

**Albemarle County Planning Commission
FINAL Minutes April 20, 2021**

The Albemarle County Planning Commission held a public hearing on Tuesday, April 20, 2021 at 6:00 p.m.

Members attending were Julian Bivins, Chair; Karen Firehock, Vice-Chair; Rick Randolph; Daniel Bailey; Corey Clayborne; Tim Keller; and Luis Carrazana, UVA representative.

Members absent: Jennie More.

Other officials present were William Fritz; Scott Clark; Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Mr. Bivins said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said opportunities for the public to access and participate in the electronic meeting will be posted at www.albemarle.org on the Community County Calendar, when available.

Ms. Shaffer called the roll. All Commissioners indicated their presence except for Ms. More, who was absent.

Mr. Bivins established a quorum.

Other Matters Not Listed on the Agenda from the Public

There were none.

Public Hearings

b. SP202100001 Midway Solar Project

Mr. Fritz shared his screen. He said this application was located southwest of Batesville, and he had highlighted the parcel to see the County line just appearing in the lower left-hand corner of the screen to give an idea of where the property was on Craigs Store Road. Mr. Fritz explained that the map showed the location of the agricultural forestal districts in the immediate area. He said the property was adjacent to an agricultural forestal district. He said the project was reviewed by the AFD on March 16, and by a vote of 6:1, the committee found that the proposal does not conflict with the purposes of the district. Mr. Fritz said the map also showed the location of the Batesville Historic District, and the closest point of that was about a half-mile to the northeast.

Mr. Fritz stated that this was an application for an eight-megawatt photovoltaic system with a four-megawatt battery energy storage system occupying about 80 acres of a 136-acre parcel. He said this proposal does not require any upgrading of the distribution system and does not expand the CVEC service area, and the power produced by this facility would be distributed throughout the CVE system in the same manner as power generated by any other generation source. He said that solar systems by their very nature must be located on relatively large, open, gently sloping areas with access to power transmission lines. He showed a photo demonstrating that some of

the site was already open, and a power line crosses the property. He explained that the wooded area on this property was not a natural forest; it was planted pine.

Mr. Fritz said he had taken the conceptual plan submitted by the applicant and had modified it so that it would be easier to understand. He showed the portions of the site that are currently wooded. He demonstrated the area that would be cleared to accommodate the solar panels. He demonstrated how much of the site would be cleared to do that and how much of the site would stay wooded. He also demonstrated the area outlined for the battery. He said the batteries are housed in a structure that could be described as not unlike a shipping container in terms of its size and dimensions. He said the batteries provide power when the panels are shaded; for example, it allows the flow of energy from the site to be maintained as clouds pass by to prevent surges and drops in power and peaks in power from the facility and also allows for some power to be supplied during peak demand.

Mr. Fritz said he wanted to point this out because it was an issue in some previous discussions with the public. He demonstrated the access and said the plan as originally submitted showed the access on an adjacent property. He said the applicant had done additional survey work (which was available), and the access is in fact not on adjacent property; it is entirely on the CVEC property. He said it is important to point out that if this special use permit is approved, the access for the site cannot be located on adjacent property; it must be located on a CVEC property. He said this was not a major issue but simply a point of clarification.

Mr. Fritz said that there was a virtual community meeting that was held in February, and they had 37 attendees. He said the comments received included concerns about lighting, statements in support of grazing opportunities on the site, providing public trail access along Mechums River, visual impacts, property value impacts, decommissioning and recycling of decommissioned materials, and construction access.

Mr. Fritz referred the Commissioners to the staff report and said he would be happy to answer any questions. He said he just wanted to point out that this special use permit and all special use permits are evaluated for compliance with the provisions of the zoning ordinance. He said the zoning ordinance contains review criteria for special use permits. He said the ordinance does not contain any specific regulations for utility scale solar, so this special use permit was reviewed solely against criteria that all special use permits are reviewed against. He said this request was also reviewed for compliance with the comprehensive plan. He said the Commission would need to take two actions, and he had motions prepared for either approval or denial. He said action would need to be taken on the special use permit and an action taken to either find it substantially in compliance or not substantially in compliance with the comprehensive plan. He said only the Planning Commission takes that action; the Board does not take the action on compliance with the comprehensive plan issue, though it does take action on the special use permit.

Mr. Fritz said that there were some issues that he thought were important for the Planning Commission to talk about. He said the results of the review did allow staff to recommend approval, and he said he was not going to discuss all of the findings that were made supportive of this project as they are contained in the staff report, but they have identified some concerns that they believe should be considered by the Planning Commission and ultimately by the Board of Supervisors.

Mr. Fritz said staff evaluated the soils on this property, and based on the USDA soil survey, about 33% of the site was prime soil. He said these soils are somewhat scattered throughout the site;

there are no unique soils located on the property. He did point out that the decommissioning plan would allow the property to be used for agricultural and forestal use in the future; this project would remove prime soils from use, and after decommissioning, the quality of the soils would likely not be as good as they are now. He said the soils by the Mechums River would not be disturbed and some of the soils in the upper portion of the property would also not be disturbed; the biggest area is really that central area.

Mr. Fritz said the applicant had submitted some visual simulations, and this was an example of the type of information contained in those visual simulations. Mr. Fritz explained that the photo in the upper left showed a representation of the facility at the time of installation, and the example in the lower right showed a representation of the site with screening. He said they had analyzed the information and agree that screening trees would provide substantial screening at maturity; however, this screening would not be in place at day one, and there would be visibility for a number of years as the screening takes hold and matures. He said until the screening becomes fully effective, this facility would change the character of the area. He said this would be mitigated as the trees grow and eliminated once the facility was removed, but removal would not occur for several decades. He said this facility is located in the watershed of the South Fork Rivanna Reservoir, which is a drinking water impoundment. He said the staff report went into detail with the concern staff has with this type of facility in the reservoir watershed, and he would provide a brief outline of the comments.

Mr. Fritz said the introduction of impervious area not associated with agricultural or forestal activity may be considered inconsistent with the comprehensive plan. He demonstrated a photo showing how solar panels are installed. He said the solar panels themselves are impervious; however, the area under the panels remains pervious. He said this arrangement would likely result in less runoff than would be expected from a fully impervious development such as a barn, house, or greenhouse; however, runoff would be greater than the existing condition of the site due to the concentration of runoff caused by the panels. He pointed out that unlike other projects with impervious areas, this project might ultimately be decommissioned and returned to the previous condition; unlike impervious areas involving streets and parking, the impervious area from the solar panels does not collect oil, grease, rubber, or other pollutants that ultimately run off. He said that cleaning of the panels was done by rainfall or if rainfall is insufficient is accomplished by water brought in by truck and brush. He said that chemicals were not used in the cleaning of dust, pollen, or bird droppings from the panels. He said it was staff's opinion that the impervious nature of the proposed facility was mitigated, and this allowed them to recommend approval, but they do have concerns where they believe that the impervious nature of the facility is mitigated because of grass under the panels maintaining a pervious area; the use of tracking systems for the panels alters the angle of the dripline of the panels and helps to prevent concentrated flow; the rows of panels are separated to prevent shading and to allow access. He said this separation allows for pervious areas scattered throughout the site, and this aids in runoff absorption. Mr. Fritz said the impervious nature of these panels was less than that from greenhouses or other agricultural buildings, and decommissioning would return the property to its previous state.

Mr. Fritz said they are recommending approval of this project subject to conditions. He said he would be happy to answer any questions.

Mr. Jocz introduced himself and asked to share a PowerPoint presentation. He said he was pleased to present to the Commissioners for their consideration the Midway Solar Center project. He said in addition to himself, the project developer for the Midway project, they had Mr. Danny Van Clief, CEO; Mr. Mike Stanton, Vice President of Development; Ms. Becca Stoner,

Development Engineer for the project; and also Mr. Andrew Cotter, who is a Power Portfolio Specialist for CVEC, who would ultimately be the power purchaser and user of the energy from this facility. Mr. Jocz said that in addition, they had two subject matter experts with them, Mr. Rich Kirkland and Mr. Ricky Hewitt, who would provide input as needed.

Mr. Jocz summarized Sun Tribe as a commercial and utility-scale solar provider established and based in Charlottesville, Virginia. He said they work with schools, local governments, landowners, and local partners throughout the Commonwealth to provide sustainable solar solutions and advance their partners' renewable energy goals. He said that being located in Charlottesville with many of their employees rooted in Albemarle County and surrounding communities, it is a unique opportunity and a privilege for them to be able to have the opportunity to develop a project like this in their own back yard, and they did not take this responsibility lightly. He said they really strived on development of this project to do it the right way, and their reputation as a community-focused developer is important to them, and delivering a community-focused project is a priority. He said they were also excited to be partnering in these projects with a similarly minded community-focused company such as the Central Virginia Electric Cooperative. He said he was there to talk a little bit about CVEC's goals and how this project fits within their portfolio.

Mr. Cotter said that over the last few months of this process, he had managed to speak with a number of the Batesville residents and thought it would be useful to provide a bit of the context on why they were doing this project whereas Sun Tribe could describe the what and the how. Mr. Cotter said he was the Power Portfolio manager at CVEC and also the CVEC project manager for the Midway Solar Center. He described CVEC as a member-owned, not-for-profit utility that serves 38,000 members in Central Virginia from Louisa down past Appomattox. He said they were a cooperative, just like a local wine, dairy, or produce coop, who are owned by their members who share in the costs, profits, and benefits, but instead of milk or vegetables, they do it for electricity. He said they do this by procuring energy from their portfolio sources—wind, solar, hydro as well as gas and coal—through a mix of contracts and market purchases and then they deliver it via the power lines seen in the neighborhoods. He said they see the Midway Solar Center as a keystone project for the long-term portfolio and are building to navigate the challenges they see coming down the pike.

Mr. Cotter talked about why this project was so important. He described that there were two types of electric systems. He said first was the transmission system, and the transmission lines are like major interstates—I-81, I-64, I-95—and this is valuable because it allows power to be imported from generators all over the mid-Atlantic from Ohio to New Jersey, down to North Carolina. Mr. Cotter talked about the distribution system and said these are the local roads, like Batesville Road or Critzer Shop Road, and this is how power is actually gotten to the home. He said a catch here was that on every single exit on the transmission system, there are tollbooths, so while they can get a great contract from a merchant out in Ohio, they cannot really control what the cost is going through those tolls, and those tolls change moment to moment. He said the harshest penalties always hit when power is needed the most, so that is late afternoons during a heat wave where air-conditioners are needed or early mornings during a cold snap in the winter when heating systems are needed, or a pipe could burst. Mr. Cotter said that if they could build their own solar generator and combine it with a battery, not only would they be replacing the most expensive power they can get with lower-cost clean and renewable power, they can do it in a way that also controls these transmission costs, and the transmission cost moving forward is one of the biggest risks they have with keeping rates stable. He said if they could prove this here with this project, it could change the whole electricity investment strategy for them where they could see that proof right here how local generation sources could be used in order to balance out the portfolio even

better.

As to the questions of “why here” and “why now,” Mr. Cotter said that the key to getting these benefits would be to site these solar and battery projects on their distribution grids (the local roads), and that is a challenge. Mr. Cotter noted that Mr. Fritz had mentioned that a lot of land was needed as well as access to power lines, but something that people seem to overlook unless they are in the industry is that you need the ability for a local grid to absorb all of the power that is being generated. He said the current deal right now is that you can avoid all of the transmission tolls only if the solar generator does not impact the transmission grid. He said at CVEC, they were not just one big network of distribution lines; they are actually about 20 separate small networks of distribution lines, and of those networks, there is only one that can take an eight-megawatt project, which is this project. He said after this, they have a five-megawatt happening in Fluvanna as well, and after these two projects, the low-hanging fruit is gone, and it would be much more difficult and the margins would be much more narrow to do these kinds of projects in the future and even more difficult if they do not have the proof and the numbers that they are looking to get by doing this proof of concept through this project. Mr. Cotter said in addition to the difficulties of siting, there is also a goldrush going on right now for good solar lots. He said they were competing against well-capitalized firms from all over the world—California, New York, Europe, Asia—for these pieces of land. He said on top of all of this, right now the current rules, which are beneficial to local communities, have limits, and it is unknown when those caps are going to be hit. He said considering the amount of information that they would be getting in the goldrush, he did not think they would be around that long and couldn't speak for sure what the new rules would entail, but right now the getting is good. He said they get all of the benefits, the whole pie, so it is hard to see any change that would be better. He said finally, he wanted to speak as a local who lives right down the road in Afton. He said that they understand that there is an element of sacrifice here for the Batesville community. He said there is a big piece of land they are looking to take right smack in the middle of a neighborhood, but he wanted folks to keep in mind when you hear people talking about environmental sustainability, economic sustainability, world sustainability, green energy, the modern grid, and all these terms, that is actually what is going on here. He said this is where the rubber meets the roads, and he thinks they would find with subsequent presentation from Sun Tribe that they are really taking all of the feedback very seriously as they want it to work for everybody.

Mr. Jocz said that they were proposing an eight-megawatt AC solar energy facility paired with a four-megawatt battery storage system. He said in the original design, they had anticipated a maximum site area of approximately 80 acres, and as they have continued to iterate their design, they have seen that come down with a disturbance area closer to 65 acres, which is less than 50% of the site. He said of that, 32 acres would be involved in site clearing, and those would be largely limited to the current timber farm areas on the site, and then access would be from Craigs Store Road, and the facility would produce enough energy to power approximately 2,600 homes per year. He said it connects specifically to the distribution lines that already exist on the project site. Mr. Jocz said the parcel is Albemarle County parcel 85-17B owned by Central Virginia Electric Cooperative and is approximately 1.8 miles west of the town of Batesville and encompasses 136 acres of the RA zoned land. He said the current land use of the site is grazing/pastureland and timber farm, so those silviculture areas. He said there are a number of items they focused on as they designed the site and would continue to design the site. He said Midway was designed to utilize the cleared areas to the highest extent possible. They also looked to avoid sensitive environmental areas such as wetlands and steep slopes. They also utilize high-efficiency solar panels to help reduce the development footprint of the facility. He said the design is set up to either meet or exceed County requirements for site buffering, and as they continue

with the development of the project, they would look to continue to ensure and evaluate impacts to adjacent landowner viewsheds and work with adjacent landowners to try to find solutions to those viewshed impacts.

Mr. Jocz demonstrated the current layout of the site. He pointed out the panel areas which as demonstrated in the image are more like building envelopes. He said the exact location and layout of the panels within this area would vary slightly as they finalize the size of the panel and the type of racking to be used on the site. He also demonstrated the locations of proposed additional supplemental vegetated screening and also the internal roadways to the site. He also pointed out the dash line outlining the panel areas. He said that showed the fence limitations of the site, and any existing vegetation outside of these areas would remain in place during operation of the facility and would not be impacted. He pointed out this was a continuing design that they are continuing to improve and take input on as they move forward in the project's development.

Mr. Jocz said that they have conducted a number of environmental and cultural and historic studies on the site including stream and wetland delineations, for which they have received preliminary jurisdictional determination for the project; cultural desktop and field cultural and historical studies; and field and desktop wildlife resource studies. He said the aim here to construct this project is not only to achieve local land use approval, but they also need to go through a process called the permit by rule process, which is a comprehensive review from state agencies such as DEQ (the Department of Environmental Quality), the Department of Historic Resources, the Department of Conservation and Recreation, and the Department of Wildlife Resources. He said they would continue to coordinate with these agencies moving forward to identify any unidentified cultural, historical, or wildlife resources on the site and, if identified, develop appropriate mitigation procedures to make sure those resources were not impacted in their projects.

Mr. Bivins said that time was up, and unless Mr. Jocz had something critical to share or had just one slide left, he would have to pause the presentation and allow the Commissioners to ask questions.

Mr. Jocz said that he was about halfway through the presentation. He said he was appreciative of their time and would turn it back over to the Commission to answer questions.

Mr. Keller said he is very much supportive of the concept. He said he had listened to the community presentation and also had the benefit of the presentation to the Agricultural Forestal Advisory Committee. He said if the question ever comes up about the vote there, they would have to have staff explain the very tight parameters that that committee was addressing; it was not this overall aspect to be done by the Planning Commission. Mr. Keller said he had four areas of concern, and one is paramount on regular sites, and that is potential loss of high-value ag soils due to contour manipulation. He said he would like to see a project—and he would like to see all of the solar farm projects—work with not having to do the significant contour manipulations that are seen with the roads put in.

Mr. Keller said he had an opportunity to see these installations across the United States and Asia and in Europe, and he had seen some interesting ones in which the legs of the panels are at different heights so that the underlying land does not have to be compromised. He said he thought, as in the very thoughtful letter that was sent to them by PEC and Mr. Fritz's point as well, that even with scraping off the topsoil and saving it with the idea that it would be put back at a future date, there is still significant degradation. He said this is one of the core definitions at the

state level of what constitutes prime agricultural lands and in the County as well, and that is high-quality soils. He said secondary to that primary underlying concern that he needs to have remedied to vote positively on this is the visibility at multiple distances along County roads. He said every day as he goes across Monticello Mountain, he sees a small array of solar panels on Carter Mountain but not a whole field full of them. He said even at a middle ground or background viewing, they are a substantial change, and maybe that would be something just like high-tension lines that we all as a society need to get used to, and he would be willing to entertain that.

Mr. Keller said third is dark sky and the question of lighting in the evenings, of when that would be turned off. He said obviously if there is work that needed to be done, then lights would need to be turned on, but he said he knew they had been talking about that so he would like that addressed. Mr. Keller said from the first project on Route 53 that they saw, there were discussions of the sounds of the motors that changed the panel inclinations, and there seemed to be disagreements over the amount of sound that was generated at the edge of the property from those units. Mr. Keller asked if they could just briefly address each of those four items.

Mr. Jocz said he would start with the concern about the lighting and dark skies. He said they have taken the community input and gone back and talked with their partners and identified that actually they can run the facility with no permanent lighting whatsoever. He said if maintenance needed to occur after daylight hours, they can use temporary work site lighting, but it is their intention to not include any permanent lighting with the facility at all.

M. Jocz said as far as the visual impact from distance, they would be happy to work with both the Commission and stakeholders within the community to identify areas of concern and develop additional visual simulations for those locations and then from that work out strategies for additional visual impact mitigation if possible.

Mr. Jocz said regarding Mr. Keller's last comment on the soils, he said they understand the unique challenges with the site. He said this was a unique opportunity for CVEC as well to develop a project like this in their service territory. Mr. Jocz said there were a number of mitigation opportunities that could be provided on the site in order to help reduce the impact on these prime soils including topsoil stockpiling as Mr. Keller mentioned and other soil amendments on the site as well as the intention to continue the current use of the site in ongoing grounds maintenance and operations at the facility for the use of solar grazing of sheep and maintaining the pasture grazing nature of the site.

Mr. Keller said he was going to stand strong on this one. He said he did not think that the standard civil engineering solutions that are being seen in development across the country and around the world is the type of solution that they should be exploring. He said he thought there were ways from an architectural form standpoint that different sized legs could be used to support these structures so that they can step down and still work as a collective array without having to do the significant manipulation that is seen so often and is seen in the development areas. Mr. Keller said this was different; this was rural areas; this was about soil and underlying agriculture. He said if they were going to take advantage of the rural areas for this, and he supports that, then it seems there are ways to make it work without having to decimate the land.

Mr. Jocz said they were open to evaluating and understanding other methods for development of this site and looked forward to following up with Mr. Keller as they move forward.

Mr. Randolph said on page 11 of the confidential and proprietary Midway Solar development

application (attachment B in the packet), the first sentence under critical slopes indicates that their design would not encroach on any large contiguous areas. He said they know from Mr. Fritz's presentation of the map that there are a series of different sections of pie that are not all tied together. He asked if the sentence, "We will not encroach on any large contiguous areas," meant that they intend to encroach on some fairly substantial noncontiguous areas of critical slopes as he sees back on the Mechums River side of the piece of property. He said he was not really clear here about the degree of grading that is going to be necessitated on this site. He said he has some intimate familiarity with Route 53 Sol Unesco solar site, which was the first major utility solar facility in Albemarle County that was not attached to a school building. He said he understood that there, that surface area was fairly flat—there was probably a fluctuation in elevation of no more than maybe 10 feet—but here on the topographic, with every line representing two feet, there are some real elevation changes, and he is assuming that when the trees come out and the stumps are removed, there is going to be some grading here, but he really does not have any firm indication from the submitted application of the extent of that grading, which he said he did feel adds to the poignancy of Mr. Keller's recommendation for looking at ways as much as possible to preserve the high-value soil that is there.

Mr. Randolph said he was concerned that he did not see any pronounced strategies to mitigate runoff during the construction process as a result of removing the trees, taking out the stumps, and doing any grading on the site. He said he knew they would be under state and local requirements, but he wants to see how they are going to go the extra mile to mitigate the potential runoff on the site.

Mr. Jocz said to speak shortly about the first comment regarding critical slopes, the reason why they added the clarifier "large continuous areas" was that there are small pockets as indicated in the Albemarle County steep slopes layer that are internal to the site that upon survey were identified as not steep slopes, and comments were focused specifically on those small areas in anticipation of a survey correcting those small pockets and areas.

Mr. Jocz said to the comment about the grading, he would turn it over to their site engineer to explain more about the process, what they are looking at in terms of grading on the site, and things they would be looking to achieve above and beyond current water protection ordinance requirements to ensure that stormwater and erosion-sediment control issues are adequately addressed in construction.

Mr. Ricky Hewitt introduced himself as a licensed civil engineer who has worked on a lot of utility scale and small scale solar in the State of Virginia. He said that all of the concerns being brought up are standards and things that they take into high consideration. He said regarding the extent of grading, they are still in preliminary design. He said a lot of the grading parameters are a function of the racking that is selected, as Mr. Keller had indicated; that racking has not been fully selected. He said there are two types of solar racking that are standard—one is called fixed tilt, and one is called tracker. He said the benefit of the tracker, which this project is proposing, is that it allows the panels to track from east to west and optimize the amount of sunlight that they are able to absorb and turn into energy. He said one of the benefits of doing that is having a reduced footprint as compared to fixed tilt-type systems.

Mr. Hewitt said as they think about using the tracker racking technology, it does require a bit more grading, and the extent of that is still yet to be determined as they are still just in very preliminary design when it comes to that. He said the site currently is in primarily a silviculture operation where the trees are regularly (every 20 years or so) cut down and timbered, and when that happens,

there are no perimeter erosion control measures that are put up for those operations, so the surrounding watershed, the buffers that they have shown, are cleared—they are not left or maintained—and also during all those activities, there are no perimeter erosion control devices put in. He said by going in and putting a solar system in that they are proposing, any clearing, any grading, any of the construction that is going to happen, is going to be protected with not only state minimums but standard civil engineering practices, that Mr. Keller mentioned are insufficient, and he does not disagree with that. He said in the State of Virginia, in his experience, developers and engineers and designers see the minimum standard as the goal to achieve as opposed to the foundation to build on, and Sun Tribe and Hewitt Solutions and all the other stakeholders including the county engineers with Albemarle have all identified ways in which they can use the state standard as a minimum foundation to build on and have identified a number of conservative engineering factors to exceed the norm while also not being cost-prohibitive to a site that is such a valuable resource.

Ms. Firehock asked about the application that said they would be retaining the topsoil on site by storing it. She asked if they intended that for the lifetime of the project. She said that is typically done during a construction project where the topsoil is temporarily disturbed and then returned in a short period of time. She asked if they were intending to say they were stockpiling the soils for the 30-year lifespan of the project or just during construction.

Mr. Jocz said before grading occurs, the topsoil would be captured, and then after grading occurred, the topsoil would be replaced and then vegetation reestablished. He said that using that topsoil to help reestablish the vegetation is an important factor in their erosion control measures, and then the racking and panels would be placed on top once that stabilization had occurred.

Ms. Firehock said she knew the applicants did not get to show their entire presentation, and she was not asking them to reshoot the rest of it, but she wondered if there were any slides in the presentation that addressed the concerns about viewsheds and if it was possible to hear more about how the views were being protected and analyzed.

Mr. Bivins said that they did not necessarily need to see slides but thought it was a question a number of people have asked about viewsheds. He asked Mr. Jocz to hold that as a question.

Mr. Bailey asked if the applicant could speak a little bit about the plan for reconstitution of vegetation on the site related to potential pollinators, native species, and others, underneath the panels specifically as the panels are installed, and the plan for after construction and reconstitution of vegetation on the site, not just on the vegetated buffer.

Mr. Jocz said they were currently still evaluating postconstruction vegetated cover along with the [inaudible].

Ms. Shaffer announced that Mr. Jocz was muted and could not be heard.

Mr. Bivins asked to hear about how the views would be mitigated.

Mr. Jocz said they have indicated a number of locations to plant supplementary vegetation in addition to the current preservation of a majority of the existing vegetation surrounding the proposed layout locations. He said that vegetation is at a minimum aimed at being 20 feet in width, a double-staggered row of evergreen trees with a planted height of a minimum of four feet. He said they would also supplement that with a number of other—and part of CUP conditions—plant

species, at least three plant species from the Albemarle County recommended plants list. He said the exact makeup of what the screening would look like was still to be determined as they go through the site plan review process; however, at a minimum, it would look similar to what was shown in the visual simulations that were presented earlier.

Mr. Bivins asked how things sit with citizens, property owners, neighbors if this should go through, who would have to wait 20 years before this happened. He asked what would be done between now and year 20.

Mr. Jocz said they anticipate the species that they would be planting on the site to be planted again at a minimum of four feet in height, and that species has a growth rate of approximately 12 to 24 inches per year, so they anticipate in approximately four to eight years after commissioning of the facility the vegetation to be substantial enough to sufficiently conceal the facility.

Mr. Bivins said they would go to the public hearing.

Ms. Shaffer asked Ms. Fellows to please state her name and address and association with any organization.

Ms. Jane Fellows said she lived at 1915 Thunder Ridge Road. She said she was a property owner neighboring property and appreciated Mr. Jocz and the Sun Tribe's project and was supportive of solar in theory, but while both Mr. Cotter and Mr. Jocz said they live here, and this is their backyard, here they were talking about her literal backyard. She said she had sent a letter. She said she is in support of solar energy and sustainability, but her biggest concern is the visibility issue, which they have been talking about, and she is pleased to see that they are taking it seriously, but she is positive that if it is visible from her property that it is going to negatively impact her property values. She said in her letter requesting to the Commission, she wanted to maybe flag or mark where the cuttings would be, where the plantings would be, so they could get a better sense what the impact to their viewshed would be because it would be hard for her to feel good about that project if it is going to impact the way she lives on this property. She said she has chosen a rural lifestyle for a reason, and having a commercial facility in her viewshed was never part of the calculation. She said she did appreciate the effort and the changes that she has seen in the slides that Mr. Jocz was showing and that these issues are being taken seriously. She said she also appreciated the opportunity to speak tonight.

Mr. Chris Hawk said he was with the Piedmont Environmental Council. He said the Piedmont Environmental Council (PEC) supports well-sited renewable energy that protects and promotes natural carbon sequestration sources. He said solar sites should not adversely impact the natural, cultural, and historic resources that make Albemarle a great place to live, work, and play. He said the Rivanna Solid Waste Authority's proposals to locate solar on a landfill is an example of an appropriate location for utility-scale solar. He said PEC recommends that the Midway Solar special use permit be denied in its current form. He said in addition to their comment submitted earlier this week, PEC raises the following concerns: The current state of the Albemarle County zoning ordinance does not allow for utility-scale solar facilities to receive the level of staff review nor County enforcement that is warranted. He said utility-scale solar facilities are not comparable to other agricultural practices, and similar use is allowed as by-right in the rural area. He said the zoning ordinance should be updated to include utility solar specific language and ordinances.

Mr. Hawk said a one-liner definition is not sufficient for appropriate County review and enforcement for facilities of this size and nature. Mr. Hawk said that short-term construction-

induced erosion and sediment control impacts and the long-term stormwater impacts for a solar facility far exceed those of agricultural practices and buildings permitted as by-right in a rural area district. He said this project proposes impervious solar panels on 80 acres and to imagine the impacts of an 80-acre building such as a greenhouse or a 40-acre greenhouse or a 20-acre greenhouse. He said there are no buildings within the rural area of this size. Mr. Hawk said PEC highlights the County staff statement that, "Staff cannot make a finding that even a temporary installation (25 years or more) of a large impervious area in the water supply watershed is consistent with the intent of the RA district." He said no findings suggest that there is the possibility for impacts on the Mechums River in the South Fork Rivanna Reservoir.

Mr. Hawk said an additional component of this staff report states that, "This project is unusual in that it is a use that can be removed allowing the site to largely return to its existing condition." He said while solar panels are proposed to be removed, there is little to no evidence that on-site soil characteristics would be returned to their original condition. Mr. Hawk said that all efforts should be made to return the land to its prior state including its viability for different types of equal or higher-use agriculture. He said pastureland is not equivalent to productive crop land. He said while "decommissioning will return the property to its current pervious state," decommissioning will likely not return the property to the same productive agricultural state. He thanked the Commissioners for taking the time to review PEC's concerns on this important matter.

Ms. Elizabeth Williams gave her address as 6973 River Hill Lane, which is on Batesville Road, and said her property is contiguous with the northeast corner of this development. She said she was wonderfully supportive of solar energy. She said she was concerned about the Mechums River and the runoff. She said it was true that the woods are pine forest, but when she moved there 30 years ago, it was a beautiful mature hardwood forest, and unfortunately the owner cut them down and turned it into a pine forest, and there was tremendous damage to the Mechums River in terms of silt. She said the method used was terrible when they were logging; they just drove the trucks right through the river. She said she was especially concerned since there was a concern about the impervious quality of solar farms and runoff. She said it was very steep going down to the river; she said she was glad they were not planning on going in the steep areas. She said she was especially concerned that there should be some monitoring of the river and whether it was being impacted with increased silt. She said the Mechums River was not considered a clean river; it has lots of silt. Ms. Williams said that it would be wonderful to move toward native plantings if possible and to not be using herbicides or fertilizers or anything of that sort. She said she did not know how green they were going with all of this. She said she would love there to be some way to monitor the river, to have some way to check and make sure that they were not increasing sedimentation and silt into the Mechums River.

Ms. Sara Tueting said she lived at 1832 Craigs Store Road. She said her property was immediately adjacent, so she would be able to see this from her kitchen window. She said they are right there on it. She said they were opposed to the project and had a number of concerns about its effect on their property values and the runoff. She said the property was higher behind their house so any construction would run off down the hill into their property and then into the creek at the bottom. She said they also have concerns about fencing, the effect on the night sky because they have talked about this being surrounded by chain-link fencing and security lighting as well as the noise from batteries and other things. She said they talked about it not being louder than a kitchen appliance, but kitchen appliances could be rather loud, so they have a number of concerns about the project. She said they were hoping that the County would take their concerns as the landowners into account and not just rubberstamp what the utility company wanted to do.

Ms. Debi Winstead said that she and her husband bought their property directly across from the proposed site at 1905 Craigs Store Road. She said they initially were very much in favor of this project, but as time has gone on since February, they have several doubts and concerns that have become perhaps a bit more heightened after hearing Mr. Jocz's spiel again, as it was kind of the same thing. She said there were things brought up in February that they do not think necessarily have been addressed, and they hope the planning committee will address these. She said noise was definitely a concern during construction as well as the traffic. She said they would like to know in all of these parameters how the County planned to enforce this. She said that had been told that construction trucks would only come from 151, but they have experienced with CVEC in the development of Firefly, their other project that brought Internet to them, that subcontractors and beyond subcontractors would go the quickest way, and they wanted to make sure that there is some sort of County oversight to the entire project with both the environmental impact around them and their lifestyle impact of how it would affect them all there in terms of viewshed, and she said there are several of them around also who have recently set up successful bed and breakfast homestays, and these would also be impacted by the construction. She said there was lots to be concerned about here, but most importantly is how the County planned on enforcing the rules around this project and seeing that proper oversight is there.

Ms. Padma Ball said that she lived at 6809 River Hill Lane. She said her property was adjacent to this proposed solar complex. She stated she had a lot of concerns, but her main ones were the fact that they were on the Mechums River, and she was also concerned about the water runoff. She said as it is now, their driveway is in a 100-year floodplain; their driveway intersects Batesville Road, and there is a creek that follows around Craigs Store Road and enters into the Mecham Road right next to their driveway, and it often floods. She said while it used to be a 100-year floodplain, it was quite often now. She said she talked to Mr. Jocz; he was kind and came out, and they walked the land and talked about the water, and he was going to work with the water engineers, but when this project is built and done, if there is flooding, all of them on River Hill Lane would have not only huge expense but often cannot get in or out if there is flooding. She said if there is more water there and there is no one to monitor it, for her, it is really important that they pay attention to all of these factors before saying it is a go-ahead. She said not only what might be happening to the Mechums River with the extra flow and the erosion, but all of the homes along this creek as well and those who have a driveway. She asked that they please pay close attention to all of the details and make sure that the project is not built and then the neighbors are left with problems.

Mr. Bivins closed the public hearing.

Mr. Jocz said he wished he had had a chance to get to the rest of his presentation. He said it outlined a number of areas in which they have listened to the community input and tried to put that back into the design of their project, and that included limiting of construction hours, working with landowners to specify the site extents and add additional supplementary vegetations to protect their viewshed as possible and also implement construction management and traffic management plans to ensure that traffic is managed in the correct way, eliminating any large construction vehicle traffic through the town of Batesville, Plank Road, Batesville Road, and Miller School Road, and in addition to be able to explain in more detail the number of erosion/sediment control and stormwater management measures that they were looking to implement above and beyond baseline requirements including oversizing of some of the BMPs, preserving permanently all of the existing vegetation surrounding the site to prevent future impacts to that vegetation. He emphasized that they are really listening to the concerns of the community surrounding the project and look forward to continuing to work with them if they have the opportunity to move forward with

this project.

Mr. Fritz said there were a number of questions that the Commissioners had and some of the public had and that he may be able to offer some comments that help in the discussion. He said there was a condition that restricts lighting to only maintenance lighting; there would no other lighting permitted. He said there was a condition that would make this facility subject to the noise limitations of the ordinance and also a condition that establishes a minimum 100-foot setback, and that would also aid with the sound. He said he could give more personal observations about sound in his evaluation.

Mr. Fritz said there were comments about the grass under the panels, and that was a condition because it is in the applicant's application packet. For screening, he said there was again that requirement of the minimum 100-foot setback and there is a condition about the mix of vegetation. He also pointed out that a site plan was going to be required, and part of a site plan would be a conservation plan to be included, that all trees that are shown to remain, there is an agreement that the applicant enters into with the County shown on the site plan, so there are additional protections there of not only the conditions of the special use permit but also then conditions of the site plan and the zoning ordinance. He said there was a condition about access to the site, which would be enforceable by the zoning administrator, to restrict access to everything except passenger vehicles and pickup truck-type vehicles to that traffic being from the west and not from the east. He said that was also somewhat self-enforcing simply due to the nature of the roads to the east/northeast, just physically being able to make the turns and bridge limitations.

Mr. Bivins asked Mr. Fritz for insight about how people would know what the conditions were, how would they be aware of what was going on.

Mr. Fritz said that the conditions were attached to the staff report. He said this would go to the Board of Supervisors .He said he had a mailing list and an email list, and the speakers were on that email list; if not, if they email him at bfritz@albemarle.org, he would add them to his email list to make sure they know when this goes to the Board of Supervisors. He said the conditions would be there, and if the conditions were adopted, they would become enforceable by the zoning administrator, and the zoning administrator has a tool chest to require enforcement and penalties and other things that can be imposed. He said there would also be a site plan that this project would have to go through, and there would be notification to the abutting property owners of the site plan. He said he would use this email distribution list to let interested parties know that was coming forward. He said the site plan is where the details about the grading, erosion/sediment control, stormwater management facilities, and the exact limits of clearing and the exact species of trees—all those very technical details—would be addressed. He said that would be shown on the site plan and becomes enforceable also by the County, also by the zoning administrator, same tools available to the zoning administrator to enforce.

Mr. Randolph said that he had asked Mr. Fritz on Friday for the language that the County might have in terms of the zoning ordinance addressing utility solar, and his response was there is no such language; it is really covered in the special use permit process. Mr. Randolph said the staff report was excellent and extremely thorough and really establishes a template moving forward on other solar projects in a rural area where there are critical natural resources, slopes as well as soils. He said originally, he had thought that maybe they needed to look at language and recommending that they really buffer the zoning ordinance in addressing solar facilities. He said he was not so sure now that they needed to go that route because basically looking at what Mr. Fritz has generated, with the conditions that are established here that run with the application and

run with the land, assuming they are approved by the Board in more or less similar shape as now, they really do have the necessary default language available to continue to apply. He said he saw this as tremendous step forward from where they were on Route 53 three years ago. He said they have seemed to have now covered their needs without having to get into looking at putting language into a zoning ordinance with the problem of ossification of zoning language. He said things change with time, other conditions arrive, and the language does not get changed, and a future Planning Commission in 2032 grapples with the language that this Commission had signed on. He said he had faith and confidence now in what staff had come up with that going forward, there would be adequate safeguards to address the needs in the future.

Mr. Keller agreed overall with Mr. Randolph with a couple of caveats. He said it was an exciting project because the ownership and the development team were locally based and committed to the area and doing things well. He said he was excited, but it seemed that this project had the potential to be a state-of-the-art model for sensitively designed rural solar array installations, but they had not gotten there. Mr. Keller said they had tried to address the dark sky and the sound, and he was willing to go with those two. Mr. Keller said in terms of the visibility, he advised Mr. Fritz to use a software-generated scene area overlay. He said while they had responded to the community meetings and adjacent property owners, he was concerned about other areas where it could be seen, not so much what was seen but where it could be seen, because that was part of the major issue with large solar arrays. He said it is a personal issue, an age issue, whether people accept that technology and see it as beautiful or whether they see the technology and see it as an ugly scar on the landscape. He said a missing piece is that scene area overlay that could earmark what could be seen in a short distance of foreground and what could be seen in a longer distance and middle ground and what could be seen in the background because black blobs have an impact on what we see and how we think of the rural areas of the county. He said there might not be agreement, but it would take the questions out of the work the project team would do in the future because it would clarify the visibility and at what distance.

Mr. Keller expressed his concern about changing the land and the landform. He said if they were really going to have a model and seeing all throughout the County the loss of the original landforms, he thinks they need to hold firm in the rural areas, and he would vote against this unless he could have some assurance through condition or somehow that that is going to be truly explored and talked about with the Board of Supervisors. He said the soils are such an underlying part of how we define rural and agriculture from the Commonwealth code on down through that he thinks that the manipulations of every project are so much more extreme than they need to be. He said in this case, where they are basically planting a bunch of poles and sticking things on top of poles, he does not think they have to do the degree of manipulation that is the standard operating practice and that they ought to set a new standard for what that can be in rural areas. He said this was his challenge to them. He said he did not know how they as a Commission handle it and that maybe he would be the outlier in this, but he would look then to his two architecture colleagues and hope they would weigh in about some interesting and creative ways that these forms might be able to be put on land without having to do the significant changing of contours that are being proposed, not just in this but in all of the ones the Planning Commission sees. He said that 53 was not as dramatic in its undulations as this site, so it was much easier to visualize and think about how that would go. He referenced that the team had mentioned there were only going to be a few of these special low-hanging fruit, so he recommended that these should be the ones where they could give a model, not just a county model but to become a national model for how this could be done.

Mr. Carrazana expressed his appreciation of Mr. Keller's comments. He added that he did believe

that this is a great opportunity; unfortunately, because it is one of a few of the low-hanging fruit as had been mentioned, where this could become a model is how they could scrape the land and flatten it, and he did not think that would be an appropriate model, but if more and more they want to look for these opportunities here in the Piedmont, the topography is hilly. He said we know what we can do with earth moving. He said he lived in Southern California and saw how developments happened there. He said he believed they had a great opportunity, and how this array could move with the topography could be a beautiful thing. He said the arrays that are tracking east to west could still be kept and have them undulate up onto the landscape. He said the technology is there; the structural ability is there with the systems, and he would encourage and challenge the team to take a look at that and really use this as a model for the Piedmont.

Ms. Firehock said she thought that if this should pass the Commission and go to the Board, some more analysis should be done on how they are protecting the views from the adjacent landowners. Ms. Firehock said regarding the one concern in the staff report about impervious surfaces, she does not really consider this a site that is adding imperviousness to the watershed because the water is dripping off the solar panels and infiltrating into the ground where it falls, and there is not a large enough surface to cause an amount of volume and velocity of water that would cause erosion per se. She said she was not concerned with that. She said she had seen other projects in Virginia that are proposing to clear massive amounts of forest to put in solar arrays, and she is opposed to those projects, but this project does not appear to be causing the level of land change in terms of, for example, going from a forested to a non-forested state, so while she still has concerns with this project, she thinks a lot of work and due diligence has been done to try to make this an environmentally compatible project, and she also thinks of this in the same way she thinks of cell towers and large power distribution systems and other things that do not look pretty in the rural area, but yet power and phones are needed. She said she was willing to support this and see how well they can do in terms of protecting the environment. She said the conditions in the staff report were quite robust and give some of the surety that they need for this project to minimize impact and maximize success.

Mr. Bailey said there was actually a document in the packet that provided a viewshed analysis; it was provided by the applicant. He said it was hard to determine how official it was when there was a disclaimer that it was not prepared by a licensed surveyor, but it does claim to use lidar data and puts limited impacts within about a half-mile range to being able to see the site. He did not know if Mr. Fritz could maybe clarify how to interpret this viewshed analysis that was provided for the project.

Mr. Fritz said they looked at the information that the applicant provided, and one of the slides was just taken from that; he just snagged two pictures from that. He said staff analyzed it; in his opinion, based on his review and the viewshed analysis the applicant did, looking at the topography of the area, visiting the site so looking from the site out, he thought the visual impacts are more significant in the immediate area of the site, and the rest is really from a distance, so it is mitigated. He said it is a little bit like the wireless, of how much visibility is acceptable, whether it needs to be invisible or mitigated. Mr. Fritz said that in the staff discussions, ultimately his recommendation was that the visibility is really most significant immediately adjacent and would be mitigated over time as the trees grow.

Mr. Bailey clarified that in the viewshed analysis, in the light green area that would be considered mostly to the northeast going back towards Batesville, were some of the larger areas where the site could be seen. He asked Mr. Fritz if he felt that would be as impactful being anywhere from half a mile to two miles away.

Mr. Fritz said once you start getting to that distance, though it is going to change the character of the area, that is going to be mitigated over time. He stressed that part of the issue here was that the only tools available are the review criteria for all special use permits, and it is a substantial detriment, which is a very high bar, and then there is the change in the character of the district. He compared greenhouses to the solar facility, looking at whether a solar facility results in a change in the character of the area differently than what could occur by right, and ultimately his recommendation was that it was not going to at those distances; it would to some degree in the immediate area but not at a greater distance.

Mr. Bailey commented that when he was referring to grasses underneath, it does not actually state in the conditions to be native grasses and pollinators—it just says grasses—and it was just a clarification that if grasses were to reconstitute the area that they be native in nature.

Mr. Bivins added that if this does go forward, he would encourage the applicant to have a significant sit-down with the neighbors who sit next to this project. He said that it would be helpful to the project and to the community if they could have a deep sit-down, perhaps outside with masks on, but to have a deep conversation about what this project is going to look like if it goes forward. He said they are being challenged here by some interesting things, and with the profile of the individuals that are associated with both the solar company and given that the utility wants to come before a whole host of communities to put these in, then it would be quite helpful if they could speak positively to the issues around soil and the issues about visibility. He said he did not think they were ugly—he actually thought they were kind of cool—but some people would not be as accepting. He said he has asked before that they may not be accepting of this, but would they be accepting of a slaughterhouse, like the new slaughterhouse that is about to be opened in Orange, so would they rather have that or would they rather have solar panels. He said the applicants would be well served if this group were to sit down and have some serious conversations with some individuals about how to set the standard on how this kind of project is installed. Mr. Bivins said he was supportive of it with the narrative that they put in the transcript the whole thing about the issues of the important soils, about not having to change the terrain so dramatically but being creative with the way of doing installation on the terrain, and then the really big one on this of engaging the neighbors in dialogue so that they have people who speak positively about them and the project wherever they are, as opposed to the neighbors feeling like no one listened.

Mr. Keller said he would like to give it one more shot. He asked Mr. Fritz to put up the high-value ag soil map. Mr. Keller said he was thinking of a condition to suggest just to see what the pleasure of the body was. He said he would like to suggest a condition that says that no more than 10% of those prime soils are disturbed; that would get at manipulation of contours but would be within the bounds of the way agricultural Virginia is defined.

Mr. Bivins asked if Mr. Keller was putting that in the form of a motion to be added to the conditions.

Mr. Keller said he hoped for discussion about it.

Mr. Randolph said that 10% needed to be defined, whether by square footage or in terms of volume of soil. He said they also needed to hear from the applicant whether that was doable.

Mr. Keller said he was thinking of the land area, so square footage/acreage. He said it was a way to encourage thinking about this in a different manner.

Ms. Firehock said that was feasible, but she had the same question of whether it was practicable, could the applicant actually do that. She said she saw the map of the prime soils that overlaps with all of the arrays and access to the site.

Mr. Carrazana told Mr. Keller that it might also be helpful to define what he meant by “disturb.” He asked if that meant they could not install panels on a slope. He said they need to define what is meant by the amount of disturbance that is allowed.

Mr. Keller said he was talking about the total prime soil area as defined and was talking about square footage/acreage, etc., and he certainly was hoping that the solar panels would be applied on top of that but without having to scrape any of the topsoil, so this would be an encouragement to think about creative ways to plant the panels; it would not preclude panels completely covering the prime soils.

Mr. Carrazana said that was a helpful clarification. He said he would be supportive of that.

Mr. Fritz said that if the Commission wanted to do something like that, they could provide staff direction, and they could work on that before going forward to the Board of Supervisors to try to come up with the language instead of trying to craft that at 9:30 tonight.

Mr. Hewitt interjected that he did not think that was a good idea.

Ms. Firehock said the 10% issue would be difficult to determine tonight, as someone who does a lot of site planning. She said the Commission could express simply that it wanted to minimize disturbance or removal of prime agricultural soils, but she did not think they could get a specific condition articulated this evening.

Mr. Keller said he was comfortable with that. He said he was just putting something forward to try to get the Commission to really force discussion of this and force the applicant to have to really think about this other than saying it would be nice not to.

Mr. Bivins said they had staff instructions there. He asked if Mr. Fritz had enough with this conversation engaged with him to engage with the applicant to try to present something before going to the Supervisors.

Mr. Fritz said staff would do their best to engage with the applicant to try to come up with something and do their best to share the concerns and comments and tone. He said the Board would have the benefit of the minutes also.

Mr. Keller said that Ms. Firehock’s language that she proposed would be a way so that it actually would be the beginning of a condition that would be refined and to work with the development team on. He said he wanted the development team to understand how important this is to many people in the County.

Ms. Firehock said she would be happy to add that language.

Ms. Firehock moved to recommend approval of SP202100001 Midway Solar with the conditions outlined in the staff report and an additional condition #20 that the applicant make every effort to avoid removal or disturbance of prime agricultural soils as depicted on the map provided with the

application.

Mr. Keller said he would second the motion but wondered about a clarification that makes it clear from the get-go that they were supportive of solar panels being on top of the soils.

Ms. Firehock said she was not sure and felt more work would need to be done. She said she did not know enough about how they are going to place the panels physically.

Mr. Fritz said speaking as the staff working on this that they heard what the Commissioners were saying and would take the condition into the totality of the conversation to put it all together to work with the applicant and ultimately the condition.

Mr. Keller seconded the motion.

The motion was carried with a vote of 6:0 (Ms. More absent).

Ms. Firehock moved to find that the facility proposed in SP202100001 is substantially in compliance with the comprehensive plan.

Mr. Bailey seconded the motion.

The motion was carried with a vote of 6:0 (Ms. More absent).

Mr. Bivins told the applicants that they had heard deep discussion about the Commission's positive inclination for this project and projects like this, but they also heard the Commissioners say things that they believe could be improved with the applicant's skill set and the desire to do so. He said hopefully they would work with Mr. Fritz and the rest of the team to move forward and put together a project that is both helpful for them in the industry and for their company but also for the community because there are probably some other fields that they care to be involved with and might have to come back before the Commission. Mr. Bivins thanked them and encouraged them to continue to do some good work around these projects.

Adjournment

At 9:22 p.m., the Commission adjourned to May 4, 2021, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

(Recorded Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards and transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 5/11/2021
Initials: CSS