

July 6, 2023

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

ABSENT: Justine D. Tilghman

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, July 6, 2023 at 9:00 A.M., in the County Government Center, Verona, Virginia.

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The staff briefing was held at 9:00 a.m. in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.


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**VIEWINGS**

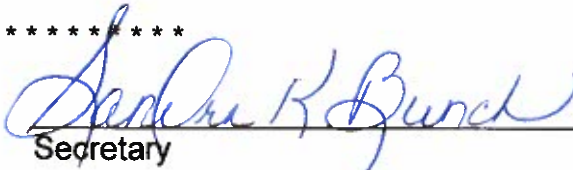
The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- REBECCA JANE PARISIEN - SPECIAL USE PERMIT
- JOHN RENO, AGENT FOR FACTORY HOLDING COMPANY, LC - SPECIAL USE PERMIT
- PAOLO MORABITO - SPECIAL USE PERMIT
- RYAN FLETCHER, AGENT FOR NETWORK TOWERS, LLC - SPECIAL USE PERMIT
- LINDSEY NELSON, AGENT FOR CONSOLIDATED EDISON DEVELOPMENT, INC. - 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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 Chair

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 Secretary

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Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Justine D. Tilghman

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, July 6, 2023, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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**MINUTES**

Mr. Glover moved that the minutes from the June 1, 2023, meeting be approved.

Mr. Bailey seconded the motion, which carried unanimously.

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**REBECCA JANE PARISIEN - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Rebecca Jane Parisien, for a Special Use Permit to have a short term rental on property she owns, located at 813 Leaport Road, Verona in the North River District.

Ms. Rebecca Parisien stated I would like to rent the place on weekends on the Airbnb and Vrbo sites.

Chair Coyner stated the applicant resides at the site. When the property is rented do you plan on leaving?

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Ms. Parisien stated yes, I plan to stay with my parents.

Chair Coyner stated the number of guests is limited due to the septic.

Ms. Parisien stated I am fine with the limit but if I want more guests do I come back to get another Special Use Permit or go to the Health Department?

Ms. Bunch stated we will need Health Department approval that the existing septic is adequate. Before you operate, we will need the approval from the Health Department. Please contact our office and we can discuss this matter.

Chair Coyner stated the Board visited the site. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Antonio Martinez, 851 Leaport Road, Verona, stated I own the home at the southwest end of her property. I have no objection to what she is proposing to do. Ms. Parisien is a good neighbor.

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

There being none, Chair Coyner declared the public hearing closed. The Board visited the site this morning.

Mr. Bailey stated this is a low impact business that would benefit the area. He moved to approve the request with the following conditions:

**Pre-Condition:**

1. Applicant submit approval from the Health Department that the existing septic is adequate for four (4) bedrooms.

**Operating Conditions:**

1. Applicant be permitted to lease one (1) bedroom and be limited to a total occupancy not to exceed two (2) persons unless the applicant provides Community Development with Health Department approval.
2. Applicant resides on premise and be available during rental.
3. Site be kept neat and orderly.

Mr. Glover seconded the motion, which carried unanimously.

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**JOHN RENO, AGENT FOR FACTORY HOLDING COMPANY, LC - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by John Reno, agent for Factory Holding Company, LC, for a Special Use Permit to construct mini-warehouse units on property owned by Factory Holding Company, LC, located on the north side of Lodge Lane at the intersection of Lodge Lane and Laurel Hill Road (Route 612), Verona in the Beverley Manor District.

Mr. John Reno stated there was a site plan done for mini-storage units. The owner of the property would like to expand units on Lot 3.

Chair Coyner asked if these will be constructed this year?

Mr. Reno stated yes. If approved, we plan on submitting the site plan within the next couple of weeks.

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

There being none, Chair Coyner declared the public hearing closed. The Board viewed the site this morning and it appears what the applicant is proposing should work.

Mr. Thacker 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" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies, including a complete Erosion & Sediment Control Plan and Stormwater Management Plan.
2. Applicant obtain building permit and provide a copy to Community Development.

**Operating Conditions:**

- 1. No activities such as sales, repairs, painting, or servicing of goods, equipment, or vehicles shall be permitted inside or outside the mini-warehouse units.
- 2. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
- 3. Site be kept neat and orderly.
- 4. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the ordinance requirements of Article VI.A Outdoor Lighting.

Mr. Glover seconded the motion, which carried unanimously.

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**BEVERLEY H. FARRAR - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Beverley H. Farrar, for a Special Use Permit to have an antique shop within an existing building on property she owns, located at 890 Augusta Springs Road, Craigsville in the Pastures District.

Ms. Beverley Farrar stated I would like to have a small antique and gift shop.

Chair Coyner stated the property is close to the floodplain. Has the property ever flooded?

Ms. Farrar stated yes in 1996.

Mr. Bailey asked if there will be outside storage?

Ms. Farrar stated no. I will keep the property neat and orderly.

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

There being none, Chair Coyner declared the public hearing closed. This is a neat piece of property.

Mr. Glover stated there should be no negative impacts on the surrounding areas with this request. He moved to approve the request with the following conditions:

**Pre-Conditions:**

1. Submit an updated BZA sketch showing the parking will be on the existing lot not blocking the neighbor's access.
2. Provide handicapped parking, parking signage and building access, and provide lever type door hardware.
3. Submit documentation that the garage was built prior to May 17, 1990 and an elevation certificate.

**Operating Conditions:**

1. Be permitted to have an antique shop within the existing 32' x 70' garage.
2. No outdoor storage associated with the antique shop.
3. Hours of operation be 10:00 a.m. to 2:00 p.m.
4. No employees.
5. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.
6. Site be kept neat and orderly.

Mr. Bailey seconded the motion, which carried unanimously.

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**PAOLO MORABITO - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Paolo Morabito, for a Special Use Permit to construct a building for storage of commercial equipment on

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property he owns, located on the south side of Rankin Lane (Route 848), north of the intersection of Rankin Lane and Howardsville Turnpike (Route 610), Stuarts Draft in the South River District.

Mr. Paolo Morabito stated I am requesting a building to store equipment including an excavator, skid steer, and trailer. I am a Class A builder.

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

Mr. Morabito stated no. This property will be used for business storage. No employees will come to the site.

Chair Coyner stated the Board saw a 1,000 gallon diesel tank at the property.

Mr. Morabito stated I have been trying to clean up the property. I brought some machines there to clean up the land as much as I can.

Ms. Bunch asked if the diesel tank will stay there?

Mr. Morabito stated no.

Chair Coyner stated the Board visited the site this morning. The applicant has done a lot of work to the site already.

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

Ms. Mary Taylor, 273 Rankin Lane, Stuarts Draft, asked how will Mr. Morabito take care of water drainage at the property. I do not need water running onto my property. There is noise going on during the middle of the night.

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

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

Mr. Morabito stated I am not doing anything that will change the water drainage. I only plan on hooking up my trailer and leaving the site. The site will only be used for storage.

Chair Coyner asked how many employees do you have?

Mr. Morabito stated none. I subcontract the work out. Most of the time the equipment is kept on the jobsite.

Chair Coyner declared the public hearing closed. The Board visited the site this morning.

Mr. Bailey asked if the water runs onto your property and then into a culvert?

Mr. Morabito stated I have never had it flood onto my property. There was a problem a long time ago on the other side.

Mr. Bailey stated the recommended staff conditions should address the neighbor's concerns. He moved to approve the request with the following conditions:

**Pre-Condition:**

- 1. Applicant obtain building permit, inspections, and Certificate of Occupancy and provide a copy to Community Development.

**Operating Conditions:**

- 1. Be permitted to construct a 30' x 100' building for storage of commercial vehicles, trailers, and equipment only.
- 2. All vehicles, equipment, machinery, and materials for the business be kept inside the 30' x 100' building. No outdoor storage.
- 3. No office space inside the building or employees coming to the site until the Health Department approval is obtained and a copy provided to Community Development.
- 4. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the ordinance requirements of Article VI.A Outdoor Lighting.
- 5. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
- 6. Site be kept neat and orderly.

Mr. Thacker seconded the motion, which carried unanimously.

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**RYAN FLETCHER, AGENT FOR NETWORK TOWERS, LLC - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Ryan Fletcher, agent for Network Towers, LLC, for a Special Use Permit to construct a 199' telecommunications tower on property owned by David W. Surratt Revoc. Trust, located at 633 Battlefield Road, Fort Defiance in the Middle River District.

Mr. Drew Patterson, Director of Network Towers, stated I do have a presentation that is being brought up (a copy is in the file). Verizon Wireless will be the anchor tenant on this tower. They do have a need for a cell tower in this area. It is an area that is in the middle of several other towers. There is somewhat of a dead zone out there near the town of New Hope. As you saw out there this morning when you visited the site. The location of the tower is 633 Battlefield Road. As you can see from the depiction here, the closest tower is 3.76 miles to the southwest. There is also other towers to the north and to the southeast that Verizon is already on. Verizon has a couple objectives for this tower: To serve the town of New Hope and the other one is to be as close to the center to the other towers as possible so that we can alleviate the pressure that is on those towers but also to be as close to the center of the donut hole as possible so that the towers are evenly spaced apart. This request does that. We did look very extensively at multiple properties and this is the one that works for Verizon the best, it is one that we can lease, and it is one that is constructible as well. The need for the proposed facility as I said is to serve New Hope and surrounding roads and it really is to provide coverage to the folks in that area. The benefits to the tower is that it will give students access to the latest online educational opportunities, allow employees to work, shop from home, and allow emergency workers operating in the area the ability to communicate more effectively (I will get into this in a moment). This will provide the infrastructure necessary for all the carriers, not just Verizon to co-locate on the tower. That is one of the reasons why we are requesting 199' tower is so that we can have four carriers on it per County Code. I won't spend a lot of time on this but as we all know usage statistics in the last few years have gone up exponentially. Due to that point 38 times in 10 years, the average household internet data and that was 2020, and it is jumped exponentially even since then. 75% of the 911 calls are made by wireless devices but in fact, in this particular area we pulled the statistics from your folks in Emergency Communications and there is an average of 17 wireless calls per month within a three mile radius of this area. That would equal 204 wireless calls per year and compare that to three landline calls per month which is only 36 landline calls per year. The national average is 75% of wireless calls of E911 are made from wireless devices, in this particular area it is 85% which is 10% above the national

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average. As you have seen before, we really did try and locate this tower off the road as much as possible and well off adjacent properties. We do far exceed all setback requirements in the Zoning Ordinance. We are required to be 225' from property lines, 110% of the tower height. We far exceed that and we are 350' from the closest residence and 860' from Battlefield Road. As I noted a minute ago, this is a 199' tower request. This is a monopole which is a sleeker design. Some people do not know the difference. If you notice the tower outside is a self-support tower. That is not what this is, this is a more streamline design and less visible than a self-support or a guidewire tower. It will be galvanized steel to match the backdrop of the sky. The County has requested that we put landscape around the base of the tower which we are happy to do. As I noted, 199' tower will give four carriers the ability to co-locate on this so Verizon will be at 190' (anchor tenant) and each other carrier will be 10' below it. The tower has to be tall enough not just for Verizon Wireless to meet the coverage objective but tall enough so that the lowest tenant at 160' also meets their coverage objective. In a rural area like this, you need a taller tower to serve more area. We did photo simulations for this project. When we do photo simulations we float a balloon (3' diameter red balloon) at the height of the tower which is 199' and we go around at different areas and we take pictures of that balloon and we have our engineers superimpose this tower at that height. When we did that the tower is near the center of New Hope but it actually had minimal visibility. View 1 and I am only showing you the pictures where it was actually visible. View 1 you can see the little arrow and it is hard to see in this picture but there is a little arrow pointing to the tower beyond the flagpole from the northeast. It shows that it had very minimal visibility. This was another depiction from the northwest on Dam Town Road and you can see the little orange arrow in the distance that would be what the tower looks like from that direction. This is the photo simulation from the southwest on Battlefield Road as well, again the orange arrow. From the south in the middle of the picture you could see the tower and again in the southeast from the middle of the picture you could see the tower. What we found is that we did try and locate it in a place where there would be minimal visibility as possible and we think we achieved that. It will have low visibility and the photo simulations show that. I do want to talk on property values a little bit because a lot of people feel that property values with towers next to them has an effect on property values. There has been studies specifically on this issue. One was actually done in 1999 in Henrico and they studied five towers that were 150' or taller and they studied the properties that were close to the tower and they studied properties that were further to the tower and they compared the sale values for each of those. The conclusion was that there was no market evidence that suggested any negative impact to the residential properties. There was another study done in 2018, Boston, Dallas, Phoenix, and Raleigh that came to the same conclusion. The conclusion was that there was no measurable differences in price found. They even noted in that study that the majority of realtors said people asked about cell service when they were buying houses. There was a 2023 study

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that was just done by Trevor and Associates in Anne Arundel County, Maryland, same premise and the conclusion was that there was no significant influence on residential real estate related to visibility of towers. As you know, the Telecommunications Act of 1996 preempts local governments from considering health affects in tower applications. However, I do always like to talk about these issues. I think they are important for people to hear because there are a few concerns. We point to a few different studies that have been done on this issue. One is from the FCC that said there is no reason to believe that the tower would constitute a potential health hazard to nearby residents. The American Cancer Society also did a study on the effect of cell towers on health effects and they concluded that there is no strong evidence of exposure to RF waves from cell phone towers that causes any noticeable health effects. The World Health Organization also did a study on this very subject and they came to the same conclusion that there is no noticeable health effects when it comes to cell towers. I did want to note on Virginia House Bill 1258 we looked through the conditions that staff recommended and we did notice a couple of them that we wanted to point out we would contend conflict with Virginia House Bill 1258. One of those conditions was Pre-Condition #2 that talks about bonding cell towers. Although Virginia House Bill 1258 says a locality shall not impose surety requirements like bond, escrow deposits, letter of credit or any other types of financial surety to ensure that abandoned or other unused wireless facility can be removed unless you do it for similar commercial development. Again, we would contend that a lot of jurisdictions require a condition that they must remove the tower if it ceases to be used and we have no issue with that but it is the bonding requirement we feel that is in conflict with HB1258. The other condition was condition #7 related to the right of first refusal. We also feel that this condition conflicts with 1258. 1258 says that a locality cannot essentially condition anything related to a co-location. To be quite honest we would love for the County to get on our cell tower and we would encourage it but it is just the right of first refusal and conditioning that we have to come to the County first before any other co-locator can get on the tower and that is where we feel like there is a conflict there. In closing, we ask that the Board approve this application in concurrence with staff's recommendation and the County's telecommunications consultant recommendation and we ask that you please approve this application. Thank you.

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Chair Coyner asked if there was anyone present to speak in favor to the request?

There being none, Chair Coyner asked for a show of hands of people in opposition to the request.

Chair Coyner stated everyone has a right to speak but we will put a limit of three (3) minutes on this. If there is a spokesperson, that would be great. We ask that you not be redundant and imply the same information over and over again.

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Ms. Kristi Daniel, 35 Humbert Road, Crimora, stated I took some photos this morning. The proposed cell tower is right out of my front door. On my porch and anywhere at my home it would be right there in front of me. I know firsthand what equipment or unsightly things can do to property values. I know that he gave the statistics for property values but we specifically moved here so that we can live in a community where we would not have to have these things. I work from home (well I work outside the home) but I get phone calls at home. I use my cell phone every day as does my husband. We just do not have any problems with the cell service. This would significantly impact my home.

Mr. Michael Hough, 11 Round Hill School Road, Fort Defiance, stated I am a small business owner and I have Verizon. I live in an aluminum clad house. We switched carriers so that we could get phone calls in the house and in the shop and it works just fabulously. The redundancy is not necessary. We do not need or want this tower. It is not going to do anything to help my business at all. We moved here as the previous speaker was saying because it is beautiful and quiet and this kind of big, ugly, behemoth thing is not necessary.

Mr. Ronald Davis, 632 Battlefield Road, New Hope, stated I was born and raised in New Hope. I entered the army in 1973. I own my home place in New Hope although I live in Yorktown. Hopefully in the near future I can move back to New Hope. I would like to address the health issue the gentleman talked about. My research over the internet found there is always a caveat because it says there is no health issues that we know of right now. Cell towers have not been around that long in order to gauge the long term effect of this non-ionizing radiation. That is something that concerns me. As far as coverage, I have Verizon and I have no problem with my cell phone in New Hope.

Mrs. Rebecca Breeden, 93 Patterson Mill Road, Grottoes, asked staff to go back to the Dam Town Road picture that they had in the slide. That picture looks to us like it is facing toward Fort Defiance High School so unless your tower is going over near Fort Defiance High School this picture is irrelevant. When was this picture taken?

Mr. Patterson said the same day as all of the other photo simulations. I am not sure.

Mrs. Breeden stated well that picture is irrelevant. That does not depict where the tower is going. I run the ballpark right there where this proposed tower is going. I also run the Community Center. You guys of all people should know that the Community Center is a historical landmark. We are already fielding phone calls from parents concerned with this tower going there. This could very well hurt our little league program. We love the view. There is wide open fields and nobody wants to go and rent a facility where there is now

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going to be a huge eyesore. I am completely off of what I was going to say because he brought up some valid points and I know that there is a law in place where you guys cannot make a determination based on health issues. There is not enough research. Anything the tower does will affect the Community Center but they brought it up. As it was stated before, there is not enough research. Anything that this tower does is not exclusively on the property. It effects every adjoining property owner. The Community Center, the children who play ball there. The radiation from that tower emits beyond those boundaries. That needs to be taken into consideration. Who is liable if a fire breaks out from this and it hurts an adjoining property owner? I have T-Mobile cell phone service which is probably right now the crappiest cell phone service you can have and when I am at that Community Center right in the dead of New Hope, I have fine service. The church meets there and they use all Wi-Fi and it is perfect. We have a telephone cooperative right there in New Hope that provides internet and telephone service. So the argument that the children need this is invalid. The phone company provides those things for us. They provide fiber optic. Most of us moved to such a rural area to get away from the industrialized look. We don't want it, we don't need it. It is being said over and over that these folks have Verizon and cell phones and they have service. The argument that they are helping us is not true, it is a monetary gain and that is all it is. I would also like to address, I think it was brought to my attention that the road going into this proposed tower would have to be wide enough to accommodate two vehicles passing each other. Large maintenance vehicles going 7 days a week/24 hours a day access. The Community Center, ball field, and houses on this property are going to be in and out with small children in a very tight location. That is dangerous.

Chair Coyner said you are just about out of time.

Mrs. Breeden stated I would just like for you guys to remember that you represent the residents and not the suits who don't care about our land and what it looks like. They are only here to make money off of us. If you guys want to do something meaningful with that property buy it up, do an extension of the Community Center, walking trails, a playground for kids. Augusta County has none of that. (petition submitted – copy is in the file)

Ms. Mary Ellen Gibson, 620 Battlefield Road, New Hope, stated I saw your bus and my children were outside waving to you. My kids play outside all of the time and if this needs to be widened it will be in front of my house all of the time. I am not in favor of the cell tower. I do not wish to look at the tower when I am sitting on my front porch. I enjoy seeing the birds. A construction of this size would keep them from coming back. I would like to point out to you that some statements that were made are simply not true. It was stated that the purpose of the tower will provide infrastructure for Verizon. As you can see from the Federal Communication website that Verizon is already a provider for our

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area and I have that printed out for you. On the second paper it shows Verizon and New Hope on the map. This is the Community Center and we are all covered. That is shown in that broadband picture. It states that we are underserved and that Verizon needs an extra tower and that is not true because we are not in an underserved area. It is also stated "to allow the students the ability to utilize the latest online educational opportunities available." I can attest to this already because I am a home school mom and I have home schooled for two years. I have always been able to access and utilize online education with no problem for my girls. I am more concerned about the health risks to my family and being in close proximity to the tower. The unknown health risks of RF should be considered as a factor to you as well as it already has been stated that it is going up next to a Community Center and ball field. A ballfield not just New Hope but all of Augusta County comes to. We are not just affecting our New Hope community but we are affecting Augusta County children. It is also going up near a fire station. For sake of redundancy, I am going to close with Verizon is asking you to put up a 5G tower but I am asking you to do the right thing for a community of New Hope and the children of Augusta County whether they are playing ball on our fields, attending services at the local church, or just sitting in front of the porch. Every child needs to be protected. Please do not expose them to potential harm that may come with a 5G tower when we do not have a full understanding to the affects that it has on health.

Ms. Jennifer Ehrenfeld, 572 Battlefield Road, Crimora, stated my family moved to New Hope 1 ½ years ago. Through our home buying process there was always hiccups but we would say there is always hope for New Hope. Much like this small village was originally named by George Rutledge. Our family moved to the area for the appreciation of agriculture of the area, small town aesthetics, community, and historical connections and sites. We own the barn built around 1880, former Dickerson Tavern built in 1818, a store built in 1906. The proposed site is 0.4 miles from our property and it is also adjacent to New Hope High School which as stated is part of the National Register of Historical Places. 0.7 miles away is the historical Beard House built in 1790 which was prominent during the Battle of Piedmont. Less than one mile from the Piedmont Battlefield market and not to forget the proposed site is along the Virginia Civil War trails and immediately adjacent to visual landmarks effected by the National Preservation Act. The tower's aesthetic will impact historical sites and the community within a half mile range and would be detrimental to the community and the preservation of the history of New Hope. The undo and adverse impacts on the surrounding neighborhood and agricultural land is not being considered and we would strongly encourage the Board to look at this issue. Not only does this take away from the historical value of the village but it impacts the community. Let me say this again, the Community Center which is housed in the New Hope High School which is on the National Register of Historical Places. The tower is proposed to be adjacent to the Community Center and grounds utilized by the

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center which happens to be this village's only central connection for the community. This center hosts a plethora of events annually. This is where the community has built, this is where annual traditions are shared, children play and exercise, fundraisers are held and where community gathers. My family consists of 11 people, eight of them are children and together we have eight cell phones. We have cable and internet provided by Comcast/Xfinity with available options to also use New Hope Telephone. The cell phones have adequate signals without any issues. Our service provider is Verizon. This site for the tower is not necessary. This is in close proximity to disrupting this small village. Our signals are not disrupted and the coverage maps of Verizon and the FCC verify that. This would be disruptive to the integrity of the small village. Section 103 of the National Historic Preservation Act to access actions made to historical buildings needs to be implemented. They would be in violation of requirements to assess harm and aesthetics impacted to any national historic site within half a mile. Also, please consider Augusta County Code Section 25-68.5 Uses by Special Use Permit General Standards mentions the impact on the neighborhood. I would also encourage the use of services from a telecommunications consultant if not already being utilized. New Hope and Augusta County needs this Board to stand with them to uphold standards of our rich history, agricultural integrity, community organizations, and to enforce this. There is still hope for New Hope.

Ms. Christina Shea, 607 Battlefield Road, Fort Defiance, stated I have held a Virginia real estate license since 1997. The National Association of Realtor (despite what this gentleman says) does state value of the property is depreciated, they even say that it is 9.87%. My husband and I own three properties that abut Mr. Surratt's property where this proposed tower is going to be placed and if you vote yes our personal loss (just the two of us) is going to be \$72,000 that I have assessed. The aerial view given to you shows the surrounding residences that encompasses the area around this property. There are 38 properties directly affected and like my neighbors have stated there are a lot of property owners that are indirectly affected very much so to our cute little community and the area is historic. That is one reason why we all live there. I have done a study and I have come up with the monetary damage to these 38 directly affected properties, is \$1,200,000 of property loss because of the tower. That is very substantial. I certainly hope that you vote no today and that you take that into consideration. My husband and I are business owners as well and I have an office in the home and have had that for years. We never had any problems with internet or cell phone. I am a Verizon customer and they work very well around here. We are in a very unique location in Augusta County, New Hope has the New Hope Telephone Cooperative and they have invested in this community. They have laid down 177.4 miles of fiber optic cable. You also have a picture of the surrounding area of service and this tower is right dead center of that 177 miles. Fiber optic cable is the most up to date technology that is available even nationwide. New

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Hope is one of the best served communities around in Augusta County. We do not need this tower. I also have another point that I wanted to present to you that with a 5G tower this is 12-15 times stronger than the 4G tower. Verizon is advertising that it is between 28,000-39,000 Mhz where the 4G is only 2,600. This is a new technology with many unknowns that could affect the health of the people. It will not only be a detriment of the property values. The International Association of Fire Fighters back in 2004 held their annual meeting in Boston and what they found was back then there was 3G and it was only 1,800 Mhz so that is a lot less than what we are dealing with today with 5G. The fire fighters in their stations less than a week in this particular setting were experiencing nausea, experiencing headaches, and experiencing memory loss. Actually a little time passed from the initial event when the tower was put up and it was even recorded that they forgot basic skills such as CPR and they also got lost going to emergency calls when they lived in that proximity of that town. There has been a lot of studies that were done by doctors that have raised concerns.

Chair Coyner stated your time is just about up.

Ms. Shea stated I just want to let you know a couple of things when these fire fighters left the fire stations that had the cell tower near them, their memories were regained and did not feel like they had brain fog and they did not suffer from amnesia. There is a direct correlation and the fire station is only 700 to 900 feet away from this tower. 500 here which is 1640 linear feet and considered the minor and least long term space to be considered safe. Thank you for your time today and I would like you to consider that people in New Hope ask you to really understand that we do not want this tower and we do not need this tower. It will impact everybody who lives in town.

Mr. Jay Shea, 607 Battlefield Road, Fort Defiance, stated August County has New Hope categorized as a Low Density Rural Area. Under this population density, cell towers have a long range. They have 20 miles and in an ideal terrain condition towers can have a range of up to 45 miles. We already have three towers as the presentation was given from our village. One southeast, one northeast, and one southwest. The location proposed for this tower is right in the middle of the village where people gather for different activities which you heard about. We canvassed quite a few in the area and all of the neighbors that we saw just do not want the tower. They are fine with their telephones and computer. I even checked with the fire department and EMS and they are fine with their telephones, no problems. Augusta County is the second largest agricultural county in the state. Driving around I see towers placed away from people and buildings with nothing close to it but open fields and cows. Do not let the tower spoil the views of this little country village. That would change the whole dynamic of the area. People live here because they are happy to live here in the country with beautiful views. Look to the east



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and you have the Blue Ridge and look to the west and you have the Appalachian Mountains. This tower will cause harm to the community and it is a community to which does not need its services. Many people feel the same way as I do but due to jobs they cannot afford to take the time off and they are not here. Special Use Permits that are granted are not supposed to cause harm to the people around and not supposed to be intrusive and change the way people use and enjoy their properties. One property owner should not have the right to interfere with their will on others and cause harm. That is what a tower is, harmful and not helpful. We have New Hope Telephone Service in our area for internet and they are a good company who keeps up with the times. In New Hope we are already equipped to work, enjoy entertainment, learn on the internet with better service than this tower could ever be able to give us. There is no need for this tower and we simply do not want it.

Mr. BF Caricofe, stated I live at 99 Humbert Road, Crimora but my wife and I own 598 Battlefield Road, 93 Humbert Road, 92 Humbert Road, 69 Humbert Road, 52 Humbert Road, and 157 Diggs Lane and a couple others. What I am trying to say is all of this property surrounds this 37 acres Mr. Surratt bought. I bought land from Mr. Surratt. Since 1998, this is the third time Mr. Surratt tried something (subdivision, subdivision, a tower). The reason the tower came is because he got the subdivision shot down. I am sorry he is deceased. If he was here, Dave and I was friends and business friends for years. We would go toe to toe. He did not care about the people in New Hope. He worried about the dollar just like them. When they get done with this, they are going back to Glen Allen, Richmond, or Roanoke, they do not care. They do not see this from their house. I lived in New Hope for 65 years. My wife and I have been there for 47 years. I raised two kids and I have two grandkids growing up there and a great grandkid. We like the way New Hope is. We do not have problems with Verizon. I have had it since the day of the bag phones. We have always had two bars. If you run up to a tower and get 100' foot you will have three bars, if you run up underneath it and hug it you will get four bars. We have a wrecker service and go all over this County, Rockingham, White's Truck Stop, to the top of Afton Mountain, to the top of Monterey Mountain. There are a couple miles in Churchville that is dead but not dead in New Hope. I do not like the looks of it. I do not like it. I ride around and see all of these signs. There are sixty (60) some towers in Augusta County. I do not think they are very good looking. We did not even adopt the ordinance to make them look like trees. All of these other counties do, clean into Charlotte, North Carolina. If you go up to Expo there is a tower, come down the road 2 ½ miles at 608/250 there is a tower and if you look ¾ of a mile east there is tower. If you come down another four miles to 254/608 there is a tower. If you leave and come down 608 another 6 miles, there is another one at Mt. Horeb Church and come on down the road from there and go to Weyers Cave, there are two sitting up on the hill seven miles away. How many towers do we really need? One. I do not understand why we have to

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have a tower 300'-400' away from one of my houses. Mr. and Mrs. Shea 349'. We live in New Hope because we wanted New Hope to be New Hope. The telephone company comes in and spends millions of dollars and puts underground cable in. We got the fastest of the fastest internet there is. There is no reason for it. This piece of land has been nothing but a problem. People want to come in and change it just because they want a dollar. That is the whole point. For 65 years, I fought against everything. David and I were friends and if he was here today we would be at it. He knows it. He knows how I felt. I suggested that he went up to his 80 acres in Fishersville and build a subdivision to put up whatever he wanted to put up but not here. Nobody wanted it. He didn't want it when he got it and he bought it for hay and 30 days later he comes to me and my wife and wants us to invest in a subdivision. I laughed. Just like I told him I do not want it at my place. I bought up everything I could buy to keep it the same.

Ms. Loretta Dameron, 22 Round Hill School Road, Fort Defiance, stated I am in the middle of New Hope. I have listened to everybody talk. Everyone that talked lives in New Hope. They have that home base. They have lived there probably for generations over generations. They have a right to say what they want in their community. I know there are times where we have to look ahead of it and say what is good for the future. The towers have not shown any future. We have been doing this like BF said since we have had bag phones. It has been just fine. We do not have a problem with it. We have a problem with walking trails, we have a problem with finding something for the kids to do. Thank God for Becky Breeden and the Community Center that has come in to give our children everything. Why not investment in those walking trails or why not invest in sidewalks so that I can walk down my road because I cannot do that because there is so much traffic through there. Let's look at something that helps people not hurt them. Let's look at something that New Hope wants and what they do not. You have a right to say what you want in your community.

Mr. Paul Morris, 234 Humbert Road, Crimora, stated I did some research and I could not read all of the documents about the hazards of cell towers and communication towers. I can say those transmitters are very powerful. The cell signal is lower power but it is still a high powered transmitter. Please do not hug the tower for another bar. There were studies that were done but the FCC does not say anything that I have found that it can cause Cancer but they did not say that it doesn't. There were studies that was done in Europe in two countries (I think Germany and Italy) and one study was a three year study or five year study. Both of them were short. Within 1/3 mile of a transmitter the Cancer rate was up. Within a 1/2 mile the other way the Cancer rate was up. It is a long term thing and I probably won't have any issues in my lifetime (I won't live long enough for the accumulation) but it is dangerous. I would ask the Board to consider the fact that it is better to be safe rather than sorry for the unknown. They do not know what the long term

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affect is. I understand why people do not want it in their backyard and do not want it to block your view but I do not want it to kill people.

Mr. Matthew Olcott, 855 Battlefield Road, Fort Defiance, which is four tenths of a mile where the tower is going to be. The last few years of life has proved that the federal government is not trustworthy. I am not too impressed with their assurances that there is no harm with cell towers. I will say this but I do not want to be redundant but I have two points to make. There is adequate evidence of both animals and birds dying from all of the radiation that they are getting and if we cannot care about humans, let's care about our environment.

Ms. Justine Shaver, 3129 Rockfish Road, Crimora, stated my mom lives at 390 Humbert Road. I am not going to repeat a whole bunch of things but I do want to mention what BF Caricofe mentioned about Dave Surratt. I am 36 and I grew up in New Hope and went to New Hope School and I lived there my entire life. My grandfather was a huge part of the community and so was my grandmother. I had memories as a child coming in this building fighting Dave Surratt on the subdivisions that were trying to be built and there always was a constant battle over this land. It has always been about money. It has never been about the benefit of the community. Every time the community has risen together and come to fight against it. It is ironic that the man has passed away and we are still standing in this building fighting against this land. The tower is not needed. I have Verizon cell phone. I work for State Farm insurance company and I work from home a lot. I have a hot spot on my cell phone. I do not even have Wi-Fi. I have Verizon hot spot and I run a laptop, a wireless phone, a printer system, a smart TV and three other phone devices from one hot spot and that is without any Wi-Fi. For them to say a tower is needed, that is not true. That is not even a true statement. It should be our decision. The community itself has stood up and told you guys that it is not wanted, it is unnecessary. The man that signed the contract is not here anymore. Dave Surratt's land was not the first land that this was offered to. They wanted to put it on my uncle's land which is a couple thousand feet from Dave Surratt's land. They went to my uncle, Dave, and they talked to him for a whole summer trying to convince him to put it on his land and he did not want the tower on his property. He finally told him no. The subdivision proposed by Dave Surratt got shut down and then it was a short time after that when the tower contract was signed. The first spot was not Dave Surratt's property. The first site chosen was the Dave Thornton property, a couple thousand feet from Dave Surratt's.

Mr. Travis Reich, 347 Battlefield Road, Fort Defiance, stated that is my family's farm. I am pretty sure that View 3 was taken from our field where the driveway comes in. The back entrance of the farm is 255 Round Hill School Road and that is my actual physical address. I am currently raising four kids and I run three businesses besides the farm. I

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do construction and run the gas station. I have good service and I am on the same page as the rest of these folk. I won't take too long saying this but I do not think we need a tower there.

Mr. Clinton Mullins, 706 Humbert Road, Crimora, stated I moved here 50+ years ago. This is a nice community and I like the looks of it. There is nothing but beautiful farmland. I do not see why we need another tower. We have a good phone system. Perfect so I do not see why we need all of this other stuff. I am satisfied.

Mr. Bruce Rogers, 412 Pine Bluff Road, Waynesboro, stated I cannot see the tower from where I live. Twenty years ago, I moved here from Atlanta and I saw a lot of towers and other things in Atlanta. I moved here because of the area, people, and because of the scenery and I do not think we need this tower. I have had Verizon service for years and I do not have a problem. I would encourage you to vote no on the Special Use Permit.

Chair Coyner asked if there was anyone else wishing to speak in opposition?

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

Mr. Patterson stated I will address a few of the points that were brought up in opposition. Some of the folks brought up a good point and I think it is important to distinguish the difference between fiber and the need for a cell tower. If you have fiber to your house most likely you are running your cell phone off of that fiber and not off of the cell tower. If someone has fiber at their house they may have good service. But if they go outside or on the roadway the service would not be good. EMS operating on the roadways would not be good. The fiber does not help emergency services or anybody traveling on a roadway. A couple of other points, one gentleman noted these towers are good for 20-40 miles. That is not accurate. They are generally accurate or functioning well at 2-3 miles. Years ago they used to build much taller towers that operated further apart. That is not the case now. This tower will be affected at 2-3 miles and that is why we have to be strategically located at the center of the other towers in order for it to function properly. One person noted that this was not the first person that we talked to, it was not Mr. Surratt. I never met him in my life. We are leasing from his wife now. We did go to other people. When we search for properties, we talk to a lot of folks and we try and be as close to the center as possible. Mr. Surratt and his family was a property owner that was close to the center of service and willing to lease to us. The question about the need for the tower again, the science, Verizon, the co-location is expensive for Verizon. They would not do this if there was not a need for the tower. There is an absolute need for the tower and it is only going to get worse as time goes on and as technology changes. The antennas are not propagating further. They are stronger and probably getting shorter.

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There is more of a need for towers and quite frankly your county and every county is going to see the rural areas get tower applications more often probably more than you have seen in the past 5-10 years. The carriers realize they have contractual obligations to provide service to rural areas. 85% of your calls are from wireless devices. That is something that Verizon is aware of and they want to address. They need improved coverage in this area. If you go to this area, there is spotty coverage if you go on certain roads. One other thing I will note in response to the need for the tower, House Bill 1258 there is legislation that talks to this and it specifically says a locality shall not disapprove an application on the basis of an applicant's specific need for a project. It is something that really Virginia legislation ruled out in 2018 in a passage of House Bill 1258. There was a lot of talk about health effects and I understand that and I understand everybody's position on that but the Telecommunications Act of 1996 prohibits local government of considering health effects. There was also discussion about historic areas, historic structures, and birds and wildlife. We are federally regulated as a federally regulated entity and we have to go above and beyond when we build a tower. We have to go through approvals that almost no other industry has to go through. We have to do a NEPA and go through the State Historic Preservation Office to ensure that we are not affecting historic or environmental features. That is something we are required to do prior to putting up this tower. There was some comments about the construction and us being in and out of the there. We do not need to widen the road. We are not really changing anything. We will build the tower and will be out of there once we build it which will not take more than a few weeks. We will be in there once a month after that. A service technician may come in to the tower and check on the equipment. Lastly, one gentleman said he switched to Verizon because the other carrier did not have service there. I do want to reiterate that this tower is for all of the carriers, not just for Verizon. Other carriers need coverage in this area too, not just Verizon. I say that representing a tower that is being built for Verizon. A co-locator, all of the other carriers need coverage in this area not just Verizon. I would ask again that you approve this application. Your staff has reviewed it and recommended approval, your telecommunications consultant has reviewed this and recommended approval and we ask that you do the same. I am here to answer any questions that you may have.

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Chair Coyner declared the public hearing closed. There are about 30 people in attendance that are opposed to this request. The only person that I have seen that is in favor of it is the applicant. Is there some discussion from the Board on how we should proceed. It does sound like New Hope does have adequate coverage at the moment.

Mr. Thacker stated the Board cannot question whether it is or isn't a need for it but from all of the discussion we had if it is a need for it, it is the wrong location. With this many people that are against it for either health reasons, site, property values.

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Mr. Benkahla stated I want to point out that you are not able to consider those reasons. It is preempted by federal law. I want to remind you that aesthetics, property values but the health issue is preempted by federal law unless it does not comply with FCC regulations.

Mr. Glover stated the initial statement you made there basically a need but not the right place. The negative impact on the surrounding community, the aesthetics, I do not feel that this fits the character of the community. I would be opposed based on those reasons.

Chair Coyner stated that is a true statement due to it being in a wrong location. More discussion?

Mr. Glover moved that the request be denied based on the negative impact of the surrounding area, it would not be in character with the New Hope community, and adverse effects on the property in that area.

Mr. Thacker seconded the motion, which carried unanimously.

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**OLD BUSINESS**

**JUSTIN TALBOTT, AGENT FOR JBT CONSTRUCTION, LLC - SPECIAL USE PERMIT**

A request by Justin Talbott, agent for JBT Construction, LLC, for a Special Use Permit to have a contractor and excavating business with outdoor storage of commercial vehicles and equipment on property owned by Daniel L. Bryant Rev. Trust Agreement, located at 4881 Lee Jackson Highway, Greenville in the Riverheads District. - Applicant not present at the June 1, 2023 Meeting. BZA tabled the request.  
- **WITHDRAWN**

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**LINDSEY NELSON, AGENT FOR CONSOLIDATED EDISON DEVELOPMENT, INC. -  
SPECIAL USE PERMIT**

A request by Lindsey Nelson, agent for Consolidated Edison Development, Inc., for a Special Use Permit for a 3MW (alternating current) small scale solar energy facility within approximately 25 acres of fence enclosed site overlapping four (4) contiguous parcels totaling 206.97 acres on property owned by Elm Spring, LLC, located between Goose Creek Road and Jefferson Highway in the Wayne District. – **BZA tabled the request at the June 1, 2023 Meeting. The public hearing has been closed.**

Mr. Thacker moved to bring the item forward.

Mr. Glover seconded the motion, which carried unanimously.

Chair Coyner stated the public hearing has been closed.

Mr. Jeff Lord stated the additional documentation has been submitted to staff regarding the corporation. This request has been satisfied.

Ms. Bunch stated we have received all of the items needed.

Chair Coyner stated the Board visited the site again today. He asked once the solar panels are built how much activity would there be coming to the site?

Mr. Lord stated the site visits are not regularly scheduled. The systems are monitored remotely 24/7. Typically someone will be out there once a year to do some routine checks. If there is vegetation management that needs to be done a local crew will take care of that. They are planning to do sheep grazing. There will be someone there less than a handful of times a year.

Chair Coyner asked how long to complete the project?

Mr. Lord stated generally six (6) months but it depends on the weather.

Chair Coyner asked if there is a lot of items that need to be done with Dominion?

Mr. Lord stated they received approvals from Dominion prior to applying for the Special Use Permit.

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Chair Coyner stated this is agriculture land and this project is using sheep grazing which is very appealing.

Mr. Lord stated our intention is to use sheep grazing but you never know until it is done. This is a pilot program. The farmer has experience with sheep.

Mr. Thacker asked if there will be a fence around the project?

Mr. Lord stated yes we are required to fence the solar arrays. There will be a chain link or knot fence. We will defer the type to County staff. We will work with them during the final site plan process.

Mr. Thacker asked if it would be minimal grading?

Mr. Lord stated yes. There will be very little grading. We will rotate the grazing and see how it goes.

Chair Coyner stated the solar will be in the middle of the farming operation with minimal visual impact.

Mr. Glover stated I agree with those comments but I do have a little bit of a concern with this being in close proximity to one that we previously approved, a mile from this site. This should be something that we should consider so that there is not a clustering of panels in one general part of Augusta County. This is right in the middle of the Urban Service Area but it is only 25 acres that is well secluded. They will have sheep grazing which is an agriculture activity.

Mr. Thacker stated this is a part of a pilot program and this would be a pollinator farm. 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. riparian buffer from all streams.
4. The Facility shall not obtain final site plan approval until evidence has been given to the County that an electric utility company has signed an interconnection agreement with the permittee.
5. Landscaping Plan. The Applicant shall submit a proposed landscaping plan for each perimeter of the Facility (outside all fenced areas) to the Zoning Administrator and/or his/her designee for review and approval as part of the full site plan, which shall be in general conformance with the landscaping plan submitted with the Concept Site Plan. The following conditions shall govern the installation of landscaping in accordance with the landscaping plan:
  - a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.
  - b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights of landscaping.
  - c. In areas where there is an existing timber buffer remaining on the Facility parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning

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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.
  - 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.

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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:
  - 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.

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- 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 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

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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 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 Water if corrosion control systems are part of the Facility.
12. **Augusta Water Infrastructure.**
  - a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of 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.

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- 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 24 months of the issuance of the Special Use Permit and shall substantially complete construction within 36 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.
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”). 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 Consolidated Edison Development, Inc. 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 Consolidated Edison Development, Inc. 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 Consolidated Edison Development, Inc., 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.

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4. The Facility, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), and setbacks (unless otherwise determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Site Plan prepared by VHB, dated October 7, 2022.
5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the Facility and its successors and assigns.
6. All non-operational, non-electrical site features along the perimeter of the Facility, such as landscaping and fencing, shall be properly maintained throughout the life of the Permit. Fencing shall be maintained in good repair and landscaping shall be maintained so as to provide the desired buffer benefits. Maintenance of such features shall be guaranteed by the surety agreement and surety as provided below. If the Zoning Administrator and/or his/her designee determines that site features identified are not being properly maintained, as described herein, then the Applicant shall be given a notice to remedy as is the standard zoning violation policy of Augusta County.
7. Setbacks, either as shown on the Concept Site Plan, or set by the Board of Zoning Appeals during their review, shall be measured from the property line and/or VDOT Right of Way to the fence line of the Facility.
8. The Applicant shall not add additional photovoltaic panel areas, change the entrance locations of access roads (unless otherwise required by VDOT in a written statement), or revise the height, placement, or design of landscaping buffer elements without prior approval by the Augusta County Board of Zoning Appeals.
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

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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 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



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fifty (150) feet of any property boundary of a parcel on which a home is located and whose owner is not participating in the Facility.

- e. Prohibit any personnel associated with the construction of the Facility from overnight lodging at the site.
16. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.
17. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.
18. This Permit shall be valid from the time of issuance and thereafter for a period of 40 years from the start of commercial operations of the Facility, which shall be the date on which the Facility first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the 40 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant to the conditions herein, the Facility shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.
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

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copy to the County Attorney, written notice of changes of ownership of the solar facility within thirty (30) days thereof.

21. Any substantial upgrades or changes made to the design or operation of the Facility that are planned shall be disclosed to the Zoning Administrator and/or his/ her designee at least ninety (90) days before the intended implementation of the upgrades or changes – except as provided herein. Any substantial upgrades and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.
22. 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

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operator shall be jointly and severally responsible for the payment of all annual substantial cash payments required by this condition.

Mr. Glover seconded the motion, which carried with a 3-1 vote, with Mr. Bailey being opposed to the motion.

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**ERIX J. LAGOS-DIAZ AND SARAH R. LAGOS - EXTENSION OF TIME REQUEST**

A request by Erix J. Lagos-Diaz and Sarah R. Lagos, for a Special Use Permit to have a contractor office and outdoor storage of a commercial dumpster on property they own, located at 752 Hermitage Road, Staunton in the Beverley Manor District.

Mr. Glover moved to approve a six (6) month Extension of Time.

Mr. Bailey seconded the motion, which carried unanimously.

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**ASHLEY CARTER - EXTENSION OF TIME REQUEST**

A request by Ashley Carter, for a Special Use Permit to continue the existing restaurant on property owned by Ethel M. Baber, located at 2542 East Side Highway, Crimora in the Middle River District.

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

Mr. Glover seconded the motion, which carried unanimously.

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**MARK W. OR MANDI L. SIMMERS - EXTENSION OF TIME REQUEST**

A request by Mark W. or Mandi L. Simmers, for a Special Use Permit to amend Operating Condition #1 of SUP#22-13 to allow for a larger accessory dwelling unit to be used for short term rental on property they own, located at 1617 Laurel Hill Road, Verona in the Beverley Manor District.

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Mr. Glover moved to approve a thirty (30) day Extension of Time.

Mr. Bailey seconded the motion, which carried unanimously.

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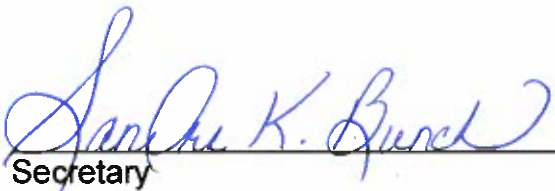
Ms. Keffer discussed the court cases with the Board.

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

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Chair

  
Secretary