

**King & Queen County
Planning Commission Minutes
December 2, 2019**

The King & Queen County Planning Commission met on Monday, December 2, 2019, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the General District Courtroom for their regular monthly meeting.

Planning Commission Members Present:

Sheila Morton
Milton Watkins
James Guess
James Burns
Robert Harvey

David Campbell
William Herrin
Barbara Hudgins
Robert Coleman, Jr.

Also in Attendance:

Donna E. Sprouse, Director of Community Development
Thomas J. Swartzwelder, County Attorney

Call to Order

Vice Chair, Milton Watkins called the meeting to order.

Roll Call/Determination of Quorum

Mr. Campbell took roll call and determined that a quorum was present.

**Approval of Minutes
November 6, 2019**

After review of the minutes, a motion was made by Mrs. Morton to accept the minutes as prepared, seconded by Mr. Herrin.

Voting For: Watkins, Morton, Guess, Campbell, Herrin, Hudgins, Coleman
Voting Against: None
Abstain: Harvey & Burns

Citizens Comment Period

Mr. Watkins opened the floor for citizens comment period. Hearing no comments, citizens comment period was closed.

New Business

A. RZ19-01 – Rezoning – 1623-165X-783, Walter C. Via Enterprises, Inc. (public hearing)

Mr. Watkins opened the public hearing for RZ19-01, a rezoning request for tax map 1623-165X-783, in the name of Walter C. Via Enterprise, Inc. This is a request to rezone a 4.526 acre parcel from Agricultural/Residential Single-Family to General Business 2. The parcel is located adjacent to 6574 Lewis B Puller Memorial Highway, in the Buena Vista Magisterial District, in the Economic Development Corridor.

Mr. Watkins asked Mrs. Sprouse to present her report.

Mrs. Sprouse read the following: Public notice was provided to all adjacent property owners via certified return receipt mail. The public notice ran in the Tidewater Review and Rappahannock Times for 2 consecutive weeks beginning November 13, 2019. The public notice was also posted in the Country Courier in their November 13, 2019, publication.

Mrs. Sprouse noted that the Planning and Zoning Department received an application on October 18, 2019, from Walter & Judy Via of Walter C. Via Enterprises, Inc., requesting approval of a rezoning application. The applicant requests to rezone a 4.526 acre parcel from Agricultural/Residential Single-Family to General Business 2 (GB2).

The subject property is located adjacent to the Via Shopping Center, located at 6574 Lewis B. Puller Memorial Highway, in the Buena Vista Magisterial District, and in the Economic Development Corridor. Other surrounding land uses include agricultural land, residential single-family homes and General Business zoning/use.

Mrs. Sprouse stated that the attached plat (with the parcel highlighted in yellow) is that of a vacant parcel in regards to structures but does have 2 existing parking lot areas and chain link fencing. The parcel is currently being used as a parking lot and pasture/field area. Mr. & Mrs. Via request to rezone the parcel to bring their non-compliant off-site parking lot into compliance while also providing an opportunity for a future business use.

Further, Mrs. Sprouse said that the owners consolidated multiple parcels and made several pre-existing non-conforming parcels as two conforming parcels. The property is located within the Economic Development Corridor. The owners understand that before a business and/or structure is occupied, a site plan is required which includes approval from appropriate local and state agencies. This request is only for the rezoning of the 4.526 acre parcel and is not an approval of any use or site plan at this time. The owner is also aware that once this parcel is zoned to General Business 2 (GB2), livestock is not permitted on the subject parcel. Approval of the rezoning request will also bring the property owners illegal parking lot areas into compliance with the requirements of the King & Queen County Zoning Ordinance regarding off-site parking.

It is staff's recommendation that the rezoning request is considered for approval.

Mrs. Sprouse noted that Mr. & Mrs. Via were present to answer any questions that the Commission members may have.

Mr. Watkins opened the floor for public comment regarding the rezoning request, known as RZ19-01. He asked that citizens state their name, address, and the voting district in which they reside and that they limit their time to 3 minutes so everyone has a chance to speak.

Hearing no comments, Mr. Watkins closed public comment period.

Mr. Watkins asked if the applicant wished to speak. Mr. Via stated no, that staff's report has summed it up.

Mr. Watkins closed the public hearing.

Mr. Watkins asked if the Commission has any comments or questions for the staff or applicant.

Mr. Burns stated that he is familiar with the site as he used to work for Mr. Via years ago. He added that this is exactly what we are looking for on Rt. 33 in the economic development corridor. Mr. Burns made a motion to approve RZ19-01, for tax map 1623-165X-783 as presented, seconded by Mr. Coleman.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Burns, Hudgins, Herrin, Colman

Voting Against: None

Abstain: None

B. ZA19-05 – Zoning Text Amendment – Article 21, Section 3-496, Fees (*public hearing*)

Mr. Watkins opened the public hearing for ZA19-05, a zoning text amendment request to amend Article 21, section 3-496, Fees. He noted this is a request to amend Article 21, Section 3-496, Fees, to include an after the fact erosion and sediment control fee, an erosion and sediment control re-inspection fee and to establish a monthly land disturbance permit fee for large scale projects.

Mr. Watkins asked Mrs. Sprouse to provide her report.

Mrs. Sprouse read the following: Public notice ran in the Tidewater Review and Rappahannock Times for 2 consecutive weeks beginning November 13, 2019. The public notice was also posted in the Country Courier in their November 13, 2019, publication.

Mrs. Sprouse noted that this is an amendment request submitted by staff regarding Erosion and Sediment Control fees. She noted that this is an amendment request to add an Erosion and Sediment Control Fee for after the fact land disturbance where fees will be doubled, an Erosion and Sediment Control Fee for a re-inspection land disturbance fee, and establish a monthly land disturbance permit fee for large scale projects. She noted that this fee will allow for the locality to obtain help with more feet on the ground for inspections, citations of violations, reporting, etc. when it comes to large scale projects. Mrs. Sprouse noted that she has provided the currently monthly salary with benefits package of the current E&S officer and obtained a quote from a third party consultant for such services. She noted that is how she arrived with the figures as presented. Mrs. Sprouse said that the new fee schedule will require the developer to pay the expense related to E&S law rather than it coming from the general budget, tax payers.

Mr. Watkins opened the floor for public comment regarding the zoning text amendment request known as ZA19-05. He asked that citizens state their name, address, and the voting district in which they reside and that they limit their time to 3 minutes so everyone has a chance to speak.

Mr. Chip Dicks, attorney for Walnut Solar I, LLC/ Open Road Renewables stated that he felt that the amendment was fair and that he supports the ordinance.

Hearing no further comments, public comment was closed.

Mr. Watkins closed the public hearing.

Mr. Watkins asked the Commission if they had any questions or comments for staff.

Mrs. Hudgins asked if a project was 1,000 acres and the developer only cleared 100 acres at a time, would they be assessed the fee for 100 acres or 1,000 acres. Mrs. Sprouse noted that it depends on what they include in their application. For example, if the developer has a 1,000 acre project but only applies for 100 acres of disturbance, the 100 acre fee will be assessed. If the developer applies for 1,000 acres of disturbance, then the 1,000 acre fee will be assessed.

Mrs. Hudgins asked if there could ever be a time where the acreage is accumulative. Mrs. Sprouse replied that yes, it could be and such fees would then be assessed according to the amount of total permitted disturbance.

Hearing no further comments, a motion was made by Mrs. Morton to approve zoning text amendment ZA19-05, seconded by Mr. Harvey.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Burns, Hudgins, Herrin, Colman

Voting Against: None

Abstain: None

C. ZA19-06 – Zoning Text Amendment – Article 4, Table 4.1, Permitted Use Table (*public hearing*)

Mr. Watkins opened the public hearing for ZA19-06, a zoning text amendment request to amend Article 4, Table 4.1 Permitted Use Table by removing Energy Generation Facility (by Natural Resources) in the Agricultural zoning district by approved Conditional Use Permit and setting additional restrictions on such proposals.

Mr. Watkins asked Mrs. Sprouse to provide her report.

Mrs. Sprouse read the following: Public notice ran in the Tidewater Review and Rappahannock Times for 2 consecutive weeks beginning November 13, 2019. The public notice was also posted in the Country Courier in their November 13, 2019, publication.

Mrs. Sprouse noted that this was an amendment request that was sent down from the Board of Supervisors asking the Commission to draft a new Energy Generation Facility (by Natural Resources) ordinance. She stated that in light of the Walnut Solar I, LLC proposal, we all have learned a lot about solar farms and need to address it in more detail in our ordinance. While working on a new ordinance, staff suggested removing Energy Generation Facilities (by Natural Resources) from the Permitted Use Table as a use permitted by CUP in the Agricultural zoning district. Leaving such a use by approved CUP in the Industrial zoning district. She added that this does not apply to single-family residences as allowed by state code. Mrs. Sprouse also noted that this does not apply to the Walnut Solar I, LLC application as they had submitted their request under the current ordinance. It would however apply to any other application that comes in after its adoption.

Mr. Watkins opened the floor for public comment regarding the zoning text amendment request known as ZA19-06. He asked that citizens state their name, address, and the voting district in which they reside and that they limit their time to 3 minutes so everyone has a chance to speak.

Arlene Taliaferro of 627 Taylorsville Road stated that she supports the amendment King & Queen has always been to her considered a park; with the diversity, ecosystem, plants and animals and to have a solar energy industry there is out of place. She added that she chose this county to raise her family here and she would like to see rural areas to stay as they are.

James Lesofsky of 1293 Buena Vista Road stated that he supports the amendment because as a retired farmer who has respect for the land, a project of this magnitude takes away from his aesthetics and neighborhood and is converting agricultural land into something that he cannot call a solar farm. A farm, in Webster's dictionary, is food and fiber production. Wildlife habitat will be lost for such use.

Hearing no further comments, public comment was closed.

Mr. Watkins closed the public hearing.

Mr. Watkins asked the Commission if they had any questions or comments for staff.

Mr. Burns stated that he was one of the main ones concerned about this in agricultural areas and giving us the opportunity to review future permits, though he is aware that they cannot do anything about the current proposal today. This allows us to do the homework that we need to do so that if any future endeavors decide to move into our county, that we have the opportunity and on that I'd like to make a motion.

Mr. Burns made a motion to recommend approval of text amendment ZA19-06, Article 4, Table 4.1, seconded by Mrs. Morton.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Burns, Hudgins, Herrin, Colman

Voting Against: None

Abstain: None

D. 15.2-2232(H) - Legal status of plan – Walnut Solar I, LLC (*public hearing*)

Mr. Watkins opened the public hearing for 15.2-2232(H) – Legal status of plan – Walnut Solar I, LLC.

Mrs. Sprouse read the following: Solar facilities shall be reviewed for substantial accord with the comprehensive plan in accordance with VA State Code 15.2-2232(H). A locality may allow for a substantial accord review for such solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.

Mrs. Sprouse read the following: Public notice was provided to all adjacent property owners via certified return receipt mail. The public notice ran in the Tidewater Review and Rappahannock Times for 2 consecutive weeks on November 13, 2019, and November 20, 2019. The public notice was also posted in the Country Courier in their November 13, 2019, publication.

Mrs. Sprouse stated that the role of the Commission tonight is to determine if the proposed project is substantially in accord with the King & Queen County Comprehensive Plan.

Mr. Watkins asked the applicant to present their report.

Mr. Chip Dicks, counsel for Walnut Solar I, LLC, read that *“A locality may allow for a substantial accord review for such solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.”* Mr. Dicks stated that he would like to suggest taking public hearing agenda item “D” (15.2-2232(H), Legal status of plan) & “E” (CUP18-01 and SP19-04, Open Road Renewables – Walnut Solar I, LLC) and combining them to avoid having people speak both for and against the project during both hearings. He added that it would help stream-line the process and he would make a complete presentation on both items D and E together and in doing so would avoid having people testify multiple times on the same project.

Mrs. Sprouse stated that she had no objections to Mr. Dicks request in making his full presentation on both items D & E for the Substantial Accord Review, however believes that its best that the Commission hears them separately as laid out in the agenda. She reminded the Commission that they have in their packet 3 separate reports, (Substantial in Accord Review, Preliminary Site Plan Review with a waiver request, and a Conditional Use permit with two different sets of conditions) all of which have various comments regarding each request. Mrs. Sprouse added that having it heard separate will also allow for the public to have a chance to speak to all parts of the project. She asked that they keep the items separate.

Mr. Dicks provided his presentation on the whole project. (copy of the power point presented can be found in the Planning Commission packet for December 2, 2019, and in the Walnut Solar I, LLC project file)

Mrs. Morton asked how many counties from Fairfax, out west, south of the state, anywhere in the state of Virginia that has solar farms this large. Mr. Dicks said that there is a PJM queue and there are a number of projects in the queue. He said that they would have to get that number for Mrs. Morton. Mr. Dicks said that he is working on 10 solar projects at the moment from Charlotte County, Halifax, Mecklenburg, and a number of counties that have adopted an ordinance so that you don't have to have 19 pages of conditions for each project. There are a substantial number of solar projects that have been approved that are in the process of being permitted and constructed.

Mr. Herrin asked why the developer chose King and Queen as opposed to Essex, King William or Middlesex. Mr. Buckley said that it's not random or arbitrary, it's the transmission line itself that determines where the sites will be decided. Projects of this size would go on the high voltage lines, which there are two in King & Queen, one of which is a 230 KV north of where this project is now and 115 KV where our project is located. Then they have to determine if there is capacity for the project on the line. They look at land use, environmental and is the land suitable in the area for solar. He noted that you have to go through 2 to 3 years of studies to determine if the transmission line allows for this project. Mr. Buckley said that this project will soak up the entire capacity of the line that runs near their project, meaning that this project will be the only project that can interconnect with that line in King & Queen County.

Mr. Herrin asked if this project will use up all of King & Queen's line capability with this farm. Mr. Buckley responded that the available capacity that new power plants, or new energy can utilize on the grid, has no bearing on the new residences coming in to the grid. That is a separate conversation piece. This has to do with how much can that line hold of new energy coming into the grid.

Mr. Herrin stated that energy can flow both ways. Mr. Buckley said he was correct. Mr. Herrin said so if we are feeding it out, we cannot take it in. Mr. Herrin clarified, if you put the system in and we are feeding the power to the grid somewhere else, the electrical capacity that we can receive in our county over that power line will be reduced going out. Mr. Buckley said that the line is multi-county and serves more than just King & Queen. Mr. Herrin stated that he recognizes what Mr. Buckley has just said and that is why he asked why this project couldn't go in Essex or King William because he knows that the line goes into King William. Mr. Buckley noted that his project has reserved through a lengthy and expensive review process the rights to inject a certain number of MW into grid in King & Queen County where his project is located. Mr. Herrin asked where he got that from, who gave that to him. Mr. Buckley explained that they have applied through PJM, the regional transmission operator, a number of different utilities are under PJM.

Mrs. Hudgins asked what the amount that they have reserved through PJM was. Mr. Buckley said that they have multiple applications in, and they are up to 149.9MW but to be clear, they are only seeking 110 MW because that is all they can fit for the land area they have in the project.

Mr. Watkins asked if this was the only planned solar farm for King & Queen County. Mr. Buckley responded, it was that he was aware of.

Mr. Watkins asked Mrs. Sprouse to present her report.

Mrs. Sprouse read the following into the record: According to the application, supporting documents and site plan submitted September 4, 2018, revised and resubmitted on December 21, 2018, April 26, 2019, July 10, 2019, and again revised and resubmitted on November 1, 2019, by the applicant/developer Open Road Renewables. Open Road Renewables is requesting approval of a Conditional Use Permit (CUP18-

01) and Level 3 Preliminary Site Plan (SP18-04) for a 110 MW utility scale solar energy facility. The subject properties are located south of Lewis B. Puller Memorial Highway, north of Taylorsville Road, east of Pear Tree Avenue, and east of York River Road, consisting of approximately 1,698 acres, in the Buena Vista Magisterial District, County Tax Map Numbers 1623-134R-650, 1623-134R-650D, 1623-134R-199, 1623-65L-222, 1623-134R-653, 1623-134R-637A, 1623-134R-637C, 1623-134R-653A, 1623-134R-637B, 1623-134R-637, 1623-134R-638, 1623-134R-639, 1623-134R-649, 1623-134R-649A1, 1623-134R-183C, 1623-134R-454, 1623-134L-454B, 1623-134R-649A, and 1623-134R-637D.

Mrs. Sprouse read the following staff review report: *“This project is a large project. In fact, staff believes it is the largest project in the history of the County. A project that consumes 1,698 acres of land, with 1,024 acres in structures/fenced, is quite excessive and dense.*

Staff originally had 3 noted concerns which were, (a) development within the Economic Development Corridor, (b) traffic issues, and (c) density regarding the size, scope and scale of the project. The applicant has worked with staff to address truck traffic entrances on US 33, Lewis B Puller Memorial Highway and has removed panels from the Economic Development Corridor and Hub.

The King & Queen County Planning Commission and staff worked diligently over the course of many years in drafting its latest Comprehensive Plan. The planning stage of the Comprehensive Plan took more than 2 years (2011-2012). Drafting the document, public meetings, entering survey results, obtaining direction from the Board of Supervisors, all of which took place over the last 7 years. The current plan does not reference utility scale solar farms or energy generating facilities. Never did the Commission nor staff consider utility scale solar farms to consist of this land area nor would it be greater than a 20MW facility as all of our neighbors have today. Utility scale solar farms that have been approved and constructed near us have all been 20 MW or less and consist of 157 acres to 250 acres of developed land area or “area inside the fence”. This project as proposed will be a 110 MW facility consisting of 1,024 acres of developed land area or “area inside of the fence”.

When I reference excessive or speak of density, I refer to the scope of the project and the occupancy of landmass under one land use for an extended period of time. Though the full 1,698 acres will not be placed under panels, the full acreage identified as the “project” will have a land use associated, if approved, a Conditional Use Permit. The acreage outside of the fenced area is either restricted due to wetlands, setbacks, or vegetated buffers to help offset view shed issues. The landmass which this project consumes is approximately 8.07% of land from US 33, Lewis B Puller Memorial Highway to the southern tip of the county (consisting of approximately 21,040 acres). Tab B2, page 3 of the applicant’s binder notes that there will be “2 to 3 inverters per MW”. At 110 MW, this project can expect to have as few as 220 to as many as 330 invertors at approximately 400 sq. ft. each in size.

The traffic during construction will be excessive. The applicant states that this proposal at 110 MW will have approximately 380,000 solar panels alone (per the DEQ Notice of Intent). If 625 panels can fit in a box truck/tractor trailer (24-26 panels per box, 25 boxes on a truck) which means for solar panel deliveries alone, there could be 608 truck trips to the site. In addition, other items that will be delivered to the site includes piles, racking, electrical wiring, inverters, fencing materials, gravel, grass seed, straw, construction equipment, work vehicles, contractor vehicles, engineers, inspectors, etc., as well as required trucks to remove stumps and debris from the site during construction. In a prior submission provided by the applicant, (April 2019 submission) Tab 8, page 6-1 of the applicant’s binder notes that there will be approximately 2,000 truck trips. They also noted that there could be on average 125-175 workers on site per day and up to 300-350 workers onsite during limited periods of construction. Though such information has since been removed from the applicants’ current submission, staff believes mathematically, there will be more than 2,000 truck trips during the construction of this project, in addition to the traffic by which the workers will create on a daily basis. The applicant has now noted that such data will be provided later as part of their “Traffic Control Management Plan”. Though traffic will have limited access to the proposed entrances on Lewis B. Puller Memorial Highway, due to safety

issues regarding the applicant's proposed access at specific intersections, traffic numbers can be expected to increase by 13% on US 33 and increase by 47% on Buena Vista Road (numbers derived from latest adopted 2016 VDOT Annual Average Daily Traffic data) only using the 2,000 truck trips figure.

Staff has identified specific section(s) of the current Comprehensive Plan as it may relate to the proposed project. Other notable sections previously mentioned remain for consideration by the Commission for the applicants request for their Substantially in Accord request."

The Commission took a 5 minute recess and reconvened the meeting.

Mrs. Sprouse noted that Mr. Buckley with Open Road Renewables brought to her attention that the number of invertors in her report was incorrect. She wanted to clarify that for the record, it would be one invertor for every 2 to 3 MW, not 2 to 3 invertors for 1 MW.

Mr. Watkins opened the floor for public comment regarding 15.2-2232(H) - Legal status of plan – Walnut Solar I, LLC. He asked that citizens state their name, address, and the voting district in which they reside and asked that they limit their time to 3 minutes so everyone has a chance to speak.

The following participated in public comment:

Les Anderson from Chesterfield – Supports the project
Martha Hart of 1059 Pear Tree Ave. – Supports the project
Arlene Taliaferro of 627 Taylorsville Road – Objects to the project
James Lesofsky of 1293 Buena Vista Road – Objects to the project
Truman Wise of 6553 Lake View Drive (Gloucester) – Questioned the effect of access for his property
Robert Norman of 26107 The Trail – Supports the project
Elizabeth Smedley of Fauquier County – Supports the project
Danny Smedley of Fauquier County – Supports the project
Steve Anderson of James City County – Supports the project
Clyde C. Davis, Jr. of New Kent – Supports the project
Ray Davis of New Kent – Supports the project
Eric Johnson of Middlesex County – Supports the project
Matt Lusk of Yorktown – Supports the project
Donna Lusk of Yorktown – Supports the project
Robert Bland of 2079 Buena Vista Road – Supports the project
Robin Anderson of Williamsburg – Supports the project
Michael Shackelford of Taylorsville Road – Questioned how it will effect water and erosion
Charles Maloney of 942 Buena Vista Road – Wasn't sure how he felt about the project

Hearing no further comments, public comment was closed.

Mr. Watkins asked if Mr. Dicks would like to speak before the Commission considered the request.

Mr. Dicks thanked everyone for coming out and providing their input. The item before the Commission now is the Comprehensive Plan Substantial in Accord. The Comprehensive Plan is a big picture plan. It is not designed to address things like construction traffic lasting a limited period of time. That is what you address in the Conditional Use Permit conditions. The Substantial in Accord determination is the legal determination that you will make about what the Comprehensive Plan says. Not what it might have said, not what it didn't contemplate, not what it doesn't say, but only what the Comprehensive Plan says. That is your duty and responsibility by state code. You need to focus, in my mind, on the fact that there has been a legislative determination by the Board of Supervisors that solar is a permitted use in Agricultural zoned property. This is not the conditional use permit before you. That is the next item. All of the things that are specific things such as the view shed that the last gentleman referenced are all

addressed in the 19 pages of conditions. Staff does not oppose the substantial in accord request, which they could have done. I submit to you that we have proven to you tonight that this project is consistent with the wording, the spirit, and the intent of your Comprehensive Plan.

Mr. Watkins closed the public hearing.

Mr. Watkins asked if the Commission members had any questions or comments for the applicant or staff.

Mr. Burns stated that density is his biggest concern. Is this in accord with our plan? Yes, it's broken down into 10 little lots so that is 10 solar farms in 2 square miles. Is that considered compliant with the plan? When we considered the Comprehensive Plan, is this what we considered to be what we want. Do we want 10 solar farms side-by-side? Is that what we want? Is this manageable, I think so with the right conditions in the CUP. It's one project broken into 10 solar areas, how do we control that?

Mr. Harvey stated that when the Commission drafted the Comprehensive Plan, we didn't envision where we are now. At least he did not think it would be anything like this. It is not so much that the Commission are for or against solar. Mr. Harvey said that he has heard the people but when they were reviewing things and going through it, he did not see this. He said that one can interpret it any way they want to, but in his opinion, the way he interprets it, they would not have a project as this at this time. Yes, the Board of Supervisors passed the plan, but he doesn't see the loop hole. He noted that he participated in the new comp plan process and he did not foresee this project. He added, to be told that you may have made a mistake or that you didn't intend this but this is what you said, I don't think most of us really said that.

Mr. Coleman stated that his first concern about a project like this is that it could assume real-estate along the 33 corridor that could prevent the county from having future economic development opportunities. He was glad to see that the project was removed from the Economic Development Corridor to give the Commission the ability to grow that corridor as the Comprehensive Plan suggests in order to provide tax revenue for the County. He appreciates that they went back and modified the original plan.

Mr. Burns stated that for industrial environments it is supposed to create jobs. It is to promote the economy, the things that are already here. This has zero benefit for other endeavors that are already here in the County. If anything this will delay opportunities for 40 years in this section of the County. He added that he does not see where it has anything to do with giving anyone full-time jobs, which is in our Comprehensive Plan when the Commission considers economic development. This project may provide for temporary jobs for a year or so. Outside of that timeframe, it is zero job opportunities for the next 40 years. He added that he has talked with Dominion Energy and was told that they will have someone from the Chesterfield area to come and maintain the grass and do the cutting for them. Therefore, no one in King & Queen County will be employed after the build out of this project. He asked, what does the future of King & Queen County look like? That is the job of this Commission. He asked, how do we want to control the growth of the County? He noted that the Comprehensive Plan was designed for the Commission to use as a guide for future development and that is what this is. He asked, where does the Commission want it to go and is this what they all want it to look like?

Mr. Watkins asked if the Commission would like to make a motion.

A motion was made by Mr. Herrin noting the following:

"I move that the 110-megawatt photovoltaic solar energy facility known as Walnut Solar I, LLC, as submitted by Open Road Renewables, as shown in the site plan dated October 31, 2019, as prepared by Timmons Group is not substantially in accord with the King & Queen County Comprehensive Plan or parts thereof for the following reason: It is not supportive of the Comprehensive Plan as it doesn't, it is not supportive of keeping King & Queen in forestry and rural."

Having no second, the motion made by Mr. Herrin died.

A motion was made by Mrs. Hudgins noting the following:

“I move that the 110-megawatt photovoltaic solar energy facility known as Walnut Solar I, LLC, as submitted by Open Road Renewables, as shown in the site plan dated October 31, 2019, as prepared by Timmons Group is not substantially in accord with the King & Queen County Comprehensive Plan or parts thereof for the following reason: It does not fit our goals for the future development of King & Queen County to protect and preserve the county’s rich agricultural historical heritage. It does not meet our density standards on 1,024 acres, which is the equivalent of 44 million square feet. It talks about land holding capacity is the measurement of how much development density a given property can hold as normally expressed in terms of land use density such as residential dwelling unit count or building intensity which is the square footage of retail or industrial space, which this is an industrial space. The Comprehensive plan has multiple references to maintaining traditional rural economic sections or sectors such as agricultural, forestry, recreation and tourism. The Plan specifically says that the 420 acre landfill is not compatible with the expectations to maintain this. The almost 1,700 acre solar farm, or solar power plant I should say, that will have 1,000 sq feet in it, excuse me 1,000 acres in it does not fit the spirit of the Plan. Also, the section on future land development and future land use starts off with statements that says...As King & Queen County strives to preserve the rural aspect of its community growth within rural areas is discouraged and established economic development districts, corridors and hubs are the focus of the growth of the County. Outside of these established districts commercial development is discouraged in order to preserve the rural residential agricultural character of the County outside of the areas detailed below and it lists the two corridors on 33 and 360. Based on that, the project is not compatible with what is specifically laid out in the future land use. To summarize this proposal is not in substantial accord with King & Queen’s Comprehensive Plan.”

Mrs. Hudgins motion was seconded by Mr. Herrin.

Voting For: Herrin, Campbell, Burns, Guess, Morton, Hudgins, Watkins, Harvey

Voting Against: Coleman

Abstain: None

The Commission took a 10 minute recess.

Mr. Dicks stated that the hour is late and that people have testified on the first matter and perhaps if the Commission does not object, grant a deferral for item E on the agenda until their meeting in January or we are ready to proceed tonight.

Mr. Herrin said that he would like to keep going with the meeting.

E. CUP18-01 and SP18-04 – Open Road Renewables - Walnut Solar I, LLC (public hearing)

Mr. Watkins opened the public hearing for CUP18-01 and SP18-04, Open Road Renewables, Walnut Solar I, LLC.

Mrs. Sprouse read into the record the following information: Requesting approval of a Conditional Use Permit (CUP18-01) and Level 3 Preliminary Site Plan (SP18-04) for a 110 MW utility scale solar energy facility. The subject properties are located south of Lewis B Puller Memorial Highway, north of

Taylorsville Road, east of Pear Tree Avenue, and east of York River Road, consisting of approximately of 1,698 acres, in the Buena Vista Magisterial District, County Tax Map Numbers 1623-134R-650, 1623-134R-650D, 1623-134R-199, 1623-65L-222, 1623-134R-653, 1623-134R-637A, 1623-134R-637C, 1623-134R-653A, 1623-134R-637B, 1623-134R-637, 1623-134R-638, 1623-134R-639, 1623-134R-649, 1623-134R-649A1, 1623-134R-183C, 1623-134R-454, 1623-134L-454B, 1623-134R-649A, 1623-134R-637D.

Mrs. Sprouse read the following: Public notice was provided to all adjacent property owners via certified return receipt mail. The public notice ran in the Tidewater Review and Rappahannock Times for 2 consecutive weeks on November 13, 2019, and November 20, 2019. The public notice was also posted in the Country Courier in their November 13, 2019, publication.

Mrs. Sprouse noted that Article 14, Section 3-316A explains how all preliminary site plans shall be prepared and what requirements shall be met for projects. She stated that the applicant wishes that the Commission and subsequently the Board of Supervisors agree to waive the following components/requirements of a preliminary site plan as part of their preliminary site plan approval for Walnut Solar I, LLC...

1. Article 14, 3-316A2(h) location of easements
2. Article 14, 3-316A2(o) a stormwater management plan
3. Article 14, 3-316A2(o) an erosion and sediment control plan
4. Article 14, 3-316A2(n) a Chesapeake Bay Preservation plan.

Mrs. Sprouse read the following code section: Article 14, Section 3-311B states “Any requirement of this Article may be waived when the waiver is not adverse to the purpose of this Article and when the applicant establishes that, in a specific case, an undue hardship would result from the strict enforcement of this Article. Such waiver shall be authorized by the official commission or board responsible for approving site plans as established in the following section only after a written request by the applicant.”

Mr. Watkins asked the applicant to present their request for waiver of the requirements of Article 14, Section 3-316A2, Preliminary Site Plan Requirements.

Mr. Dicks stated that before he commented on the waiver request, he would like to have Mr. Todd Flowers with Dominion Energy to make a comment regarding the project.

Mr. Flowers, manager of business development with Dominion Energy power generation team stated that he spoke in June and then voiced his support of the project. He stated that he wanted to make the Commission aware that Dominion Energy continues to be interested in being the long term owner and operator of the facility. He stated that Dominion currently has over 3,600 MW of solar generating capacity either in operation or under development across 9 different states. In Virginia, Dominion has 41 solar facilities of various size. They just announced a 150 MW for a Powhatan project in Prince George County. In Virginia, Dominion has 1,780 MW in operation or under development. Why King & Queen County? When making investments in power generation facilities, Dominion prepares a very detailed review, including impacts on the environment in the community. Ideal areas for solar are those near the transmission system, where the land is flat and where there are minimal environmental impacts. The Walnut Solar site is very ideal and the energy will flow to the grid to serve the local electrical load, diversifying the grid and making it more resilient. Mr. Flowers added that last September Governor Northam expanded the Commonwealth’s renewable energy targets by issuing executive order 43 which among other things calls for the Commonwealth to procure at least 30% of the electricity under his statewide contract to be with renewable resources provided by Dominion Energy. In October, Dominion Energy and the Commonwealth announced 5 additional renewable energy projects totaling 420 MW in

aggregate to support the Commonwealth's goal. If approved, the Walnut Solar project will be one of those 5 projects. Dominion Energy is in the business long term and in the Commonwealth for over a century. Our company was founded just after the Revolutionary War. Dominion is committed to choices that benefit everyone, especially our community and customers.

Mr. Dicks asked if you look at the section related to the waiver request as noted in staff's report, and take a look at this particular project, they cannot do those items of the site plan requirements until they have state review. Until they have the state review and land use approval, they cannot go and engage vendors, they don't know the make and model of the panels, the invertors, the racking or anything else. How can they establish those items in their site plan, if the solar project is approved, they will complete those things during their final site plan. He also noted that it's not fair for landowners to secure easements and tie up their land when they don't know exactly what the project is going to look like until they go through the state reviews. Also, why tie up people's property when we don't know if the Conditional Use Permit is going to be approved. Therefore, it would be an undue hardship for them to complete those items in the preliminary site plan. He is not looking to get out of the requirements, but to wait to complete them during the final site plan process.

Mrs. Sprouse stated that should the Commission decide to grant the waiver, staff does not have any objection in doing so. She noted that this is the first time that the Commission has been asked for such a waiver. Mrs. Sprouse stated that should the waiver be granted, those items will still be a requirement of the final site plan and prior to any approvals for construction. She also stated that should there be substantial changes between the preliminary site plan and the final site plan, they would have to go through the public hearing process again for such amendments/changes.

Mr. Watkins opened the floor for public comment regarding the applicants request for waiver, approval of SP18-04 and CUP18-01. He asked that citizens state their name, address, and the voting district in which they reside and that they limit their time to 3 minutes so everyone has a chance to speak.

Hearing no comments, public comment was closed.

Mr. Watkins asked if the applicant wished to address the Commission once again before the Commission makes a decision on the waiver request.

Mr. Dicks did not and thanked the Commission for their consideration.

Mr. Watkins asked if the Commission had any questions or comments for staff or the applicant.

Mr. Watkins asked if there is a motion to approve or deny the waiver request.

A motion was made by Mr. Coleman to recommend approval of the waiver request as presented by the applicant per Section 3-311B, seconded by Mr. Harvey.

Voting For: Watkins, Morton, Campbell, Harvey, Burns, Hudgins, Herrin, Colman

Voting Against: Guess

Abstain: None

Mr. Dicks noted that this is now the last item on the agenda before them tonight, the Conditional Use Permit. He added that though the applicant and staff worked to agree on most of the conditions, there is an exception of a few items that have not yet been agreed upon. Mr. Dicks stated that he submits to the Commission a request for approval of the Conditional Use Permit, as they have addressed all items mentioned by the citizens and the Commission regarding view shed, setbacks, environmental issues, and decommissioning.

Mrs. Hudgins asked if it still stood that they will buy water to be trucked in for any water usage that may be needed throughout the project.

Mr. Buckley said that is most likely what will occur, the only time water will be needed is for dust control mainly during construction. Typically in this part of the world, we get pretty good rains and only if there is a drought would they need to bring in water to wash the panels.

Mrs. Hudgins asked if it is their intention to bring it in and not ask for any wells. Mr. Buckley said that would be their intention.

Mr. Dicks noted that there will be two water tanks on the property.

Mr. Coleman asked how they will fill the water tanks. Mr. Dicks noted that Mr. Buckley had a conversation with the Emergency Service Coordinator. Mr. Buckley said that the details will be flushed out further with the Emergency Services Coordinator at final site plan, so they have not yet sorted out full details. It could potentially be a well to fill those tanks.

Mr. Watkins asked if staff had any comments.

At this time staff and Mr. Dicks held a quick side bar discussion regarding the remaining conditions that they did not agree on and at the applicants request to continue to work with staff on those

Mr. Dicks suggested to the Commission, in hopes of working with staff to further reach consensus on the 4 remaining conditions to recess and reconvene next month if they agreed to such. He added that they may not reach consensus on those conditions but will certainly try. Should the Commission wish to continue, they are prepared to discuss those items where there is no consensus.

Mrs. Sprouse added that the findings that are listed at the top of their conditions page, cannot be found or read into the record as such because they have already determined that the project is not substantially in accord with the Comprehensive Plan. Mr. Dicks agreed. Mrs. Sprouse also noted that if they decide to continue the hearing, they will have to be clear in what set of conditions they are speaking to as the applicants' conditions and staff's conditions are different.

Mr. Watkins asked what was the Commissions thoughts regarding the request.

Mr. Herrin noted that it was up to staff.

Mr. Swartzwelder stated that the Commission has several options. They could choose to adopt one set of conditions, either staff's or the applicants, or they could table the request.

A motion was made by Mr. Herrin to table the request for January 6, 2020, seconded by Mr. Coleman.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Burns, Hudgins, Herrin, Colman

Voting Against: None

Abstain: None

Old Business

None.

Staff's Comments

None.

Commissioner's Comments

Mr. Coleman said that Mr. Watkins did a fine job chairing the meeting tonight and thanked him for taking the lead.

Mrs. Hudgins seconded Mr. Coleman's thoughts and wished everyone a Merry Christmas and Happy New Year.

Mr. Herrin stated that he concurs with Mr. Coleman's comment. He also thanked Mrs. Sprouse for the great work that she has done on this project. He also thanked the citizens for coming tonight and expressing their views.

Adjournment

There being no further business, a motion was made by Mr. Burns to recess and reconvene the public hearing on Monday, January 6, 2020 at 6:00 p.m., seconded by Mr. Guess. The vote was ratified by all present members stating "Aye".

Milton Watkins, Vice-Chairman