on it.

Mr. Thacker stated besides a solar farm the other options could be poultry houses.

Mr. Wine states yes.

Mr. Thacker stated I am not sure all that are involved are aware of your other options.

Mr. Glover stated the subscribers will not be confined to just Augusta County. Is there any way that we can focus on a priority for Augusta County residents?

Mr. Sheehan stated we reach out to localities prior to the project being open to the wider Dominion territory. The spirit is to keep it as much here as possible. It is first come first serve though.

Chair Tilghman stated the applicant should keep the subscribers here locally before it is opened up to the general public to sign up.

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Mr. Sheehan stated they will help spread the word and look to a reputable institution to also help spread the word. The open enrollment will start in July 2023.

Mr. Thacker stated the names of landowners in the area should be the first one to receive the credits through Dominion. They should be a priority.

Chair Tilghman asked if there is a new pole?

Mr. Sheehan stated there will be five (5) new poles (standard utility pole).

Chair Tilghman asked will you move topsoil?

Mr. Sheehan stated no. There is minimal grading at the site. We install by driving screws into the ground.

Mr. Coyner asked what happens when you hit rock?

Mr. Sheehan stated we will get around the rock with this type of system which is why we avoided the northern part of the property with visible rocks.

Ms. Bunch stated the previous applicant offered a pre-condition regarding local subscribers. She read that condition to the applicant.

Mr. Sheehan stated he is in agreement of adding that additional condition.

Mr. Coyner stated the small scale solar projects seem to work well with not really any problems in speaking with other areas that have them in place. He said there could be a lot less desirable options for this property. He moved to approve the request with the following conditions:

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents," Section 25-70.4.C "Standards applicable to small solar energy systems," and Section 25-70.5 "Applications and Procedures for Small Energy Systems" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.

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2. The Facility shall not commence commercial operations until final site plan approval is first obtained from the Zoning Administrator or his/her designee, and all pre-conditions of approval have been met.
3. In consultation with site plan review, wetlands shall be inventoried and delineated, and no construction of panels or access roads shall be permitted within 35 ft. of the delineated wetland. All operations and infrastructure of the Facility shall additionally maintain a 35 ft. buffer from all streams.
4. The Facility shall not obtain final site plan approval until evidence has been given to the County that an electric utility company has signed an interconnection agreement with the permittee.
5. Landscaping Plan. The Applicant shall submit a proposed landscaping plan for each perimeter of the Facility (outside all fenced areas) to the Zoning Administrator and/or his/her designee for review and approval as part of the full site plan, which shall be in general conformance with the landscaping plan submitted with the Concept Site Plan. The following conditions shall govern the installation of landscaping in accordance with the landscaping plan:
 - a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.
 - b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights.
 - c. In areas where there is an existing timber buffer remaining on the Facility parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing

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buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning Administrator and/or his/her designee. The use of existing timber and natural screening is preferable.

- d. In areas where sufficient existing timber does not remain, the landscaping requirements shall conform to the Concept Site Plan. The trees shall be planted during the appropriate time of year, subsequent to the completion of construction.
- e. A surety agreement for landscape maintenance in a form acceptable to the County Attorney shall be submitted and approved prior to the issuance of any building permits. The amount of the surety shall be determined by an independent landscape architect selected and reasonably compensated by the Applicant but approved by the Zoning Administrator and/or his/her designee. The amount of the surety shall be equal to a reasonable estimate of the amount needed to establish, and following establishment, to maintain the landscaping required by the approved landscaping plan for two (2) years after initial installation. Once the landscaping has been successfully established, the surety amount will be reduced to that amount required for two (2) years of maintenance thereafter. The surety will be released only after decommissioning is complete.
- f. All landscaping will be reviewed by the Zoning Administrator and/or his/her designee following installation, at one-year following installation, and as necessary thereafter to ensure the landscaping is being maintained.
- g. The Applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit, while also considering market availability.

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- h. The use of herbicides for perimeter landscaping shall be minimized to the greatest extent reasonably practicable.
6. **Decommissioning Plan.** Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County a Decommissioning Plan as outlined in the Augusta County Code Section 25-70.10, as amended. Any structure or equipment associated with the Facility that is not operating for a continuous period of 12 consecutive months shall be subject to decommissioning, per Augusta County Code Section 25-70.8 and 25-70.9, as amended. Within 6 months of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Zoning Appeals. Periods during which the Site is not operational for maintenance, repair, or due to catastrophic events beyond the control of the Applicant, during which the Applicant works diligently to return the Site to full operating status, shall not trigger the Decommissioning requirements herein. The Applicant must provide written notice and evidence of the above to the Zoning Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Site was fully operational. Regardless of the efforts of the Applicant to return the Solar Facility to full operational capacity, if the Solar Facility does not operate as a solar energy facility collecting and storing energy and transferring and distributing it to the Grid after the catastrophic event, for a period of two (2) years the Special Use Permit shall be rendered void and the Applicant shall commence Decommissioning no later than the 730th day after the last day the Site was fully operational.
 7. **Decommissioning Estimate.** Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County an estimate of the decommissioning costs as outlined in the Augusta County Code Section 25-70.10, as amended, and/or detailed below (the more stringent shall apply), by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The decommissioning cost estimate shall include, at least, the following delineated by line item:

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- a. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
- b. Costs related to creating, maintaining, and re-stabilizing any construction entrances identified on the Property, with a separate line item for each such construction entrance, unless written waiver to the Board of Zoning Appeals is requested by the landowner.
- c. Costs for mobilization.
- d. Costs for removal and disposal of all materials, line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure," cost to remove inverters," etc.
- e. Costs to de-compact soils and reestablish topsoil.
- f. Costs to stabilize land disturbed by the decommissioning work.
- g. Costs of trucking, hauling and equipment use.
- h. Costs for removal of any landscaping in buffer zones, setback areas, or under panels
- i. Costs of landfill fees associated with the disposal of commercial and industrial waste
- j. Costs of all labor and estimated man hours to perform the decommissioning work.
- k. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year thirty-five (35) of operation.
- l. Costs must include a 25% contingency of the total estimate.
- m. The certification of a third-party engineer licensed in Virginia affirming that the owner/operators' cost estimate is sufficient to satisfy the decommissioning required herein. The estimated amount for the salvaged

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materials shall not be part of the consideration in the decommissioning cost estimate.

- n. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, the Applicant shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.
8. **Bonding.** Prior to the issuance of final site plan approval for the Facility, the applicant shall submit a bond, irrevocable letter of Credit, or other appropriate surety acceptable to the County in accordance with Augusta County Code Section 25- 70.11, as amended.
 9. **Panel Specification and Composition.** At the time of site plan review the Applicant shall provide to the Zoning Administrator, a written panel specification disclosure document that includes the composition, toxicological information, and the physical and chemical properties of all of the solar panels, including coatings, being utilized for the Facility. The Applicant shall utilize crystalline solar panels for the Project. The Applicant shall not utilize any panels that of the type known as thin-film panels, including but not limited to not utilizing panels manufactured with or coated using lead, the GenX chemical, amorphous silicon (a-Si), cadmium telluride (CdTe), copper indium gallium selenide (CIS/CIGS), organic photovoltaic cells (OPC) panels, and/or any other material prohibited by state or federal law for use in solar photovoltaic panels. Moreover, to the extent any panel utilized has a Safety Data Sheet associated therewith under 29 CFR 1910.1200(g) and its Appendix D, the Safety Data Sheet shall be disclosed, as well.
 10. The Facility, including, but not limited to, all areas covered by photovoltaic panel, any and all landscape or fencing buffer areas, any and all setback areas, any

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and all support equipment, and any and all access roads, shall be removed from Land Use Assessment and therefore subject to a rollback tax paid to the County for the difference between land use tax and the fair market value for each of the five most recent complete tax years. The remainder of the property not included in the Facility shall continue to meet current requirements for the County's Land Use Assessment program in order to remain included in the program, as determined by the Commissioner of the Revenue upon approval of the Special Use Permit.

11. The applicant shall disclose to the Augusta County Service Authority if corrosion control systems are part of the Facility.

12. ACSA Infrastructure.

- a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of the Augusta County Service Authority.
- b. No panels and/or appurtenances, including fences and landscaping shall be installed within 20 feet each way of the centerline of any existing water or sewer main to ensure adequate space for future operations and maintenance.
- c. Where public water/sewer utilities are located on the same property as the Facility, the Service Authority shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.

13. The Applicant must obtain site plan approval within 12 months of the issuance of the Special Use Permit and shall substantially complete construction within 12 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.

14. Local Subscribers – Prior to beginning commercial operation of the utility-scale solar facility, the Applicant shall work in good faith and use its best efforts to identify residents of Augusta County, Virginia and its incorporated towns to voluntarily subscribe to its community solar program (“Local Subscribers”).

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Outreach efforts to Local Subscribers may include, among others, advertising in a local newspaper of record and hosting informational community meetings. The Applicant will give notice of such informational community meetings to the County Administrator.

Operating Conditions:

1. This Special Use Permit ("Permit") is granted solely for the subject property for operation of a small-scale solar energy system (the "Facility"). This Permit shall be binding on Waynesboro Bridge Solar, LLC and any successor-in-interest, including but not limited to any current or future owner, lessee, sub-lessee, and permitted assignee ("Applicant").
2. The Permit shall not be assignable by Waynesboro Bridge Solar, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.
3. Any document memorializing or relating to the establishment of any successor-in-interest, e.g., lessee, sub-lessee, future owner, permitted assignee, etc., between Waynesboro Bridge Solar, LLC and any such individual or business entity, shall include a recital as to the existence of the Permit, and the duties and obligations of the third party and now successor-in-interest thereunder the Permit, to ensure that successors-in-interest are on written notice of the Permit and its terms and conditions. A copy of these conditions shall be recorded in the clerk's office of the Circuit Court for the County of Augusta, Virginia.
4. The Facility, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), buffering type and details, and setbacks (unless otherwise determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Concept Site Plan prepared by Dynamic Energy, dated 4/16/2021.
5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the Facility and its successors and assigns.

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

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11. All construction and decommissioning activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m., Monday through Saturday, and will be prohibited on Sundays. These conditions shall apply to noise generated during the construction of the Facility and to any construction needed during replacement, repair, or maintenance activities during the ongoing operation of the Facility. Replacement, repair, and maintenance activities conducted at nighttime and not involving construction shall comply with all applicable noise standards.
12. The Facility shall not be lit during ongoing operations, unless as required by the Uniform Statewide Building Code. Lighting used during construction shall be downward facing and shall be located at least 500 feet from any adjacent residential property.
13. In the event that there is damage to adjoining properties as a result of ingress/egress of construction vehicles, the Applicant shall repair all damage in full prior to the commencement of commercial operations.
14. All solar panels shall use anti-reflective coatings.
15. All topsoil shall not be removed from the site.
16. The Applicant shall implement the following additional measures during construction:
 - a. Maintain all construction-related vehicles in good working order.
 - b. Designate a specific individual and provide that individual's name and contact information to the Zoning Administrator and/or his /her designee, to which questions, complaints, or concerns during construction may be directed.

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- c. Prior to the initiation of construction, mail a notice of construction activity to all property owners whose properties are adjacent to areas on which the Facility will be constructed. The notice shall summarize upcoming construction activities, describe the areas in which construction will occur, including the main routes of delivery, and provide the name and contact information of the Facility representative to whom any complaints, concerns, or comments may be addressed.
 - d. Provide adequate portable sanitation facilities that are located in a manner that facilitates ease of disposal but that are not within one hundred and fifty (150) feet of any property boundary of a parcel on which a home is located and whose owner is not participating in the Facility.
 - e. Prohibit any personnel associated with the construction of the Facility from overnight lodging at the site.
17. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.
18. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection to the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.
19. The Applicant shall fund, for the period of construction and until the site has been revegetated, a certified third-party erosion and sediment control and stormwater inspector, to be selected and directed by the County Administrator and/or his designee. Such erosion and sediment control and stormwater inspection shall provide e-reporting to a central File Transfer Protocol (FTP) site

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to which the County's Program Administrator shall be granted access. Reports will be submitted no later than next day following any inspection and shall include the inspection report for each disturbed area of development. Site inspection and reports shall be conducted and reported at a minimum as required by the Virginia Stormwater Management Program ("VSMP") permit. Any corrective actions done in the field shall be e-mailed to the County's Program Administrator within 24 hours of completion.

20. This Permit shall be valid from the time of issuance and thereafter for a period of 30 years from the start of commercial operations of the Facility, which shall be the date on which the Facility first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the 30 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant to the conditions herein, the Facility shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.
21. Solar Panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control.
22. Corporate Structure, Associations, and Information. Applicant and all successors-in-interest, including current and future owners, lessees, sub-lessees, and permitted assignees shall provide the Zoning Administrator, with a copy to the County Attorney, written notice of changes of ownership within thirty (30) days thereof.
23. Any substantial upgrades or changes made to the design or operation of the Facility that are planned shall be disclosed to the Zoning Administrator and/or his/ her designee at least ninety (90) days before the intended implementation of

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the upgrades or changes – except as provided herein. Any substantial upgrades and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.

24. Upon completion of the installation of the Facility, Waynesboro Bridge Solar, LLC shall establish contacts with Augusta County Fire Rescue and Augusta County Sheriff’s Office and provide both with an emergency management plan.

25. Any infraction of the above-mentioned conditions, or any Zoning Ordinance regulations, may lead to a stop work order and revocation of the Special Use Permit by the Board of Zoning Appeals.

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

Mr. Glover seconded the motion, which carried unanimously.

KEITH CLARK, AGENT FOR DWS PROPERTIES - SPECIAL USE PERMIT

A request by Keith Clark, agent for DWS Properties, for a Special Use Permit for an expansion of a non-conforming use to add additional apartment units within the existing structure on property owned by Teron W. Dewert located at 26 and 28 Mount Sidney School Lane, Mount Sidney in the North River District. – TABLED AT THE JULY 1, 2021 MEETING

Mr. Thacker brought the request forward.

Mr. Coyner seconded the motion, which carried unanimously.

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Mr. Keith Clark is not present for the meeting.

Mr. Thacker stated I visited the property since we last met. The lane is very narrow and there is only enough room for one vehicle to go out Seawright Springs Road. On the weekend there were twice as many vehicles at the site. The site is terrible as VDOT commented on. This area is limited.

Chair Tilghman stated the applicant is wanting to double the amount of apartments that are there now.

Mr. Thacker said I cannot see how this would work.

Mr. Bailey stated this would not be in compliance with the Comprehensive Plan if enlarged that much.

Mr. Coyner stated this request is not practical.

Mr. Thacker moved to deny the request.

Mr. Bailey seconded the motion, which carried unanimously.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

ASHLEY CHRISTOPHER OR SHARI B. CRAUN - EXTENSION OF TIME REQUEST

A request by Ashley Christopher or Shari B. Craun, for a Special Use Permit to have a slaughter/butcher shop and to have retail sales of processed meat onsite on property they own, located at 36 Lebanon Church Road, Staunton in the North River District.

Mr. Coyner moved to approve the twelve (12) month Extension of Time.

Mr. Thacker seconded the motion, which carried unanimously.

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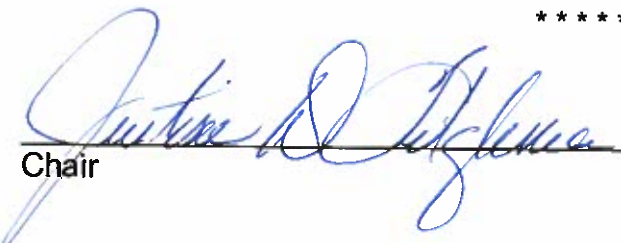
STAFF REPORT

20-38	Rusty K. or Kari G. Davis
20-39	Leslie K. Graham, Trustee
20-40	Gary D. or Regina M. Miller
20-41	Travis Shifflett or Lauren Simpson
20-42	Tony or Teresa Floyd

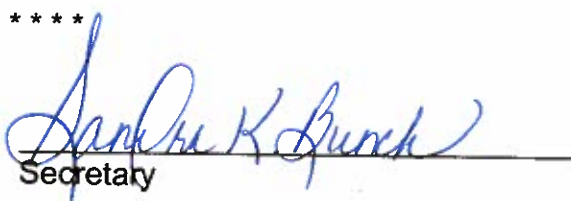
Ms. Bunch stated SUP#20-38, SUP#20-39, and SUP#20-41 are all in compliance. She said SUP#20-40 was denied. She said the Board gave SUP#20-42 two (2) years to complete the pre-conditions.

Mr. Benkahla discussed the court cases with the Board.

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



 Chair



 Secretary

