

**CLARKE COUNTY PLANNING COMMISSION  
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October 6, 2023 Business Meeting Packet**

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# Clarke County Planning Commission

AGENDA – Business Meeting

Friday, October 6, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

1. **Approval of Agenda** (pp. 1-2)
2. **Approval of Minutes**
  - A. August 29, 2023 Work Session (pp. 3-8)
  - B. September 1, 2023 Business Meeting (pp. 9-18)

## PUBLIC HEARING

3. **SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner).** (pp. 19-36)  
Request approval of a special use permit and site development plan to construct a 50MW solar power plant on two lots per Section 5.2C of the Zoning Ordinance. The subject properties are identified by Tax Map #13-A-13 and #13-A-56, are located on the west side of Westwood Road (Rt. 636) with access via proposed entrances on Bellringer Lane and Triple J Road (Rt. 632), consist of approximately 400 acres, are zoned Agricultural-Open Space-Conservation (AOC), and are within the Russell Election District.

## BOARD AND COMMITTEE REPORTS

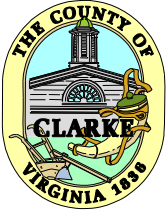
4. **Board and Committee Reports**
  - Board of Supervisors (Terri Catlett)
  - Board of Septic & Well Appeals (George Ohrstrom, II)
  - Board of Zoning Appeals (Jeremy Camp)
  - Historic Preservation Commission (Bob Glover)
  - Conservation Easement Authority (George Ohrstrom, II)
  - Broadband Implementation Committee (Brandon Stidham)

## OTHER BUSINESS

5. **Resolution, 2016 Waterloo Area Plan** (pp. 37-39)
6. **Projected Upcoming Agenda Items, October 2023 – January 2024** (pp. 40-41)

## ADJOURN

<b>UPCOMING MEETINGS:</b>	
<b>Policy &amp; Transportation Committee</b>	No upcoming meetings
<b>Comprehensive Plan Committee</b>	<ul style="list-style-type: none"> <li>• Friday, October 6 after Business Meeting – A/B Meeting Room</li> <li>• Tuesday, October 31 (1:30PM) – A/B Meeting Room</li> </ul>
<b>Plans Review Committee</b>	No upcoming meetings
<b>Ordinances Committee</b>	To be scheduled
<b>Commission Work Session</b>	Tuesday, October 31 (3:00PM) -- Main Meeting Room
<b>Commission Business Meeting</b>	Friday, November 3 (9:00AM) -- Main Meeting Room



# Clarke County Planning Commission

**DRAFT** MINUTES – Work Session

Tuesday, August 29, 2023 – 3:00PM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓E	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	John Staelin (Millwood)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X <sup>1</sup>
Pearce Hunt (Russell)	✓		

E – Denotes electronic participation.

<sup>1</sup> - Commissioner Lawrence attended the meeting but did not serve as the BOS alternate

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner / Zoning Administrator), Kristina Maddox (Office Manager / Zoning Officer), Lorien Lemmon (Conservation Planner / GIS Coordinator)

**OTHERS PRESENT:** None.

**CALL TO ORDER:** By Chair Ohrstrom at 3:01PM.

## 1. Approval of Agenda

The Commission had no additions to the agenda as presented by Staff.

## 2. Review of September 1 Business Meeting Agenda Items

### A. Agenda Review

Mr. Stidham reviewed the Staff Report on the upcoming continued public hearing for the conditional zoning request by Rappahannock Electric Cooperative (REC). The review included an outline of updates from their concept development plan and the status of final approval from the Virginia Department of Transportation (VDOT).

Commissioner Lee asked if the applicants will be required to do resistivity testing and Commissioner Staelin asked if it would be done by Frederick Water for the proposed pump station lot. Mr. Stidham replied that those details would be included in the applicant’s full karst plan feature to be submitted with a site plan. He added that Frederick Water may do it in conjunction with the applicant. He added he thinks the storm water basin will need to be bigger which may impact the site layout.

Commissioner Staelin asked if a large tractor trailer would have difficulty making a turn into the designated entrance. Mr. Stidham replied that the main entrance off of US 340 would be wide enough to accommodate a tractor trailer although he thinks the most common sized truck using the entrance would be a bucket truck.

Commissioner Glover asked what the purpose is of the emergency exit to which Mr. Stidham replied that it will be used if the primary entrance is blocked.

Commissioner Lee inquired about the large trucks that haul poles on a trailer. Mr. Stidham said that VDOT is reviewing for their access points and that he is waiting for their written approval.

Mr. Stidham said the second continued public hearing is for the campground regulations text amendment that was deferred in July due to concerns by Mr. Lowell Smith. He said Mr. Smith's concerns were that there would not be enough camping opportunities along the Appalachian Trail should dispersed camping be discontinued in the future by state and federal property owners. Mr. Stidham said the Commission discussed these concerns but ultimately decided not to make any changes to the text amendment language. He added that the text amendment will be reviewed again at the upcoming continued hearing.

Mr. Camp reviewed the Staff Report for Horus Virginia I, LLC (SUP-22-01/SP-22-02) application for a 50-megawatt solar plant proposed on 400 acres in the AOC District. He said the Planning Commission has 100 days to issue a recommendation starting today which would be December 10<sup>th</sup> unless the applicant requests another deferral. He continued that Staff recommends scheduling the public hearing for October 6<sup>th</sup> while the applicant works on the unresolved issues.

Commissioner Staelin asked if they would need to return to the Commission if they want to make future changes. Mr. Camp replied yes.

Commissioner Hunt asked about the post-construction process and completion of the West Virginia site. Mr. Camp said construction of the site was recent and believes they are still in progress and will be until November. He said the vast area was completely open and void of vegetation and explained they had erosion problems during a recent storm. He said if there is a way for us to minimize that potential risk but also to maintain the topsoil for future agricultural use. The Commission had a brief discussion on the location of the solar plant and determined to be off Kabletown Road near the Charles Town Catholic church.

Commissioner Glover asked if a recent traffic study was done on both Triple J Road and Westwood Road. Mr. Camp responded that traffic studies are done every few years and that both entrances were acceptable within VDOT's parameters and approved within their review process. He noted he would look into this and provide additional information.

There were no further questions or comments from the Commission.

### **B. Status of Deferred Applications**

Mr. Camp reviewed the status of various applications including Berryville Berries, a campground special use permit. He said the applicant is working with the Health Department and an engineer to resolve a bathroom facility requirement issues.

Mr. Camp briefly reviewed the status of minor subdivisions including Ragan Partnership, Foster, and Cather that are all in deferment per the applicants. He said Foster and Cather are working through resistivity completion and Ragan Partnership has had some issues with access design. He continued the applicant may be requesting a waiver, that they are pursuing conservation easement, and that they are working with VDOT to work out some issues.

**3. Old Business – None scheduled**

**4. New Business**

- A. Discuss Text Amendment Request from Board of Supervisors – Solar Power Plant Use and Regulations (TA-23-04)

Mr. Stidham said Chairman Weiss provided a letter explaining the Board’s rationale for initiating this text amendment. Mr. Stidham said there is also an excerpt from the Board’s July 18<sup>th</sup> meeting when they adopted the resolution. He said the resolution directs the Commission to develop a text amendment to accomplish three main purposes. The first, he said, is to prohibit the development of any new solar power plants in the county. The second is to preserve solar power plants that are in existence or with zoning approval as conforming uses with the ability to expand within one mile of the preexisting electrical substation which originally qualified the facility to be developed. The third purpose is to protect the ability of county landowners to use behind the meter solar power primarily for their own onsite consumption and with incidental resale of excess power to the service providers. He added that the resolution also further directs the Commission to hold a public hearing on the text amendment and for a formal recommendation to the Board. Mr. Stidham said that as per the county ordinance the Commission has 100 days to accomplish this task but that the Board would be content if the Commission spent a couple meetings to establish a concept of a text amendment. He added the Board and Commission could potentially hold a joint work session to discuss the concept before the text amendment draft is finalized and a public hearing scheduled.

Mr. Stidham reviewed the current solar power plant zoning regulations that were adopted in 2010. He said solar power plants are limited to being located adjacent to and their facilities located within one mile of a pre-existing electrical substation of 138 kilovolts or higher. He added that includes Hecate solar power plant located at Double Tollgate and the substation at Ramsburg Lane where the Horus Virginia project is currently proposed.

Chair Ohrstrom asked for clarification regarding the one-mile radius rule. Mr. Stidham explained that all facilities associated with that solar farm have to be located within one mile of the substation and then provided the Horus Virginia project as an example.

Mr. Stidham continued with the solar power plant zoning regulation review and noted there is concern that there will be an ongoing county and county landowner pressure to relax these regulations to provide land for future solar development. He added there is also concern that provide the landowners with false hope that they can develop solar power plants on their property. He clarified that behind the meter solar is not regulated nor is ground or house mounted but would need to comply with zoning structure regulations. Mr. Stidham made the Commission aware of the new concept of community scale solar and explained that it is where a number of landowners may share a portion of a solar power plant on their property for their own onsite use but also resell to the grid. He noted there are some regulatory hurdles and that there is a limit governed by state law as to how much energy can be resold to the grid. He said there is a lot of research to be done on this matter but that his preliminary findings conclude that one megawatt takes 5 to 10 acres to develop which does not take into consideration the one acre of land disturbance, new impervious surface, and a potential DEQ stormwater management plan.

Mr. Stidham said Chair Ohrstrom's initial thoughts were emailed earlier and presented in hard copy and asked if the Commission would like to discuss their thoughts.

Chair Ohrstrom noted that he realizes this has been a complicated issue so he sent the email that Mr. Stidham forwarded to provide his overall point of view. He said that while he is interested to learn everyone's thoughts on the matter, he also understands that some might not be ready to share their thoughts as this is fairly new but important topic.

Commissioner Staelin said Chairman Weiss compared this issue to sliding scale zoning in his comments. He said he recalls the surrounding counties' development and Clarke's own county growth during that time and the forward thinking approach the Commissioners took with sliding scale zoning. He said he believes the current commissioners are in a similar situation now where they have the potential to be innovative. He continued that it is difficult on one level to be against solar these days but on the other hand there is a place for it. He explained that there are large uncovered parking lots here whereas in Europe the parking lots have solar panel coverings and solar panels on top of buildings. He added that it all comes down to cost and that it cost less to install solar panels in Clarke but we need to be considerate of power cables and everything else involved. He said he is supportive of the idea and is hopeful the Commission today can view it in the same spirit as the Commissioners did in the 1970s with sliding scale zoning.

Commissioner Hunt commented that he plans to do a lot of research regarding the positives and negatives as there are so many variables involved.

Commissioner Lee said he prefers to refer to the Comprehensive Plan which states Clarke wishes to retain as much agriculture as possible within the community. He continued that the Commission has to look at current situations though be flexible with the change in times within reason. He said his overall preference is not to see drastic changes in the Comprehensive Plan.

Commissioner Glover stated he wants to understand the farmer's point of view on the matter. He said that while the land can still be used for agriculture it takes up impervious surface. He would also like to hear from cattle farmers who have incorporated solar plants successfully.

Chair Ohrstrom said that the American Farmland Trust is going through a process currently to discuss agrivoltaics which is a solar farm where the panels are higher and spread apart to allow animals to graze underneath. He said the problem is that larger animals such as cattle tend to rub against the panels creating more of a cost for sturdy materials but that it works well for smaller farm animals such as sheep. He said overall they are being used and studied in various locations and added that places like Germany are growing row crops underneath the panels

Commissioner Staelin commented that the Comprehensive Plan promotes easements. He said he does not believe one can have a commercial solar plant on a property that is in easement currently which results in a conflict unless under the Commonwealth were to state different rules and regulations.

Vice Chair Buckley said he has long been opposed to converting farmland to solar projects. He said it is more of a burden on agricultural operations that are in counties close to urban areas. He continued that it is difficult to afford land to farm in Clarke so most agriculture operations rely on rented farmland. He said that it becomes more difficult to find land to farm as its bought by people from urban areas who

do solar or nutrient credit trading bank projects that it is even more difficult in Northern Virginia than in central or southwest Virginia. He added the region and country have done a poor job of not encouraging solar projects on previous impervious surfaces. He said Walmart buildings, warehouses, factories, and distribution centers should be required to have solar panels and that Midwest states even have covered parking garages for their employees that are all producing energy. He stated that he hopes the Commission can come to some agreement that works for everyone.

Commissioner King said he has concerns with solar and is in agreement with Vice Chair Buckley. He said he believes there is a better use of buildings, parking lots, or even the Loudoun County data centers as an example. He said he hopes to see farms stay in farm use.

Chair Ohrstrom said that everyone has research to do and information to learn and to feel free to share findings with the Commission so they can have a thorough and intelligent conversation as there are many perspectives to consider. He said there has to be some sort of cap on the acreage used for utility solar and that if Bellringer is approved it would total approximately 600 acres in Clarke. He thinks adding a certain percentage limitation such as 5% plus buffering and stormwater requires a large parcel reducing the number of landowners but also allowing some of the family and industrial farms to generate revenue.

Commissioner Catlett is glad to have the discussion as there are different pieces to consider. She said the Commission has always done a wonderful job over the years trying to focus on long-term versus short-term affects. She added that she recently attended a Virginia Association of Counties (VACO) session on energy and land use where they spoke on solar but mostly on data centers. She heard from many counties that now realize the complications involved as they were revenue-focused at the time. She said she looks forward to learning more on this and finding a sustainable solution.

Commissioner Lee commented that the land itself should be considered as land and soils are different in various parts of the county where there is good and poor agricultural areas. He suggested that the Commission use the Land Evaluation Site Assessment (LESA) scoring system to evaluate each potential site and not use good agricultural land and using it for a purpose that it was not designed for. He said there are areas within the county that have poor, rocky soil that could be used for grazing just not for row crops. He said the Commission should take a very specific look at the land itself to see the potential utilization of the land.

Mr. Stidham said Staff will forward along materials to the Commission as they come across it and asked the Commission to do the same.

B. 2023 Transportation Plan Update – Review Draft from Policy & Transportation Committee

Mr. Stidham reviewed the initial draft of the 2023 Transportation Plan that was revised by Staff and the Policy and Transportation Committee. He said State Code requires VDOT to review before it is adopted so he is looking for the Commission to provide any comments and to consent to for the VDOT draft. He added that once Staff receives VDOT comments the finalized draft will be returned to the Commission for final consideration and to schedule a public hearing. Mr. Stidham said he would forward the final draft review to VDOT as there were no questions or comments from the Commission.



**ADJOURN**

The Work Session adjourned by consensus at 4:19PM.

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George L. Ohrstrom, II (Chair)

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Kristina Maddox (Clerk)



# Clarke County Planning Commission

**DRAFT** MINUTES – Business Meeting

Friday, September 1, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	John Staelin (Millwood)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X
Pearce Hunt (Russell)	✓		

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer), Lorien Lemmon (Conservation Planner / GIS Coordinator)

**OTHERS PRESENT:** Marian Harders (Walsh, Colucci, Lubeley, & Walsh PC), Thomas “Ty” Moore Lawson (Thomas Moore Lawson, P.C.), Braden Houston (Opdenenergy)

**CALL TO ORDER:** By Chair Ohrstrom at 9:00AM.

## 1. Approval of Agenda

Commissioner Staelin asked if there could be a brief overview regarding the proposed development in the Town of Berryville. Mr. Stidham said the item can be listed as number 8 on the revised agenda under other business.

The Commission unanimously voted to approve the September 1, 2023 Business Meeting agenda as revised.

Motion to approve the September 1, 2023 Business Meeting agenda as revised:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	King	AYE
Catlett	AYE	Lee	AYE (seconded)
Dunning	AYE	Malone	AYE (moved)
Glover	AYE	Staelin	AYE

Chair Ohrstrom asked for a moment of silence for Commissioner Scott Kreider who recently passed.

## 2. Approval of Minutes

### A. July 5, 2023 Work Session

Commissioner Lee requested that on page 6 under “new business” in the second paragraph the word “moving” be changed to “removing.”

The Commission unanimously voted to approve the July 5, 2023 Work Session meeting minutes as corrected.

<b>Motion to approve the corrected July 5, 2023 Work Session meeting minutes as corrected:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (seconded)</b>	King	<b>AYE (moved)</b>
Catlett	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

**B. July 7, 2023 Business Meeting**

Commissioner Catlett asked that “Chair” be replaced by “Commissioner” on page 12.

The Commission unanimously voted to approve the July 7, 2023 Business Meeting minutes as corrected.

<b>Motion to approve the July 7, 2023 Business Meeting minutes as corrected:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE (seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

**CONTINUED PUBLIC HEARINGS**

**3. CZ-23-01, Rappahannock Electric Cooperative (applicant)/Virginia Port Authority (owner)**

Mr. Stidham reviewed the Staff Report for the proposed conditional zoning application to rezone sixty-five acres of Agricultural-Open Space-Conservation (AOC) to Highway Commercial (CH) and Historic Access Corridor Overlay District (HAC). He said it is subject to conditions that are proffered by the applicant and that the property is located on the south side of Lord Fairfax Highway between the intersections of Featherbed Road and Highland Corners Road.

Chair Ohrstrom asked what would happen if the Commission approves the application but the applicant chooses not to purchase the property. Mr. Stidham replied that if a subsequent user purchases the property, they can either agree to develop the same use subject to the adopted proffers and concept development plan or the new applicants can go through the same process with a different use as a proffer amendment. He continued that the proffers create a unique set of regulations that are tied to this property.

Marian Harders (Walsh, Colucci, Lubeley, & Walsh PC) spoke on behalf of the applicant, Rappahannock Electric Cooperative (REC). She said there were a number of items outlined in the previous Staff Report that she wished to address. She continued that REC is now proposing to pave 265 feet to a location past the second entrance on Featherbed Road which reduces the original proposed paved road by 567 feet. She said 150 feet of current pavement exists so they would only be adding 115 feet of new pavement. She added they have been discussing signage with VDOT to alert oncoming drivers that the pavement will end. Additionally, she said the second entrance on Featherbed Road is of importance to REC due to safety

considerations and merging of employee and truck traffic. She added that REC is very considerate of the citizen concerns with respect to the pavement and said in addition to VDOT negotiations and that this is the end result of those discussions.

Ms. Harders said the second issue regarding the pump station has also been addressed. She said REC's initial concern was that this needed to be negotiated outside of the rezoning as final engineering had not been attained. She said they were not sure where the pump station would go in conjunction with the development of the property, however, through Staff discussions they have come to an agreement on the proffer language. She continued that REC will dedicate the pump station location.

Chair Ohrstrom read the public hearing rules and opened the public hearing.

Clay Brumback (536 Silver Ridge Lane) noted that he served on the Planning Commission previously and understands the Comprehensive Plan. He said that he lives off Featherbed Road and that he does not want to see the open space eliminated at Double Tollgate. He said although he prefers to see open space and farmland, his concern is the future impacts that changing the zoning to commercial highway will have beyond 5 to 7 years. Additionally, he said the original application included two entrances off US 340 with an emergency entrance with no access to Featherbed Road. He suggests REC save the extended pavement cost and not pave 265 feet. He said there is an example of a similar facility in Frederick County that has two entrances – one for trucks and one for office traffic that seems to work well. He continued he does not want additional traffic on Featherbed Road.

Ty Lawson (Katharbrine Ln, White Post) said he has had some on-site meetings with Staff and phone calls with neighbors. He said although the proffered use and landscaping are fine and a good use for the property, the issue lies with the second entrance. He said he has had discussions with VDOT and learned that the second entrance is not a requirement of theirs but a REC preference. He said he also received a copy of the report that read VDOT has yet to receive the traffic impact analysis (TIA) that was discussed with the county and developer in April. He added that a TIA was not required. He noted there will be 8 office workers in addition to trucks using the yard and as a result will not yield much traffic. He asked why a second entrance is necessary with a paved Featherbed Road and that it seems to be a need versus a want. He said he is going to support his neighbors and request that a second paved entrance not be approved for Featherbed Road. He commented that everything else in the proposed application looks good including the attractive building and landscaping as proposed.

Henry Schmick (281 Vista Ln, White Post) noted he previously spoke at a Planning Commission meeting on this topic and that he based his research on the 2022 Clarke County Comprehensive Plan. He said he essentially looked at the seven goals for land use and condensed them into three categories including visual, economic, and resource management/conservation or safety issues. He continued that his last comments regarding visual involved the fact that the current building is located in an industrial area and that the county does not need an industrial area built along US 340. He added that the applicant has added a lot of shrubs and hedges to their plan since then so he has checked that off his list. He said unfortunately electrical generation and electric distribution involve a lot of heavy duty chemicals, wires, and pipes and therefore he suggests a covered stock yard and storage yard to prevent it from the elements. He said safety is going to take a lot of vigilance and reiterated the importance of closed storage for the equipment and wires. With regards to economics, he said REC did a good job on electrical distribution but they do not go into electrical generation. He said we need to know more about electrical generation in order to be forward thinking and suggested we learn more about agrivoltaics. He noted cattle ranching on the

remaining 20 acres that serve that property and said it may be beneficial to follow a simple approach like where they raise the solar panels higher so that cattle can graze underneath. He also noted the landowner previously got \$10 an acre from cattle production but increased their profit when they rented the land for solar panels. He said he would like to talk with REC about this possibility and hopes they publish the data so everyone has a better idea of how much it costs.

Chair Ohrstrom closed the public hearing.

Chair Ohrstrom asked if the second entrance is locked in should the application be approved today. Mr. Stidham said that it does lock them in for the second entrance as it is proffered and is part of the concept plan and that the applicant will need to come back to the Commission for a proffer amendment if their plans change. Mr. Stidham asked REC for their feedback as having the second entrance was their decision and critical to their development plan for this site.

Ms. Harden clarified that there will be seventy-five employees utilizing the facility. She said that the second entrance is not a VDOT requirement but that they did reply via email that if the entrance was reduced to one access point that they prefer the access to be off the lower volume road which is Featherbed Road. She continued that the heavy construction traffic off the main road and limiting the emergency access further down Featherbed Road in addition to the occasional customer that uses the kiosk and the employees off Featherbed Road is something they feel is beneficial in this case. She said it is a need rather than a want and that it is more of a safety concern for REC. She said REC’s preference is to proceed with the second entrance with respect to any changes of the site plan.

There were no questions or comments from the Commission.

The Commission unanimously voted to recommend approval of **CZ-23-01, Rappahannock Electric Cooperative (applicant)/Virginia Port Authority (owner)** application subject to the applicant’s proffered conditions dated August 31, 2023.

<b>Motion to recommend approval of <u>CZ-23-01</u>, Rappahannock Electric Cooperative (applicant)/Virginia Port Authority (owner) application subject to the applicant’s proffered conditions dated August 31, 2023:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE (moved)</b>

**4. TA-23-01, Campground Regulations.**

Mr. Stidham reviewed the Staff Report for the proposed text amendment. There were no questions or comments from the Commission.

Chair Ohrstrom opened and closed the public hearing as there were no public speakers for comment.

Chair Ohrstrom thanked Mr. Lowell Smith for his comments.

Commissioner Lee commented that he requested a deferral on this text amendment so he could do his own research on the matter and noted he is an ongoing member of the Appalachian Trail Conservancy for 25 years. He said he reviewed the topography for this section of the trail and said it is called the roller coaster because it is difficult for anyone to hike. He said there are camping opportunities within the boundaries of the Appalachian Trail (AT) and that he does not feel it is necessary to have additional camping besides what is currently offered.

The Commission unanimously voted to recommend adoption of **TA-23-01, Campground Regulations** as presented by Staff.

<b>Motion to recommend adoption of <u>TA-23-01, Campground Regulations</u> as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	King	<b>AYE (seconded)</b>
Catlett	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

**SCHEDULE PUBLIC HEARING**

**5. SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner)**

Mr. Camp reviewed Staff Report for the proposed special use permit and site plan.

Chair Ohrstrom asked if there was time for the applicant to complete a boundary line adjustment or property merger within the 100-day requirement. Mr. Camp replied it could be a condition that the lots have to be merged. Commissioner Glover asked if that would also come before the Commission and asked how long the construction process will take. Mr. Camp replied it would return to the Commission only if it was written in the condition to do so. He also responded that he believed it would take less than a year.

Commissioner Lee commented there is a lot of speeding on Triple J Road and wanted to know if there will be proper signage at both entrances. Chair Ohrstrom suggested a gated entrance post construction to eliminate pass through traffic from Westwood Road to and from Triple J Road. Commissioner Catlett noted trucks will pass schools when they are on Westwood Road.

Thomas “Ty” Moore Lawson, Katharbrine Lane, White Post (Thomas Moore Lawson, P.C.) represents the applicant. He said they received approval from the owner on the lease to do a boundary line adjustment and that the applicants can make it a condition of the permit. He said the project would take three months of prep work to get the site underway for the stormwater management sediment ponds to be converted into stormwater management ponds and about six months for completion as the weather permits.

Mr. Lawson said that the Triple J Road location was previously considered for the high school site and that there is another entrance that runs through a neighboring property. He said the Triple J Road entrance will be the construction entrance and that it will not be used much post-construction and that the entire site would be fenced. He continued that he resides near the other solar plant location in the county and has found there is not much traffic in and out of the site.

Mr. Lawson said that the county's ordinance is very specific and detailed for the consideration of solar. He said they have spent a considerable amount of time to get to this point and working with the Department of Environmental Quality (DEQ) due to their internal turnover and ever-changing regulations.

Mr. Lawson continued that county's ordinance requires that a solar plant be located adjacent to and within a mile of a substation in which case this property meets that requirement. He said the landscaping of the site is contrast to the solar plant site in Double Tollgate and noted the permitting process has been lengthy.

Mr. Lawson said they received a copy of the Hecate agreement in which Opdenergy offered to match and will pay more as it is a larger site regarding the economic analysis citing agreement. He said VDOT has approved both entrances with regards to the transportation plan. He continued that they are happy to provide the details on the reclamation plan and that he understands that only grass should remain at the end of the lease once everything is removed. He added that the value of what is installed into the ground is worth several times the cost to reclaim it and that Opdenergy can post whatever bond is required regarding the decomposition plan. He said the materials are valuable as they contain copper, etc. so the company wishes to remove and recoup those costs.

Mr. Lawson noted the Board asked the Commission to amend the ordinance so that future solar is restrained. He said the current restrictive ordinance allows essentially two solar plant locations and this is one of those locations.

Mr. Lawson explained the aerial photos shown on the screen and said this proposed solar plant will not be seen from the road like the Hecate location. He said there is only one location from the road where people will see the solar plant panels.

Commissioner Staelin asked what the view will be like from Chet Hobert Park. Mr. Lawson replied that it is a highly wooded area and should not be viewable from the park or the nearby farm. He said they are proposing to retain existing vegetation and plant areas that have been disturbed and commented that it is below the view shed.

Chair Ohrstrom commented that there is a large limestone rock outcrop that is even noted in the Clarke County maps in the 1700s. He asked how the applicant plans to get through it. Mr. Lawson replied that some of the property is not buildable due to the one-mile radius of the substation. He said years ago he was Chair of the committee for the new high school and it was decided at the time that due to the limestone ledges that it would be better to relocate elsewhere.

Mr. Lawson said they understand the erosion and the regulations that address it and that they are disturbing a significantly less amount of ground as the land lays cooperatively. He said there is a lot of tall grass to receive the stormwater but nonetheless they are adhering to DEQ's pond requirements.

With regards to noise, Mr. Lawson said he does not anticipate much noise. He said he does not hear much noise being so close to Hecate solar plant.

Mr. Lawson said they are meeting with Fire and Rescue about the emergency action plan and to explain how to get access to the site in the event of an emergency.

Mr. Lawson reiterated that the traffic noise will mainly occur during the construction phase of the project and expects a representative to check in on occasion to ensure the equipment is operating properly.

Commissioner Glover asked when they started the permit process. Mr. Lawson said it was approximately two years ago when they initiated discussions with DEQ.

Commissioner Catlett asked about the geotechnical site characteristics in the report where it was noted there was debris and trash in the sinkholes. She said the consultant recommended they do soil and groundwater evaluation. Mr. Houston with Opdenergy said they received a much more comprehensive report and that their resubmission should cover those details. Chair Ohrstrom asked if they planned to do resistivity testing under the stormwater ponds and if they were required to do that. Mr. Houston said he is not certain if they did the testing under the stormwater ponds but they did it for the equipment yard and where the panels will go. Commissioner Lee said he recommends it.

There were no further questions or comments from the Commission.

The Commission unanimously voted to set public hearing for **SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner)** for the October 6, 2023 business meeting.

<b>Motion to set public hearing on SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner) for the October 6, 2023 business meeting:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE (seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

**BOARD AND COMMITTEE REPORTS**

**6. Board and Committee Reports**

**Board of Supervisors (Terri Catlett)**

Commissioner Catlett said the Board voted to approve the plan for the courthouse green and that the Emergency Medical Services (EMS) is considering a restructure. She said August was fairly quiet other than those two items.

**Board of Septic & Well Appeals (George L. Ohrstrom, II)**

Chair Ohrstrom noted there was a well appeal hearing where a well variance was approved. He said the applicant’s presentation showed a proposed screened-in porch that was close to the allowable state-wide setback to a well. He said the proposal also rerouted stormwater from the house away from the well site. He said the applicant’s property has a lot of large trees and that the thought of drilling for another well was exceedingly problematic. He said the committee approved the variance due to the stormwater management aspect of the project.

**Board of Zoning Appeals - BZA (Jeremy Camp)**

Nothing to report.



### **Historic Preservation Commission – HPC (Bob Glover)**

Commissioner Glover said there has not been a meeting since the awards ceremony in May. Mr. Camp said the next meeting will be on September 20<sup>th</sup> and noted that there will be a public hearing regarding a revisions to a garage in White Post.

Commissioner Glover made note of a book signing through the Historical Association for the former president of Harvard who was born in Clarke County.

### **Conservation Easement Authority (George L. Ohrstrom, II)**

Chair Ohrstrom said they continue to look at interesting easements and may have one on the mountain that VDOT suggests they look at other possibilities other than development due to access issues.

Chair Ohrstrom said they continue to struggle with the mitigation aspects of what to allow on conservation easements in the county.

### **Broadband Implementation Committee (Brandon Stidham)**

Mr. Stidham said All Points Broadband stated they will start to connect homes in 2024 and that they hope to provide more details before the end of the year.

## **OTHER BUSINESS**

### **7. Projected Upcoming Agenda Items, September 2023 – January 2024**

Mr. Stidham said the Comprehensive Plan Committee started work on the Rural Lands Plan and that in October the Commission will continue the discussion of the solar text amendment. He said the business meeting will include a solar plant public hearing and noted that the Bullard Campground is still on hold. He added there are three minor subdivision applications and an Ordinance Committee meeting scheduled soon to discuss two potential text amendments.

### **8. Berryville Development**

Mr. Stidham provided an overview on the Friant property rezoning in the Town of Berryville. He said the property was annexed into the Town of Berryville and the application is being reviewed exclusively by their Planning Department. He said the county attorney, Mr. Mitchell developed a flowchart many years ago as to who has the review authority which concluded that rezoning applications are not to be reviewed by the Berryville Area Development Authority (BADA) and only by Town of Berryville’s Planning Commission and acted on by their Town Council. He continued that there are a number of different Berryville Area Plan subareas that come into play with this. He said the Friant property is spread out over three different subareas including the lowlands to the north that border the bypass which is an environmental preservation area, a historic home which is in its own cultural and historical preservation subarea, and also a portion of the Friant property to the east. He said if the developer attempted to subdivide today by right, they could get just over 100 lots, however, the developer is proposing to do 214 lots with a rezoning. He said it is in the Berryville Area Plan to be a possibility if the development plan provides a bulleted list of improvements. He said the difficulty lies in the need for a coordinated transportation network with the development. He added that the Bel Voi property is not owned by the Friants or DR Horton and effectively splits the property in two. He said they have to connect the two halves in order to come across the southern portion of the Bel Voi property as the northern part is within

the environmental portion. He said as of now, the Bel Voi property owners do not wish to provide that connectivity which leaves the developer with two completely separate sections. He said the eastern portion can be connected at the intersection of Route 7 business and the Route 7 bypass owned by Audley Farm. He continued that there is a pre-determined access easement for the Friant property through the Audley property. He said the western half of the Friant property is isolated and would have to be accessed through the Battletown subdivision which creates a number of issues. He said it does not comply with the master plan traffic approach in his opinion. He said the historic preservation area around Bel Voi that spills over to the Friant property was drawn specifically due to a ridgeline view shed protection and intended to extend the protection area. He said DR Horton is currently proposing to put a subdivision street and houses that area which is another red flag.

Mr. Stidham said that he was in a town meeting earlier in the week and learned that the applicants are proposing two stormwater basins to the north of the development pods. He explained that it appears some of the water will run south towards E Main St and through the subdivision. He said town Staff confirmed that they do not have any stormwater infrastructure in that location. He said he recommended the town ask the developer how they plan to get stormwater flow uphill to the proposed stormwater basin.

Mr. Stidham said he recommended the developer explain their phasing plan in his meetings with the town and developer. He said they also highly recommend the developers build the main access road to serve all of the construction and home traffic rather than have a secondary connection into the Battletown subdivision until it is at the end of the construction process. He said currently they have proffered development triggers to complete the main access road at 135 building permits and noted this would be more than 2/3 the way through the development. He said there are no assurances that the development will not feel development and construction traffic impacts.

Mr. Stidham said the applicant has proffered to give the town \$300,000 if they are unable to connect the two lots so they can make the connection themselves by using eminent domain which is illegal in Virginia. He said a Supreme Court case in Virginia over ten years ago adopted changes to the Code of Virginia that limits when a locality can use eminent domain power which does not include for a private purpose. He said that it has to serve a public purpose. He suggested that the town have a discussion with Mr. Mitchell on the issue. He continued that the town has scheduled a special workshop with their Planning Commission at the end of the month before the public hearing takes place. He said this could come before the BADA should DR Horton continue to propose houses in the viewshed protection area but that is clearly states in the Berryville Area Plan that the area is drawn for this purpose and that any development should honor that line.

Chair Ohrstrom said he thought that the density increase will come back to the BADA. Mr. Stidham replied no but that if anything deviated from the flowchart that it would go to the BADA. He said the extra dwelling units come from a pool that was identified at the last update process that have yet to be used in other areas. He said the current location of the high school was originally proposed for housing so there are remaining dwelling units and that Berryville Glen was originally zoned as DR-2 or DR-4 but was actually zoned DR-1 which resulted in several remaining dwelling units as well. He said when the Berryville Plan was updated that incentives were set in certain areas including Friant property to provide development at a higher level that pool of dwelling units may be accessed to obtain a higher density. He said over half of the dwelling units would be used in this case.

Commissioner Staelin asked what would bring a development up to the higher level. Mr. Stidham replied they would include things like onsite amenities, clustering, minimum lot size for DR-4, a few environmental preservation items. He said the portion of the property that is in the environmental section would be put into conservation easement. He said in his opinion, the town Staff's recommendation as the project stands currently should be denial.

**ADJOURN:**

The Commission unanimously voted to adjourn the September 1, 2023 Planning Commission Business Meeting at 10:48AM.

<b>Motion to adjourn the September 1, 2023 Planning Commission Business Meeting at 10:48AM:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE (moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

\_\_\_\_\_  
George L. Ohrstrom, II (Chair)

\_\_\_\_\_  
Kristina Maddox (Clerk)

**SPECIAL USE PERMIT & SITE DEVELOPMENT PLAN (SUP-22-01 / SP-22-02)**  
October 6, 2023 PLANNING COMMISSION BUSINESS MEETING – **Public Hearing**  
STAFF REPORT– Department of Planning

**\*\*\* DEFERRAL REQUESTED BY APPLICANT UNTIL 11/3/2023 \*\*\***

The purpose of this staff report is to provide information to the Planning Commission to assist them in reviewing this land use request. It may be useful to members of the general public interested in this request.

**Case Summary**

**Applicant:**

Horus Virginia I LLC (primary contact: Braden Houston, OPDE / managing director: Luis Polo Gomez)

**Agents:**

Integrity Federal Services (engineer: Ben Svedlow)

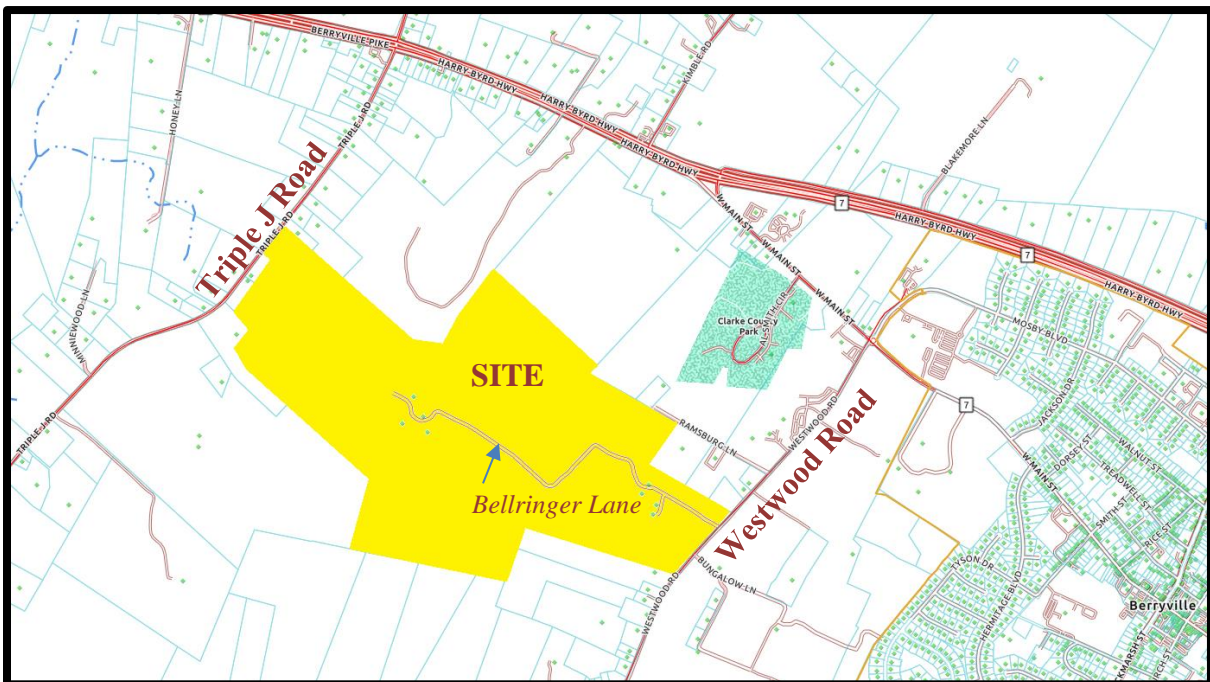
Thomas Moore Lawson of Counsel Williams Mullen (attorney: “Ty” Lawson)

**Property Owner:**

Bellringer Farm, LLC

**Location:**

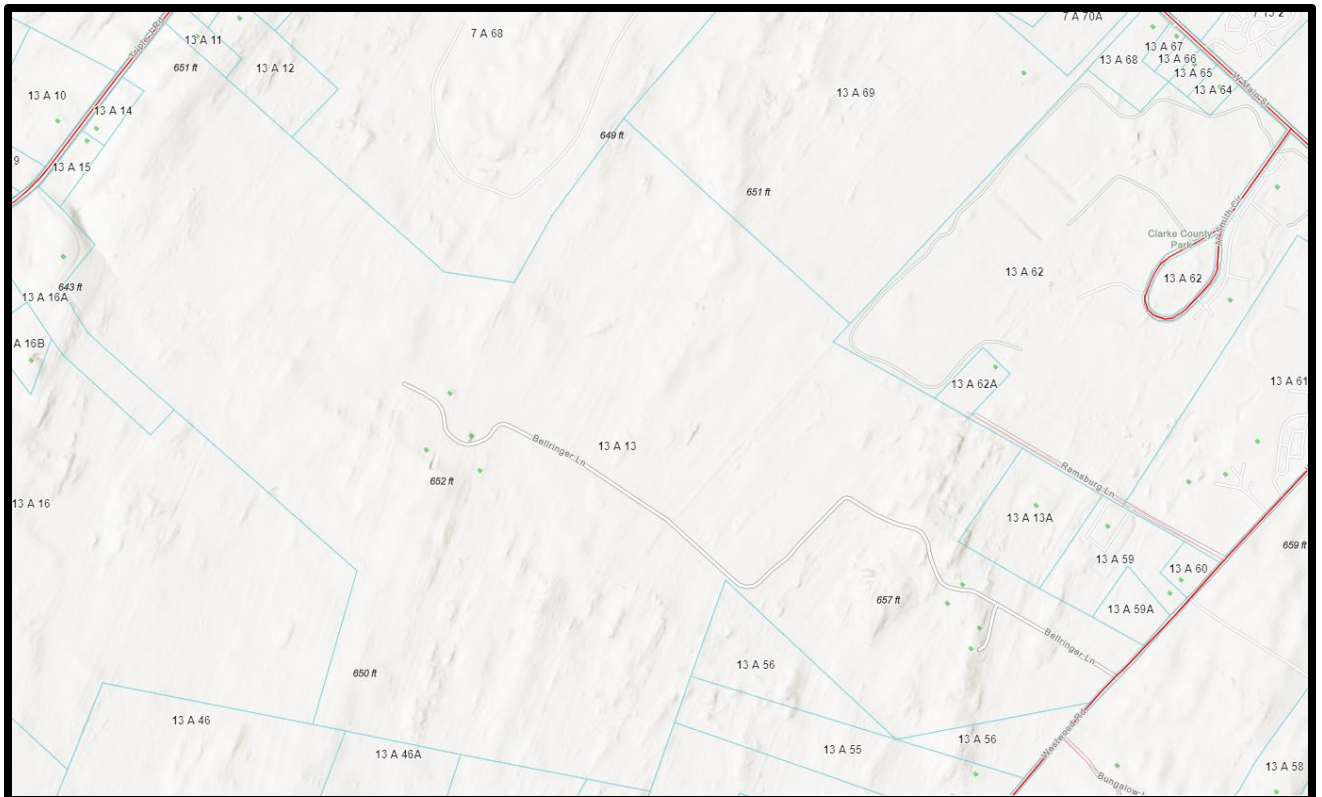
The site is located on Tax Map #s 13-A-13 and 13-A-56, consisting of approximately 400 acres in the AOC (Agricultural-Open Space-Conservation) Zoning District. Existing access to these properties is via Westwood Road (Rt. 636). The proposed Solar Power Plant would include access off of Bellringer Lane (existing driveway) and an entrance off of Triple J Road (Route 632). Both of the subject properties are within the Russell Election District.

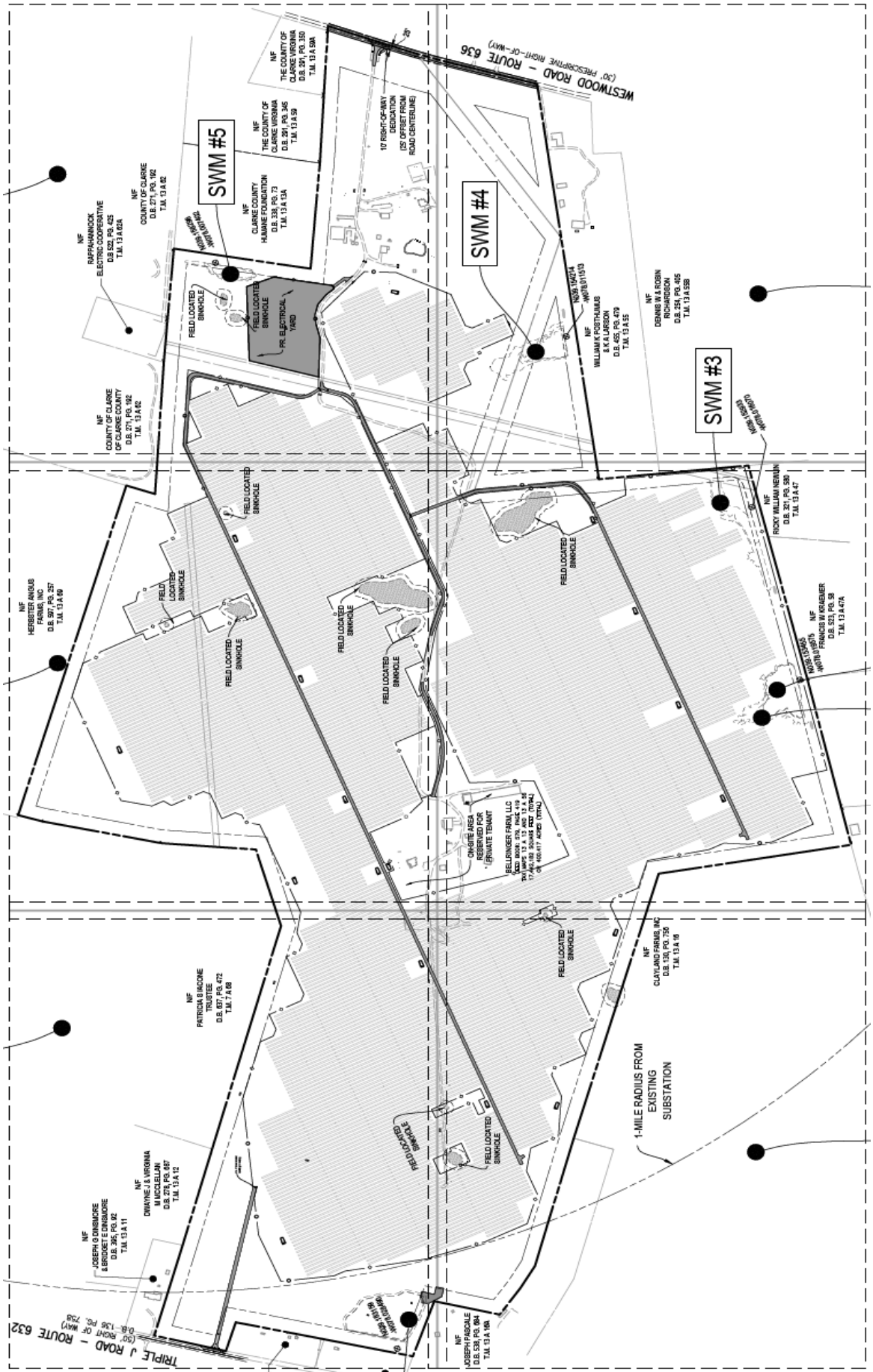


**Request:**

The Applicant has requested approval of a 50MW Solar Power Plant. Pursuant to Section 5.2C of the Clarke County Zoning Ordinance, Solar Power Plants require approval of a special use permit application. A site development plan application was submitted concurrently with the special use permit application as required by Section 6.3.1B-3a of the Clarke County Zoning Ordinance.

**Illustrations & Site Photos:**







(a)



(b)



(c)



(e)



(d)

(a) Picture from existing driveway (Bellringer Lane) about where the solar panels would begin on the property, (b) Picture of the soil in the soybean field in Spring, (c) View looking outward from the property to Triple J Road, (d) Picture of westernmost house existing on the property, (e) Picture of large powerlines that traverse the property.

**General Site Conditions:**

There are 4 dwellings located on the property based on Clarke County real estate, and confirmed by the Applicant. Two of these are pre-1980 dwellings (exemptions). Two of these dwellings are located in the front of the property near Westwood Road, along with several other agricultural buildings. The other two are located in the center of the property. All of these existing dwellings use Bellringer Lane for access. The proposed solar panels are excluded from these residential areas.

The property currently is not located within the Agricultural and Forestal District and is not located within a conservation easement. It is part of the land use program as it is in active farming use. This includes planted crops and pasture.

The site mixes between gently rolling hills and flat terrain. No floodplains exist on the property. No springs are identified on the property. Several sinkholes are located on the property and identified on the site development plan. No streams are on the property other than a small portion of an intermittent stream located close to Triple J Road, outside of where the solar panels are proposed.

The soils on the property generally include patches of soils identified as prime farmland mixed-in with soils that are not prime farmland. A visual inspection of the property soils suggests they are heavily clayed soils for the most part. Below is a map that identifies the prime (green) and non-prime (tan) farmland soils types located on the property. The Clarke County LESA (Land Evaluation and Site Assessment) score was calculated to be 80.1. Just based on the soil types the land evaluation score calculated to be 76.53.





### **Application Documents:**

The applicant submitted a complete application form, applicable review fees. The additional items listed below have also been submitted for review.

- Special Use Permit Application Narrative. A document of 428 pages submitted with the application. It consists of an executive summary, property information, solar facility use regulations, special use permit review factors, supplemental information, and the following appendix documents:
  - Karst Plan
  - Phase 1 Environmental Study
  - Wetland Study
  - Rare Threatened Endangered Species Letter
  - Cultural Resource Survey
  - Site Renderings
- Site Development Plan. A large sized document of 51 pages with details on the proposed site improvements, erosion and sediment control measures, and stormwater management plan.
- Decommissioning Plan. This document was submitted by the Applicant as required by Virginia Code §15.2-2241.2
- Emergency Action Plan. This is a document submitted by the Applicant based on Staff comments that a plan is needed to ensure that procedures are in place to assess and repair solar panels if they become damaged by natural or other causes.

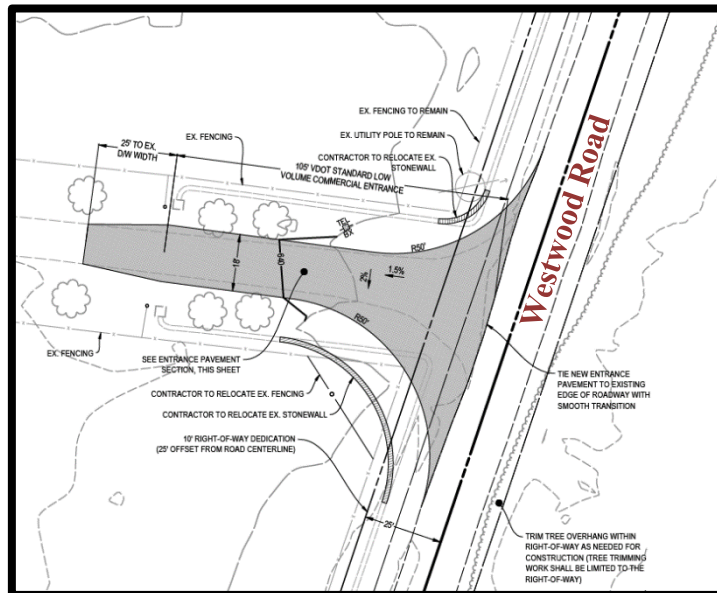
The above documents are provided with this Staff report along with relevant correspondence with the Applicant since the application was initially submitted. The appendix items of the Special Use Permit Application Narrative are not included due to their vast size. However, these are available upon request.

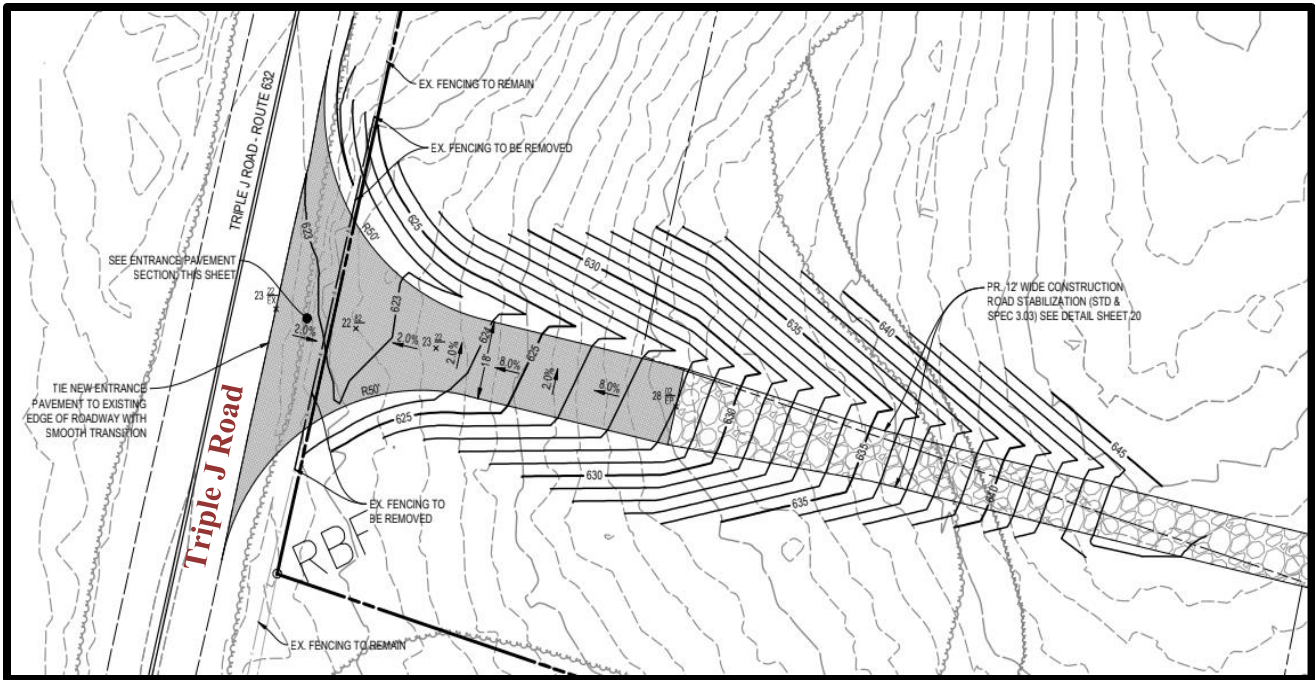
**Proposed Improvements:**

Page 11/51 of the Site Development Plan provides an overall view of the proposed site improvements associated with this application. A small illustration of this is shown above on page 3 of this report. The Applicant intends to use the same type of solar panels that they are utilizing on a solar farm that is under construction in Jefferson County, WV, just outside of the City of Charles Town, WV. Below are a couple pictures taken from this site during a visit of it by the Plans Review Committee. The project is currently under construction, but some of the panels have been installed.



The site development plan also depicts several smaller stormwater basins, fencing around the facility, an electrical yard, landscaping, internal access drives, improvements to the entrance at Westwood Road (Route 636), and a new entrance off of Triple Road (Route 632). The entrance improvements are depicted in detail on pages 49 & 50 of the site development plan. A snapshot of these entrances are shown below and on the top of the following page.





**Current Review Status:**

While review is ongoing, the special use permit and site development plan applications have been reviewed by multiple review agencies at this time. The list below provides a list of the review agencies that have reviewed the application and that status of their comments. In brief overview, the applicant has been working with DEQ for over a year to address the stormwater management requirements. This process is nearly complete as indicated by DEQ. The County’s engineering consulting firm, Hurt & Proffitt, is currently reviewing recent changes to the site development plan made by the Applicant that includes an entrance off of Triple J Road. They previously recommended approval of the plan prior to this recent change. Their primary role is to review the plans for compliance with the County’s erosion and sediment control regulations. VDOT has already approved the additional entrance. A number of issues remain unaddressed by the Planning Department which the applicant is working on addressing for a resubmission in the near future. These comments are elaborated on further down this report.

- ***Planning Department.***  
[See Preliminary Comments section of this report below for a summary and the attached correspondence, including Planning Department review letters and CTL approval of the Karst Plan]
- ***Hurt & Proffitt.*** (engineering consultant – erosion and sediment plan review)  
Approved previously but under re-review currently due to the Applicant adding the entrance to Triple J Road.
- ***Commissioner of Revenue.***  
The Commissioner of Revenue reviewed the application and commented that rollback taxes will become due and the property will not qualify for the land use program if developed for a Solar Power Plant. [see attached review letter dated August 8, 2022]

- ***Sherriff's Office.***  
 The Chief Deputy of the Sheriff's Office review the application and provided the following three comments. [see attached review letter dated August 8, 2022]
  1. *If approved, require a Knox box for emergency services to enter the property if needed.*
  2. *This may be more of a VDOT issue. I would suggest that the construction entrance for this project be located off of Westwood Road, not Triple J Road. The area of the property that connects with Triple J Road is residential and a heavily traveled commuter road. Also concerned about sight distance on Triple J Road. Westwood Road is less traveled and the entrance to Bellringer Lane is a short distance from Business 7. In that travel distance, only one house is affected. May also want to consider a time restriction on deliveries on school days so as not to delay school buses and parents picking up / dropping off kids. The afternoon pickup is far busier than the morning drop-off.*
  3. *I would try to avoid having any construction vehicles access the portion of the property on Ramsburg Lane. This is a private lane, owned by the County and Rappahannock Electric. I am not sure if the pavement just placed down for the animal shelter is thick enough to handle heavy equipment.*
  
- ***Virginia Department of Health (VDH).***  
 VDH reviewed the application and had no issues with it since it does not proposed any use that requires water or sewer facilities, nor does it change existing on-site water and sewer facilities of the existing homes. They did request that the plan identify the existing drainfields which the applicant added in a later revision. [see attached review letter dated August 8, 2022]
  
- ***Virginia Department of Transportation (VDOT ).***  
 VDOT has provided several review comments since the original application was submitted. The most recent communication they provided was that the changes of the plan meet their requirements. [See email letter dated August 2, 2023]
  
- ***Economic Development.***  
 No comments
  
- ***Emergency Services.***  
 No comments
  
- ***Building Department.***  
 No comments
  
- ***Rappahannock Electric Coop.***  
 No comments
  
- ***Virginia Department of Environmental Quality (DEQ).***  
 DEQ indicates that the review process is nearly complete and no layout changes are expected at this time. [see attached email dated June 22, 2023 from DEQ/Cathy Hill, P.E.]

## **Solar Power Plant Regulations:**

Section 5.2C of the Clarke County Zoning Ordinance includes the regulations for Solar Power Plants. They are allowed in the AOC District with approval of a special use permit. The regulations include a number of specific design requirements and special review factors, as shown below.

1. **Location.** If such plant is not part of a “behind-the-meter” program, then such plant shall be adjacent to and all facilities located within one mile of a pre-existing electrical sub-station of 138 kV or higher voltage.
2. **Minimum Lot Size.** No such plant shall be erected on any lot less than twenty acres in size.
3. **Setbacks.** All above ground facilities associated with such plant (excluding perimeter security fencing) shall be considered a structure for the purposes of determining required setbacks.
4. **Safety/Access.** A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the solar power plant and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on electrical equipment and plant entrances.
5. **Noise.** No such plant shall exceed sixty-five dBA as measured at the property line or fifty dBA as measured at the nearest neighboring inhabitable building.
6. **Landscaping.** Such a power plant shall be considered a commercial use for the purposes of determining landscaping requirements.
7. **Local, State, and Federal Permits.** Such a plant shall be required to obtain all necessary permits from the U.S. Government, Commonwealth of Virginia, and Clarke County, and comply with standards of the major code and safety organizations that apply to generation projects (the National Fire Protection Association (NFPA), Underwriters Laboratories (UL), and Institute of Electrical and Electronics Engineers (IEEE)).
8. **Electrical Interconnections.** All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be minimized.
9. **Additional Special Use Factors.** The following additional factors shall be addressed in the Special Use Permit application for such plant:
  - a. **Project description and rationale.** Identify the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, model. Identify time frame, project life, development phases, likely markets for the generated energy, and possible future expansions.

- b. Economic analysis. Provide economic cost/benefit analysis describing generated property taxes, sales taxes, other taxes, construction dollars spent locally, estimated construction jobs and construction payroll, estimated permanent jobs and continuing payroll, and costs associated with impact on roads and other county infrastructure in the area.
- c. Visual impacts, appearance and scenic view sheds. Provide visual simulations providing vantage points considering a three hundred sixty degree view of the project site.
- d. Wildlife habitat areas and migration patterns. Address potential impact on wildlife especially endangered or threatened species, on the site and in a biologically significant area surrounding the site.
- e. Environmental analysis. Identify impact analysis on historic, cultural and archaeological resources, soil erosion, flora in the project area, water quality and water supply in the area, dust from project activities, and cumulative impacts of other adjacent power plant projects.
- f. Waste. Identify solid waste or hazardous waste generated by the project and methods of disposal.
- g. Lighting. Provide lighting plan showing impacts on adjacent properties.
- h. Transportation plan. Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system and degree of upgrade plan to new and existing roads, anticipated volume and route for traffic, including oversized and heavy equipment needed for construction, maintenance and repairs, methodology of repairs and maintenance of roads and bridges used for the project, and related public pedestrian and vehicular access and associated fencing.
- i. Public safety. Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created and address response to such hazards.
- j. Noise limitations. Identify noise levels at the property line of the project boundary.
- k. Telecommunications interference. Identify electromagnetic fields and communications interference generated by the project.
- l. Life of the project and final reclamation. Describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power generating equipment.

## **Special Use Permit Review Criteria:**

Section 6.3.1C-2 of the Clarke County Zoning Ordinance specifies review criteria for the Planning Commission and Board of Supervisors to consider when reviewing special use permit applications. These review criteria are listed below with some preliminary remarks by Staff. The applicant also provides responses in their narrative document. It should be noted that Staff's comments are not complete at this time for the following reasons: 1) the Applicant has not resubmitted new information since the September 1<sup>st</sup> Planning Commission meeting to address the review comments previously provided. As such, review is incomplete at this time; and, 2) the Applicant requested deferral of the application because they are making design changes to the site development plan. This resubmittal will require re-review of the application. As described by the applicant's agent, the changes would include relocating the Electrical Yard to avoid areas of prime farmland that have a significant amount of rock outcrops.

### **a. Consistency with the Clarke County Comprehensive Plan and any applicable implementing component plans.**

*In 2010 the Board of Supervisors adopted regulations to allow "Solar Power Plants" as a special use in the AOC District. These regulations were retained in later updates to the Zoning Ordinance, including the comprehensive re-write of the Zoning Ordinance that was adopted in 2021.*

*The following goals of the Comprehensive Plan were referenced in support of the original text amendment, as adopted in 2010. These goals were retained in the 2022 update of the Comprehensive Plan, although the wording of Goal 4 included a minor wording change, modifying "...to the greatest extent possible" to "whenever possible" when describing the utilization of renewable energy.*

- **Goal 3** – *"Encourage and maintain a diverse and viable local economy compatible with the County's size and character." (page II-1)*
- **Goal 4** – *"Exercise stewardship over resources so as to reduce the consumption of nonrenewable resources, utilizing renewable energy whenever possible; and foster within the private sector of the County a culture of resource conservation." (page II-1)*

*The Board's original resolution also stated that "with appropriate zoning regulation, Large Photovoltaic Solar Power Plants can be allowed in a manner that protects the agricultural character of the County and that protects the health, safety, and welfare of the general citizenry of the County as well as the residents adjacent to the site of such a power plant."*

- **Objective 7 – Resource Conservation and Sustainability**  
*Encourage sustainable development by promoting renewable energy and resources, energy conservation, and preservation of natural resources within the context of the County's land use philosophy. Ensure that the needs of the present generation are met without compromising the ability of future generations to meet their own needs. (page II-13)*

**Policy 2** - *Encourage the use of active and passive renewable energy systems. Develop policies that address potential impact of such systems on scenic viewsheds, agricultural and natural resources, and historic resources (e.g., windmills and solar panels). (page II-13)*

*The County's Agricultural Land Plan is also relevant in context with the subject application. Additional information has been requested from the Applicant to evaluate how the proposed Solar Power Plant will impact the soils on the property. The information requested includes more details*

*on the type and maintenance of the proposed solar panels to provide assurance that they will not present a risk of heavy metal contamination into the soils or groundwater. More information on the construction process is also forthcoming to evaluate potential risks of erosion.*

- b. Will not have an undue adverse impact on the short-term and long-term fiscal resources of the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be compatible with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.**

*The proposed facility will not require public water or public sewer and will have no onsite private water or sewer facilities. There will be no impact to the school system and minimal if any impact on solid waste disposal after construction is complete. As such, there will be no impact to the County's capital improvement goals and objectives.*

*Similar to the other Solar Power Plant in Clarke County a condition may be recommended to ensure that the applicant is committed to providing an emergency planning manual to be developed in coordination with County fire and emergency services staff along with incident training.*

- c. Will not cause an undue adverse impact that would reduce the conservation value of adjacent or nearby agricultural or forestal land or would impede the operations of an active agricultural or forestal operation.**

*Subject to satisfactory review of the additional information that will be submitted by the Applicant, including, but not limited to a revised decommission plan, Staff does not identify an issue associated with this request that would impact conservation values of adjacent or nearby agricultural or forestal land.*

- d. Compliance with Virginia Department of Transportation (VDOT) regulations and recommendations of VDOT deemed necessary for safe and efficient movement of traffic.**

*VDOT reviewed this application and reported no issues or additional requirements.*

- e. No destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.**

*A Phase 1 ESA and Cultural Resource Reconnaissance Survey were submitted with the application. It concludes that there is no evidence of recognized environmental conditions in connection with the property.*

*The Applicant states in their narrative that the project will not encroach on any historic or archaeological sites. A Cultural Resource Assessment of the property was provided by the Applicant. It identifies that the eastern portion of the property towards Westwood Road is within the study area of the Battle of Berryville area, a potential candidate for a historic district. The report does assess the potential of finding archeological findings if a physical search was conducted and includes a map of the property showing areas of interest. It concludes that the majority of the site has a low chance to discover archeological findings. It does identify small areas where the chance is higher. This includes areas immediately around old farmsteads and a low landform area on the far western end of*



*the property.*

**f. Will not cause an undue adverse impact on the following important resources located on the subject property or surrounding properties:**

- **Surface or groundwater resources including but not limited to mitigation of pollution of such resources.**
- **Natural areas such as unique geological features, rare plant habitats, or wildlife nesting areas.**
- **Areas designated for conservation, recreation, or natural preservation including but not limited to properties under permanent conservation easement, State-designated scenic byways, scenic rivers, Blandy Experimental Farm, and the Appalachian National Scenic Trail corridor.**

*The Applicant's Karst plan has been reviewed and approved by the County's consultant and demonstrates no hazards to adjacent groundwater supplies. Ongoing monitoring of the site is recommended by Staff and will be factored into the recommended SUP conditions.*

*DEQ has provided a preliminary approval of the design layout. This will need to be reconsidered with the modifications to the layout that the applicant intends to submit in the near future.*

**g. Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.**

*The applicant notes in their narrative that the project would result in a reduction of noise, dust, odor, fumes and vibrations and that lighting will be minimal and shielded. A condition that limits the time of construction activities will be recommended by Staff to reduce impacts such as noise during the construction process. Blasting has been strongly discouraged by Staff. The applicant's future submission should address whether or not they will require blasting. Based on a conversation with the applicant's agent on Sept. 27<sup>th</sup> it was explained that a major part of the reason for relocating the electrical yard is to avoid areas with more rock outcroppings that may require blasting.*

**h. Availability of sufficient water for foreseeable needs.**

*Regular usage of water is not proposed or required for the facility.*

**i. No unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.**

*Regular usage of water is not proposed or required for the facility.*

**j. Effective screening and buffering is provided, or the proposed development will be situated away from adjacent properties, in a manner to avoid causing detrimental visual impacts.**

*Screening is proposed by the Applicant and provided around the perimeter of the property. It consists of the preservation of existing trees and planting of new trees where existing trees are inadequate. The previous comments provided have not been addressed by the Applicant concerning recommended improvements to the landscaping plan.*

## **Preliminary Comments:**

Unresolved review comments from Planning Department Staff are documented in the review letter dated July 12, 2023, as well as an email dated January 23, 2023, and most recently after the site visit in West Virginia, in an email dated August 16, 2023. Below is a summary of the issues. The applicant and his agent has stated to Staff that they intend to provide a resubmission in the near future that addresses these issues along with the relocation of the electrical yard.

- 1) **Erosion from Construction Process.** Information to demonstrate that the site construction in Clarke County will not be similar to the vast acreage of bare soil excavated at the site in West Virginia. This was expressed as a concern after the site visit to West Virginia, of which a couple pictures are provided above. The concern is in regards to erosion; not only management, but concern that the bare earth will remove existing topsoil that would reduce the viability of using it for farming in the future after the site is decommissioned.
- 2) **Blasting.** The applicant has indicating that they are in the process of evaluating if blasting will be proposed. Staff has recommended that this be avoided and potentially restricted in the SUP conditions. Blasting could potentially impact adjacent properties and structures.
- 3) **Noise.** Noise created during the construction process is a significant concern that will need to be evaluated further during the review process with the applicant. Limitations can be added to the special use permit conditions to mitigate these potential impacts.
- 4) **Decommissioning Plan.** A large number of comments/concerns are noted in Staff's July 12<sup>th</sup> review letter regarding the decommissioning plan. It is expected that these issues need to be resolved before approval is granted.
- 5) **Landscaping Plan.** The landscaping plan in the northeastern portion of the property needs improvement after a stormwater basin was added to meet DEQ requirements. Staff has concern that the area of trees to be removed is not realistic given the grading shown. There also appears to be more opportunity to add trees to buffer this area after the construction is completed of the stormwater basin.
- 6) **Emergency Action Plan.** Staff commented that the applicant should provide a plan that ensures procedures will be taken to repair damaged panels if an event occurs that causes damage to them, such as but not limited to a hurricane. Research suggests that if panels are damaged and not repaired they may present a risk of heavy metals leaching in to the ground and groundwater. The applicant submitted an emergency action plan but it does not address the stated concern. Instead, it is related to employee safety practices.
- 7) **Siting Agreement.** Virginia Code § 15.2-2316.7 requires that applicants of solar projects negotiate a siting agreement with the locality. This agreement may include terms that mitigate impacts of the solar project, provide financial compensation to the host locality to address capital needs, or offer assistance in the development of broadband. The Clarke County solar power regulations also require that the applicant submit an economic analysis that includes the evaluation of tax revenue, among other factors as described under Section 5.2C of the Clarke County Zoning Ordinance. Staff awaits to see what the applicant will submit to meet these requirements.
- 8) **Erosion and Sediment Control Plan.** Hurt & Proffitt is currently reviewing the revised erosion and sediment control plan that they previously recommended approval of. The re-review was necessary due to the entrance off of Triple J Road that was recently added.

- 9) **Lot merger.** Tax Map 13-A-56 is required to be merged or adjusted out of the solar power plant due to its size of less than 20 acres. This is a requirement of Section 5.2C of the Clarke County Zoning Ordinance that prohibits lots of less than 20 acres of being part of a solar power plant. The applicant has been notified of this on multiple occasions and review letters.
- 10) **Electrical Yard.** Information has been requested to demonstrate that the proposed electrical yard will not be used as a substation. A substation requires a separate special use permit that has not been applied for.
- 11) **Details of the Panels – Heavy Metals.** Technical details of the panels have been requested along with information that supports that they present a minimal risk of heavy metal contamination. Research indicates that certain types of solar panel should be avoided to prevent heavy metal leaching into the soil. The site development plan should clearly indicate that the proposed panels are the safest type available and provide the specifications.
- 12) **Sinkhole buffer - Certification.** Engineering certification is required where the smaller buffer area of 25 feet is proposed from sinkholes (versus 100 feet).
- 13) **Errors.** Some editorial errors and incorrect or missing information has been commented on. These are minor in scope but should be corrected on the future revised site development plan.
- 14) **Triple J Road Access.** Staff supports the Sheriff Office’s comments regarding the appropriateness to limit access off of Triple J Road. Initially no access was proposed off of Triple J. Road. However, the applicant has recently revised the plans to include an entrance there. The stated purpose of this entrance is to allow larger trucks to enter the site to stock the staging area during construction activities. Improvements are also proposed at the entrance of Westwood Road that will accommodate large trucks entering the site from that location.

Staff will include recommended conditions after the review of the applicant’s intended resubmission. These conditions may be similar to those approved in association with the other Solar Power Plant project in Clarke County, Hecate. A copy of the approved Hecate SUP conditions was previously provided for information purposes. It includes a restriction on blasting, maintenance requirements, karst monitoring requirements, limitations on construction times and review of equipment specifications to ensure noise is minimized, a development surety for required landscaping, compliance with the Economic Benefits Agreement with the Board of Supervisors, stormwater drainage monitoring, removal of any debris on the site, decommissioning specifications and surety (letter of credit or bond), and other administrative provisions, such as but not limited to the right to inspect the property to ensure compliance of the conditions.

## **Staff Recommendation:**

A public hearing is scheduled for October 6, 2023.

After the public hearing is completed to obtain any input from the community, Staff recommends that the Planning Commission defer the application, as requested by the applicant. The reason for deferral, as stated by the applicant's agent, is because the applicant has decided to modify the site development plan. The primary change would be to adjust the location of the electrical yard from the east side of the existing power lines to the west side of the power lines. The applicant has also not yet addressed the previously provided review comments provided by Staff.

The Applicant has requested that the application be considered at the November Planning Commission Business Meeting (11/3/2023). Given that certain review local and state review agencies need to re-review the site development plan and other new information, Staff is uncertain if 30 days is sufficient to complete these reviews. Staff requested that the applicant be prepared on October 6<sup>th</sup> to give a better timeline as to when the new information will be submitted to assess the deferral date.

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## **History:**

May 5, 2022	Pre-application meeting.
May 25, 2022	Special Use Permit and Site Development Plan applications submitted.
July 11, 2022	Hurt & Proffitt Review Letter (ESC).
August 1, 2022	CTL Review Letter (Karst).
August 8, 2022	Initial Staff Review Letter.
August 17, 2022	Response Letter 1 from Integrity Federal Services.
September 2022	Revised Narrative & Site Development Plan (SP).
January 19, 2023	Hurt & Proffitt Review Letter 2.
January 23, 2023	Staff review email.
February 28, 2023	VDOT review comment letter.
April 4, 2023	Response Letter 2 from Integrity Federal Services.
April 18, 2023	Submission of Decommissioning Plan & Emergency Action Plan.
May 19, 2023	Hurt & Proffitt Approval Letter.
June 22, 2023	DEQ review status letter.
June 27, 2023	Resubmission of Site Development Plan (w/ new entrance off of Triple J Road).
July 12, 2023	Staff Review Letter.
August 1, 2023	Plans Review Committee.
August 2, 2023	VDOT Approval Letter.
August 11, 2023	Plans Review Committee Site Visit and example WV Site tour.
August 16, 2023	Staff comments - site visit tour follow up.
August 29, 2023	Planning Commission Work Session Meeting.
September 1, 2023	Planning Commission Business Meeting – Set Public Hearing.
TBD	Hurt & Proffitt Review Letter 4.
September 25, 2023	Deferral request provided by the Applicant's agent explaining intent to modify the plan.

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**RE: Beckett Solar - Clarke County Business Meeting Power point**

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**From :** Ben Svedlow <bsvedlow@ifs-ae.com>

Mon, Sep 25, 2023 09:09 AM

**Subject :** RE: Beckett Solar - Clarke County Business Meeting Power point

**To :** Jeremy Camp <jcamp@clarkecounty.gov>

Jeremy,

During the public hearing on 10/6, we will be requesting a deferral to the next November public hearing as we are adjusting the location of the Electrical Yard from the east side of the existing power lines/easement to the west side of the power lines/easement.

Thanks,  
Ben Svedlow

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**From:** Jeremy Camp <jcamp@clarkecounty.gov>

**Sent:** Monday, September 25, 2023 8:53 AM

**To:** Ben Svedlow <bsvedlow@ifs-ae.com>

**Subject:** Re: Beckett Solar - Clarke County Business Meeting Power point

Hello Ben,

Will you be sending over a request for a deferral for the reasons we discussed previously? I'll need this soon for the agenda if so.

Thanks,  
Jeremy F. Camp, Senior Planner / Zoning Administrator  
Department of Planning  
Clarke County, VA

101 Chalmers Court, Suite B  
Berryville, VA 22611  
540-955-5131

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## Clarke County Planning Department

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**TO: Planning Commission Comprehensive Plan Committee members**

**FROM: Brandon Stidham, Planning Director**

**RE: Resolution, 2016 Waterloo Area Plan**

**DATE: September 25, 2023**

Earlier this year, the Commission assigned review and update of the 2016 Waterloo Area Plan to the Comprehensive Plan Committee as a follow up to the November 5, 2021 resolution to initiate review of the Area Plan. Following discussions over two meetings and with Staff's recommendation, the Committee recommends that the Commission conclude the review process by continuing with the 2016 Area Plan for an additional five years without changes.

The Committee and Staff reached the decision to recommend continuing with the current Area Plan unchanged for the following reasons:

- The Clarke County Sanitary Authority's (CCSA) engineering consultant, Imboden Environmental Services, recently completed work on a Utility Master Plan for the water and sewer systems serving Boyce, Millwood, Waterloo, and White Post. The purpose of the Utility Master Plan is "to provide the CCSA with the information needed to develop its future utility availability fees by developing the cost of projected Capital Improvement Projects." The primary takeaway from this report as it pertains to the Waterloo Area Plan is that the water and sewer systems have sufficient capacity to support current uses as well as projected usage based on the Comprehensive Plan. It also notes that additional repairs and modifications will be necessary in the near future to ensure that the water and sewer systems operate effectively. The Utility Master Plan does not take into consideration the impacts of expanding the water and sewer service area or unforeseen growth that could occur. In other words, the Utility Master Plan does not identify additional capacity that could be used to serve the Waterloo Plan Area if it were to be expanded or modified to allow more intensive uses than currently planned.
- The current Plan Area contains several lots that are zoned for Highway Commercial uses but remain undeveloped. There have also been minimal inquiries to Staff about potential development in recent years and the only projects undertaken since 2016 include the diesel pump expansion at HandyMart and the renovations at Sheetz and McDonalds.
- The current Area Plan's goals and objectives are consistent with the 2022 Comprehensive Plan.

A draft resolution is enclosed for the Commission's review and action at the October 6 Business Meeting. If adopted, the next review date for the Area Plan will be October 6, 2028.

Please let me know if you have questions in advance of the meeting.

**RESOLUTION FOR THE CONTINUATION OF  
THE 2016 WATERLOO AREA PLAN FOR FIVE YEARS**

**WHEREAS**, the 2016 Waterloo Area Plan was adopted by the Board of Supervisors on December 20, 2016, and

**WHEREAS**, Code of Virginia §15.2-2230 requires that at least once every five years, a locality’s planning commission shall review the comprehensive plan “to determine whether it is advisable to amend the plan,” and

**WHEREAS**, the Waterloo Area Plan is an implementing component plan of the 2013 Clarke County Comprehensive Plan, and

**WHEREAS**, the Planning Commission adopted a resolution to initiate review of the Area Plan on November 5, 2021 and subsequently assigned the review to the Comprehensive Plan Committee, and

**WHEREAS**, the Comprehensive Plan Committee has determined that, for the following reasons, a comprehensive review and update of the Area Plan is not necessary as its guidance and recommendations remain current, applicable, and consistent with the 2022 Comprehensive Plan:

- The Clarke County Sanitary Authority’s recent Water and Sewer Utility Master Plan did not identify any changes in water and sewer capacity that would warrant consideration of modifying Plan Area boundaries.
- Demand for development at this business intersection has been less than originally anticipated in recent years.
- Traffic counts have only increased modestly since the original Area Plan adoption and have leveled off in recent years.

**AND WHEREAS**, the Comprehensive Plan Committee recommends continuing with the 2016 Area Plan for an additional five years.

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission concurs with the Comprehensive Plan Committee that it is not necessary to continue the review and update of the 2016 Waterloo Area Plan as the guidance and recommendations remain current, applicable, and consistent with the 2022 Comprehensive Plan.

**BE IT FURTHER RESOLVED** that the Planning Commission shall conduct a future review and determine whether it is advisable to amend the 2016 Waterloo Area Plan no later than October 6, 2028.

Adopted this 6<sup>th</sup> day of October, 2023.

\_\_\_\_\_  
George L. Ohrstrom, II. (Chair)



**PROJECTED UPCOMING AGENDA ITEMS, OCTOBER 2023 – JANUARY 2024  
(10/6/2023 Business Meeting)**

**OCTOBER**

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee (Friday, October 6 after Commission Business Meeting):**

- Rural Lands Plan (continued discussion)

**Comprehensive Plan Committee (Tuesday, October 31 at 1:30PM):**

- Rural Lands Plan (continued discussion)

**Ordinances Committee (to be scheduled):**

- Review text amendment – remove assembly activities from “country inn” use
- Review text amendment – application reviews impacted by text amendments

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**NOVEMBER**

**OCTOBER 31 WORK SESSION**

- Continued Discussion, Text amendment request from Board of Supervisors -- Solar Power Plant Use and Regulations (TA-23-04)
- Discussion, 2024-2029 Capital Improvement Plan

**NOVEMBER 3 BUSINESS MEETING**

**Schedule Public Hearing:**

- SUP-23-01/SP-23-01, Blake & Tamara Bullard

**Public Hearing:**

- SUP-22-01/SP-22-02, Horus Virginia I, LLC/Bellringer Farm, LLC

**Minor Subdivisions:**

- MS-23-08, Regan Partnership, LP
- MS-23-09/MLSE-23-04, Adam R. Foster/Rockwood Riverside, LLC
- MS-23-10, Corey Cather
- MS-23-11, Nathan Markee

**Other Action Item:**

- Recommendation to Board of Supervisors on 2024-2029 Capital Improvement Plan

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee (to be scheduled):**

- Rural Lands Plan (continued discussion)

**DECEMBER**

**NOVEMBER 28 WORK SESSION**

- Continued Discussion, Text amendment request from Board of Supervisors -- Solar Power Plant Use and Regulations (TA-23-04)
- Transportation Plan Update (if accepted by VDOT)

**DECEMBER 1 BUSINESS MEETING**

**Schedule Public Hearing:**

- 2023 Transportation Plan (if accepted by VDOT)

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee:**

- Rural Lands Plan (continued discussion)

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**JANUARY**

**JANUARY 2, 2024 WORK SESSION/ORGANIZATIONAL MEETING**

- Election of Officers: Chair and Vice Chair
- 2024 Committees and Member Assignments
- Review and Adoption of 2024 Meeting Schedule
- Review and Adoption of 2024 By-Laws
- Review and Adoption of 2024 Project Priorities

**JANUARY 5, 2024 BUSINESS MEETING**

**Public Hearing:**

- 2023 Transportation Plan (if accepted by VDOT)

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee:**

- Rural Lands Plan (continued discussion)