

**COUNTY OF AUGUSTA
STAFF REPORT
WAYNE AVE SOLAR 2, LLC
FINAL STAFF REPORT**

PROPERTY OWNER:

Ellen B. Fitzgerald, David W. Fitzgerald, and Laura M. Fitzgerald

APPLICANT:

Wayne Ave Solar 2, LLC

APPLICANT'S REQUEST:

To construct a 3 megawatt (MW) solar facility on the property south of the railroad within the existing agriculture field on approximately 31.5 acres of a 36.5-acre parcel.

DEVELOPER: New Leaf Energy, Inc.

LOCATION OF PROPERTY:

TMP 084 101C

Located within the field to the east of the house at 147 Wayne Ave, south of the railroad that parallels Wayne Ave.

MAGISTERIAL DISTRICT:

South River

SIZE OF PROPERTY:

Subject parcel contains approximately 36.5 acres

SIZE OF SITE UNDER PANEL:

23 acres fenced (**6 acres** of the fenced area are under the panels)

9 acres for stormwater controls and the access road

2 acres for landscaping

VICINTY ZONING:

General Agriculture (GA) to the north, east, and south, General Business (GB) to the north, General Industrial (GI) to the west, and Single Family Residential to the northeast

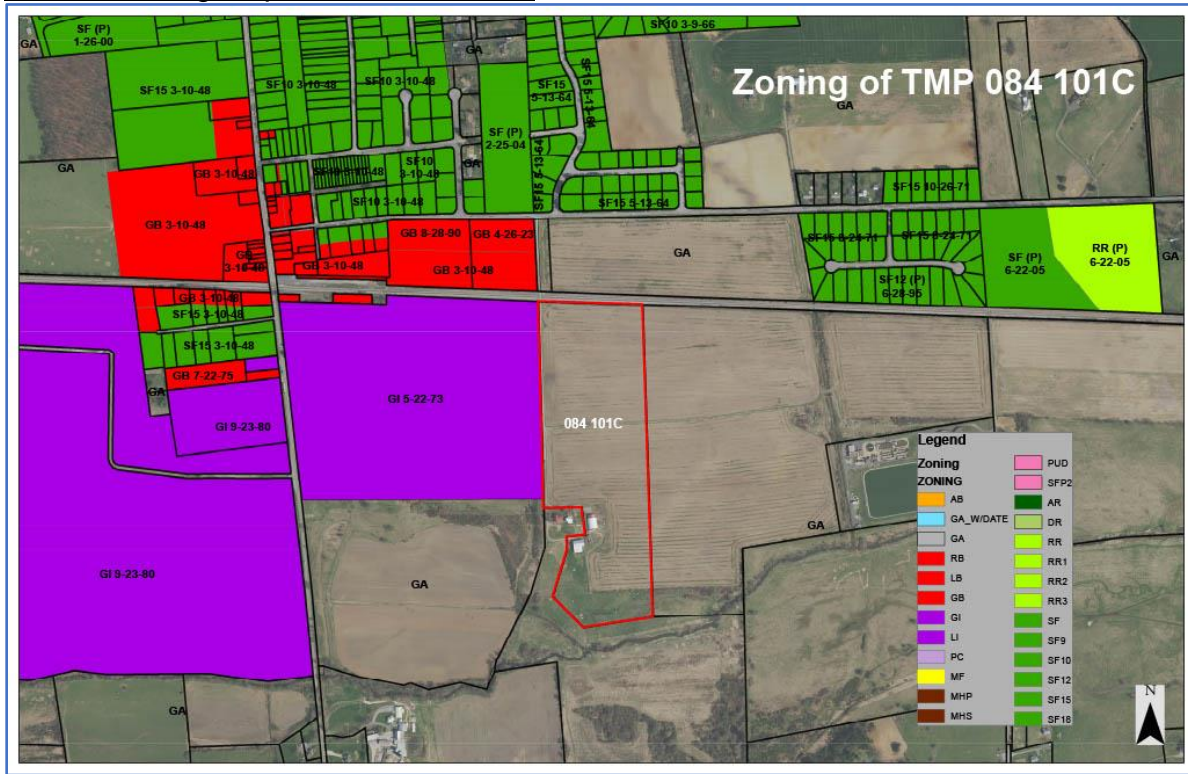
PREVIOUS ZONING OR S.U.P:

Currently zoned General Agriculture

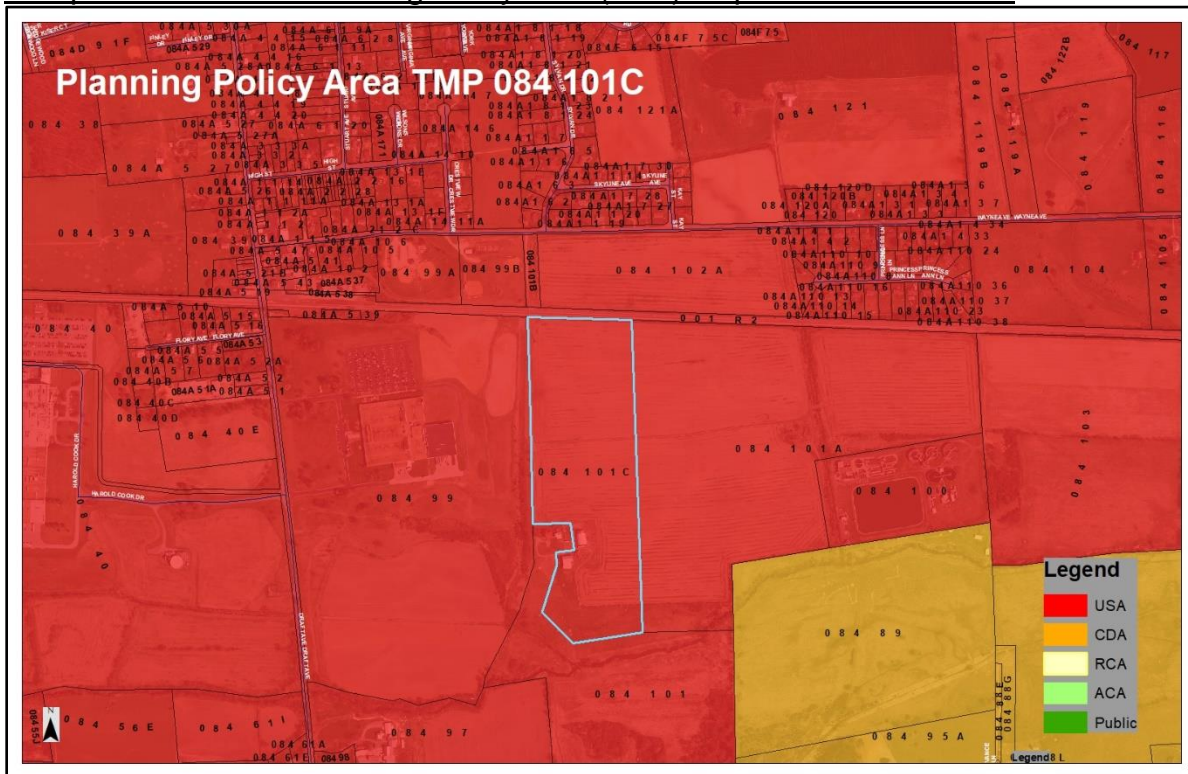
LAND USE MAPS:

The proposed project lies within in the **Urban Service Area** of the Comprehensive Plan, planned for Industrial. Adjacent properties are a mixture of different land uses, including medium density residential, agricultural, business, and industrial land use types. The property is bordered to the north by an existing Norfolk-Southern railroad right-of way.

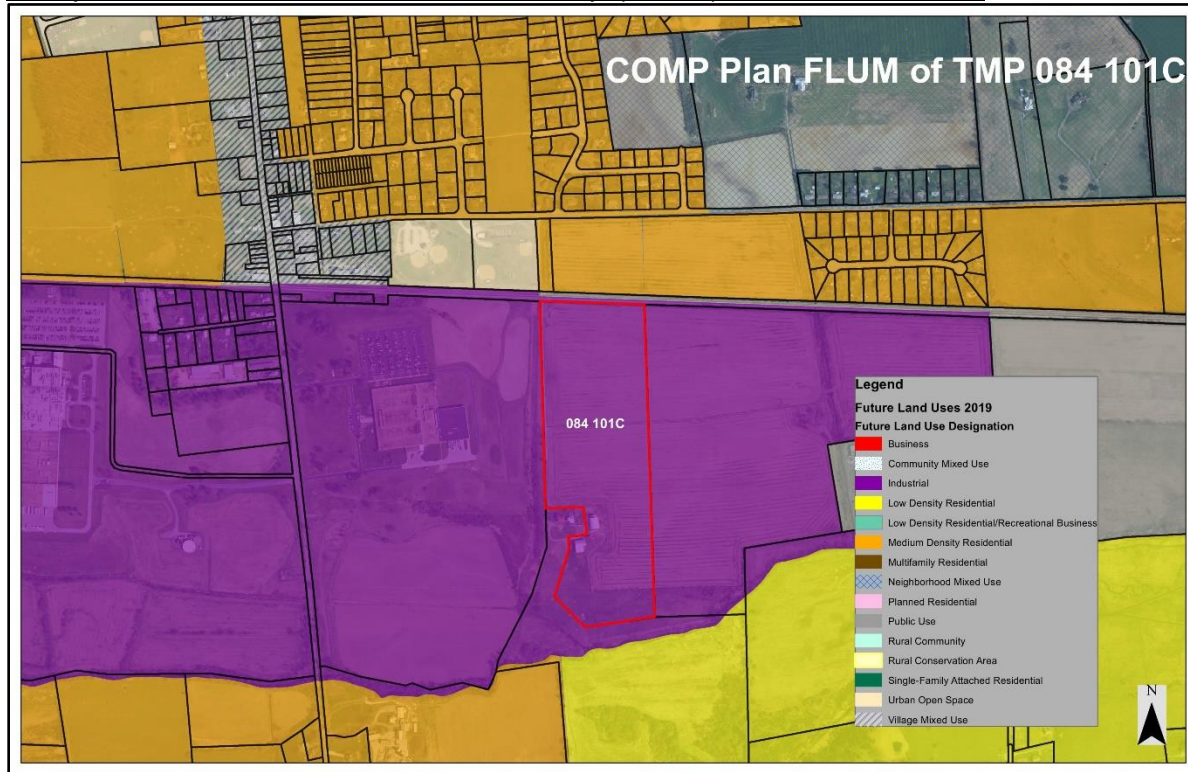
Current Zoning Map of TMP 084 101C



Comprehensive Plan Planning Policy Area (PPA) Map for TMP 084 101C



Comprehensive Plan Future Land Use Map (FLUM) for TMP 084 101C



AGENCY COMMENTS

Traffic Data: **Rte. 639 (Wayne Ave)**
-AADT: 1,300 (2021)
-Speed Limit: 35 MPH
-K-factor: 0.094, Dir. Factor: 0.619
-Funct. Class.: Minor Collector

VDOT COMMENTS:

VDOT Site Specific Comments:

The site's only access appears to be via a private lane from Rte. 639 (Wayne Ave) that crosses the railroad. This same entrance on Wayne Ave has recently been approved for access to the first Wayne Ave Solar, LLC project. The entrance will be adequate for the proposed request as well. In general, a solar facility may generate an initial peak of construction traffic but is expected to generate very little traffic once in operation.

VDOT General Comments:

Should the safety, use, or maintenance level of any existing or proposed entrance to a VDOT maintained highway change in the future, VDOT reserves the right to require additional modifications as warranted by the site-specific conditions. If any work is required on VDOT right-of-way, a VDOT Land Use Permit is required. The permit is issued through the Harrisonburg Residency office.

HEALTH DEPARTMENT COMMENTS:

The Health Department advises the applicant to research any sewage disposal systems or private well approvals on the parcels and ensure they are not encroached upon or damaged. Solar panels should not be placed over existing drainfields or reserve areas.

For questions or for additional information, the applicant should contact the Central Shenandoah Health District at csdinfo@vdh.virginia.gov.

Applicant’s Response: *The applicant referred to a report by AES Consulting Engineers, who conducted a physical survey onsite on July 24th of 2020 documenting all public and private utilities present on the site. The applicant has also confirmed with the property owner that there are no drain fields or reserve areas present on site.*

SCHOOL BOARD STAFF COMMENTS:

The request for a change of approximately 35 acres from General Agriculture to Special Use Permit for a small scale solar energy system would have no impact on these three (3) schools.

The table below indicates the enrollment as of May 18, 2023

School	Enrollment	Capacity
Stuarts Draft Elem SDES	593	834
Stuarts Draft Middle SDMS	495	960
Stuart Draft High SDHS	692	940

FIRE-RESCUE COMMENTS:

- Prior to activating the site, all Augusta County Fire and Rescue Departments shall be provided emergency response training by the owner or operator. This training and education must include documentation of onsite material and equipment, proper firefighting and lifesaving procedures, and material handling procedures.
- Solar sites should have adequate methods for system shutdown of the electrical equipment to be reviewed by the Fire Chief or his designee. All main power disconnects, as well as all system components that require special attention during an emergency, shall be clearly and consistently labeled on the preliminary site plan submitted with the SUP application and all subsequent site plans.
- A knox box or key box shall be provided at all access gates shown on the site plan to be reviewed by the Fire Chief or his designee.
- All tracking rows must be a minimum of 15’ apart at highest tilt for emergency vehicles and responders to have access.

- A Site Maintenance Plan must be provided including the following: weed control methods, routine mowing and trimming, and other general site maintenance.

If you have further questions, please contact me at 540-245-5624.

Applicant's Response: *Applicant states that they will coordinate with Fire and Rescue in providing emergency response training prior to the activation of the site, along with an Emergency Response Plan. Applicant states that they will coordinate with the Fire Chief for review of all methods of system shutdown, will provide a Knox box or key box at all access gates, agrees to provide 15' of interrow spacing to allow for Emergency vehicle and responder access, and agrees to provide a Site Maintenance Plan.*

AUGUSTA WATER COMMENTS:

1. Water and sewer capacities are not reserved until system adequacy is determined (supply, treatment, transmission) and payment of the connection fees has been received in accordance with Augusta Water Policy. Augusta Water's Policies and Procedures can be found at <http://www.acsawater.com/oppm>.
2. Any engineering evaluations and upgrades or extensions would be the responsibility of the owner/developer and are subject to Augusta Water review and approval.
3. Investigation of available fire flow is recommended to ensure that the system is capable of providing the needed fire flow to comply with Chapter 24 of the Augusta County Code requirements for the proposed use of the property. Any upgrades or extensions would be the responsibility of the owner/developer and are subject to Augusta Water review and approval.
4. There is an existing 6" waterline approximately 1,330'± to the east of the subject parcel.
5. There is an existing 21" sewer line approximately 291'± to the south of the subject parcel.
6. There is an existing 6" PRIVATE sewer force main running through the southern portion of the subject parcel.

NOTE: Without a detailed review of the project site, it appears Augusta Water utilities are well positioned to provide water and sewer service to this property in conformance with the Augusta County Comprehensive Plan. The above comments do not include any analysis concerning Augusta County's Comprehensive Plan or the potential economic impact to Augusta Water. Additional comments will be provided to the Augusta County Board of Zoning Appeals under separate cover prior to this application being considered.

ENGINEERING COMMENTS:

Environment Ordinance Considerations

The county will consider all areas under panel to be impervious, though we will consider site specific calculations demonstrating some level of infiltration and/or treatment of runoff in the area underneath of the panels and surrounding areas.

This property drains to South River which is listed on the Virginia DEQ 2022 Impaired Waters List. This impaired segment extends from its confluence with Stony Run downstream to its confluence with the Back Creek. The impaired use is recreation, the specific impairment is E. coli., The sources of the impairment are wildlife other than waterfowl, non-point sources and agriculture. Numerous TMDLs have been approved for this segment for each of the impairments and must be considered by the applicant.

Additionally, the Augusta County Comprehensive Plan lists the South River – Canada Run watershed as a Priority Watershed for Groundwater Protection due to the presence of karst features and the location of Source Water Assessment Program zones. While infiltration BMPs may not be advised due to the prevalence of karst, it is recommended that water quality treatment be provided onsite vs. purchasing offsite credits.

Overlay Ordinance Considerations

Portions of this property lie within Zone AE on the FEMA FIRM. Any development on this portion of the property must meet the provisions of the Floodplain Overlay (FPO) Ordinance. New lots must contain a “Buildable Area” outside of the floodplain.

This property lies within of the Urban Service Overlay District (USO) and is therefore subject to the limitations on access to public streets contained in that ordinance.

Portions of this property lie within Area 2 of the Source Water Protection Overlay (SWPO) District. All provisions of the Source Water Protection Ordinance (SWPO) must be satisfied. Additionally, for Source Water & Recharge Areas, the Comprehensive Plan recommends restriction of land uses that pose a contaminant threat. Additionally, stormwater practices that infiltrate or can contaminate groundwater should be avoided. Water quality treatment and revegetation are recommended.

This property lies outside of the Airport Overlay District (APO).

Subdivision Ordinance Considerations

§21-9.1 Subsection B of the County Subdivision Ordinance addresses street layout and access to adjacent property. Development is required to connect to existing or planned streets and must also provide for access to adjacent property that is located with areas designated in the Comprehensive Plan as Urban Service or Community Development Areas. This property is in the Urban Service Area, with a Future Land Use of Industrial. As developed, this property is expected to connect to the adjacent solar facility and

ultimately, after decommissioning, planned industrial parcels south of the RR and north of the river.

Natural Resources Recommendations from the Comprehensive Plan

The Augusta County Comprehensive Plan recommends performance standards to protect natural resources. For Urban Service Areas, a riparian buffer of 35 feet on either side of a stream is encouraged, and where feasible, stormwater should not be piped through in a manner to short-cut the buffer. Additionally, floodplain areas should have no habitable structures, but should instead be utilized for greenways & recreation areas.

For unique natural features such as caves, major karst features, critical habitats, etc., the Comprehensive Plan recommends to tie these features in with greenways, active and passive recreation areas and flood plain preservation areas.

ZONING ADMINISTRATOR'S COMMENTS:

Installing solar panels on approximately twenty-two (22) acres of the property could have a negative visual impact on the single family residential zoned property to the north containing single family residences, and the surrounding General Agriculture zoned property. Staff does not feel the adjoining General Business and General Industrial zoned properties will be negatively impacted.

A Special Use Permit meeting the ordinance requirements outlined in **Section 25-70.4** is required prior to development of a small scale energy project.

The Zoning Ordinance requires a buffer yard to be provided and maintained and landscaped adjacent to any property line. A site plan meeting submittal requirements of Article LXVII "Site Plan Review" including supplemental plans shall be submitted for review prior to Special Use Permit approval.

Applicant's Response: *Applicant states that they will provide buffering to match or be similar to the approved Wayne Ave Solar 1, LLC buffering plan to provide a cohesive viewshed along the northern portion.*

COMPREHENSICVE PLAN CONSIDERATIONS:

OBJECTIVE C: Encourage distributed solar and carefully sited utility scale solar as a means of achieving renewable energy goals.

Policy 1: Economy. Recognize the employment opportunities, especially for distributed solar, and economic diversification opportunities that utility scale solar provide.

STAFF ANAYLSIS: The applicant has stated that the project is a distributed solar project, which provides renewable energy to the local utility system. The applicant has

provided an “Economic Impact Assessment” as well as an estimated financial analysis reviewing additional taxes to the County. Under Virginia State Code Section 58.1-3660 (D), solar projects equal to or less than 5 MW in localities without a revenue share ordinance have a 100% exemption from taxes if the initial interconnection request was made on or after January 1, 2019 and approved by the locality before July 1, 2022. For projects approved by the locality on or after July 1, 2022, the exemption decreases to 80% of the assessed value in the first 5 years of service after commencement of commercial operation, 70% in the second 5 years, and 60% for the remaining years in service [VA Code section 58.1-2606.1] Real Estate Tax and personal property tax are factored in to come up with the total estimate. Rollback taxes are included as a portion of the land will be taken out of land use with an estimated one-time payment of \$4,600.00. The real estate tax is estimated at \$1,483.02 annually, while personal property tax is calculated with the following values depending on years assessed: year 1-5 (80% exemption) at \$1,764.60; year 6-10 (70% exemption) at \$2,646.90; and year 11 to the end of the life of the facility (60% exemption) at \$3,529.20. The estimated cumulative tax for the lifespan of the small solar energy system is \$191,854.15.

If the Special Use Permit is approved, the Commissioner of the Revenue will determine what acreage will be subject to removal from land use assessment and subsequent rollback taxation, depending on the property’s overall compliance with the requirements of the land use program. The applicant has stated that New Leaf, Inc has contacted the Commissioner of Revenue, and that the cost estimate provided is subject to change.

The assessment noted that 30 to 40 individuals are anticipated to be make up the labor force during the construction phase, while 4 to 6 individuals will be hired during the operational phase of the system, including, a local landscape company, technician, and operator. The applicant states the installation of the panels and equipment will be from labor outside of the County as it is often specialized work, but the project will utilize a local landscaping company, for the clearing of the site and the maintenance of the site once in operation. The majority of materials for the project will be purchased from manufacturers outside of the county, but the applicant states that some materials will be locally sourced such as gravel, concrete, topsoil, and other miscellaneous materials for construction. The applicant adds that local trucks will be used to import the materials. The estimated value for the construction materials has not been provided by the applicant at this time.

The applicant also emphasizes that while the project will remove a portion of the agriculture fields from further use, it will not eliminate any jobs currently on the parcel. A family member of the Fitzgerald’s will continue to farm the surrounding fields. The applicant is looking into having sheep within the fenced area of the solar site, that would be managed by a local farmer. The applicant has been in contact with Augusta County’s Animal Science Extension agent who has reached out to two local sheep producers that have expressed interest in the possibility of grazing sheep for this solar project.

Policy 2: Rural Viewsheds. Desire to maintain rural viewsheds and agriculture as a predominant component of our economy, but sees synergy among agricultural and rural land development and utility scale solar development so long as the clustering, size, or fragmentation of such facilities does not have undue adverse impact on the surrounding neighborhoods.

STAFF ANALYSIS: The project is located in Stuarts Draft, a major growth area for the county. The applicant acknowledges that the parcel is currently zoned General Agriculture, and points out that the Comprehensive Future Land Use Map designates this parcel for future Industrial. The applicant makes the argument that the solar project would consist of lower heights compared to an industrial sized building which would potentially impact the residents to the north's view of the Blue Ridge Mountains. The solar project is sited behind the railroad, which the applicant states provides a natural rural berm from the residents to the north.

This site is located immediately adjacent to an approved community scale solar facility. Staff are concerned that the siting of two (2) solar facilities this close to one another could be in conflict with this policy and being in close proximity to another approved solar project could result in undue adverse visual impacts on rural viewsheds for the neighborhood to the north. However, staff takes into consideration the natural buffer of the railroad, the distance from the single-family neighborhood to the north, the topography of the land where the solar panels would be situated below the railroad, and the extent of the project being approximately 6 acres under panel, and find that this project will not affect the rural viewshed from the Blue Ridge Mountains or other parcels zoned General Agricultural surrounding the proposed site.

Policy 3: Agricultural landscape and economy. Siting of projects should evaluate the agricultural landscape of the project area and surrounding area to assess the effects of a project on the agricultural economy.

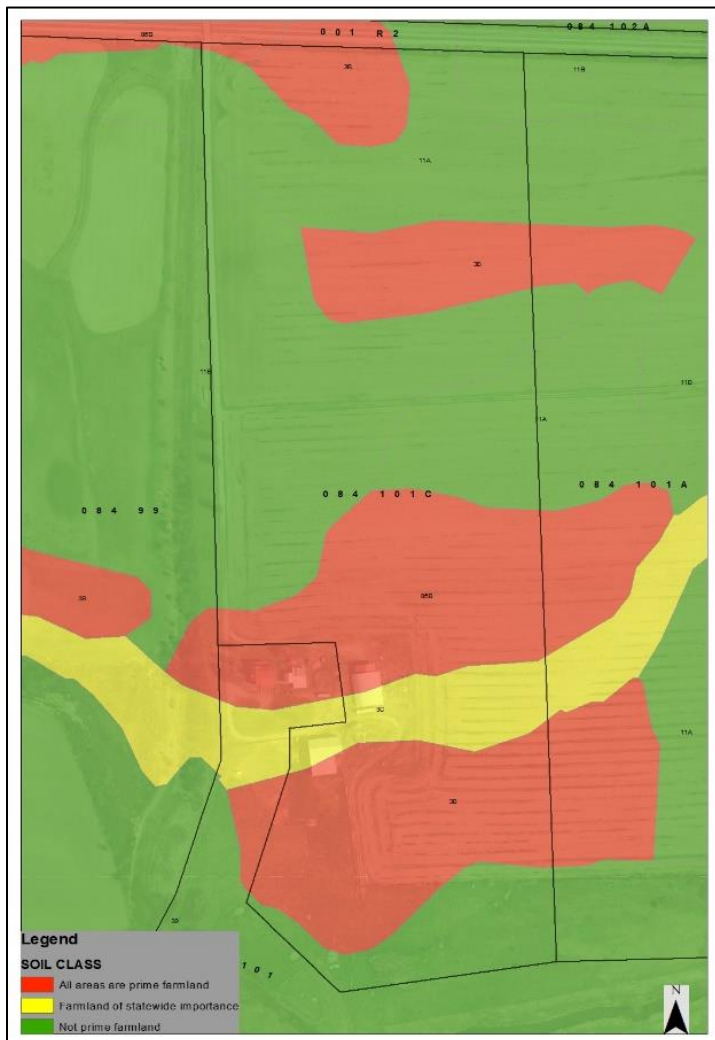
STAFF ANALYSIS: The proposed parcel is currently cleared and actively being used for agricultural purposes, and is adjacent to general agriculturally zoned land to the north, west, and south, and an approved small energy system solar facility to the east. The applicant states that approximately 31.5 acres of land being used for agriculture would be taken out of agriculture use, but the surrounding land would continue to be utilized for farming by a relative of the landowner. Out of the 31.5 acres, 22.32 acres will be fenced and approximately 6 acres of the fenced area under panels, 7.96 acres will be used for stormwater controls and the access road, and 1.22 acres for the landscape buffer. The applicant notes that the project will be decommissioned so that the landowner can choose to continue farming after if they wish, or because the land has been preserved for 40 years, it could turn into an Industrial Development.

The applicant states the project will have minimal impact on the agricultural economy of Stuarts Draft since the parcel is planned for Industrial use, and that any future Industrial use would take away from the Blue Ridge Mountain Horizon and the land out of

agriculture use. Stuarts Draft is set apart as an area in the County that is expected to grow and have industry mixed in with the agricultural economy. The extent of the project being approximately 31.5 acres of Augusta County's agricultural land, is taken into consideration as an impact to the agricultural economy of the area, as Stuarts Draft is predominately agriculture, contributing to Augusta County being second in the state of Virginia for agricultural production. However, staff feel it will have little impact to the agricultural economy of the area as the parcel is planned for Industrial, and it is expected for the land use of this property to shift from agriculture uses.

Policy 4: Prime farmland and Agricultural and Forestal Districts. Siting of projects in Agricultural and Rural Planning Policy Areas should consider the presence of prime farmland producing soils and/or adjacent Agricultural and Forestal Districts.

TAX MAP	TOTAL ACREAGE	CLASS 1	CLASS 2	CLASS 3
084 101C	36.469	0	34.469	2.0



STAFF ANALYSIS: SOILS: Class 1, 2, and 3 soils are considered the best for farming purposes. Land use taxation data, presented above, states that the majority of this parcel is classified as Class 2 soils with 2 acres as Class 1. Class 2 soils are defined by the USDA NRCS as having “moderate limitations” for farming; however, are still considered to be ideal for agricultural production. Soil Map TMP 084 101C

Majority of the map in green show that the land is considered not prime farmland, with some areas being prime farmland in red, and a small portion to south, in yellow, being of statewide importance. From the applicant's site plan, the majority of panels will be located in the areas designates as not prime farmland and prime farmland While the project will remove the field from agricultural operations, the applicant intends to leave all subsoil and top soil onsite at decommissioning, and states that

the landowner will have the ability to return the land to agricultural use. One of the conditions of the Special Use Permit in the operating conditions is prohibiting topsoil from being removed from the site (see recommended Operating Condition #14). The intention of the applicant to leave all subsoil and topsoil onsite at decommissioning would fulfill this condition.

Agricultural and Forestal Districts: The parcel is not located in an Agricultural and Forestal District.

Policy 5: Visual impact. Siting of projects should take into consideration surrounding neighborhood developments and how visual impacts to those neighborhoods can be mitigated through appropriate buffers. Siting and design of projects should strive to utilize existing vegetation and buffers that exist naturally when adjacent to public rights of way or other adjacent property. In order to design and integrate buffers that succeed in mitigating the visual impact of a project on nearby development, projects should cover no more than 200 acres with photovoltaic panels.

STAFF ANALYSIS: The applicant is proposing an enhanced forty-foot (40') wide buffer along the Norfolk Southern Railroad, along with a twenty foot (20') buffer along the western property line. An alternative compliance from the County Ordinance is also being proposed along the east side where the project would sit adjacent to an approved solar facility. The applicant has stated they will be providing photo simulations and digital renderings to the County prior to the Planning Commission meeting. Applicant believes that screening between the two solar projects is not required as the facility is unmanned and shares the same property line. Minimum required setbacks from public right of ways and adjacent properties have been provided. The site lies seven hundred feet (700') from the public road.

The applicant states that the project will sit in low-lying land below the railroad which provide a natural rural berm from the site. The applicant has also stated that after feedback from a neighbor across the railroad, they have decreased the proposed panel height from fifteen feet (15') to ten feet (10') to further reduce visibility from the single family residential neighborhood across Wayne Ave, in addition to the enhanced buffering along the railroad. The applicant emphasizes that there will not be any visual impacts on the view of the Blue Ridge Mountains. The sight will also be surrounded by a security fence and the panels constructed will have an anti-glare coating on them to mitigate any reflection towards the surrounding properties.

As the project sits behind the Norfolk Southern Railroad, and with the additional buffering of landscape and reduction of panel height, staff do not anticipate that the project will have a visual impact to the surrounding development.

Policy 6: Balanced land uses. Desire to balance the utility scale solar land use with other important and valuable land uses for our citizens. The size/extent of projects should be considered in proximity to other developed land uses so as not to have undue adverse impacts on the existence of nearby developed residential, commercial or mixed-use communities. The County strongly discourages projects that have a photovoltaic panel coverage of more than 200 acres, and projects should not site on non-contiguous parcels or in close proximity to existing solar facilities. Consideration of existing Augusta County Service Authority infrastructure should be made.

STAFF ANALYSIS: According to the Comprehensive Plan Future Land Use Map, the parcel is planned for Industrial. **This parcel is located within the Urban Service Area, where** Augusta Water has invested in infrastructure to support future anticipated residential, commercial, and industrial development. The project is also located less than a mile from the historic downtown of Stuarts Draft.

The Stuarts Draft area is one of the most industrialized areas in the County, mixed with the agriculture economy. The two uses characterize Stuart Draft. While this project is being sited directly adjacent to an approved solar facility in an Urban Service Area, both facilities would be less than 50 acres under panel, Wayne Ave Solar 1 being approximately 23.3 acres and Wayne Ave Solar 2 being approximately 6 acres under panel. Staff feel that the location for the two facilities would not change the character of the community as industrial is planned for these two parcels.

Policy 7: Compact, interconnected development. Projects are strongly discouraged from siting partially or fully within Urban Service or Community Development areas in order to recognize the County's vision for compact, interconnected, and pedestrian-oriented residential and commercial development in these areas.

STAFF ANALYSIS: This project is located entirely in an Urban Service Area. **The County and Comprehensive Plan strongly discourage development of solar facilities in Urban Service Areas.** Stuarts Draft is considered one of the County's two major growth areas, where significant residential, business, and industrial growth is anticipated. A major objective for Stuart Draft and for the County is to be interconnected and to create communities that have a sense of place. One way to do so is to develop the area in a planned and coordinated way. Wayne Ave is one of the main corridors and source of connection in Stuarts Draft. The Transportation Plan of The Stuarts Draft Small Area Plan designates an area for a future shared greenway as a plan of action to implement the small area's vision for interconnectivity. The greenway is proposed to encompass parcels along the railroad, including 084 101C. While the proposed greenway is presently a concept, if solar were to be developed there, it could alter the location of the proposed greenway, delaying construction.

Applicant Response: *The applicant acknowledges that there are conceptual plans for a Greenway along Wayne Ave, but the applicant also states that the proposed solar*

facilities' improvements leave an approximate 40-foot-wide corridor between the designated project area and the Norfolk Southern Railroad Right-of-Way, which is also being provided with the approved Wayne Ave Solar 1, LLC SUP 21-64. The applicants also notes that the property owners are also agreeable to providing a greenway through their property and will work with the County on the plan.

Policy 8: Open space. Support projects that seek to actively create opportunities and partnerships that provide for natural open spaces and outdoor recreational activities such as pedestrian corridors, wildlife watching areas, and fishing areas, especially in publicly accessible land and rights-of-ways.

STAFF ANALYSIS: Wayne Ave is one of Stuarts Draft corridors and is a targeted area to create interconnectivity through sidewalks and walking trails. The applicant states that while the site is on private property, the landowner would be open to working with the County on siting a portion of the walking trail, if the project moves forward, as a way to support open space.

Policy 9: Interconnectivity. For projects that are adjacent to public spaces or other planned developments, encourage projects that provide for trails and linkages to adjacent land planned for or already developed.

STAFF ANALYSIS: Please see Policy 7 and 8 for staff comments on providing trails and open spaces.

Policy 10: Resource considerations. Projects should be designed, sited, and constructed in a way that protects and preserves the County's natural, scenic, and cultural resources including:

STAFF ANALYSIS:

- a. **Streams, rivers, wetlands:** An aquatic resource delineation was performed, and no resources were identified. The project will not impact the streams, rivers, and wetlands.
- b. **Fertile soils:** The project will maintain the fertile soils onsite throughout the life of the project by stockpiling and any excess topsoil onsite and separation of the subsoil and topsoil during construction.
- c. **Habitats:** The existing habitat consists of agricultural rotational fields comprised of soybeans, corn and similar cash crops. The project will temporarily retire the agricultural field by reverting the land to native vegetation that will be maintained and promote wildlife and pollinators. Upon the project reaching the end of its life cycle the site's soil can be turned and returned to agricultural use.
- d. **Native vegetation:** The project will utilize native vegetation, including pollinator plants to promote wildlife.

- e. **Forests:** The project is sited within an existing agricultural field and tree clearing or fragmentation of existing forests will occur as a result of the project.
- f. **Historic and archaeological resources:** The applicant's consultant, LaBella & Associates, performed a preliminary cultural resources assessment of this and the abutting eastern parcel and concluded that there are no eligible recorded archaeological sites on-site. The Virginia Department of Historic Resources, DHHR, have recommended the Miss Hannah Forrer house located at 147 Wayne Ave as potentially eligible for the National Register List. The site is also less than a mile from the historic downtown of Stuarts Draft.

Applicant Response: *The applicant states that they have spoken to the property owners about mitigation efforts to protect their potentially eligible historic home, and that additional trees and shrubs will be planted along portions of the property line at the property owner's discretion.*

Policy 11: Natural resource benefits. The County sees value in projects that create additional natural resource benefits through the use of native vegetation, the creation of wildlife corridors, and the use of pollinator species in buffer areas and underneath panels.

STAFF ANALYSIS: The project proposes the use of native vegetation and pollinator species in the buffer areas and underneath the panels. The applicant states that the perimeter of the panels is similar to pasture where wildlife will follow the fence line and other birds and small animals can coexist within the fenced area with less interaction with predators.

Policy 12: Clustering and Colocation. Support projects that site on contiguous parcels. Strong consideration should also be given to siting projects a reasonable distance away from existing solar facilities so as not to significantly alter existing community character or create undue impact on nearby neighborhood development. Solar facilities that are sited on the same parcel or contiguous parcels, but are constructed in distinct phases, should be considered to be separate facilities for purposes of fully and accurately evaluating the potential impact on the surrounding community.

STAFF ANALYSIS: While both sites combined would be under 50 acres, having two solar facilities adjacent to each other, such as the proposed Wayne Ave Solar 2 and the adjacent, approved Wayne Ave Solar 1 solar facility, may be in conflict with this policy. Staff do not believe that this policy is intended to support separate solar facilities being added adjacent to existing, approved facilities at a later date. However, staff feel that due to the parcel's characteristics and limitations for future industrial development and the similar footprint of the approved solar facility adjacent to it, that it would be appropriate to site two separate facilities adjacent to each other, in this case. The siting of two facilities could produce a patchwork effect, but because the two projects are homogenous in design, staff feel that the facilities together would not have undue impact of future surrounding development or alter existing community character. The

Planning Commission and Board of Zoning Appeals will need to determine if this request is in compliance with this policy.

STUART DRAFT SMALL AREA PLAN CONSIDERATIONS:

While not explicitly related to guiding future solar development in the County, the Stuarts Draft Small Area Plan is an extension of the Comprehensive Plan and therefore must also be taken into consideration during review of this project, as it more specifically details future investment and growth in the Stuarts Draft area. A copy of the Small Area Plan can be found on the Planning page of Community Development on the County Website. A link is also provided. [Stuarts Draft Small Area Plan](#).

The Stuarts Draft Small Area Plan encourages as much development as possible to occur in Urban Service Areas in order to preserve the natural and rural character of Rural Conservation Areas and Agricultural Conservation Areas in the Stuarts Draft area. In addition, one of the central tenets of the plan is encouraging pedestrian oriented and interconnected development, with heavy investment in bicycle and pedestrian infrastructure being a central tenet of realizing a more interconnected Stuarts Draft. The transportation chapter of the plan has proposed a future greenway as one primary method of realizing this goal and has designated a portion of the greenway to run not only through this property, but through the area included in the proposed project site. The transportation chapter also includes corridor improvements on Wayne Avenue as a goal to be reached within the twenty-year timeframe of the plan.

The Stuarts Draft Small Area Plan recognizes the importance and growing trend of diversification of power portfolios to include more renewable energy, but under Policy 1 of Objective A under Electricity, Stuart Draft supports renewable energy as accessory to by-right established uses. Land used for a solar facility, planned for Industrial use could inhibit economic growth generated by targeted industrial uses. One of the Stuarts Draft Small Area Plan's objectives is to create economic growth by way of preserving industrial lands Identified on the Future Land Use Map (FLUM) to create employment growth.

REMAINING ISSUES TO BE CONSIDERED DURING THE PLANNING COMMISSION:

Adherence to Policy 1, Economy- The applicant is encouraged to offer the estimated value of the construction materials to be obtained locally.

Adherence to Policy 6, Balanced Land Uses- This project is sited directly adjacent to an approved small energy system, Wayne Ave Solar 1. This policy states that projects should not be sited in close proximity to existing facilities. However, this project combined with Wayne Ave Solar 1 would be less than 50 acres, approximately 29.3 acres combined, still meets the definition of a small scale solar energy system facility as defined by the County Ordinance. Staff feels that because of the location of these

parcels as well as the extent of the project, the two solar facilities would contribute to the balance of land uses in the area.

Adherence to Policy 7, Compact, interconnected development- This solar facility is sited in the Urban Service Area, where solar facilities are strongly discouraged to locate. Facilities are not prohibited in the Urban Service Areas but are discouraged as these areas are our growth areas for residents and future development. This project does not meet this policy, and in general, unless a developer is to partner with the County to provide walking trails and wildlife corridors, solar facilities are most likely not going to help with interconnection in the Urban Service Area. Staff also understand the need for solar facilities to be located near infrastructure already in place.

Adherence to Policy 12, Clustering and Colocation- While this project would be next to an already approved solar facility, staff do not feel this constitutes as clustering as they are located on contiguous parcels and would be homogenous in design, that together still meet the definition of a small scale facility.

COMMUNITY DEVELOPMENT STAFF RECOMMENDATION:

An evaluation of this project's conformance with the twelve policies in the Comprehensive Plan and its overall location, character, and extent are both crucial in determining whether this project is in substantial accord with the vision for land use on this property as identified by the Augusta County Comprehensive Plan.

As required under Virginia State Code Section 15.2-2232, the location, character, and extent of the project were considered in the review process:

LOCATION: While the proposed solar project is in an Urban Service Area, where solar facilities are strongly discouraged in the Comprehensive Plan, the proposed solar energy facility is located immediately adjacent to another small-scale solar facility, adjacent to an industrial site, and in close proximity to the waste water treatment plant. The parcel is planned for future industrial, but due to lack of access for a road across the railroad, staff do feel that this proposed solar facility would be an appropriate location for a small scale energy system. For these reasons, the location of this proposed facility is in substantial accord with the Comprehensive Plan.

CHARACTER: Staff feel that the proposed native plantings would be aligned with the character of this area. The additional landscaping and buffering provided by the applicant to match the approved Wayne Ave 1 landscape and height reduction of the panels could alleviate some of the anticipated visual impacts to nearby properties. Therefore, staff find the character of this proposal to be in substantial accord with the Comprehensive Plan.

EXTENT: Staff find the extent of the proposal, with 6 acres under panel, to be in substantial accord with the Comprehensive Plan.

Staff find that the proposal is in substantial accord with the Comprehensive Plan. While the project does not meet every policy, as listed above, given the access challenges for the site for more intensive development and being adjacent to the railroad to the north, Industrial to the west, and a Wastewater Treatment Facility to the east, the location is appropriate. The approved Wayne Ave Solar 1 project combined with this project would be less than fifty (50) acres under panel. Staff feel that the extent of the two facilities will not have adverse impacts on rural viewshed, especially of the Blue Ridge Mountains. The applicant has proposed adequate buffering to mitigate any additional visual impacts on surrounding properties. While infrastructure is in place for an industrial development, due to access issues, future development is limited across the railroad. Part of the land not included in the project will still be in agriculture use, with the possibility of sheep grazing under the panels. For these reasons, **staff recommend that this project is in substantial accord with the Comprehensive Plan and recommend approval of this project.**

If the Planning Commission finds this proposal to be in substantial accord with the Comprehensive Plan and the Board of Zoning Appeals desires to approve the project, staff would recommend the following conditions:

Applicant's Response: *Applicant has provided modifications to a few of the pre-conditions and operating conditions below, in red. It will be up to the Board of Zoning Appeals to Approve these changes.*

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents," Section 25-70.4.C "Standards applicable to small solar energy systems," and Section 25-70.5 "Applications and Procedures for Small Energy Systems" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. The Facility shall not commence commercial operations until final site plan approval is first obtained from the Zoning Administrator or his/her designee, and all pre-conditions of approval have been met.
3. In consultation with site plan review, wetlands shall be inventoried and delineated, and no construction of panels or access roads shall be permitted within 35 ft. of the delineated wetland. All operations and infrastructure of the Facility shall additionally maintain a 35 ft. riparian buffer from all streams.
4. The Facility shall not obtain final site plan approval until evidence has been given to the County that an electric utility company has signed an interconnection agreement with the permittee.
5. Landscaping Plan. The Applicant shall submit a proposed landscaping plan for each perimeter of the Facility (outside all fenced areas) to the Zoning Administrator

and/or his/her designee for review and approval as part of the full site plan, which shall be in general conformance with the landscaping plan submitted with the Concept Site Plan. The following conditions shall govern the installation of landscaping in accordance with the landscaping plan:

- a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.
- b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights of landscaping.
- c. In areas where there is an existing timber buffer remaining on the Facility parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning Administrator and/or his/her designee. The use of existing timber and natural screening is preferable.
- d. In areas where sufficient existing timber does not remain, the landscaping requirements shall conform to the Concept Site Plan. The trees shall be planted during the appropriate time of year, subsequent to the completion of construction.
- e. A surety agreement for landscape maintenance in a form acceptable to the County Attorney shall be submitted and approved prior to the issuance of any building permits. The amount of the surety shall be determined by an independent landscape architect selected and reasonably compensated by the Applicant but approved by the Zoning Administrator and/or his/her designee. The amount of the surety shall be equal to a reasonable estimate of the amount needed to establish, and following establishment, to maintain the landscaping required by the approved landscaping plan for two (2) years after initial installation. Once the landscaping has been successfully established, the surety amount will be reduced to that amount required for two (2) years of maintenance thereafter. ~~The surety will be released only after decommissioning is complete.~~ **The surety will be released only after four (4) years of maintenance is completed.**

- f. All landscaping will be reviewed by the Zoning Administrator and/or his/her designee following installation, at one-year following installation, and as necessary thereafter to ensure the landscaping is being maintained.
 - g. The Applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit, while also considering market availability.
 - h. The use of herbicides for perimeter landscaping shall be minimized to the greatest extent reasonably practicable.
6. Decommissioning Plan. Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County a Decommissioning Plan as outlined in the Augusta County Code Section 25-70.10, as amended. Any structure or equipment associated with the Facility that is not operating for a continuous period of 12 consecutive months shall be subject to decommissioning, per Augusta County Code Section 25-70.10, as amended. Within **365 days** ~~6 months~~ of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Zoning Appeals. Periods during which the Site is not operational for maintenance, repair, or due to catastrophic events beyond the control of the Applicant, during which the Applicant works diligently to return the Site to full operating status, shall not trigger the Decommissioning requirements herein. The Applicant must provide written notice and evidence of the above to the Zoning Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Site was fully operational. Regardless of the efforts of the Applicant to return the Solar Facility to full operational capacity, if the Solar Facility does not operate as a solar energy facility collecting and storing energy and transferring and distributing it to the Grid after the catastrophic event, for a period of two (2) years the Special Use Permit shall be rendered void and the Applicant shall commence Decommissioning no later than the 730th day after the last day the Site was fully operational.
7. A letter of acceptance from a landfill shall be provided with the submittal of the Decommissioning Plan.
8. Decommissioning Estimate. Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County an estimate of the decommissioning costs as outlined in the Augusta County Code Section 25-70.10, as amended, and/or detailed below (the more stringent shall apply), by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The decommissioning cost estimate shall include, at least, the following delineated by line item:

- a. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
- b. Costs related to creating, maintaining, and re-stabilizing any construction entrances identified on the Property, with a separate line item for each such construction entrance, unless written waiver to the Board of Zoning Appeals is requested by the landowner.
- c. Costs for mobilization.
- d. Costs for removal and disposal of all materials, line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure," cost to remove inverters," etc.
- e. Costs to de-compact soils and reestablish topsoil.
- f. Costs to stabilize land disturbed by the decommissioning work.
- g. Costs of trucking, hauling and equipment use.
- h. Costs for removal of any landscaping in buffer zones, setback areas, or under panels
- i. Costs of landfill fees associated with the disposal of commercial and industrial waste
- j. Costs of all labor and estimated man hours to perform the decommissioning work.
- k. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year ~~thirty-five (35)~~ **forty (40)** of operation.
- l. Costs must include a 25% contingency of the total estimate.
- m. The certification of a third-party engineer licensed in Virginia affirming that the owner/operators' cost estimate is sufficient to satisfy the decommissioning required herein. The estimated amount for the salvaged materials shall not be part of the consideration in the decommissioning cost estimate.
- n. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, the Applicant shall be and shall remain liable to the County for the

difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.

9. Decommissioning Bonding. Prior to the issuance of final site plan approval for the Facility, the applicant shall submit a bond, irrevocable letter of Credit, or other appropriate surety acceptable to the County in accordance with Augusta County Code Section 25- 70.11, as amended.
10. Panel Specification and Composition. At the time of site plan review the Applicant shall provide to the Zoning Administrator, a written panel specification disclosure document that includes the composition, toxicological information, and the physical and chemical properties of all of the solar panels, including coatings, being utilized for the Facility. The Applicant shall utilize crystalline solar panels for the Project. The Applicant shall not utilize any panels that of the type known as thin-film panels, including but not limited to not utilizing panels manufactured with or coated using lead, the GenX chemical, amorphous silicon (a-Si), cadmium telluride (CdTe), copper indium gallium selenide (CIS/CIGS), organic photovoltaic cells (OPC) panels, and/or any other material prohibited by state or federal law for use in solar photovoltaic panels. Moreover, to the extent any panel utilized has a Safety Data Sheet associated therewith under 29 CFR 1910.1200(g) and its Appendix D, the Safety Data Sheet shall be disclosed, as well.
11. The Facility, including, but not limited to, all areas covered by photovoltaic panel, any and all landscape or fencing buffer areas, any and all setback areas, any and all support equipment, and any and all access roads, shall be removed from Land Use Assessment and therefore subject to a rollback tax paid to the County for the difference between land use tax and the fair market value for each of the five most recent complete tax years. The remainder of the property not included in the Facility shall continue to meet current requirements for the County's Land Use Assessment program in order to remain included in the program, as determined by the Commissioner of the Revenue upon approval of the Special Use Permit.
12. The applicant shall disclose to the Augusta Water if corrosion control systems are part of the Facility.
13. Augusta Water Infrastructure.
 - a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of Augusta Water.
 - b. No panels and/or appurtenances, including fences and landscaping shall be installed within 20 feet each way of the centerline of any existing water or sewer main to ensure adequate space for future operations and maintenance.

- c. Where public water/sewer utilities are located on the same property as the Facility, Augusta Water shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.
14. The Applicant must obtain site plan approval within 24 months of the issuance of the Special Use Permit and shall substantially complete construction within 36 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.

Operating Conditions:

1. This Special Use Permit ("Permit") is granted solely for the subject property for operation of a small solar energy system (the "Facility"). This Permit shall be binding on Wayne Ave Solar 2, LLC and any successor-in-interest, including but not limited to any current or future owner, lessee, sub-lessee, and permitted assignee ("Applicant").
2. The Permit shall not be assignable by Wayne Ave Solar 2, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.
3. Any document memorializing or relating to the establishment of any successor-in-interest, e.g., lessee, sub-lessee, future owner, permitted assignee, etc., between Wayne Ave Solar 2, LLC or business entity, shall include a recital as to the existence of the Permit, and the duties and obligations of the third party and now successor-in-interest thereunder the Permit, to ensure that successors-in-interest are on written notice of the Permit and its terms and conditions. A copy of these conditions shall be recorded in the clerk's office of the Circuit Court for the County of Augusta, Virginia.
4. The Facility, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), and setbacks (unless otherwise determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Site Plan prepared by New Leaf Energy, Inc. dated [No Date].
5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the Facility and its successors and assigns.
6. All non-operational, non-electrical site features along the perimeter of the Facility, such as landscaping and fencing, shall be properly maintained throughout the life of the Permit. Fencing shall be maintained in good repair and landscaping shall be

maintained so as to provide the desired buffer benefits. Maintenance of such features shall be guaranteed by the surety agreement and surety as provided below. If the Zoning Administrator and/or his/her designee determines that site features identified are not being properly maintained, as described herein, then the Applicant shall be given a notice to remedy as is the standard zoning violation policy of Augusta County.

7. Setbacks, either as shown on the Concept Site Plan, or set by the Board of Zoning Appeals during their review, shall be measured from the property line and/or VDOT Right of Way to the fence line of the Facility.
8. The Applicant shall not add additional photovoltaic panel areas, change the entrance locations of access roads (unless otherwise required by VDOT in a written statement), or revise the height, placement, or design of landscaping buffer elements without prior approval by the Augusta County Board of Zoning Appeals.
9. The Zoning Administrator or any other parties designated by the Zoning Administrator shall be allowed to enter the property at any reasonable time to check for compliance with the provisions of this Permit, with at least 24 hours of advance notice and subject to the security, health and safety standards and regulations that apply to the Facility.
10. The Applicant shall preserve and maintain existing forest/vegetation where it serves to meet buffer standards or standards for alternative compliance as required by ordinance from adjacent property and public right of ways, and is not in conflict with the solar panels, as indicated on the Concept Site Plan. See 5.C and 5.D in the pre-conditions of this Special Use Permit.
11. All construction and decommissioning activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m., Monday through Saturday, and will be prohibited on Sundays. These conditions shall apply to noise generated during the construction of the Facility and to any construction needed during replacement, repair, or maintenance activities during the ongoing operation of the Facility. Replacement, repair, and maintenance activities conducted at nighttime and not involving construction shall comply with all applicable noise standards.
12. The Facility shall not be lit during ongoing operations, unless as required by the Uniform Statewide Building Code. Lighting used during construction shall be downward facing and shall be located at least 500 feet from any adjacent residential property.
13. All solar panels shall use anti-reflective coatings.
14. All topsoil shall not be removed from the site.

15. The Applicant shall implement the following additional measures during construction:
- a. Maintain all construction-related vehicles in good working order.
 - b. Designate a specific individual and provide that individual's name and contact information to the Zoning Administrator and/or his /her designee, to which questions, complaints, or concerns during construction may be directed.
 - c. Prior to the initiation of construction, mail a notice of construction activity to all property owners whose properties are adjacent to areas on which the Facility will be constructed. The notice shall summarize upcoming construction activities, describe the areas in which construction will occur, including the main routes of delivery, and provide the name and contact information of the Facility representative to whom any complaints, concerns, or comments may be addressed.
 - d. Provide adequate portable sanitation facilities that are located in a manner that facilitates ease of disposal but that are not within one hundred and fifty (150) feet of any property boundary of a parcel on which a home is located and whose owner is not participating in the Facility.
 - e. Prohibit any personnel associated with the construction of the Facility from overnight lodging at the site.
16. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.
17. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.
18. This Permit shall be valid from the time of issuance and thereafter for a period of 40 years from the start of commercial operations of the Facility, which shall be the date on which the Facility first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the 40 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant to the

conditions herein, the Facility shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.

19. Solar Panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control.
20. Corporate Structure, Associations, and Information. Applicant and all successors-in-interest, including current and future owners, lessees, sub-lessees, and permitted assignees shall provide the Zoning Administrator, with a copy to the County Attorney, written notice of changes of ownership of the solar facility within thirty (30) days thereof.
21. Any substantial upgrades or changes made to the design or operation of the Facility that are planned shall be disclosed to the Zoning Administrator and/or his/her designee at least ninety (90) days before the intended implementation of the upgrades or changes – except as provided herein. Any substantial upgrades and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.
22. Prior to the activation of the Facility, Wayne Ave Solar 2, LLC, shall provide training to the Augusta County Fire Rescue and Augusta County Sheriff's Office. This training and education shall include documentation of onsite material and equipment, proper firefighting and lifesaving procedures, and material handling procedures.
23. Local Subscribers – *If the project secures a place in the Shared Solar program,* ~~p~~Prior to beginning commercial operation of the utility-scale solar facility, the Applicant shall work in good faith and use its best efforts to identify residents of Augusta County, Virginia and its incorporated towns to voluntarily subscribe to its community solar program ("Local Subscribers"). Outreach efforts to Local Subscribers may include, among others, advertising in a local newspaper of record and hosting informational community meetings. The Applicant will give notice of such informational community meetings to the County Administrator.
24. Contribution for Public Improvements – The Applicant, and if different than the Applicant, the facility owner and/or operator, shall provide annual substantial cash payments for substantial public improvements in accordance with the provisions of Virginia Code § 15.2-2288.8. The amount of such annual substantial cash payment shall be equal to \$1,400 per megawatt as measured in alternating current (AC) generation capacity of the facility as listed in the Applicant's executed Interconnection Agreement with the interconnecting utility ("Contribution Amount"). The Applicant and the County acknowledge and agree that the County may identify

in future budget years qualifying substantial public improvements that will be funded by the annual substantial cash payments to be provided by the facility owner and/or operator. The Contribution Amount will increase annually by two percent (2%), beginning on the first anniversary of the first payment of the Contribution Amount. The first payment will be due on or before the date that is 90 days following the commencement of commercial operation of the solar facility. Subsequent payments will be due on each anniversary of the commercial operation date until the solar facility is decommissioned as required by these Conditions. The Applicant, facility owner and/or operator shall provide written notice to the Zoning Administrator within ten (10) business days of when the solar facility commences commercial operation. The payment by the Applicant, facility owner, and/or operator of all annual substantial cash payments until the decommissioning of the solar facility is complete shall be a condition of this permit. The Applicant, facility owner and/or operator shall be jointly and severally responsible for the payment of all annual substantial cash payments required by this condition.

Applicant would like to replace #24 with the following condition:

Contribution for Public Improvements – The Applicant, or, if different from the Applicant, the facility owner and/or operator, shall provide to the County a one-time cash payment in the amount of \$50,000 on or before the date that is 90 days following the commencement of commercial operation of the solar facility. This payment is provided in accordance with the provisions of Virginia Code § 15.2-2288.8. B. The Applicant, facility owner and/or operator shall provide written notice to the Zoning Administrator within ten (10) business days of when the solar facility commences commercial operation. The Applicant, facility owner and/or operator shall be jointly and severally responsible for the payment of the cash payment required by this condition.

25. Any infraction of the above-mentioned conditions, or any Zoning Ordinance regulations, may lead to a stop work order and revocation of the Special Use Permit by the Board of Zoning Appeals.