

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185

January 8, 2025

6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor, Chair
Jack Haldeman
Frank Polster
Stephen Rodgers
Jay Everson
Scott Maye
Kira Allmann

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Morgan Risinger, Senior Planner
Roberta Sulouff, Planner
Will Albiston, Planner
Linda Titus, Community Development Assistant

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. O'Connor stated that the Development Review Committee (DRC) and the Policy Committee did not meet in December.

E. CONSENT AGENDA

1. Minutes of the December 4, 2024, Regular Meeting

Mr. Haldeman asked to pull the second item from the Consent Agenda.

Mr. O'Connor stated that the Consent Agenda would only have the Minutes of the December 4, 2024, Regular Meeting.

Mr. Rodgers made a motion to approve the Minutes of the December 4, 2024, Regular Meeting.

On a voice vote, the Commission voted to approve the motion. (7-0)

2. Resolution of Appreciation - Mr. Tim O'Connor

Mr. Haldeman presented a Resolution of Appreciation to Mr. O'Connor for his service to the Planning Commission.

On a voice vote, the Commission voted to approve the Resolution of Appreciation. (7-0)

Mr. O'Connor thanked the Planning Commission members and staff.

F. PUBLIC HEARING(S)

1. AFD-24-0004. 101 and 121 Ivy Hill Road, Mill Creek AFD Withdrawal

This case was heard concurrently with the following case.

2. SUP-24-0016. 101 and 121 Ivy Hill Road, Hedera Solar Facility

Ms. Roberta Sulouff, Planner, addressed the Commission stating that Ms. Ester Rekhelman of Hexagon Energy had applied for a Special Use Permit (SUP) to permit a 3-megawatt solar facility, proposed to be located at 101 and 121 Ivy Hill Road. She noted that both properties were zoned A-1, General Agricultural, designated as Rural Lands on the Comprehensive Plan, and were located outside of the Primary Service Area.

Ms. Sulouff further explained that both properties were currently included in the Mill Creek Agricultural and Forest District (AFD) and the project area must be withdrawn from the AFD to allow for the operation of a specially permitted use. She stated that the applicant has applied to withdraw 60.6 acres of the properties from the AFD, leaving 40.46 acres enrolled.

Ms. Sulouff explained that AFD withdrawal requests outside of the renewal period are considered based on the criteria from the Board of Supervisors' Policy that governs the withdrawal of properties from the AFD. She stated that staff reviewed the application against the criteria and found that the application was not consistent with the withdrawal policy. She continued by explaining that the proposal was not caused by an unforeseen change in circumstances, and withdrawing would not serve a public purpose. Ms. Sulouff then stated that staff could not support this AFD withdrawal because the request did not meet all the criteria required in the Board of Supervisors' withdrawal policy.

Ms. Sulouff noted that at its October 17, 2025, meeting, the AFD Advisory Committee voted unanimously to recommend denial of this application.

Ms. Sulouff continued by stating that the SUP request proposes the operation of a 3-megawatt solar facility to be developed on approximately 47.5 acres of the 101.36 acres of property. She noted that the site would be accessed via Richmond Road, with internal service roads that provide access to Best Management Practices (BMPs) and other features on-site. She then explained that this site has a history of commercial timbering, with the most recent clearing occurring in 2021. Ms. Sulouff then stated that the intended project duration was 40 years, where at the end of the project term, the owner would cease operation of the facility and execute a final decommissioning plan.

Ms. Sulouff explained that the Comprehensive Plan Land Use Map designates the property as Rural Lands. She noted that staff found this use appropriate in Rural Lands, as solar farms tend to be low intensity after their initial construction phase. She continued by stating that the

proposed use was designed to be temporary and is intended to return to agricultural use at the end of the lease term and decommissioning measures. Ms. Sulouff then referred to her past statement that this recommendation was consistent with the staff's Comprehensive Plan recommendation for nearby permitted solar facilities.

Ms. Sulouff noted that according to State Code, if a utility facility is not shown on the Comprehensive Plan, the Planning Commission and governing body shall review the facility to determine whether the location, character, and extent of the project is in accord with the Comprehensive Plan. She explained that staff recommends the Planning Commission find this proposed solar facility substantially in accord with the Comprehensive Plan and applicable parts thereof, as required by Section 15.2-2232 of the Code of Virginia.

Ms. Sulouff stated that on December 10, 2024, the Board of Supervisors adopted a Solar Facilities Policy to address application requirements, siting, and performance standards for solar facility development applications. She explained that this application was filed before the policy's adoption, and the applicant was aware of its development and worked with staff to address potential conflicts with that policy. Ms. Sulouff stated that staff found this application to be consistent with the policy.

Ms. Sulouff continued by explaining that in addition to buffering and landscaping requirements imposed on the Master Plan, staff had proposed conditions to mitigate impacts from this proposal. Ms. Sulouff noted that the conditions were listed in Attachment No. 1.

Ms. Sulouff explained that staff found this proposal to be compatible with surrounding development and consistent with the Comprehensive Plan and Zoning Ordinance. She stated that staff recommends the Planning Commission approve this SUP application to the Board of Supervisors, subject to the proposed conditions.

Mr. O'Connor asked the Commissioners if they had any questions.

Mr. Rodgers asked Ms. Sulouff why there needs to be 400 feet of distance between the solar facility and the nearest residence.

Ms. Sulouff explained that the 400-foot regulation was included in the policy. She stated that she was not aware of the reasoning for the 400-foot distance, and that staff was only able to evaluate how consistent the application was with the policy.

Mr. Everson stated that in the policy on solar facilities, it states that solar facilities should avoid the use of forested land. Mr. Everson asked Ms. Sulouff how she responds to that part of the policy.

Ms. Sulouff explained that staff was aware that this was part of the criteria added to the policy, and that staff did not provide guidance on the interpretation of forested land. She noted that they were only able to put in the staff report what was true of the site, and while it was forested in some of the GIS data, it was also cleared in other GIS data. She explained that the applicant confirmed that the land was timbered every two years and has been for the last 60 years.

Mr. Everson asked if it was required to replant after clearcutting the trees.

Ms. Sulouff stated that she could not speak to the requirements of the timbering program.

Dr. Allman stated that her understanding was that the AFD withdrawal was required for the SUP to go into effect, but the recommendations were slightly different. She then asked Ms. Sulouff to clarify the link between the AFD withdrawal and the SUP.

Ms. Sulouff explained that for the AFD, evaluation is very limited, and they could only

recommend denial or approval based on four criteria. She continued by stating that the Board of Supervisors could make its decision on allowing withdrawal based on a wider purview. Ms. Sulouff then clarified that the Planning Commission and the Board of Supervisors could deny the AFD withdrawal but approve the SUP application, meaning that the SUP would only be valid when the property was withdrawn from the AFD, most likely during the next renewal period.

Dr. Allman then asked if the next withdrawal period is in 2026.

Ms. Sulouff stated that was correct.

Dr. Allman asked Ms. Sulouff to clarify why the proposed solar facility did not meet the public service requirement when it has the potential to be connected to the portion of the electrical grid serving the County.

Ms. Sulouff explained that in past AFD withdrawals that requirement has been interpreted to mean a publicly-owned facility, such as a school or fire station.

Mr. Haldeman asked Ms. Sulouff to confirm that the public service requirement is not open to interpretation and that it is an established law stating that a public good in this context can only be a publicly owned facility.

Ms. Sulouff explained that it is how staff has been directed to interpret the requirement per the Board of Supervisors' policy.

Mr. Polster asked Ms. Sulouff or Ms. Parman to clarify that up to this point the acres of land in the AFD have received a tax break.

Ms. Sulouff stated that staff does not comment on tax implications as it is outside staff's purview.

Mr. Polster then asked if in fact the property is approved for withdrawal, the landowner would then have to reimburse the County for that amount of money for that period.

Ms. Sulouff stated that Mr. Polster was referring to roll-back taxes, and she was not able to comment.

Mr. Polster then deferred to Ms. Parman.

Ms. Parman stated that she believed that was correct, but she needed to further research that point.

Mr. Polster noted that he was confident about his statement, as he has seen similar cases in the past, including the Racefield Solar Farm that was approved by the Board of Supervisors. He stated that case also involved an early withdrawal from the AFD and the landowner was required to pay taxes on the portion of land that was withdrawn.

Ms. Sulouff stated that there have been several cases involving solar facilities where an approval of an SUP was accompanied by an AFD withdrawal request.

Mr. Polster reiterated his point that this was not the first solar farm asking for an early withdrawal from the AFD.

Ms. Sulouff stated that was correct.

Mr. O'Connor made the Commissioners aware that the applicant had asked to extend the

presentation time to 20 minutes as both cases were combined, rather than having two separate 15-minute presentations.

Mr. O'Connor opened the Public Hearing.

Ms. Ester Rekhelman, Hexagon Energy, 321 E Main Street, Suite 500, Charlottesville, VA, addressed the Commission in support of the application as a member of the applicant team. She explained the benefits that the project would bring to the County, the size and design of the solar farm, as well as the impact the facility would have on the surrounding environment.

Mr. Haldeman thanked Ms. Rekhelman for answering his previous question about the regulatory environment. He then asked Ms. Rekhelman to confirm if this solar farm must be built this year or they would lose their regulatory environment.

Ms. Rekhelman clarified that while the solar farm did not need to be built this year, the interconnection agreement would come this year, and they would have a 75-day window to move forward with the agreement as well as pay a lump sum of money to cover the cost of any upgrades to the electrical grid as part of the project.

Mr. Haldeman then asked if the request was denied by the Board of Supervisors, would Hexagon Energy be able to return after the AFD renewal period and present this project again.

Ms. Rekhelman explained that it was not feasible to pay the lump sum of money required during the interconnection period without the necessary approvals. She continued by saying it would be likely that they would have to pull their interconnection application if the AFD withdrawal request was denied. Ms. Rekhelman stated that due to these circumstances, the withdrawal request would have to be approved outside of the renewal period, otherwise they would have waited until 2026.

Mr. Everson stated that he read an article about noise radiating from an industrial solar facility in Suffolk and mentioned that he was surprised to read that this proposed solar facility promised no noise.

Ms. Rekhelman responded by stating that the noise issue in Suffolk came from a 20-megawatt solar farm, which is much larger than the proposed 3-megawatt facility. She explained that the noise from the Suffolk facility is being generated from a central inverter that is located near a resident, and that this proposed facility uses string inverters that are located along a road. She noted that string inverters produce a significantly lower amount of noise that cannot be heard outside of the project area.

Mr. Everson mentioned that in a supporting document provided by the applicant, there would be an amount of CO₂ sequestered by the project. Mr. Everson then stated that he believed that instead of the CO₂ being sequestered, rather it was describing the amount of CO₂ not generated by the solar farm. He then stated that the report did not consider the amount of CO₂ created by manufacturing the solar panels themselves.

Ms. Rekhelman answered by confirming that the report did not include the impact of manufacturing the panels. She explained that although there is an amount of CO₂ generated by building the panels, they would offset the emissions that otherwise would have been created by another source of energy generation, such as natural gas or coal, during their estimated 30-40 years of use.

Mr. Maye asked Ms. Rekhelman to elaborate on the attempts to contact the individual who lives at the property located 236 feet away from the proposed facility.

Ms. Rekhelman explained that she reached out to individuals who owned property along Hill

Lane. She stated that she sent out letters and was able to schedule meetings or phone calls with those who responded. She noted that she was able to meet with the owner of Virginia Lawn and Landscaping who owns the property east from the house that is 236 feet away. Ms. Rekhelman recalled that she had sent a letter to this property owner and had not received a response but decided to knock on the door. She stated that the owner was not home, so she left a note with her name and phone number. She further explained that the owner did not attend the community meeting and her last attempt to contact the owner involved sending a certified letter that required signature upon receipt. Ms. Rekhelman confirmed that the letter had been signed by the property owner, but no response was received.

Mr. O'Connor stated that most of the solar facility projects presented to the Commission have had a 20-year lifespan and this project was estimated to last up to 40 years.

Ms. Rekhelman confirmed that was correct.

Mr. O'Connor asked if the replacement of panels was required for the lifespan of the project.

Ms. Rekhelman explained that the solar panels do not stop working indefinitely after a certain amount of time, but rather they gradually become less efficient to a point where they were no longer profitable. She estimated that the panels were warranted for approximately 30 to 35 years. Ms. Rekhelman noted that they would like to lease the property for 40 years if Dominion Energy has an interest in keeping the panels for up to 40 years, while still having an efficient amount of energy output.

Mr. O'Connor asked if the solar facility would connect down Richmond Road and back to Chickahominy Road, or if it would take an alternate route to the substation on Chickahominy Road.

Ms. Rekhelman explained that the power line would go down Richmond Road and turn down Chickahominy Road.

Mr. O'Connor asked if, with the interconnectivity agreement, the applicant would be putting up larger poles similar to what was done with a previous project.

Ms. Rekhelman answered that they would not be putting up new poles, as the powerlines running down Richmond Road only require new fiber upgrades. She then explained that the Richmond Road Solar facility is a mile away from 101 and 121 Ivy Hill Road and is connected to the same substation that the proposed solar facility would be connected to as well. She noted that the Richmond Road facility would be completing the same fiber upgrades that the proposed facility would require, meaning that they would only be completing upgrades between Richmond Road facility and the proposed property, which she confirmed was less than a mile of distance.

Dr. Allman asked for clarification on the process of people signing up to receive power generated from this proposed solar farm.

Ms. Rekhelman responded, explaining that the Dominion Energy Shared Solar Program is a state-mandated program that requires Dominion Energy to commission projects between 1 to 5 megawatts. She explained that the purpose of the program is for people who are unable to obtain rooftop panels to still access the benefits of solar power. She continued stating that people must voluntarily sign up for the program and they would have to subscribe to a nearby project through their Dominion Energy online portal or by calling Dominion Energy. Ms. Rekhelman noted that the amount of energy consumed by a household within a year becomes a share of the solar facility output, and that members of the program receive credits to reduce the cost of their energy bill.

Dr. Allman asked if Dominion Energy facilitates the outreach of this program to potential residents.

Ms. Rekhelman explained that she was unsure if Dominion Energy directly advertises to residents, but that only Dominion Energy customers have access to the program. She clarified that if someone in the area is a member of a co-op territory, they would not have access to these benefits. Ms. Rekhelman finished by stating that Hexagon Energy would be happy to work with the County's Neighborhood Development Division to do more outreach to residents in the area.

Mr. Raymond Suttle, Kaufman & Canoles, P.C., 11815 Fountain Way, Suite 400, Newport News, VA, addressed the Commission noting his support for the application.

Mr. Donald Hazelwood, 8819 Hicks Island Road, Lanexa, VA, addressed the Commission noting his support for the project.

Ms. Jackie Brown, 202 Vineyard Lane, Williamsburg, VA, addressed the Commission noting her support for the project.

Mr. O'Connor closed the Public Hearing as there were no additional speakers.

Mr. Haldeman noted his support for the SUP but was hesitant to support the AFD withdrawal. He also stated that he found it difficult to understand how this project did not qualify as a public service. His first objection of the AFD withdrawal involved the change of circumstances, which was interpreted by the County as the death of the owner. He then asked if the fact that this case could not go forward in 2026 if the AFD withdrawal was denied could be viewed as a change in circumstances.

Mr. Everson stated that in relation to the AFD withdrawal, he did not support the change of circumstance. Mr. Everson then stated that as for public purpose, the newly adopted solar policy states that the use of forested land should be avoided. He noted that he does not believe solar facilities should be in agricultural lands but should remain in industrial lands as they are industrial in use. Mr. Everson stated that he believed that Hexagon Energy renting the property for up to 40 years constituted a proprietary interest. Mr. Everson then discussed how he did not find the estimated \$500,000 generated over the proposed 40-year time period of the solar facilities substantial enough when compared to the County's annual budget. He finished by reiterating that he did not find the AFD withdrawal in compliance with the Comprehensive Plan, as it would be taking away rural lands and turning them to industrial use.

Mr. Polster expressed his support for the project as he believed there was a financial benefit for the County and the landowner. He then explained that the criteria of the solar policy and the AFD policy is to be used as guidelines and is not binding such as a State Code or Ordinance. Mr. Polster praised the work the applicant put into their application materials. He noted the tax payment that would be made upon the withdrawal from the AFD as a reason for his support. He made remarks on the increasing demand for energy. Mr. Polster reiterated his support for the application.

Dr. Allman commended Hexagon Energy for their presentation and their work with staff to make this project as in line with the Comprehensive Plan as possible. She noted she was especially impressed with their outreach to the surrounding residents. She explained her understanding of how cases have been dealt with in the past is just precedence and that it is up to the Commissioners to use their discretion to evaluate each case as it is presented. She expressed that in her opinion, the benefits of this project outweigh the possible negatives, and outweigh the more minor procedural points, such as an early AFD withdrawal. Dr. Allman finished by stating she intends to support the project.

Mr. O'Connor explained that he is typically not in favor of early withdrawal from the AFD but

he recognized that this would be a less than a year window by the time the case was presented to the Board of Supervisors. He then thanked Ms. Rekhelman and her team for their presentation. He then stated that he intends to support this project.

Mr. Polster made a motion to recommend the approval of AFD-24-0004. 101 and 121 Ivy Hill Road, Mill Creek AFD Withdrawal to the Board of Supervisors.

On a roll call vote, the Commission voted to recommend approval. (6-1).

Mr. Polster made a motion to recommend approval that the location, character, and extent of the project is in compliance with the 2045 Comprehensive Plan to the Board of Supervisors

On a roll call vote, the Commission voted to recommend approval. (6-1).

Mr. Polster made a motion to recommend the approval of SUP-24-0016. 101 and 121 Ivy Hill Road, Hedera Solar Facility with the proposed conditions to the Board of Supervisors.

On a roll call vote, the Commission voted to recommend approval. (6-1).

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - January 2025

Ms. Istenes stated that she had nothing in addition to the report provided in the Agenda Packet.

She thanked Mr. O'Connor for the important contributions he has made to the Planning Commission and James City County.

Mr. O'Connor thanked Ms. Istenes.

Mr. Haldeman asked if a revision to the Comprehensive Plan should be expected this year.

Ms. Istenes stated that a revision was not planned this year.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Polster stated that he was going to miss Mr. O'Connor being on the Planning Commission. Mr. Polster told the story of the first time he met Mr. O'Connor. Mr. Polster applauded Mr. O'Connor for his leadership, guidance, and friendship.

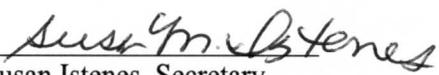
Mr. O'Connor thanked Mr. Polster for his remarks. Mr. O'Connor thanked staff for their work during his time on the Planning Commission. Mr. O'Connor stated that he has appreciated the work that the Planning Commission has done during his tenure. He added he expects that will not change after he is no longer on the Commission.

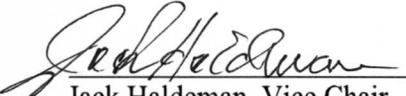
J. ADJOURNMENT

Mr. O'Connor asked for a motion to adjourn.

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 7:17 p.m.


Susan Istenes, Secretary


Jack Haldeman, Vice Chair