

# Spotsylvania County Planning Commission

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

**MINUTES:** December 5, 2018

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

**Members Present:**

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

**Staff Present:**

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

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**Announcements:** None

**Review & Approval of minutes:**

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

**Unfinished Business:** None

**Exception Request(s):**

**X18-0002; Viola G. Blount Estate**

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

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

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

**Special Use(s):**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prescribed setbacks are 50 feet except that:

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

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

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

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

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

Plantings on and outside the bermed buffer:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff has modified their recommended conditions accordingly.

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

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

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

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

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

#### Potential sPower Connection

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

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

#### Terms of connection

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

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

He discussed the improved system connection to public water:

#### Terms of Connection

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

#### Zone Feed Improvements

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

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

system impacts:

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

He discussed the future public water county system improvements:

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

Mr. Loveday discussed the fiscal impact on public water:

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

Ms. Parrish discussed the fiscal impact of the project:

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

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

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

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

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

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

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

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

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

1. Landscape Cover and Buffer Maintenance Plan as recommended by the County’s consultant to mitigate any negative impacts of any heat island effect from the Facility and to establish procedures for the planting and maintenance of vegetation. This plan shall include the recommendations from Dewberry in Appendix D and further shall:
  - a. Include a general plan for management of the property’s internal access roads,

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

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

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

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

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

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

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

*Speaking in favor or opposition:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

stated that he has toxic chemical concerns.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Mr. Newhouse closed the public hearing.*

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

### **New Business**

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

#### **RESOLUTION NO. 2018-03**

##### **Location Change for Planning Commission Meeting**

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

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

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

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

**Public Comment:**

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

**Adjournment:**

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

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

Paulette Mann  
 Paulette L. Mann

December 19, 2018  
 Date