

**CLARKE COUNTY PLANNING COMMISSION
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November 3, 2023 Business Meeting Packet**

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Clarke County Planning Commission

AGENDA – Business Meeting

Friday, November 3, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

1. **Approval of Agenda** **P. 1**
2. **Approval of Minutes**
 - A. October 3, 2023 Work Session **Pp. 3-15**
 - B. October 6, 2023 Business Meeting

SCHEDULE PUBLIC HEARING

3. **TA-23-04, Solar Power Plant Use and Regulations.** Proposed text amendment to amend the use regulations for “solar power plant” per Section 5.2C (Business Uses) of the Zoning Ordinance. The amendment modifies the location restriction in Use Regulation 1 to state that solar power plants must be located adjacent to and all facilities located within one mile of the electrical substation located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (Tax Map #13-A-62A). The term “behind-the-meter” solar is also clarified to include onsite consumption of solar-generated electricity and incidental resale through a net metering program. **Pp. 16-21**

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. **2024-2029 Capital Improvement Plan**
6. **Projected Upcoming Agenda Items, November 2023 – February 2024 Pp. 22-23**

ADJOURN

UPCOMING MEETINGS:	
Comprehensive Plan Committee	To be scheduled – November and December
Policy & Transportation Committee	No upcoming meetings
Plans Review Committee	No upcoming meetings
Ordinances Committee	No upcoming meetings
Commission Work Session	Tuesday, November 28 (3:00PM) -- Main Meeting Room
Commission Business Meeting	Friday, December 1 (9:00AM) -- Main Meeting Room



Clarke County Planning Commission

DRAFT MINUTES – Work Session

Tuesday, October 3, 2023 – 3:00PM

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), Chris Boies (County Administrator)

OTHERS PRESENT: None.

CALL TO ORDER: By Chair Ohrstrom at 3:03PM.

1. Approval of Agenda

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

2. Review of October 6 Business Meeting Agenda Items

A. Agenda Review

Mr. Stidham asked to strike the word “under” on the last sentence of the second to last paragraph on page 6 of 41 in the August 29th Work Session meeting minutes.

Commissioner Glover asked to replace “takes up” with “creates” in the second sentence within the fourth paragraph from the bottom of page 6 of 41.

On page 14 of 41 of the September 1st Business Meeting minutes, Mr. Stidham asked that the last sentence of the second paragraph include the word “in” before “contrast.” He also asked to make “view shed” one word on page 14 of 41 and again on page 17 of 41.

Chair Ohrstrom asked if Staff received phone calls from the public on the Horus Virginia solar power plant public hearing. Mr. Stidham replied that he has received general inquiries and Mr. Camp said he received one call but the Frederick County resident was not concerned.

Mr. Camp provided an update for the SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant) / Bellringer Farm, LLC (owner) application. He said the applicant wishes to defer due to site plan changes such as moving the electrical yard and that the November public hearing will be held as scheduled.

Chair Ohrstrom asked if they plan to close the Triple J Road entrance post-construction. Mr. Camp replied that the applicant plans to gate the entrance and will include those details in the resubmission.

Mr. Camp noted that Commissioners toured the applicant's solar project that is under construction in Jefferson County. He added that in a news article, Jefferson County recently repealed their solar ordinance due in part to the size of that project.

Mr. Stidham reviewed the draft resolution on the Waterloo Area Plan. He noted the Commission initiated review of the plan in 2021 and the Comprehensive Plan Committee was assigned to work on it. He said the Comprehensive Plan Committee made the recommendation to adopt a resolution to continue with the plan as is for an additional five years and noted the various reasons outlined in the packet. Chair Ohrstrom asked if it was normal to keep it as is. Mr. Stidham said if there are no changes needed it is an option to leave it as is.

B. Status of Deferred Applications

Mr. Camp provided an overview of the current deferred applications including Foster and Cather minor subdivisions and the Berryville Berries campground special use permit and site plan application. He said the minor subdivisions are both at the resistivity review process and that Berryville Berries is working with the Virginia Department of Health on designing a privy system that may take additional time. Chair Ohrstrom said he thought public campgrounds were not allowed due to the recent text amendment. Mr. Stidham said if the campground text amendment is adopted by the Board of Supervisors on October 17th, the application will not be able to move forward.

Mr. Camp said the Regan Partnership minor subdivision is working on a conservation easement and that they intend to submit a waiver request on the design standards of a private road. He said it is a substandard road that VDOT named the worst state road in the county and has discouraged development on it.

3. Old Business

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

Mr. Stidham said the next goal is to reach a consensus on whether or not the Commission will support the prohibition of solar power plants and to move forward or if there is a different preferred approach.

Commissioner Staelin said not much can be done with the current regulations unless a property owner creates a substation and asked what that process would entail. Mr. Stidham said it would require a special use permit in the AOC and FOC Districts as it is considered a public utility facility. He continued that the interpretation has already been made that if someone wanted to build a substation with the ultimate intent of building a solar power plant that a special use permit for the substation and site plan would have to be approved. He said the substation would have to be functioning before the solar power plant special use permit application. He added that the Commission has the ability to require special use permits for electrical infrastructure including powerlines and that one option is to make changes to the use regulation that requires solar power plants to be built adjacent to existing substations. He said the language “substations in existence as of the adoption date of the text amendment” could be used to

include anything that is in the ground and operating to date and that any future substations would be reviewed independently.

Chair Ohrstrom commented that it would typically be a utility company making a substation request versus a property owner. Mr. Stidham replied that the applicant could be a private company with the assumption that they are working in concert with an electric provider. He said the county can consider the need in evaluating an application for a new substation. He added that a private developer who is building a substation for a future solar power plant should be able to demonstrate the need for it.

Commissioner Glover asked about the history of the two current substations. Mr. Stidham said he is not certain.

Chair Ohrstrom said the substation off Ramsburg Lane could probably be upgraded in comparison to the substation in Frederick County and noted an upgrade would not change the regulations.

Commissioner Staelin said he assumes substations should be in the center of the town and said the substation in Double Tollgate is probably mostly for Frederick County.

Chair Ohrstrom asked Mr. Stidham about the smaller substation off US Route 340. Mr. Stidham replied that it is around 25% of the minimum size needed for a solar power plant. Commissioner Staelin asked if it was upgraded according to our current regulation if it could be used as another solar power plant location. Mr. Stidham replied yes but that an upgrade would be require the same special use permit process as building a new substation.

Mr. Stidham said the Commission can continue to debate future solar while the Rural Lands Plan is being reviewed and that once it is addressed by the public and adopted there would be new guidance to make an additional text amendment. Chair Ohrstrom suggested not to create a text amendment that outlaws solar power plants at the moment. He referenced Piedmont Environmental Council's memo regarding the future power needs of 52 proposed data center projects outside of Clarke County but noted the powerlines go through Sky Meadows and several eased properties. Commissioner Staelin said in his previous Board experience it helps to write a letter explaining the properties are under easement as they may not see those details looking at aerial maps.

Vice Chair Buckley said he is in favor of tightening the current ordinance. Chair Ohrstrom suggested the Commission obtain more information and further discuss at the business meeting.

Commissioner Glover asked about behind the meter solar. Mr. Stidham said ground-mounted solar requires a zoning permit application and that a roof-mounted should not exceed the maximum height of the structure for the district. Commissioner Glover asked if the acreage or footprint was regulated as it could be used by multiple neighbors. Mr. Stidham said there is a blurring of home solar and behind the meter and resale to the grid. He added there are natural barriers referenced in the memo such as there being a limited amount of excess power that a residential property owner can produce and sell back to the grid. He said an agricultural or business customer is capped as to how much they can produce on site as well. Chair Ohrstrom said those details may be changed at the General Assembly level and that Dominion Power has created the rules.

Commissioner Staelin said that we should make changes that we think are important and not wait for the General Assembly to change the law. He said his concern is not regarding personal, ground-mounted solar panels but the potential size of the large community-wide solar projects that could take up 25 acres. Chair Ohrstrom said community solar could also mean schools with solar panels to help the overflow costs.

Commissioner Lee said utility scale and non-utility scale are the two level types and that the latter allows someone to connect to existing wires. He said that a property owner would not have to connect to the substation but to the existing infrastructure in place. He said it is possible to lose agricultural land should property owners wish to pursue these community-scale projects.

Chair Ohrstrom commented that if a private entity had a farm with tenant houses that they wanted to power they could turn it into an off grid system and asked if that would also be regulated. Commissioner Lee said it would be different if it was put into the line or using it on site.

Mr. Stidham suggested creating a new definition of “behind the meter” for zoning ordinance purposes where it is predominantly for onsite consumption with incidental resale back to the grid. He said a large farm may still have a sizeable array but perhaps they can prove they plan to resell a small percentage of what they produce back to the grid. Chair Ohrstrom noted that his home is a completely off the grid system with roof-mounted solar panels and no wires. He said it would be easier for a large farm getting power off the grid for all of their buildings to do their own array but that it would still have to be an on grid system with the ability to sell some of it back to the grid. He said it may be capable but that he does not believe it could be a totally off grid system.

Vice Chair Buckley asked for clarification on behind the meter and provided an example of ten tenant houses with a solar array for each meter and not a massive solar array on the back forty to run each of them. Mr. Stidham said there could be potentially one centralized array for the ten tenant houses and Commissioner Glover commented that it would take additional agricultural land.

Commissioner Staelin said when the solar panels are producing the most is when they are in high demand and most helpful but said they need to be on the grid due to certain times when there is no sun. Chair Ohrstrom noted that his panels have battery backup.

Mr. Stidham said if a property owner were to ask to use an acre of their land for solar panels, they would need a stormwater management plan and be able to explain to Staff how much onsite power consumption they plan to have versus how much they plan to sell back to the grid. He continued if they plan to sell more back to the grid than they consume onsite they are not behind the meter. Mr. Stidham suggested adding language for clarification and to note that there has to be incidental resale to the grid. Commissioner Staelin commented that getting clarification on the current regulations would make it better for Staff to make future determinations on this matter.

Mr. Stidham said the Commission can evaluate whether or not items such as community scale solar are for Clarke County as research continues and as the Rural Lands Plan is reviewed. He added that he will bring forward a draft text amendment next month regarding substations that have to be in existence in order to construct a solar power plant and also to clarify the behind the meter language that it is predominantly for onsite construction and incidental resale. He said the other proposed item is regarding the definition of solar power plant being a utility scale facility that is subject to a special use permit that

has been issued and is in good standing as of the adoption date of the text amendment. He said these changes would make all of the existing facilities that currently have zoning approval conforming uses and can expand as long as they are within the ordinance.

Commissioner Lee said he is not against what is currently written but that a decision needs to be made as he believes they will be inundated soon with community scale solar requests.

Mr. Stidham noted he would inquire with the Board prior to their November meeting regarding the proposed text amendment changes to determine whether a joint meeting is needed.

Commissioner Staelin asked if there should still be editorial comment in the Rural Lands Plan which then becomes part of the Comprehensive Plan. He said this means future ordinances would have to conform in general to those changed rules and that he thinks the Commission can also talk about their thoughts on solar power. He continued that he believes there are better locations for solar panels such as Walmart parking lots and other impervious surface locations and wants the Commission to establish their stance. He asked if anyone has heard what other jurisdictions plan to do. Chair Ohrstrom replied that some want to allow limited utility scale solar as they want to allow farmers the opportunity to cash in on that revenue stream to keep their farm going.

B. Update on VDOT review of 2023 Transportation Plan draft

Mr. Stidham said he had a conference call with VDOT staff and learned they want a higher level of detail of our project list which is outdated. He explained to VDOT that we want their assistance in determining whether the projects are still needed. He said VDOT returned a revised draft with comments and their suggestion was that they plan to look at crash data and other information county-wide to find out if there are any other projects that no one has identified that should be in the plan as well as any data to support existing projects. He said their recommendation is that we create a new priority list based on what we can support and then retain all the other projects as unprioritized projects. He continued that in five years the Commission can decide whether or not to keep them.

4. New Business – None scheduled

ADJOURN

The Work Session adjourned by consensus at 4:00PM.

George L. Ohrstrom, II (Chair)

Kristina Maddox (Clerk)



Clarke County Planning Commission

DRAFT MINUTES – Business Meeting

Friday, October 6, 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)	X
Buster Dunning (White Post)	✓ ^E	John Staelin (Millwood)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X
Pearce Hunt (Russell)	✓		

E – Denotes electronic participation

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer), Chris Boies (County Administrator)

OTHERS PRESENT: Thomas “Ty” Moore Lawson (Thomas Moore Lawson, P.C.), Braden Houston (Opdenery), Benjamin Svedlow (Integrity Federal Services)

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

Chair Ohrstrom noted that Commissioner Dunning is participating electronically due to personal reasons and that he is currently out of town.

1. Approval of Agenda

The Commission voted 9-0-1 to approve the October 6, 2023 Business Meeting agenda as presented by Staff.

Motion to approve the October 6, 2023 Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE (seconded)	King	AYE (moved)
Catlett	AYE	Lee	AYE
Dunning	AYE	Malone	ABSENT
Glover	AYE	Staelin	AYE

2. Approval of Minutes

A. August 29, 2023 Work Session

The Commission voted 9-0-1 to approve the August 29, 2023 Work Session meeting minutes as amended.

Motion to approve the August 29, 2023 Work Session meeting minutes as amended:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE (moved)	King	AYE
Catlett	AYE	Lee	AYE (seconded)
Dunning	AYE	Malone	ABSENT
Glover	AYE	Staelin	AYE

B. September 1, 2023 Business Meeting

Chair Ohrstrom asked for clarification on the first sentence of the third paragraph on page 14 of 41. Mr. Stidham asked to strike “regarding the economic analysis siting agreement” to correct the sentence.

The Commission voted 9-0-1 to approve the September 1, 2023 Business Meeting minutes as amended.

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

CONTINUED PUBLIC HEARING

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

Mr. Camp reviewed the Staff Report for the special use permit and site plan application. He said Staff recommends that the Planning Commission defer the application as requested by the applicant. He said the applicant wants to revise the site plan to move the electrical yard location. He said the applicant would like to defer to November 3rd but Staff has concerns whether that is sufficient time.

Chair Ohrstrom asked about the gated entrance off Triple J Road and noted it was his understanding that it is to be a construction entrance only. Mr. Camp replied that it is his understanding the applicant plans to include those details when they resubmit. He said the intent of the second entrance was for large trucks to have easier access. There were no further questions from the Commission.

Ty Lawson said the purpose of the deferral is that the substation runs east to west and their engineer suggested they relocate. He said they held a separate public meeting on Wednesday at the VFW after adjoining property letters were sent and pamphlets were handed out door-to-door. He said there was low attendance but that the public comments were complimentary. He said there were various questions regarding riding horses on the property, landscape upkeep, if pesticides are to be used, etc.

Mr. Lawson explained the siting agreement that Chairman Ohrstrom inquired about. He said Donna Peake had given him the terms of the Hecate siting agreement and that OPD reviewed them and said they would match it as they are larger facility. He added this would provide additional net income to Clarke County and that it would be greater than what Hecate is currently paying. He continued that they understand the terms of the siting agreement and the requirements of the permit.

He said the information Mr. Camp provided regarding the Triple J Road entrance is correct and that it is going to be used a construction entrance and will be gated post-construction and that the Westwood Road entrance will continue to be used. He said the individual who oversees the Jefferson County site will also oversee the Clarke County site and that someone will visit every two weeks or so. He said most of the operation is automated and computer-driven so there will not be a lot of in and out traffic and that most of the traffic will be during the summer due to mowing.

Mr. Lawson said that while they hope to receive the revised materials within two weeks they are flexible on the date and in no rush. He continued they are waiting on the re-draw of where the wires connect.

Commissioner Glover noted the Jefferson County site parking is on the main highway and asked where construction parking would be for the Clarke County site. Mr. Lawson replied the Jefferson County site is very visible from the road and that the Clarke County site is the exact opposite in that there is already landscaping in place. He added that all of the activity occurs over the berm and on the property including the construction. He said the technology is the same for both locations, that there will be grading, that the panels are about eight feet off the ground, and that nothing that can be seen from surrounding properties.

Commissioner Catlett asked about the acreage and construction time for the solar project in Jefferson County. Braden Houston replied that it is approximately 500 acres but that they are only utilizing about 350 acres and that the site will take a year to complete while the Clarke County site should take 9 months as it is 50 megawatts versus 80 megawatts.

Chair Ohrstrom asked what would happen to the solar array during a hail storm. Mr. Houston replied they are designed to withhold in storms and will tilt vertically to reduce breakage but that some may need to be replaced on occasion due to damage.

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

Charles Alton (1250 Westwood Road) said he has several concerns about this project. He said he understands Clarke County to be agricultural and hopes that remains constant and said he did not believe a project of this size to be a good fit. He said Westwood Road does not have much traffic and that he hopes this will not change. He continued that his main concern is the water. He said his 13.5-acre property has a lot of limestone and that the soil is very porous and that he was told the water that he drinks is from miles away. He said he is not sure how far away he is from this solar project and that he is concerned that heavy metals may leach into the soil for years to come. He suggests one could underline the whole project with some sort of impermeable barrier even though it does not seem to be good treatment for the land. He hopes the Commission does not approve the application primarily due to the water concern.

Mary Carol Ivie (12 Dorsey Street) said her family moved to the community of Dale City in Prince William County in 1973 and that the rural crescent was established in 1974 along the western border to preserve and protect the rural part of the county. She continued that the eastern part of the county including Woodbridge, Manassas, and Dumfries was designated for residential and commercial growth and that the rural crescent restricted water and sewer. She added the rural residential zoning allowed one house to 5 acres that was later changed to one house to 10 acres. She said the county slowly chipped away at the rural crescent and when Disney announced they were coming zoning allowances were made to permit water and sewer to build homes in the Gainesville and Haymarket area. She said this was done secretly by the Board of Supervisors under the guise of bringing revenue to the county. She continued that the need for grocery stores as driving 20 minutes to the closest one was unthinkable and soon a Target, Walmart, schools, and roads were needed to accommodate the urban sprawl. She said the development encroached on the dairy farms making it more difficult for them to find fields to grow hay and corn for the cows. She noted that the last dairy farm with five generations of the house family closed in 2022 and that the rural crescent is almost gone. She said data centers are threatening the remaining northwester section threatening the Manassas battlefield and surviving farms. She said people ask how this could happen. She said she moved to Clarke County to get away from that and now she is seeing the same thing happening

here. She asked to protect the green areas and to not let Clarke County turn into Prince William. She said she drives on Westwood Road regularly and is concerned about the potential traffic as she had some trouble with Rappahannock Electric trucks as the road is narrow.

Tia Earman (Piedmont Environmental Council Representative) said PEC has a long history of supporting solar as it is a cleaner more sustainable distributed source of energy which offers greater energy independence for farms and homeowners alike. She added that community and utility scale solar is an important piece of our overall regional community energy portfolio. She said our state grapples with unique challenges presented by the unprecedented energy needs of data center hub located in Northern Virginia. She said that while it is impossible to understand the energy demands of these businesses and the challenges it presents to PJM and our entire state and region to build out our energy infrastructure to accommodate them. She said PEC feels very strongly that this should not come at the sacrifice of our farmlands or irreplaceable prime agricultural soils. She continued that the Horus Virginia site has a high percentage of high quality soil on it and once it is gone, they are gone forever. She said they while they understand this ordinance for utility scale solar in Clarke allows for very few parcels of this nature, they do not like the precedent it sets and would encourage Clarke to embrace some restrictions on their ability to put on prime soils in the future. She said these soils are going to become even more important in the future as climate change continues to alter where our nation grows its food as we see our results in the west continue to dry up. She said we have a very unique amount of these soils located here.

Ms. Earman said in the sample photo on page 7 provided by the developer of the West Virginia solar project there are panels set very close to the ground and large amount of raw dirt. She said her concern is that the current ground cover on the Clarke County location that the sun-loving grasses are not going to hold up to the new shade underneath the panels and would encourage an arrangement to have more shade-loving native plants preferably pollinators to be added in order to prevent increased runoff from these panels.

Ms. Earman said they agree with the Sheriff's Office assessment that the construction entrance on Triple J Road will cause much more disruption to the residents and school buses. She continued that she saw social media posts just this week where several residents were commenting on it and they would not want to see that added to for an extended period of time.

Ms. Earman said the submission of a siting agreement and economic impact analysis is necessary. She said that if Clarke is to give up vital farmland since this project economic benefits to the county should be a priority and it would be inappropriate to move forward without ensuring an increased tax or revenue from this special use or another significant compensation.

Forrest Jones (1106 Crums Church Road) said he lives about one mile north of Route 7. He said that from what he understands from the north movement of water in this county that he will be in direct line of whatever heavy metal runs into the groundwater. He said he enjoys drinking water but not heavy metals. He also expressed that he is also concerned about the decommissioning plan. He said when he bought his property from apple orchard farmers that he bought it as is with some issues.

Mr. Jones noted the other item he wanted to mention is the money to be made when fracking is involved. He said everyone is content until it comes to pass that fracking destroys the local wells and creates issues where people have to move, get sick, and even worse die. He said he appreciates the good folks on this

body and asks that they remember as they proceed that as a resident he does not think it is a good idea to approve this.

Marianne Casey (958 Westwood Road) said she has water and construction concerns with this project. She said is familiar with the property and explained that it is full of rocks and that she cannot imagine what it is going to take to install the posts and hopes there will be no blasting. She said she is familiar with how the water flows in the area and noted there is a berm and retention pond requirement which indicates to her that waterflow is changing.

Ms. Casey said she shares traffic concerns and noted there is a lot of traffic on Westwood Road. Her main concern is future potential projects in the area and how the Commission plans to keep the doors closed. She said it pains her to think that this property is somewhat suitable for the project. She said she would consider this to be appropriate if there were not any additional plans for these projects anywhere else in the county.

Chair Ohrstrom asked Mr. Lawson if they could get all of the materials in a thirty-day period in addition to Commission comments. He said he thinks if panels are being moved around that DEQ may have to review the stormwater plan again which may take additional time. He asked if they might want to consider a longer deferral. Mr. Lawson said they are open and willing to provide additional time for Staff and Commission review. He added that the redraw is essentially a plug being moved from one side of the substation to the other but noted that it is going to be less site work. He said the DEQ permitting is already complete for the entire site. Chair Ohrstrom asked if they wanted to go ahead and defer to December 1st. Mr. Lawson replied yes.

Chair Ohrstrom asked if we required resistivity testing near the stormwater pond. Mr. Camp said the applicant provided a karst plan that was reviewed and noted that Staff will need to review the DEQ comments. Mr. Lawson said that can be done but that it should not be the full DEQ process that is already complete.

There were no questions or comments from the Commission.

The Commission voted 9-0-1 to defer SUP-22-01/SP-22-02, Horus Virginia I, LLC (applicant) / Bellringer Farm, LLC (owner) application and continue the public hearing to the December 1st Business Meeting.

Motion to defer <u>SUP-22-01/SP-22-02</u>, Horus Virginia I, LLC (applicant) / Bellringer Farm, LLC (owner) application and continue the public hearing to the December 1st Business Meeting:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	King	AYE
Catlett	AYE	Lee	AYE (moved)
Dunning	AYE	Malone	ABSENT
Glover	AYE (second)	Staelin	AYE

BOARD AND COMMITTEE REPORTS

4. Board and Committee Reports

Board of Supervisors (Terri Catlett)

Commissioner Catlett said the Board of Supervisors will be meeting at their work session to talk about legislative priorities. She said this is an annual discussion that prepares them to discuss priorities with their elected officials in November as they make plans to present their bills. Chair Ohrstrom asked about the process to which Commissioner Catlett said they send letters to everyone but they will meet after the election with the elected officials with the new superintendent, the Sherriff, Commonwealth’s attorney will be included in the lunch as well.

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

Nothing to report.

Board of Zoning Appeals - BZA (Jeremy Camp)

Nothing to report.

Historic Preservation Commission – HPC (Bob Glover)

Commissioner Glover said the revised plan was denied by the HPC for the White Post garage. When asked by Chair Ohrstrom what happens next Commissioner Glover said it might have to be torn down. He said the process has been eye-opening to him as it has gone on for four or five years at this point. Mr. Camp said the application review process for the revision of the garage is in a state of deferral per the court order and that the fine should resume at some point. He said there is another court date where they may institute the fines that are in the current court order and that the property owner would need to pay those fines until the building was corrected, demolished, or designs a new plan. He continued that the property owner had thirty days in the court order to devise an alternate plan that was denied.

Conservation Easement Authority (George L. Ohrstrom, II)

Nothing to report other than the upcoming dinner reception on October 13th.

Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said information should be released before the end of the year.

OTHER BUSINESS

5. Resolution, 2016 Waterloo Area Plan

Mr. Stidham said the committee reviewed the plan and in light of the Sanitary Authority’s recent utility master plan results and the sparse interest in developing the current commercial zoned properties in the plan area, it is appropriate to continue with the plan for an additional five years.

Chair Ohrstrom read the resolution aloud.

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 6th day of October, 2023.

The Commission voted 9-0-1 to adopt the Resolution for the continuation of the 2016 Waterloo Area Plan for an additional five years.

Motion to adopt the Resolution, 2016 Waterloo Area Plan:			
Ohrstrom (Chair)	AYE (moved)	Hunt	AYE
Buckley (Vice-Chair)	AYE (seconded)	King	AYE
Catlett	AYE	Lee	AYE
Dunning	AYE	Malone	ABSENT
Glover	AYE	Staelin	AYE

6. Projected Upcoming Agenda Items, October 2023-January 2024

Mr. Stidham said there are a few changes to the projected upcoming agenda items including two proposed text amendments for the Ordinances Committee to start working on. He said these items may need to be delayed until 2024 given the upcoming workload. He said the Commission is going to continue the discussion of solar power plants and see draft language in the November Work Session. He asked the Commission if they were comfortable with adding it to the agenda to schedule a public hearing at the November 3 Business Meeting for December 1st. He said the continued public hearing for Horus Virginia will also take place on December 1st and that the Transportation Plan will return to the agenda on the November 28th Work Session given the volume of proposed changes.

ADJOURN:

The Commission voted 9-0-1 to adjourn the October 6, 2023 Planning Commission Business Meeting at 10:00AM.

Motion to adjourn the October 6, 2023 Planning Commission Business Meeting at 10:00AM:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	King	AYE
Catlett	AYE	Lee	AYE (seconded)
Dunning	AYE	Malone	ABSENT
Glover	AYE (moved)	Staelin	AYE

George L. Ohrstrom, II (Chair)

Kristina Maddox (Clerk)



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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: TA-23-04, Solar Power Plant Use and Regulations

DATE: October 25 2023

Enclosed for your review and action is the draft solar power plant use and regulations text amendment in Staff Report form. The item is on the November 3 Business Meeting agenda to schedule public hearing for December 1.

Upon further evaluation, Staff has decided to omit one of the proposed changes that was discussed at last month's Work Session. Staff had proposed to amend the definition of solar power plant to allow only solar power plants with special use permit (SUP) approval granted prior to the adoption date of the text amendment:

*A utility-scale commercial facility with a rated nameplate capacity greater than 100kW (DC), **subject to a special use permit issued prior to [ADOPTION DATE OF TEXT AMENDMENT]**, which uses solar energy specifically for the conversion of sunlight into electricity by photovoltaics (a technology that converts light directly into electricity).*

Staff noted that this language could create a problem if a solar power plant was duly approved but never constructed and the SUP approval had to be revoked. In this situation, the language above would prevent a future developer from being able to apply for a new SUP in the same location. The language would also impact the pending Horus Virginia I LLC solar power plant application as the applicant would have to gain SUP approval prior to the adoption of the text amendment. If the text amendment is adopted first, then this language would prevent the application from being approved.

You will also note that Staff has modified the language in Use Regulation 1 regarding construction of solar power plants adjacent to pre-existing substations of 138 kV or higher voltage. Staff previously proposed adding language to require such substations to be "in existence and operational" as of the adoption date of the text amendment, thereby eliminating the possibility of solar power plants being constructed adjacent to future qualifying substations elsewhere in the County. This language directly referred to the Potomac Edison substation at 234 Double Tollgate Road and the REC substation at 362 Ramsburg Lane as there are no other 138 kV substations in the County that are also in the AOC District. In order to be clear and direct, Staff has replaced the proposed language by identifying these specific substations in the text amendment:

*If such plant is not part of a “behind-the-meter” **solar** program, then such plant shall be adjacent to and all facilities located within one mile of ~~the **pre-existing**~~ electrical **substation sub-station of 138 kV or higher voltage located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (13-A-62A).***

This accomplishes the same end result as the previous draft with much clearer and direct language.

If you have questions in advance of the meeting, please do not hesitate to contact me.

ZONING ORDINANCE TEXT AMENDMENT (TA-23-04)

Solar Power Plant Use and Regulations

November 3, 2023 Planning Commission Business Meeting – SET PUBLIC HEARING

STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend the use regulations for “solar power plant” per Section 5.2C (Business Uses) of the Zoning Ordinance. The amendment modifies the location restriction in Use Regulation 1 to state that solar power plants must be located adjacent to and all facilities located within one mile of the electrical substation located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (Tax Map #13-A-62A). The term “behind-the-meter” solar is also clarified to include onsite consumption of solar-generated electricity and incidental resale through a net metering program.

Requested Action:

Schedule Public Hearing for the December 1, 2023 Business Meeting.

Background:

A “solar power plant” is a business use set forth in Zoning Ordinance Section 5.2C and is defined as follows:

A utility-scale commercial facility with a rated nameplate capacity greater than 100kW (DC), which uses solar energy specifically for the conversion of sunlight into electricity by photovoltaics (a technology that converts light directly into electricity).

Use Regulation 1 establishes a strict limitation on the location and size of solar power plant sites. All plants that are not part of a “behind-the-meter” program are required to be located adjacent to and all facilities located within one mile of a pre-existing electrical substation of 138kV or higher voltage. There are two substations in the County that meet this specification – the Potomac Edison substation at 234 Double Tollgate Road (Tax Map #27A-4-D) and the Rappahannock Electric Cooperative (REC) substation located at 362 Ramsburg Lane (Tax Map # 13-A 62A).

One solar power plant has been approved since the 2010 adoption of this use and regulations – the 20MW Hecate Energy facility located in Double Tollgate (Phase I 10MW constructed and operational, Phase II 10MW to be constructed). One application for a new solar power plant is currently in process – Horus Virginia I LLC’s proposed 50MW plant located southwest of Berryville. These plant sites meet current requirements by being located or proposed to be located adjacent to these substation properties.

At their July 18, 2023 meeting, the Board of Supervisors voted unanimously on a resolution to initiate consideration of a text amendment that would propose the following changes to the “solar power plant” use and regulations:

1. Prohibit the development of any new solar power plants in the County.
2. Preserve solar power plants in existence or with zoning approval as conforming uses with the ability to expand within one mile of the pre-existing electrical substation which originally qualified the facility for development.
3. 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 service providers.

The Board adopted this resolution based on concerns that solar developers and some County property owners want the regulations to be relaxed so that solar power plants can be constructed in other parts of the County. Supervisors are also concerned with the potential loss of farmland due to conversion to nonfarm uses.

Proposed Text Amendment:

The text amendment accomplishes the Board’s three objectives set forth in the aforementioned resolution.

The Board’s first objective is to prohibit new solar power plant development. As noted previously, Use Regulation 1 strictly limits solar power plants to be located adjacent to and all facilities located within one mile of a 138kV or higher voltage substation. The Potomac Edison substation in Double Tollgate and the REC substation southwest of Berryville are the only two substations that meet this requirement. This current language can be interpreted as allowing new solar power plants in other areas of the County if future 138kV or higher voltage substations are built. Staff has interpreted that in this scenario the substation would have to be approved by special use permit and site development plan, constructed, and be operational before an application for a solar power plant could be filed for review.

To address this scenario and accomplish the Board’s first objective, the description of a qualifying substation in Use Regulation 1 is modified to read as follows:

*If such plant is not part of a “behind-the-meter” **solar** program, then such plant shall be adjacent to and all facilities located within one mile of ~~the a pre-existing~~ **electrical substation sub-station of 138-kV or higher voltage located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (13-A-62A).***

The change would strengthen the location restriction by not allowing solar power plants to be developed adjacent to any future substations of 138kV or higher voltage that may be approved and constructed. This would limit development of all future solar power plants to the two existing substations operated by Potomac Edison and REC. This approach also furthers the

Board’s second objective of ensuring that existing and approved solar power plants remain conforming rather than nonconforming uses. This includes Hecate Energy’s Phase I and Phase II facilities and, if ultimately approved, the Horus Virginia I facility as all would comply with the proposed location restriction.

The text amendment also meets the Board’s third objective of protecting the use of “behind-the-meter” solar which is electricity generated from solar panels primarily for onsite use. These systems are referred to “behind-the-meter” because the electricity is generated separately from the metered electricity provided by the electric service provider. Behind-the-meter solar can also include limited resale of excess power generated by the property owner to the electric service provider in exchange for credits, also known as “net metering.” To reflect this practice and to further clarify the term, a new definition for behind-the-meter solar is proposed to be added at the end of Use Regulation 1:

For the purposes of this regulation, “behind-the-meter” solar includes onsite consumption of electricity generated by solar panels and the incidental resale of excess electricity through a net metering program.

This change would allow County property owners to continue to use solar energy generation and to participate in net metering programs without additional restrictions. Staff notes that behind-the-meter solar systems, whether ground-mounted and/or building-mounted solar arrays, are regulated as building features or accessory structures and are required to meet lot requirements such as building height limitations and setbacks. There are no specific limitations on the size of ground-mounted solar arrays aside from the limits that would be placed on other accessory structures. However the proposed language would require systems to be sized primarily to generate power for onsite use and a lesser or incidental amount of excess power to resell for credit via net metering.

Staff Recommendation:

Staff recommends that the Commission schedule public hearing for the December 1, 2023 Business Meeting.

History:

July 18, 2023.

Board of Supervisors voted unanimously to initiate text amendment and forward to Planning Commission for development, public hearings, and formal recommendation to the Board.

August 29, 2023.

Placed on the Commission’s Work Session agenda for initial discussion.

October 3, 2023.

Placed on the Commission’s Work Session agenda for continued discussion.

November 3, 2023.

Placed on Commission’s Business Meeting agenda to schedule public hearing.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

SOLAR POWER PLANT	
Permitted Use	None
Accessory Use	None
Special Use	AOC

Definition:

A utility-scale commercial facility with a rated nameplate capacity greater than 100kW (DC), which uses solar energy specifically for the conversion of sunlight into electricity by photovoltaics (a technology that converts light directly into electricity).

Use Regulations:

The following regulations establish minimum requirements and standards for the placement, construction and modification of large photovoltaic solar power plants, while promoting the safe, effective and efficient use of such energy systems.

1. **Location.** If such plant is not part of a “behind-the-meter” *solar* program, then such plant shall be adjacent to and all facilities located within one mile of ~~the a pre-existing~~ electrical ~~substation~~ ~~sub-station of 138 kV or higher voltage~~ *located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (13-A-62A).* *For the purposes of this regulation, “behind-the-meter” solar includes onsite consumption of electricity generated by solar panels and the incidental resale of excess electricity through a net metering program.*

**PROJECTED UPCOMING AGENDA ITEMS, NOVEMBER 2023 – FEBRUARY 2024
(11/3/2023 Business Meeting)**

NOVEMBER

COMMITTEE MEETINGS

Comprehensive Plan Committee (to be scheduled):

- Rural Lands Plan (continued discussion)

DECEMBER

COMMITTEE MEETINGS

Comprehensive Plan Committee (to be scheduled):

- Rural Lands Plan (continued discussion)

NOVEMBER 28 WORK SESSION

- Transportation Plan Update (if accepted by VDOT)
- Overview of Items for January 2024 Organizational Meeting

DECEMBER 1 BUSINESS MEETING

Public Hearing (new and continued):

- SUP-22-01/SP-22-02, Horus Virginia I, LLC/Bellringer Farm, LLC
- TA-23-04, Solar Power Plant Use and Regulations

Schedule Public Hearing:

- SUP-23-01/SP-23-01, Blake & Tamara Bullard (TBD)

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

JANUARY 2024

COMMITTEE MEETINGS

Comprehensive Plan Committee (to be scheduled):

- Rural Lands Plan (continued discussion)

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
- Transportation Plan Update

JANUARY 5, 2024 BUSINESS MEETING

Public Hearing:

- SUP-23-01/SP-23-01, Blake & Tamara Bullard (TBD)

Schedule Public Hearing:

- Transportation Plan Update

FEBRUARY 2024

COMMITTEE MEETINGS

Comprehensive Plan Committee (to be scheduled):

- Rural Lands Plan (continued discussion)

JANUARY 30, 2024 WORK SESSION (anticipated date):

- No items currently identified

FEBRUARY 2, 2024 BUSINESS MEETING (anticipated date):

Public Hearing:

- Transportation Plan Update