



**Prince Edward County Planning Commission
Meeting Minutes
March 19, 2024
7:00 pm**

Members Present: Brad Fuller Llew W. Gilliam, Jr.
Clifford Jack Leatherwood John “Jack” W. Peery, Jr.
John Prengaman Henry Womack

Absent: Whitfield M. Paige, Teresa Sandlin, Rhett Weiss

Staff Present: Robert Love, Planning/Zoning Director Doug Stanley, County Administrator

The Prince Edward County Planning Commission strongly encourages citizens to participate in public meetings through in-person participation, written comments, and/or remote participation by calling: **1-844-890-7777, Access Code: 390313** (*If busy, please call again.*) Additionally, citizens may view the Board meeting live in its entirety at the County’s YouTube Channel, the link to which is provided on the County’s website.

Public Hearing comments for Planning Commission meetings will be subject to the “Citizen Guide for Providing Input During Public Participation and Public Hearings For Prince Edward County Government Meetings” revised October 12, 2022.

Chairman Prengaman called the March 19, 2024 meeting to order at 7:00 p.m., established there was a quorum, and gave an invocation and led the Pledge of Allegiance.

Commissioner Paige entered the meeting at this time.

In Re: Approval of Minutes

Chairman Prengaman made a motion, seconded by Commissioner Peery, to approve the meeting minutes from February 20, 2024, as corrected; the motion carried:

Aye:	Brad Fuller	Nay:	Abstain: John Prengaman
	Clifford Jack Leatherwood		
	Llew W. Gilliam, Jr.		
	Whitfield M. Paige		
	John “Jack” W. Peery, Jr.		
	Henry Womack		
Absent:	Teresa Sandlin		
	Rhett Weiss		

In Re: Public Hearing – Special Use Permit – CEP Solar, LLC – Miller Lake Site

Chairman Prengaman announced this was the date and time scheduled to receive citizen input prior to considering a request by CEP Solar, LLC to make a determination if the project is substantially in accord with the Prince Edward County Comprehensive Plan, and for the proposal to construct and operate a 5MWac solar energy facility on land totaling 81.2+/- acres denoted as Tax Map Parcels 069-A-15 and 069-A-16, located on the south side of Piney Grove Road (Route 606), across from its intersection with Campbell Lane, which is zoned A-1, Agricultural Conservation. Notice of this hearing was advertised according to law in

the Wednesday, March 6, 2024 and Wednesday, March 13, 2024 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love stated that as required by VA Code § 15.2-2232, requires that the Planning Commission review, all proposed developments that include a "public utility facility" prior to the construction or authorization of such facility. A public hearing is required to determine whether the location, character, and extent of the proposed solar facility is in substantial accord with the Prince Edward County Comprehensive Plan, prior to any approval of the special use permit for the facility.

The application property consists of mostly timber land. It is bordered by existing agricultural land consisting of pasture and timber land, as well as single-family residential homes. The property is shown as Agricultural and Forestal on the Future Land Use map as described in the Prince Edward County Comprehensive Plan.

Mr. Love reviewed several relevant excerpts of Prince Edward County Comprehensive Plan.

Chapter VI, Special Policy Areas, on Pg. 75 notes "When future development requests require Commission review and Board of Supervisors approval, the economic and quality of life benefits of open space and agricultural and forest land uses should be considered as well as the adequacy of public facilities and services to the area."

Goals, Objectives, and Strategies, Land Use on Pg. 94-95 "Goal: Ensure optimal use of land resources within Prince Edward County, and promote and support an environmentally sound future land use pattern that provides for a variety of community needs, minimizes conflicts between existing, and proposed land uses, and can be supported by adequate public facilities."

Land Use Objective #1: Strategies on Pg. 95 "Utilize well planned site designs and effective buffer areas to mitigate the impacts of adjacent land uses of differing intensities."

Historic and Cultural Resources Strategies on Pg. 105. "Evaluate the impact of new development on local historic structures and areas. Support development proposals and site designs that respect and promote the character of adjacent or nearby historic properties."

There were no comments received regarding this application. He presented amended conditions to the Commissioners for their review.

Bobbie Rodriguez, Commonwealth Energy Partners, LLC, reviewed a presentation on the Miller Lake Solar Farm project, and stated the Solar Farm meets or exceeds the standards set forth in the County's ordinance. She said the company is based in Richmond and is a clean energy development company, focused in Virginia. She stated they have already successfully worked with Prince Edward County to permit a 25 MWac in the County which is currently going to the next level of state permitting. She said there are many factors in achieving the environmental and cultural due diligence on the site selection; not all sites meet the rigorous criteria. She said the Miller Lake site has 0.03% of County land acreage. This site has a maximum capacity of 5MWac; she said the 81-acre site is zoned A-1. She stated there are 61 buildable acres to allow for intentionally ample setbacks and for the existing cemetery which will be surrounded by a 100' buffer. Ms. Rodriguez indicated the two entrances off Piney Grove Road, and showed the setbacks, which must be a minimum of 75 feet, and are planned at 310 feet. She said Conditions call for mature vegetation and they will incorporate native grasses and a pollinator habitat. She stated that with respect to construction, operation, and decommissioning, the construction timeline consists of 9-12 months. After construction is complete, there should be no audible sound from the project and there will be no staff onsite daily after it is built. She said the County has a strong set of requirements and policy ordinance which includes removal of equipment and site restoration sureties.

Ms. Rodriguez said CEP Solar held community meeting at Salem Chapel in January which was well-attended. She explained the benefits of this project, to include:

- Incorporation of pollinators which will increase biodiversity
- revenue raised by the County can be used to fund capital improvement projects

- provides affordable and free electricity
- land banking, which prevents more intensive forms of development with relatively low impact and is on leased land, which allows the landowner to continue or do something different with their land.

Commissioner Womack said the photographs of the fall vegetation show kudzu is growing at that site, which can take five years of chemical application to kill; he said the vines can grow four feet overnight and is highly flammable at this time of year. He asked if firefighters will be able to get into the area to extinguish the fire, and what the damage to the solar panels could be to solar panels by a fire. Ms. Rodriguez said it will be cut back, treated, and will be open to firefighters. Discussion followed.

Commissioner Fuller questioned the current land use. Ms. Rodriguez stated it is unmanaged timber.

Commissioner Gilliam questioned the placement of retention ponds. Ms. Rodriguez stated that is still being worked out; this is the preliminary site plan so that will be in the next iteration of the site plan.

Commissioner Gilliam then said there could be more panels where there are blue dots on the plan map; Ms. Rodriguez said there are areas with no panels because they are staying below 5MWac.

Commissioner Womack then asked the distance of the clearance to the lake. Ms. Rodriguez stated she was unsure and deferred to the landowners. She said she can get the information to Mr. Love.

The landowners stated that where the kudzu is located, the perimeter can be sprayed to keep it from getting in. He said the substation cannot handle more [wattage] and they cannot install any more panels. He said they can get the information about the distance between the clearing and the lake to Mr. Love.

Chairman Prengaman opened the public hearing.

There being no one wishing to speak, Chairman Prengaman closed the public hearing.

Discussion followed regarding the addition of a condition for cemetery access.

Commissioner Womack expressed his concerns regarding runoff and the proximity to the lake. Mr. Love said no water or sediment would be able to leave this site per DEQ regulations. He said there isn't a storm water design yet, but this site will have to be graded so it would go into a storm sediment pond or drain on the site. He said DEQ will not allow any runoff into a tributary or a lake.

Commissioner Womack questioned the length of the project. Ms. Rodriguez stated it is a 40-year lease. She said the technology for the solar panels is tested at the federal and state levels.

Don Giecek said they are sealed; there is no leakage. He said these will be inspected to ensure that they do not break down. He said the lease length is accurate but there is no agreement with the County yet for any details; a length of time would be specified in the agreement as to the life and duration of that facility. He said the utility, in this case Southside Electric, would also be committing to a time frame, possibly also 40 years, for the duration of the life of the project. There would be inspections to make sure that leakage does not occur. Mr. Giecek said that typically there will be someone looking at the site every month, but the sites are also monitored remotely. He said they can tell if the amount of energy that is being produced is hitting "low spots" which would signal that there is something that needs inspected further.

Mr. Love said there is a biannual inspection by DEQ; he said the County looks at storm ponds after a major storm event or any time they feel the need. He said this will be highly regulated.

Commissioner Gilliam suggested that the two small sets of panels be moved away from the lake [side] and placed [on the other side] to give a bit more room. Some discussion followed.

Commissioner Fuller made a motion, seconded by Commissioner Paige, that the Planning Commission recommend approval to the Board of Supervisors that the CEP Solar, LLC proposed 5MWac solar energy facility as described in the Special Use Permit application, is substantially in accord with the Prince Edward County Comprehensive Plan and recommend approval of the Special Use Permit request with conditions as proposed, and to include cemetery access; the motion carried:

Aye: Brad Fuller
Clifford Jack Leatherwood
Llew W. Gilliam, Jr.
Whitfield M. Paige
John “Jack” W. Peery, Jr.
Henry Womack
Absent: Teresa Sandlin
Rhett Weiss

Nay:

Abstain: John Prengaman

CEP Solar, LLC
PRINCE EDWARD COUNTY, VIRGINIA
Special Use Permit Conditions

SECTION I. GENERAL PROVISIONS

1. This Special Use Permit applies to the following properties for which a special use permit application was submitted:

Tax Map Parcel Identification Number: 069-A-15 and 069-A-16

The Special Use Permit application was submitted on 02/02/2024 by CEP Solar, LLC on behalf of the owners of the said properties, and compliance with these conditions is the express duty of, and these conditions shall bind, the Applicant and any assignee of the Applicant who operates the Solar Facility.

2. The Site shall be developed, constructed, operated, and decommissioned in compliance with all of the following:
 - a. All applicable federal, state, and local laws, statutes, ordinances, and regulations.
 - b. All written agreements entered into between the Applicant and the County, expressly including, but not limited to, a Solar Facility Siting Agreement.
 - c. The Site Plan approved by Prince Edward County.
 - d. The Decommissioning Plan approved by Prince Edward County.
 - e. The Emergency Response Plan approved by Prince Edward County.
 - f. The Construction Traffic Management Plan approved by Prince Edward County.
 - g. The Erosion and Sediment Control Plan approved by Prince Edward County.
 - h. The Stormwater Management Plan approved by Prince Edward County and/or DEQ.

Violation by the Applicant or by any one or more of Applicant’s agents, employees or contractors of any terms, conditions, or provisions of any of the foregoing shall constitute a violation of this Special Use Permit if Applicant has failed to begin and diligently pursue (or has failed to cause its agents, employees or contractors, as applicable, to begin and diligently pursue) correction of the violation within thirty (30) days after written notice by the County to Applicant.

3. The following terms shall have the following meanings if or when used in these Conditions:

- a. **"Abandoned"** means the discontinuation of power generation by the Solar Facility for a period of at least 180 consecutive days, except in the event of a force majeure event requiring reconstruction.
- b. **"Applicant"** means CEP Solar, LLC.
- c. **"Approved Site Plan"** means the detailed drawing showing all equipment, excavation, landscaping, and other changes or improvements to be made to the real property or properties for the development of the Project following approval of the Special Use Permit Application by the Prince Edward County Planning Commission, and the Prince Edward County Board of Supervisors and administrative review and approval by Prince Edward County staff.
- d. **"Board"** means the Board of Supervisors of Prince Edward County, Virginia.
- e. **"Commercial Operation"** means the period beginning on the date that the sale of electricity generated from the Solar Facilities to a third party through the Grid commences pursuant to a Power Purchase Agreement and terminating contemporaneously with the commencement of Decommissioning.
- f. **"County"** means Prince Edward County, Virginia.
- g. **"County Administrator"** means the county administrator of Prince Edward County, Virginia.
- h. **"Decommission" or "Decommissioning" or "Decommissioning Activities"** means the work on the Solar Facility to remove improvements on the real property and to otherwise comply with the Decommissioning Plan.
- i. **"Decommissioning Commencement Date"** means the earliest date on which Decommissioning is required to begin under the terms set forth in these Special Use Permit Conditions.
- j. **"Decommissioning Plan"** means the plan for Decommissioning Activities submitted by CEP Solar, LLC and approved by the County.
- k. **"Grid"** means the interconnected network for delivering electricity from producers to consumers (consisting of generating stations, electrical substations, high voltage transmission lines, and distribution lines that connect individual customers) to which the Project is connected and provides power.
- l. **"Investor Owned Utility Company"** means an electric utility as defined in Section 56-576 of the Code of Virginia.
- m. **"Operator"** means any party which undertakes the management, maintenance, and operation of the Solar Facility, including, but not limited to, as assignee of the Applicant.
- n. **"Power Purchase Agreement"** means the written agreement pursuant to which electricity generated from the Solar Facilities is sold to a third party.
- o. **"Project"** means the Solar Facility on the parcel, including the following: (i) the development, design, procurement, construction, installation, commissioning, testing, interconnection, and start-up of the Solar Facility on the Site; (ii) the operation, repair, replacement, and maintenance of the Solar Facility on the Site; and (iii) the decommissioning and removal of the Solar Facility from the Site.
- p. **"Related Entity" or "Related Entities"** means any two or more entities described in I.R.C. § 267(b).
- q. **"Site" or "Solar Facility Site"** means all properties to be leased or purchased by the Applicant or any Related Entity for development in connection with the Project, identified as follows: Prince Edward County Tax Map Identification Number 069-A-15 and 069-A-16.
- r. **"Site Plan"** means the detailed drawing showing all equipment, landscaping, roads, retention facilities, fencing, buffers, and other changes or improvements to be made to the real property or properties for the development of the Project.
- s. **"Solar Facility" or "Solar Facilities"** means the Site together with all equipment, apparatus, or other items of personal property used for the construction, operation, or decommissioning of the Project.
- t. **"Surety Review Date"** means the date by which the Applicant will update the cost estimate in the Decommissioning Plan every seven (7) years and reimburse the

County for the actual and reasonable, out-of-pocket costs of each such independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.

4. The Site shall be developed in general conformance with the information and exhibits submitted with the Special Use Permit application (the “SUP” Application), except as modified by associated conditions, the Approved Site Plan, and as required by the land development ordinances of Prince Edward County.
5. This Special Use Permit (SUP) is issued to the owners of the properties for which the special use permit application was submitted (the Properties) and shall run with the land unless and until this SUP is revoked, expires, or is voided.
6. An Approved Site Plan shall be required for this use.
7. Prior to the issuance of construction permits, the Applicant shall record in the Circuit Court Clerk’s Office of Prince Edward County, Virginia a plat of survey delineating the property boundary and total acreage.
8. The Applicant shall submit an Emergency Response Plan (the “ER Plan”) with the submission of the Site Plan. The ER Plan shall include fire suppression methods that can be deployed during both the construction and operation of the project. The ER Plan shall also include a program of education and training to be provided for County emergency response staff covering onsite emergency response.
9. Unless approved in writing by the County, no signage shall be permitted on the Site; except that signage containing notices, warnings, or other information, if required by law or by applicable codes and standards, or deemed by the County to be in the interest of the safety and welfare of the community, shall be required.
10. CEP Solar, LLC will reimburse, or cause to be reimbursed, to the County all reasonable, out-of-pocket costs and fees incurred for professional services engaged for purposes of assisting the County during the application process and during construction, including, but not limited to, legal fees and consulting fees; however legal fees shall not be assessed to CEP Solar, LLC after construction is completed. The purpose of the reimbursement payments is to defray the costs and expenses incurred by the County in connection with (i) the zoning and permitting processes related to the approval of the Solar Facility, (ii) the permitting process with federal and state agencies, as applicable, and (iii) the construction of the Solar Facility. Should the special use permit application submitted by CEP Solar, LLC for the Project not be approved by the County, no reimbursement under this paragraph will be owed by CEP Solar, LLC to the County.

SECTION II. BUFFERS, HEIGHTS, AND SETBACKS

11. Buffers throughout the Site shall include the following:
 - a. All setbacks shall be no less than those shown on the site plan approved by Prince Edward County.
 - b. The Site Plan will identify a maximum extent of Project area, outside of which solar panels or other equipment will not be located. The solar panels or other equipment of

the Solar Facility will not be located within the standard setbacks established by Section 7-110 (D) of the County Ordinance.

- c. The Site Plan will include a vegetative buffering plan (the “Vegetative Buffer Plan”) that will limit the visibility of the Solar Facility from the public rights-of-way adjacent to the Site. For purposes of this Condition, “Solar Facility” does not include the perimeter security fencing, gravel access road, or interconnection equipment. Also, the “Solar Facility” is not an objectionable feature, within the meaning of County Ordinance Section 7-110 (F). All vegetative buffering areas, as shown on the Vegetative Buffer Plan, shall enable insolation of the Solar Facility and may be both natural and planted, shall be a part of the approved Project, and should be protected from harvest so long as the Site is operated as a solar facility.
 - d. Vegetative buffering areas shall be installed (pursuant to the screening suggestions attached as Exhibit A) and, as necessary, managed to ensure health and preservation of the vegetation. Any vegetative buffering that is dead during the operating period shall be removed and replaced in conformance with the approved site plan, within a six (6) month time period during a typical growing period. The type and height of replacement vegetation shall be similar to that of which was originally planted during construction. In the event that the vegetative buffering is severely damaged due to an unusual weather occurrence or natural catastrophe, the Project shall have one year or one growing season, whichever is sooner, to replace or replant.
 - e. A 15’ screening buffer shall be observed with any bordering standing timber harvested after construction of the solar facility.
 - f. Electrical lines leaving the solar facility shall be underground until the point of reaching the first pole outside of the facility as to not impact the screening plan unless: (a) otherwise approved by the County in the final site plan; (b) otherwise approved by the County in connection with building permit approvals, including electrical permits; (c) underground lines conflict with other applicable permitting standards, including environmental permits; or (d) underground lines are not reasonably practical given site constraints.
 - g. Any historical resources of significance as determined by the Virginia Department of Historic Resources Map shall be assessed in consultation with VDHR, and if VDHR requires preservation measures, these will be reflected on the Site Plan.
 - h. The maximum height of ground mounted systems, equipment, and structures, as measured from the grade or base of the improvements to the highest point, shall not exceed eighteen (18) feet in height. Excluded from this height requirement are overhead electric distribution and transmission lines and poles, project substation, and utility switchyard.
12. Ingress and egress to the Cemetery located on the property shall be allowed to family members and descendants of deceased persons buried there, any Cemetery plot owner, and any person engaging in genealogy research, who has given reasonable notice to the owner of record or to the occupant of the property or both, in accordance with Virginia Code Section 57-27.1(A)
13. The Project owner or operator will, in coordination with the Prince Edward County Fire Department, provide education and training on how to respond in the event of a fire or other emergency on the premises. “Knox Boxes” will be added at access gate locations, so that Fire Department resources can gain access inside the security fence.

SECTION III. CONSTRUCTION, TRAFFIC, and ROAD REPAIRS

14. Subject to compliance with applicable site safety requirements and upon reasonable prior notice, the County Administrator, building official, zoning administrator, or environmental codes and compliance officer, or any party or parties designated by any one or more of those county officials, including other federal, state, or local government officials, shall be allowed to enter the Site at any time during construction. Once the facility has commenced Commercial Operation, subject to compliance with applicable Site safety requirements, County officials may enter the Site upon at least one week's advance notice to the Solar Facility liaison.
15. All construction entrances for the Site shall be in general conformance with the information and exhibits submitted with this Special Use Permit application and must be authorized and approved by the Virginia Department of Transportation (VDOT).
16. All construction activity shall be conducted during daylight hours Monday-Saturday. Activities allowed on Sundays include only the following: onsite planning, walking and riding the Site by passenger vehicle (not heavy construction trucks or equipment), office work, and other activities that do not produce large quantities of traffic on the surrounding roads or loud construction noises within the Site. The Applicant shall comply with the Prince Edward County Noise Ordinance Chapter 46, Article II during operation but shall not be required to do so during construction.
17. All heavy construction traffic, including, but not limited to, dump trucks, tractors and trailers, supplier vehicles, and trucks hauling equipment shall enter the site at the designated private driveway along State Route 606 (Piney Grove Road).
18. The Applicant shall submit a Construction Traffic Management Plan ("CTMP") as part of the Site Plan. The CTMP shall address traffic control measures, an evaluation of the condition of the public roads along the Delivery Routes prior to construction, and a description and an estimate of any anticipated repairs to public roads that may arise due to damages attributable to construction of the Solar Facilities, which CTMP must be reviewed by a third-party selected by the County and paid by, and at the sole cost of, the Applicant.
19. Dust containment measures shall be utilized at all times, as necessary, to contain dust from constituting a nuisance to nearby residents.
20. No burning of stumps and/or debris will be allowed onsite at the subject solar facility.
21. The Solar Facilities shall be enclosed within chain link security fencing not less than six (6) feet in height.
22. The Project will not utilize permanent lighting. If installed at a later date, lighting will be downward facing, motion activated security lighting located at the Project entrance gate or at the control panels near the equipment pad.
23. Prior to commencement of construction, the Applicant shall provide the County a bond equal to 100% of the cost of the anticipated repairs to be made to the public road along the Delivery Routes, as defined in paragraph 22 below, including the entire public right of way along the Delivery Route. The bond may be in the form of a letter of credit, a surety bond, or a cash bond given to the County, to be held by the County without interest, but the form of any surety bond must be approved by the County Administrator. The County will release, return, and

terminate the roadway surety upon completion of construction and Commercial Operation of the Project.

24. Delivery Routes to the site shall include State Route 606 (Piney Grove Road), from its intersection with US 460 (Prince Edward Highway) to the CEP Solar, LLC site entrance.
25. The Solar Facilities shall have commenced construction within three (3) years of approval. The Zoning Administrator may approve one or more extensions of up to one (1) year each upon written request from the Applicant detailing the need for an extension. If Applicant's extension request is based on the fact that it has not yet secured requisite state and federal approvals (and Applicant has diligently pursued such approvals), or that the interconnection utility has not completed their work needed to operate the facility, the Zoning Administrator shall approve the extension request.
26. Solar panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control so that as technology advances, updated technology may be used by the Applicant. Notwithstanding any of the foregoing, the use of any of the following materials at any time, whether in construction, maintenance, or operation of the facility.
27. Storage on the Site of power generated by the Facility or generated elsewhere is prohibited.
28. No panels, inverters, pyranometers, substations, or any other component of the Solar Facility, except fencing, shall be located in a floodplain.
29. Upon completion of the construction of the Solar Facilities, the Applicant shall submit a post-construction evaluation of the condition of the roads along the Delivery Routes to the County Administrator for approval. The post-construction evaluation shall include a plan for repairing any damage caused to the public roads along the Delivery Route directly attributable to the Applicant. The Applicant shall be responsible for causing such repairs to be completed to the satisfaction of the VDOT and shall be responsible for coordination of repairs with VDOT. All roadway repairs along the Delivery Routes shall be made at the sole expense of the Applicant.

SECTION IV. ENVIRONMENTAL

30. The Applicant shall submit a Stormwater Management Plan and an Erosion and Sediment Control Plan as part of the Site Plan. The Applicant shall reimburse, or cause to be reimbursed to, the County all reasonable, out-of-pocket costs incurred by the County related to retaining such third-party inspectors, plan reviewers, and advisors as reasonably necessary for project review and inspections. All such payments shall be remitted to the County within thirty (30) days of invoicing. The County shall retain the right to inspect the Site to verify the findings of the third-party inspectors upon reasonable, prior notice and subject to compliance with Site safety requirements. The phasing of land disturbance shall be detailed in the Erosion and Sediment Control plan and accompanying project narrative.
31. Stabilization of the Site shall be maintained at all times in compliance with Virginia Department of Environmental Quality (DEQ) standards, rules, requirements, and regulations. The Applicant and the Operator, or either one of them, shall notify the County within twenty-four (24) hours of receiving any DEQ notice of less than full compliance by the Project and shall, within forty-eight (48) hours of receipt, provide the County with a copy of the notice.

Thereafter, the Applicant and the Operator, or either one of them, shall provide to the County within forty-eight (48) hours of transmission or receipt copies of all correspondence with DEQ regarding Project noncompliance issue until such time as the matter is fully resolved to the satisfaction of DEQ.

32. Soil testing shall be conducted on the Site as follows:
 - a. Testing shall be conducted in no less than three (3) locations on the Site, at least one location being within proximity to panels of each different type or manufacturer. Samples will be collected from a depth of six inches below ground surface.
 - b. Testing shall be conducted prior to the issuance of a land disturbance permit and every five years thereafter. Testing also shall be conducted immediately prior to Decommissioning and immediately following the termination of Decommissioning.
 - c. Samples shall be analyzed for Priority Pollutant 13 Metals (arsenic, antimony, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc) in accordance with EPA methods SW 6020, SW 6020A, SW1312, and 200.8.
 - d. Testing shall be performed by a service provider retained by the Operator but approved by the County.
 - e. A test report for each testing event, including an executive summary, shall be provided to the Prince Edward County zoning administrator within ten (10) days of the completion of such report.
 - f. No costs shall be incurred by Prince Edward County for soil testing or reports of soil testing provided to Prince Edward County.

SECTION V. DECOMMISSIONING

33. Decommissioning shall be conducted in accordance with the Decommissioning Plan approved by Prince Edward County.
34. The Applicant or the Operator shall provide a Notice of Decommission to the County Administrator of Prince Edward County within thirty days of a determination to cease Operation of the Solar Facility.
35. Prior to the commencement of construction, the Applicant shall submit to the County and receive County approval of a Decommissioning Plan. The Applicant shall comply with all terms and conditions of the Decommissioning Plan as approved by the County. The Decommissioning Plan at a minimum shall include provisions regarding the following:
 - a. Specifications for the removal of all solar equipment, buildings, cabling, electrical components, foundations, pilings, and fencing.
 - b. A requirement that all Site real property must be restored to the condition of the property as of the date Construction commences (reasonable wear and tear excepted).
 - c. A requirement that the property must be stabilized so as to adequately control, prevent, and minimize any and all erosion or sediment runoff, consistent with the approved Erosion and Sediment Control Plan.

36. Decommissioning shall begin immediately after the Facility has, for a period of six (6) consecutive months, ceased operating as a solar energy facility distributing energy to the electrical grid and shall be diligently pursued, as determined by the County in its sole discretion, and completed within eighteen (18) months from the Decommissioning Commencement Date. Prior to its expiration, the County may extend this Decommissioning period by six (6) months if the County finds that the Operator commenced Decommissioning the Solar Facility diligently and continuously worked to Decommission the Facility throughout the Decommissioning period, and is reasonably expected to complete the Decommissioning within the additional six month period.
37. Periods during which the Facility is not operational for maintenance, repair, or due to a catastrophic event beyond the control of CEP Solar, LLC during which time CEP Solar, LLC works diligently to return the Facility to full Commercial Operation, shall not constitute the cessation of operations requiring the initiation of Decommissioning requirements herein. CEP Solar, LLC must provide written notice and evidence of the Solar Facility status and repair efforts to the County Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Facility was fully operational. Regardless of the efforts of CEP Solar, LLC to return the Solar Facility to full Commercial Operation, if the Solar Facility does not operate as a solar energy facility distributing energy to the electrical grid after the catastrophic event for a period of eighteen (18) months, the Project shall be deemed Abandoned and CEP Solar, LLC shall commence Decommissioning no later than the 548th day after the catastrophic event.
38. Any change of party responsible for Decommissioning of the facility, or change in any part of the contact information, shall be reported to the County Administrator within sixty (60) days of the change(s).
39. If Decommissioning Activities are not completed within the allotted time, or if the Project is Abandoned, the County may complete or have completed at its expense the Decommissioning Activities required under the terms of the Decommissioning Plan and may recover all costs of completing those Decommissioning Activities from the surety provided as set forth herein.
40. To secure the costs of Decommissioning, CEP Solar, LLC or its successor shall at all times, beginning at commencement of construction and until the termination of Decommissioning, provide financial surety in a form and in an amount approved by the County. If the Solar Facility is transferred to a public utility or an Investor or Member Owned Utility Company (e.g.,: Dominion Energy, Old Dominion Electric Cooperative or its successor entity), the surety required of the Applicant may be cancelled at the time of the transfer and no further surety will be required.
41. The amount of the surety required shall be 100% of the estimated Decommissioning costs estimated at each Surety Review Date, less the scrap or repurposing value of the Solar Facility. The estimated costs and surety to meet the above requirements shall be reviewed by the County Administrator on each Surety Review Date, at which time the County Administrator shall determine if the estimates adequately reflect the Decommissioning costs and any scrap or repurposing value and that the surety will guarantee performance. Should the County Administrator determine that estimated costs and surety are insufficient, the County Administrator and CEP Solar, LLC shall mutually agree to determine the correct surety amount; and CEP Solar, LLC shall then provide the agreed, adequate surety within one hundred eighty (180) days following the Surety Review Date or, if later, within thirty (30) days after the County Administrator and CEP Solar, LLC agree on the adequate surety amount.
42. Surety must be provided in the form of a cash bond deposited with the County; by an irrevocable letter of credit provided for the County's benefit; or by a surety bond listing the

County as the obligee, an hypothecated account, an escrow account, or a guaranty issued by a credit-worthy entity, or as otherwise provided in Section 15.2-2241.2 of the Code of Virginia.

- a. A cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for Decommissioning. The deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the County Administrator, confirming that the cash deposit is to be held by the County to guarantee the performance of the Decommissioning work required herein, and should the Solar Facility be Abandoned or should the Decommissioning work not be diligently undertaken or performed according to the requirements herein, or should the Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, the County may expend the deposited funds to undertake the Decommissioning work required herein, without more, after providing written notice to the person identified as owner of the property in the land records of Prince Edward County as of the date of the notice. Within six (6) months of the completion of the Decommissioning work required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the cash bond and accrued interest, less any amounts expended by the County as allowed herein, shall be released and paid to CEP Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.

- b. An irrevocable letter of credit shall mean an instrument provided by a lending institution guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution that the Solar Facility has been Abandoned or the Decommissioning Activities have not been diligently undertaken or performed according to the requirements herein and demand to the institution for the funds, without more. The letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn before the Decommissioning Activities required herein are completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified thirty (30) days prior to any cancellation or alteration of the letter of credit. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Use Permit be revoked, lapse, expire or be voided due to violation thereof by CEP Solar, LLC, the County may, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit. The County may expend the guaranteed funds, without more, to undertake the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan after providing written notice to CEP Solar, LLC or, if the Project is Abandoned, to the person identified as the owner of the Property in the land records of Prince Edward County as of the date of the notice. Within six (6) months following the completion of the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the letter of credit shall be released by the County and any amounts drawn on the letter of credit, less any amounts expended by the County as allowed herein, shall be released and paid to CEP Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.

- c. A surety bond shall mean a bond issued by a company with an AM Best rating of A++, that is treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled before the Decommissioning Activities required herein and required by the terms of the Decommissioning Plan are completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified thirty (30) days prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become unavailable or decrease below the limits required herein, or should the Special Use Permit be revoked, lapse, expire or be voided due to violation thereof by CEP Solar, LLC, the County may, immediately file a claim, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the surety bond. The County may expend the guaranteed funds, without more, to undertake the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan, after providing written notice to CEP Solar, LLC, or, if the Project is Abandoned, to the person identified as the owner of the Property in the land records of Prince Edward County as of the date of the notice. Within six (6) months following the completion of the Decommissioning Activities required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the surety bond shall be released by the County, and the bond funds paid to the County less any amounts expended by the County as allowed herein, shall be released and paid to CEP Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.
43. Should this Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, the County may immediately draw down all of the surety funds and convert them into a cash bond for purposes of Decommissioning as set forth hereunder and as set forth in the Decommissioning Plan. In such case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided.
44. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, CEP Solar, LLC or its successor, shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.
45. Should the Facility be Abandoned, or should the Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, or should the Decommissioning Activities not be diligently undertaken or performed, and should the County draw down the funds for the purpose of performing the Decommissioning Activities and mobilize its contractors to perform the Decommissioning Activities or otherwise incur liability to its contractors for the performance of the Decommissioning Activities, CEP Solar, LLC, its successor or agent, shall have no right to perform the Decommissioning Activities unless specifically authorized by the County in a writing that confirms that the County has incurred no liability to any contractors to perform the Activities or that any such liability is transferrable as deemed acceptable to the County. The Applicant or the Operator shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, without more, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable by the County, all necessary real property rights, personal property rights,

either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the real property, so that the County or any person or entity authorized to act on behalf of the County may undertake any required Decommissioning Activities that have not otherwise been performed as required. This shall include, but may not be limited to, releasing any interest in the personal property, facilities, fixtures, and structures which are to be removed and recycled, disposed of, or otherwise demolished.

In Re: Public Hearing – Special Use Permit – CEP Solar, LLC – Piney Grove Site

Chairman Prengaman announced this was the date and time scheduled to receive citizen input prior to considering a review of a Special Use Application filed by CEP Solar, LLC and to make a determination if the project is substantially in accord with the Prince Edward County Comprehensive Plan and for the proposal to construct and operate a 5MWac solar energy facility on land totaling 81.2+/- acres denoted as Tax Map Parcels 069-A-15 and 069-A-16, located on the south side of Piney Grove Road (Route 606), across from its intersection with Campbell Lane, which is zoned A-1, Agricultural Conservation.. Notice of this hearing was advertised according to law in the Wednesday, March 6, 2024 and Wednesday, March 13, 2024 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love said the County has received an application request by CEP Solar, LLC for a Special Use Permit to construct and operate an 8MWac solar energy facility on land totaling 170.8+/- acres denoted as Tax Map Parcels 069-A-3, 069-A-9, and 069-A-10, located at the end of Taylor Drive, approximately 0.40 miles from its intersection with Miller Lake Road (Route 613). This parcel is in the A1, Agricultural Conservation zoning district and the use requires a Special Use Permit.

Purpose of the review under Virginia Code Section 15.2-2232:

As required by VA Code, § 15.2-2232 requires that the Planning Commission review all proposed developments that include a "public utility facility" prior to the construction or authorization of such facility. A public hearing is required to determine whether the location, character, and extent of the proposed solar facility is in substantial accord with the Prince Edward County Comprehensive Plan, prior to any approval of the special use permit for the facility.

Existing Conditions and Zoning:

The application property consists of mostly timber land. It is bordered by existing agricultural land consisting of pasture and timber land, as well as single-family residential homes. The property is shown as Agricultural and Forestal on the Future Land Use map as described in the Prince Edward County Comprehensive Plan.

Comprehensive Plan Citations:

Below are relevant excerpts of Prince Edward County Comprehensive Plan:

Chapter VI, Special Policy Areas, on Pg. 75 notes "When future development requests require Commission review and Board of Supervisors approval, the economic and quality of life benefits of open space and agricultural and forest land uses should be considered as well as the adequacy of public facilities and services to the area."

Goals, Objectives, and Strategies, Land Use on Pg. 94-95 "Goal: Ensure optimal use of land resources within Prince Edward County, and promote and support an environmentally sound future land use pattern that provides for a variety of community needs, minimizes conflicts between existing, and proposed land uses, and can be supported by adequate public facilities."

Land Use Objective #1: Strategies on Pg. 95, "Utilize well planned site designs and effective buffer areas to mitigate the impacts of adjacent land uses of differing intensities."

Historic and Cultural Resources Strategies on Pg. 105. "Evaluate the impact of new development on local historic structures and areas. Support development proposals and site designs that respect and promote the character of adjacent or nearby historic properties."

Mr. Love said no comments in opposition to this application have been received but several have been received in support of both projects. He stated CEP Solar made the same edits to these conditions, one of which was CEP requesting a three-year permitting window of extension, if needed. This project would provide no hardship for the County as an 8MWac utility scale solar project.

Ms. Rodriguez reviewed a presentation on the Piney Grove site; she showed the location of this site, adding that it is less than half a mile from the Miller Lake site. She said this is a maximum of 8MWac solar energy facility; the landowners are the Fowlkes and Taylor families. She then described the preliminary site plan, indicating the site boundary, and stated the total property is approximately 171 acres with 73 buildable acres, which is less than 45% of the site being utilized. Ms. Rodriguez indicated there is one property entrance, pointed out the existing buildings and stated that while the County ordinance requires a minimum of 75' to the closest residence, this plan provides 365' which is more than five times the required amount. She then reviewed several benefits including pollinators, increased biodiversity, revenues raised by the County for Capital Improvement Projects, and affordable and emission-free electricity. She added these projects are relatively low-impact and as they are on leased land, the landowner can continue the project or do something different with the land at the end of the lease.

Commissioner Fuller questioned the size of the farm and what will happen with the rest of the property, and will the landowner be bound to not do anything with the remainder of their property due to the lease. Ms. Rodriguez said there is little that could be done other than enjoy the stream on the property; the three parcels are all included in the lease agreement.

Mr. Giecek said some land could be released that would not have to fill some of the lease obligations. It depends how much is taken up by the buffer, the setbacks and the wildlife corridor.

Estelle Jones and Lawrence Taylor, owners of the property, stated the lease will not affect their homes and barns.

Commissioner Womack asked where the fencing will be placed. Ms. Rodriguez pointed out the area on the proposed map in the presentation.

Chairman Prengaman opened the public hearing.

Estelle Taylor Jones, Lockett District, stated she is in support of the project, as it will use land previously used for tobacco and she wants the land to be put to use. She said the proposed solar farm will be away from the houses, back in the woods, and should not affect anyone.

Edwin Fowlkes, Lockett District, spoke in support of the proposed project.

Ms. Taylor Sheppard spoke in support of the proposed project.

Chris Freeze requested clarification of the boundary line of the project. He said the proposed panels will be close to the line; he said his family uses their raw land for camping.

Ms. Rodriguez pointed out the boundary lines on the map; discussion followed regarding the setbacks.

There being no one further wishing to speak, Chairman Prengaman closed the public hearing.

Following a review of the proposed conditions, Chairman Prengaman said that a positive of both projects is that there doesn't seem to be in close proximity to a lot of population other than the current owners. He said it is not a highly-visible area.

Chairman Prengaman stated the conditions include a request by CEP for an additional time period to secure all permits.

Commissioner Peery made a motion, seconded by Commissioner Fuller, that the CEP Solar, LLC proposed 8MWac solar energy facility as described the Special Use Permit application, is substantially in accord with the Prince Edward County Comprehensive Plan and that the Planning Commission recommend approval of the Special Use Permit request with the following conditions:

Aye:	Brad Fuller	Nay:	Abstain: John Pregelman
	Clifford Jack Leatherwood		
	Llew W. Gilliam, Jr.		
	Whitfield M. Paige		
	John “Jack” W. Peery, Jr.		
	Henry Womack		
Absent:	Teresa Sandlin		
	Rhett Weiss		

CEP Solar, LLC
PRINCE EDWARD COUNTY, VIRGINIA
Special Use Permit Conditions

SECTION I. GENERAL PROVISIONS

1. This Special Use Permit applies to the following properties for which a special use permit application was submitted:

Tax Map Parcel Identification Number: 069-A-3, 069-A-9, and 069-A-10

The Special Use Permit application was submitted on 02/02/2024 by CEP Solar, LLC on behalf of the owners of the said properties, and compliance with these conditions is the express duty of, and these conditions shall bind, the Applicant and any assignee of the Applicant who operates the Solar Facility.

2. The Site shall be developed, constructed, operated, and decommissioned in compliance with all of the following:
 - a. All applicable federal, state, and local laws, statutes, ordinances, and regulations.
 - b. All written agreements entered into between the Applicant and the County, expressly including, but not limited to, a Solar Facility Siting Agreement.
 - c. The Site Plan approved by Prince Edward County.
 - d. The Decommissioning Plan approved by Prince Edward County.
 - e. The Emergency Response Plan approved by Prince Edward County.
 - f. The Construction Traffic Management Plan approved by Prince Edward County.
 - g. The Erosion and Sediment Control Plan approved by Prince Edward County.
 - h. The Stormwater Management Plan approved by Prince Edward County and/or DEQ.

Violation by the Applicant or by any one or more of Applicant’s agents, employees or contractors of any terms, conditions, or provisions of any of the foregoing shall constitute a violation of this Special Use Permit if Applicant has failed to begin and diligently pursue (or has failed to cause its agents, employees or contractors, as applicable, to begin and diligently pursue) correction of the violation within thirty (30) days after written notice by the County to Applicant.

3. The following terms shall have the following meanings if or when used in these Conditions:

- a. **"Abandoned"** means the discontinuation of power generation by the Solar Facility for a period of at least 180 consecutive days, except in the event of a force majeure event requiring reconstruction.
- b. **"Applicant"** means CEP Solar, LLC.
- c. **"Approved Site Plan"** means the detailed drawing showing all equipment, excavation, landscaping, and other changes or improvements to be made to the real property or properties for the development of the Project following approval of the Special Use Permit Application by the Prince Edward County Planning Commission, and the Prince Edward County Board of Supervisors and administrative review and approval by Prince Edward County staff.
- d. **"Board"** means the Board of Supervisors of Prince Edward County, Virginia.
- e. **"Commercial Operation"** means the period beginning on the date that the sale of electricity generated from the Solar Facilities to a third party through the Grid commences pursuant to a Power Purchase Agreement and terminating contemporaneously with the commencement of Decommissioning.
- f. **"County"** means Prince Edward County, Virginia.
- g. **"County Administrator"** means the county administrator of Prince Edward County, Virginia.
- h. **"Decommission" or "Decommissioning" or "Decommissioning Activities"** means the work on the Solar Facility to remove improvements on the real property and to otherwise comply with the Decommissioning Plan.
- i. **"Decommissioning Commencement Date"** means the earliest date on which Decommissioning is required to begin under the terms set forth in these Special Use Permit Conditions.
- j. **"Decommissioning Plan"** means the plan for Decommissioning Activities submitted by CEP Solar, LLC and approved by the County.
- k. **"Grid"** means the interconnected network for delivering electricity from producers to consumers (consisting of generating stations, electrical substations, high voltage transmission lines, and distribution lines that connect individual customers) to which the Project is connected and provides power.
- l. **"Investor Owned Utility Company"** means an electric utility as defined in Section 56-576 of the Code of Virginia.
- m. **"Operator"** means any party which undertakes the management, maintenance, and operation of the Solar Facility, including, but not limited to, as assignee of the Applicant.
- n. **"Power Purchase Agreement"** means the written agreement pursuant to which electricity generated from the Solar Facilities is sold to a third party.
- o. **"Project"** means the Solar Facility on the parcel, including the following: (i) the development, design, procurement, construction, installation, commissioning, testing, interconnection, and start-up of the Solar Facility on the Site; (ii) the operation, repair, replacement, and maintenance of the Solar Facility on the Site; and (iii) the decommissioning and removal of the Solar Facility from the Site.
- p. **"Related Entity" or "Related Entities"** means any two or more entities described in I.R.C. § 267(b).
- q. **"Site" or "Solar Facility Site"** means all properties to be leased or purchased by the Applicant or any Related Entity for development in connection with the Project, identified as follows: Prince Edward County Tax Map Identification Number 069-A-3, 069-A-9, and 069-A-10.
- r. **"Site Plan"** means the detailed drawing showing all equipment, landscaping, roads, retention facilities, fencing, buffers, and other changes or improvements to be made to the real property or properties for the development of the Project.
- s. **"Solar Facility" or "Solar Facilities"** means the Site together with all equipment, apparatus, or other items of personal property used for the construction, operation, or decommissioning of the Project.
- t. **"Surety Review Date"** means the date by which the Applicant will update the cost estimate in the Decommissioning Plan every seven (7) years and reimburse the

County for the actual and reasonable, out-of-pocket costs of each such independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.

4. The Site shall be developed in general conformance with the information and exhibits submitted with the Special Use Permit application (the “SUP” Application), except as modified by associated conditions, the Approved Site Plan, and as required by the land development ordinances of Prince Edward County.
5. This Special Use Permit (SUP) is issued to the owners of the properties for which the special use permit application was submitted (the Properties) and shall run with the land unless and until this SUP is revoked, expires, or is voided.
6. An Approved Site Plan shall be required for this use.
7. Prior to the issuance of construction permits, the Applicant shall record in the Circuit Court Clerk’s Office of Prince Edward County, Virginia a plat of survey delineating the property boundary and total acreage.
8. The Applicant shall submit an Emergency Response Plan (the “ER Plan”) with the submission of the Site Plan. The ER Plan shall include fire suppression methods that can be deployed during both the construction and operation of the project. The ER Plan shall also include a program of education and training to be provided for County emergency response staff covering onsite emergency response.
9. Unless approved in writing by the County, no signage shall be permitted on the Site; except that signage containing notices, warnings, or other information, if required by law or by applicable codes and standards, or deemed by the County to be in the interest of the safety and welfare of the community, shall be required.
10. CEP Solar, LLC will reimburse, or cause to be reimbursed, to the County all reasonable, out-of-pocket costs and fees incurred for professional services engaged for purposes of assisting the County during the application process and during construction, including, but not limited to, legal fees and consulting fees; however legal fees shall not be assessed to CEP Solar, LLC after construction is completed. The purpose of the reimbursement payments is to defray the costs and expenses incurred by the County in connection with (i) the zoning and permitting processes related to the approval of the Solar Facility, (ii) the permitting process with federal and state agencies, as applicable, and (iii) the construction of the Solar Facility. Should the special use permit application submitted by CEP Solar, LLC for the Project not be approved by the County, no reimbursement under this paragraph will be owed by CEP Solar, LLC to the County.
11. The Project owner or operator will, in coordination with the Prince Edward County Fire Department, provide education and training on how to respond in the event of a fire or other emergency on the premises. “Knox Boxes” will be added at access gate locations, so that Fire Department resources can gain access inside the security fence.

SECTION II. BUFFERS, HEIGHTS, AND SETBACKS

12. Buffers throughout the Site shall include the following:

- a. All setbacks shall be no less than those shown on the site plan approved by Prince Edward County.
- b. The Site Plan will identify a maximum extent of Project area, outside of which solar panels or other equipment will not be located. The solar panels or other equipment of the Solar Facility will not be located within the standard setbacks established by Section 7-110 (D) of the County Ordinance.
- c. The Site Plan will include a vegetative buffering plan (the “Vegetative Buffer Plan”) that will limit the visibility of the Solar Facility from the public rights-of-way adjacent to the Site. For purposes of this Condition, “Solar Facility” does not include the perimeter security fencing, gravel access road, or interconnection equipment. Also, the “Solar Facility” is not an objectionable feature, within the meaning of County Ordinance Section 7-110 (F). All vegetative buffering areas, as shown on the Vegetative Buffer Plan, shall enable insolation of the Solar Facility and may be both natural and planted, shall be a part of the approved Project, and should be protected from harvest so long as the Site is operated as a solar facility.
- d. Vegetative buffering areas shall be installed (pursuant to the screening suggestions attached as Exhibit A) and, as necessary, managed to ensure health and preservation of the vegetation. Any vegetative buffering that is dead during the operating period shall be removed and replaced in conformance with the approved site plan, within a six (6) month time period during a typical growing period. The type and height of replacement vegetation shall be similar to that of which was originally planted during construction. In the event that the vegetative buffering is severely damaged due to an unusual weather occurrence or natural catastrophe, the Project shall have one year or one growing season, whichever is sooner, to replace or replant.
- e. A 15’ screening buffer shall be observed with any bordering standing timber harvested after construction of the solar facility.
- f. Electrical lines leaving the solar facility shall be underground until the point of reaching the first pole outside of the facility as to not impact the screening plan unless: (a) otherwise approved by the County in the final site plan; (b) otherwise approved by the County in connection with building permit approvals, including electrical permits; (c) underground lines conflict with other applicable permitting standards, including environmental permits; or (d) underground lines are not reasonably practical given site constraints.
- g. Any historical resources of significance as determined by the Virginia Department of Historic Resources Map shall be assessed in consultation with VDHR, and if VDHR requires preservation measures, these will be reflected on the Site Plan.
- h. The maximum height of ground mounted systems, equipment, and structures, as measured from the grade or base of the improvements to the highest point, shall not exceed eighteen (18) feet in height. Excluded from this height requirement are overhead electric distribution and transmission lines and poles, project substation, and utility switchyard.

SECTION III. CONSTRUCTION, TRAFFIC, and ROAD REPAIRS

13. Subject to compliance with applicable site safety requirements and upon reasonable prior notice, the County Administrator, building official, zoning administrator, or environmental

- codes and compliance officer, or any party or parties designated by any one or more of those county officials, including other federal, state, or local government officials, shall be allowed to enter the Site at any time during construction. Once the facility has commenced Commercial Operation, subject to compliance with applicable Site safety requirements, County officials may enter the Site upon at least one week's advance notice to the Solar Facility liaison.
14. All construction entrances for the Site shall be in general conformance with the information and exhibits submitted with this Special Use Permit application and must be authorized and approved by the Virginia Department of Transportation (VDOT).
 15. All construction activity shall be conducted during daylight hours Monday-Saturday. Activities allowed on Sundays include only the following: onsite planning, walking and riding the Site by passenger vehicle (not heavy construction trucks or equipment), office work, and other activities that do not produce large quantities of traffic on the surrounding roads or loud construction noises within the Site. The Applicant shall comply with the Prince Edward County Noise Ordinance Chapter 46, Article II during operation but shall not be required to do so during construction.
 16. All heavy construction traffic, including, but not limited to, dump trucks, tractors and trailers, supplier vehicles, and trucks hauling equipment shall enter the site at the designated private driveway along Taylor Drive.
 17. The Applicant shall submit a Construction Traffic Management Plan ("CTMP") as part of the Site Plan. The CTMP shall address traffic control measures, an evaluation of the condition of the public roads along the Delivery Routes prior to construction, and a description and an estimate of any anticipated repairs to public roads that may arise due to damages attributable to construction of the Solar Facilities, which CTMP must be reviewed by a third-party selected by the County and paid by, and at the sole cost of, the Applicant.
 18. Dust containment measures shall be utilized at all times, as necessary, to contain dust from constituting a nuisance to nearby residents.
 19. No burning of stumps and/or debris will be allowed onsite at the subject solar facility.
 20. The Solar Facilities shall be enclosed within chain link security fencing not less than six (6) feet in height.
 21. The Project will not utilize permanent lighting. If installed at a later date, lighting will be downward facing, motion activated security lighting located at the Project entrance gate or at the control panels near the equipment pad.
 22. Prior to commencement of construction, the Applicant shall provide the County a bond equal to 100% of the cost of the anticipated repairs to be made to the public road along the Delivery Routes, as defined in paragraph 22 below, including the entire public right of way along the Delivery Route. The bond may be in the form of a letter of credit, a surety bond, or a cash bond given to the County, to be held by the County without interest, but the form of any surety bond must be approved by the County Administrator. The County will release, return, and terminate the roadway surety upon completion of construction and Commercial Operation of the Project.
 23. Delivery Routes to the site shall include State Route 606 (Piney Grove Road), from its intersection with US 460 (Prince Edward Highway), to State Route 613 (Miller Lake Road), to the private road (Taylor Drive), to the CEP Solar, LLC site entrance.

24. The Solar Facilities shall have commenced construction within three (3) years of approval. The Zoning Administrator may approve one or more extensions of up to one (1) year each upon written request from the Applicant detailing the need for an extension. If Applicant's extension request is based on the fact that it has not yet secured requisite state and federal approvals (and Applicant has diligently pursued such approvals), or that the interconnection utility has not completed their work needed to operate the facility, the Zoning Administrator shall approve the extension request.
25. Solar panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control so that as technology advances, updated technology may be used by the Applicant. Notwithstanding any of the foregoing, the use of any of the following materials at any time, whether in construction, maintenance, or operation of the facility.
26. Storage on the Site of power generated by the Facility or generated elsewhere is prohibited.
27. No panels, inverters, pyranometers, substations, or any other component of the Solar Facility, except fencing, shall be located in a floodplain.
28. Upon completion of the construction of the Solar Facilities, the Applicant shall submit a post-construction evaluation of the condition of the roads along the Delivery Routes to the County Administrator for approval. The post-construction evaluation shall include a plan for repairing any damage caused to the public roads along the Delivery Route directly attributable to the Applicant. The Applicant shall be responsible for causing such repairs to be completed to the satisfaction of the VDOT and shall be responsible for coordination of repairs with VDOT. All roadway repairs along the Delivery Routes shall be made at the sole expense of the Applicant.

SECTION IV. ENVIRONMENTAL

29. The Applicant shall submit a Stormwater Management Plan and an Erosion and Sediment Control Plan as part of the Site Plan. The Applicant shall reimburse, or cause to be reimbursed to, the County all reasonable, out-of-pocket costs incurred by the County related to retaining such third-party inspectors, plan reviewers, and advisors as reasonably necessary for project review and inspections. All such payments shall be remitted to the County within thirty (30) days of invoicing. The County shall retain the right to inspect the Site to verify the findings of the third-party inspectors upon reasonable, prior notice and subject to compliance with Site safety requirements. The phasing of land disturbance shall be detailed in the Erosion and Sediment Control plan and accompanying project narrative.
30. Stabilization of the Site shall be maintained at all times in compliance with Virginia Department of Environmental Quality (DEQ) standards, rules, requirements, and regulations. The Applicant and the Operator, or either one of them, shall notify the County within twenty-four (24) hours of receiving any DEQ notice of less than full compliance by the Project and shall, within forty-eight (48) hours of receipt, provide the County with a copy of the notice. Thereafter, the Applicant and the Operator, or either one of them, shall provide to the County within forty-eight (48) hours of transmission or receipt copies of all correspondence with DEQ regarding Project noncompliance issue until such time as the matter is fully resolved to the satisfaction of DEQ.
31. Soil testing shall be conducted on the Site as follows:

- a. Testing shall be conducted in no less than three (3) locations on the Site, at least one location being within proximity to panels of each different type or manufacturer. Samples will be collected from a depth of six inches below ground surface.
- b. Testing shall be conducted prior to the issuance of a land disturbance permit and every five years thereafter. Testing also shall be conducted immediately prior to Decommissioning and immediately following the termination of Decommissioning.
- c. Samples shall be analyzed for Priority Pollutant 13 Metals (arsenic, antimony, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc) in accordance with EPA methods SW 6020, SW 6020A, SW1312, and 200.8.
- d. Testing shall be performed by a service provider retained by the Operator but approved by the County.
- e. A test report for each testing event, including an executive summary, shall be provided to the Prince Edward County zoning administrator within ten (10) days of the completion of such report.
- f. No costs shall be incurred by Prince Edward County for soil testing or reports of soil testing provided to Prince Edward County.

SECTION V. DECOMMISSIONING

32. Decommissioning shall be conducted in accordance with the Decommissioning Plan approved by Prince Edward County.
33. The Applicant or the Operator shall provide a Notice of Decommission to the County Administrator of Prince Edward County within thirty days of a determination to cease Operation of the Solar Facility.
34. Prior to the commencement of construction, the Applicant shall submit to the County and receive County approval of a Decommissioning Plan. The Applicant shall comply with all terms and conditions of the Decommissioning Plan as approved by the County. The Decommissioning Plan at a minimum shall include provisions regarding the following:
 - a. Specifications for the removal of all solar equipment, buildings, cabling, electrical components, foundations, pilings, and fencing.
 - b. A requirement that all Site real property must be restored to the condition of the property as of the date Construction commences (reasonable wear and tear excepted).
 - c. A requirement that the property must be stabilized so as to adequately control, prevent, and minimize any and all erosion or sediment runoff, consistent with the approved Erosion and Sediment Control Plan.
35. Decommissioning shall begin immediately after the Facility has, for a period of six (6) consecutive months, ceased operating as a solar energy facility distributing energy to the electrical grid and shall be diligently pursued, as determined by the County in its sole discretion, and completed within eighteen (18) months from the Decommissioning Commencement Date. Prior to its expiration, the County may extend this Decommissioning period by six (6) months if the County finds that the Operator commenced Decommissioning the Solar Facility diligently and continuously worked to Decommission the Facility throughout

the Decommissioning period, and is reasonably expected to complete the Decommissioning within the additional six month period.

36. Periods during which the Facility is not operational for maintenance, repair, or due to a catastrophic event beyond the control of CEP Solar, LLC during which time CEP Solar, LLC works diligently to return the Facility to full Commercial Operation, shall not constitute the cessation of operations requiring the initiation of Decommissioning requirements herein. CEP Solar, LLC must provide written notice and evidence of the Solar Facility status and repair efforts to the County Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Facility was fully operational. Regardless of the efforts of CEP Solar, LLC to return the Solar Facility to full Commercial Operation, if the Solar Facility does not operate as a solar energy facility distributing energy to the electrical grid after the catastrophic event for a period of eighteen (18) months, the Project shall be deemed Abandoned and CEP Solar, LLC shall commence Decommissioning no later than the 548th day after the catastrophic event.
37. Any change of party responsible for Decommissioning of the facility, or change in any part of the contact information, shall be reported to the County Administrator within sixty (60) days of the change(s).
38. If Decommissioning Activities are not completed within the allotted time, or if the Project is Abandoned, the County may complete or have completed at its expense the Decommissioning Activities required under the terms of the Decommissioning Plan and may recover all costs of completing those Decommissioning Activities from the surety provided as set forth herein.
39. To secure the costs of Decommissioning, CEP Solar, LLC or its successor shall at all times, beginning at commencement of construction and until the termination of Decommissioning, provide financial surety in a form and in an amount approved by the County. If the Solar Facility is transferred to a public utility or an Investor or Member Owned Utility Company (e.g., Dominion Energy, Old Dominion Electric Cooperative or its successor entity), the surety required of the Applicant may be cancelled at the time of the transfer and no further surety will be required.
40. The amount of the surety required shall be 100% of the estimated Decommissioning costs estimated at each Surety Review Date, less the scrap or repurposing value of the Solar Facility. The estimated costs and surety to meet the above requirements shall be reviewed by the County Administrator on each Surety Review Date, at which time the County Administrator shall determine if the estimates adequately reflect the Decommissioning costs and any scrap or repurposing value and that the surety will guarantee performance. Should the County Administrator determine that estimated costs and surety are insufficient, the County Administrator and CEP Solar, LLC shall mutually agree to determine the correct surety amount; and CEP Solar, LLC shall then provide the agreed, adequate surety within one hundred eighty (180) days following the Surety Review Date or, if later, within thirty (30) days after the County Administrator and CEP Solar, LLC agree on the adequate surety amount.
41. Surety must be provided in the form of a cash bond deposited with the County; by an irrevocable letter of credit provided for the County's benefit; or by a surety bond listing the County as the obligee, an hypothecated account, an escrow account, or a guaranty issued by a credit-worthy entity, or as otherwise provided in Section 15.2-2241.2 of the Code of Virginia.
 - a. A cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for Decommissioning. The deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the County Administrator, confirming that the cash

deposit is to be held by the County to guarantee the performance of the Decommissioning work required herein, and should the Solar Facility be Abandoned or should the Decommissioning work not be diligently undertaken or performed according to the requirements herein, or should the Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, the County may expend the deposited funds to undertake the Decommissioning work required herein, without more, after providing written notice to the person identified as owner of the property in the land records of Prince Edward County as of the date of the notice. Within six (6) months of the completion of the Decommissioning work required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the cash bond and accrued interest, less any amounts expended by the County as allowed herein, shall be released and paid to CEP Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.

- b. An irrevocable letter of credit shall mean an instrument provided by a lending institution guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution that the Solar Facility has been Abandoned or the Decommissioning Activities have not been diligently undertaken or performed according to the requirements herein and demand to the institution for the funds, without more. The letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn before the Decommissioning Activities required herein are completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified thirty (30) days prior to any cancellation or alteration of the letter of credit. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Use Permit be revoked, lapse, expire or be voided due to violation thereof by CEP Solar, LLC, the County may, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit. The County may expend the guaranteed funds, without more, to undertake the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan after providing written notice to CEP Solar, LLC or, if the Project is Abandoned, to the person identified as the owner of the Property in the land records of Prince Edward County as of the date of the notice. Within six (6) months following the completion of the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the letter of credit shall be released by the County and any amounts drawn on the letter of credit, less any amounts expended by the County as allowed herein, shall be released and paid to CEP Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.
- c. A surety bond shall mean a bond issued by a company with an AM Best rating of A++, that is treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled before the Decommissioning Activities required herein and required by the terms of the Decommissioning Plan are completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified thirty (30) days prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become

unavailable or decrease below the limits required herein, or should the Special Use Permit be revoked, lapse, expire or be voided due to violation thereof by CEP Solar, LLC, the County may, immediately file a claim, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the surety bond. The County may expend the guaranteed funds, without more, to undertake the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan, after providing written notice to CEP Solar, LLC, or, if the Project is Abandoned, to the person identified as the owner of the Property in the land records of Prince Edward County as of the date of the notice. Within six (6) months following the completion of the Decommissioning Activities required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the surety bond shall be released by the County, and the bond funds paid to the County less any amounts expended by the County as allowed herein, shall be released and paid to CEP Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.

42. Should this Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, the County may immediately draw down all of the surety funds and convert them into a cash bond for purposes of Decommissioning as set forth hereunder and as set forth in the Decommissioning Plan. In such case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided.
43. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, CEP Solar, LLC or its successor, shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.
44. Should the Facility be Abandoned, or should the Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, or should the Decommissioning Activities not be diligently undertaken or performed, and should the County draw down the funds for the purpose of performing the Decommissioning Activities and mobilize its contractors to perform the Decommissioning Activities or otherwise incur liability to its contractors for the performance of the Decommissioning Activities, CEP Solar, LLC, its successor or agent, shall have no right to perform the Decommissioning Activities unless specifically authorized by the County in a writing that confirms that the County has incurred no liability to any contractors to perform the Activities or that any such liability is transferrable as deemed acceptable to the County. The Applicant or the Operator shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, without more, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable by the County, all necessary real property rights, personal property rights, either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the real property, so that the County or any person or entity authorized to act on behalf of the County may undertake any required Decommissioning Activities that have not otherwise been performed as required. This shall include, but may not be limited to, releasing any interest in the personal property, facilities, fixtures, and structures which are to be removed and recycled, disposed of, or otherwise demolished.

In Re: Public Hearing – Ordinance Amendment – Signage on Corner Lots

Chairman Prengaman announced this was the date and time scheduled to receive citizen input prior to considering an ordinance amendment to amend Appendix B – Zoning of the Prince Edward County Code in order to allow for additional signage on corner and double frontage lots. Notice of this hearing was advertised according to law in the Wednesday, March 6, 2024 and Wednesday, March 13, 2024 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love said the County received a request by Blackwood Capital, LLC to amend the Zoning Ordinance to allow for the installation of additional signage at a convenience store & fuel station on a parcel of land denoted as Tax Map Parcel 051-A-33, located on the west side of Farmville Road (State Route 15), at its intersection with Commerce Road (State Route 628). This parcel is in the Commercial zoning district and is within the Highway Corridor Overlay District.

Currently sign regulations limit signage to one sign per sign type in the various zoning districts. At the February meeting, staff presented a Draft Zoning Ordinance Amendment with new language that would allow and provide for additional signage on corner and double frontage lots.

Mr. Love said that two other sites have two building signs, these being at Dollar General stores; one is on a corner in Rice, and the other is in Prospect. He said corner lots typically do have two non-conforming drafted language; he said following some comments from Commissioner Weiss, Mr. Love made some corrections. He said this will affect all corner lots in all districts. He added that there have been no comments received regarding this public hearing.

Commissioner Prengaman opened the public hearing.

There being no one wishing to speak, Commissioner Prengaman closed the public hearing.

Commissioner Peery made a motion, seconded by Commissioner Gilliam, that the Planning Commission recommend approval of the Ordinance Amendment to amend Appendix B of the Prince Edward County Code (Zoning) in order to allow for additional signage on corner and double frontage lots:

Aye:	Brad Fuller Clifford Jack Leatherwood Llew W. Gilliam, Jr. Whitfield M. Paige John “Jack” W. Peery, Jr. Henry Womack	Nay:	Abstain: John Prengaman
Absent:	Teresa Sandlin Rhett Weiss		

Mr. Love stated the public hearings will be before the Board of Supervisors at their May meeting.

In Re: Review of Supervisors Actions

Mr. Love stated the Board of Supervisors approved the water tank project with the IDA.

Old Business

Mr. Love said that the previous Friday, New Leaf filed an appeal to the Planning Commission’s substantial accord determination; he said this will be before the Board of Supervisors at their April 9, 2024 meeting, regarding the 2232 Review and Special Use Permit application. He said they held an additional meeting with the landowners; that site is in A-2, Agriculture Residential.

Mr. Love then stated the Commissioners will get the iPads prior to the next meeting; he said there will also be a training session for those that need one.

New Business

Mr. Love stated there is already one Special Use Permit application filed regarding a short-term rental that will be held at the April meeting. He said the other solar project has not yet been filed.

Mr. Love said the Planning Commission will meet for its regular meeting and the Comprehensive Plan workshop at Moton Museum in April.

Mr. Love said the steel should be delivered for the Harbor Freight [construction] next week. He said all of the sites will be under construction soon.

Mr. Love then reported that above the Tharpe trucking site at the High Bridge Trail, the saplings are filling out on the berm above High Bridge. He said the plantings are along the front edge of the gravel area. There is now a double row of plantings at the Tharpe Trucking site, at Pisgah Church Road and Route 460 which has now been landscaped to comply with the original Special Use Permits and the conditional rezoning.

Chairman Prengaman declared the meeting adjourned at 8:17 p.m.

Next Meeting: TBD