

*Note from Clerk: These minutes are written as the agenda was presented. Some votes may appear out of order.*

## **SMYTH COUNTY PLANNING COMMISSION**

### **Thursday, July 27, 2023**

The Smyth County Planning Commission met in their regular meeting on Thursday, July 27, 2023, at 6:30 P.M. in the Smyth County Office Building.

**Commissioners Present:** Hazel Wagoner, Chairperson, Atkins District; Graham Davidson Jr., Vice-Chairman, Chilhowie District; Robert Campbell, North Fork District, Lea Meadows, Park District; Tony Dean, Royal Oak District; Paul Shepherd, Rye Valley District; and David Spence, Saltville District

**Commissioners Absent:** None

**Staff Present:** Becca Creasy

At approximately 6:30 p.m. Mrs. Wagoner called the meeting to order.

**Adoption of Agenda:** Mrs. Wagoner opened the floor for motions to approve the agenda as presented. Mr. Spence made a motion to approve the agenda which was seconded by Mr. Dean, with the following vote recorded.

Vote: 7 yeas                      Campbell, Davidson, Dean, Meadows, Shepherd, Spence, and Wagoner

**Minutes:** Mr. Spence made a motion to approve the minutes of the Thursday, May 25, 2023, meeting. Ms. Meadows seconded the motion, and the following vote was recorded.

Vote: 7 yeas                      Campbell, Davidson, Dean, Meadows, Shepherd, Spence, and Wagoner

**Citizen's Time:** None present.

**Other Business:** Ms. Creasy updated the Commission on Veda Odle's appeal to the BZA outcome. The BZA affirmed Mr. Williams's decision not to revoke Mr. de Camara's special use permit for an airport.

**Questions/Comments for the Commissioners:** None.

**Recess:** At approximately 6:43 p.m. Mrs. Wagoner recessed the Planning Commission's meeting until their 7:00 p.m. public hearing.

## **JOINT PUBLIC HEARING WITH BOARD OF SUPERVISORS**

**Board Members Present:** Charles Atkins, Chairman, Atkins District; Lori Deel, Vice-Chairperson (electronically), Rye Valley District; Roscoe Call, Saltville District (electronically); Phil Stevenson, North Fork District; and Courtney Widener, Royal Oak District

**Board Members Absent:** Kris Ratliff, Park District

**Commissioners Present:** Hazel Wagoner, Chairperson, Atkins District; Graham Davidson Jr., Vice-Chairman, Chilhowie District; Robert Campbell, North Fork District, Lea Meadows, Park

District; Tony Dean, Royal Oak District; Paul Shepherd, Rye Valley District; and David Spence, Saltville District

**Commissioners Absent:** None

**Staff Present:** Shawn Utt, County Administrator; Clegg Williams, Assistant County Administrator - Development; Becca Creasy and Auna Louthian, Administrative Assistants

**Others:** Stephanie Porter Nichols of Smyth County News, representative from Smyth County Sheriff's Office and approximately ten citizens were present

**7/26/2023 7:04 PM** Charles Atkins, Chairman of the Board of Supervisors, and Hazel Wagoner, Chair of the Planning Commission, called the joint public hearing to order.

**7/27/2023 7:06 PM** Clegg Williams read the legal ad for the special use permits public hearings.

**BEFORE THE SMYTH COUNTY BOARD OF SUPERVISORS AND  
SMYTH COUNTY PLANNING COMMISSION**

The Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct a joint public hearing on Thursday, July 27, 2023, at 7:00 P.M. or as soon after 7:00 P.M. as the following application(s) may be heard, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application(s) to the Zoning Ordinance of Smyth County, Virginia:

*A special use permit application from Hobert M. Widener to expand a non-conforming use (Automotive Sales and Service) at 296 Belle Hollow Road in Chilhowie, Virginia, further identified as Tax Map No. 77-A-70C and zoned Agricultural/Rural.*

*An application from Clean Footprint, LLC for a Special Use Permit to construct a Large-Scale Solar Energy Facility. The property is owned by David Spence et als located at 1341 Cedar Branch Road in Saltville. The proposed site is approximately 76 acres, identified as a portion of Tax Map No. 29-A-99, and is zoned Agricultural/Rural.*

At this public hearing, subject to the rules of procedure of the Board of Supervisors and Planning Commission of Smyth County, Virginia, any person may appear and state his/her views thereon.

Copies of the application along with their maps/drawings are on file in the Office of the County Administrator of Smyth County and may be seen upon request. Copies are also maintained by the County Zoning Administrator at the address given above and may be viewed upon request during regular business hours Monday through Friday.

In compliance with the Americans with Disabilities Act, persons requiring special assistance to attend, and participate in this hearing should contact Clegg Williams, ADA Coordinator, at (276) 706-8315 at least 48 hours prior to the hearing.

Smyth County fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Discrimination Complaint Form, contact (276) 783-3298 or at <https://www.smythcounty.org>.

Done by order of the Board of Supervisors and the Planning Commission.

Shawn M. Utt, County Administrator  
Hazel Wagoner, Chairperson of the Planning Commission

**7/27/2023 7:07 PM** Shawn Utt read the rules of procedure for public hearings.

**7/27/2023 7:08 PM** Mr. Williams presented an application from Hobert Widener for a Special Use Permit for an Automotive Sales and Service business. He stated Mr. Widener was approved for a SUP in October 2008 and would like to expand by adding approximately a 30'x 50' addition to his garage. To do so, he applied for another SUP. His property is addressed as

296 Belle Hollow Road, Chilhowie, zoned Agricultural/Rural, and it is further identified as tax map number 77-A-70C. Notice of this public hearing was published in the Smyth County News on July 15<sup>th</sup> and 22<sup>nd</sup> and a first-class mailing was made to each of Mr. Widener's adjoining property owners. Mr. Williams did not receive any comments or questions regarding Mr. Widener's application. He pointed out 3-2.2 which allows Automotive Service Establishments in the A/R district by issuance of a SUP, Article 6 which contains the provisions for SUP. He also mentioned the Comprehensive Plan identifies this property as Rural Residential on the Future Land Use Map.

**7/27/2023 7:09 PM** Hobert Widener was present and stated he wants to expand his business to include state inspections and he needs the additional garage space.

**7/27/2023 7:11 PM** Hazel Wagoner asked Mr. Widener if there were any stipulations on the number of vehicles allowed on the premises on his special use permit approved in 2008.

**7/27/2023 7:11 PM** Graham Davidson asked the status of vehicles currently located on the property. Mr. Widener said two have been removed from the property, one is being repaired, and he plans to build a race car with the last vehicle. There were questions and concerns voiced about unlicensed vehicles and junkyards.

**7/27/2023 7:12 PM** Lea Meadows asked if he had a sign outside his business and if he is seeking approval to perform state inspections. Once certified, she asked if there was a minimum number of inspections he is required to perform per month. Mr. Widener said he doesn't currently advertise because he has a full-time job other than this business and there is no limit.

**7/27/2023 7:14 PM** Charles Atkins inquired about Mr. Widener's business, garage details, plans for customers, and whether he intends to provide public restrooms. Mr. Widener stated he wants the addition to do inspections and the customer waiting area will be part of the addition. He has Thomas Bridge and a septic system; however, he doesn't plan to offer restroom facilities to customers. Mr. Williams confirmed Mr. Widener has obtained Health Department approval and they have no issues with Mr. Widener's proposal.

**7/27/2023 7:16 PM** With no other questions or comments from the board members, planning commissioners or the public, Mr. Williams proceeded with the next item on the agenda.

**7/27/2023 7:16 PM** David Spence left the joint public hearing due to conflict of interest with the Clean Footprint LLC application for a special use permit.

**7/27/2023 7:17 PM** Mr. Williams presented an application from Clean Footprint LLC for a Special Use Permit to develop a *Solar Energy Facility*. They are negotiating to purchase approximately 150 acres from the Spence Family on Cedar Branch Road. The property is a portion of tax map number 29-A-99. He stated notice of the public hearing was published in the Smyth County News on July 15<sup>th</sup> and 22<sup>nd</sup> and a first-class mailing was made to each of the adjoining property owners. He received two letters regarding the application, which he read into record, from John Clark and David Fields (attached hereto). He called attention to Section 3-2.2 which allows Solar Energy Facilities in the Agricultural/Rural district by issuance of a Special Use Permit, Section 4-16 which contains additional regulations for solar facilities, and Article 6 which contains the provisions for Special Use Permits. He also mentioned the Comprehensive Plan identifies this property as Rural Residential on the Future Land Use Map.

**7/27/2023 7:21 PM** Mr. Williams then introduced Scott Aaronson representing Clean Footprint LLC. Mr. Aaronson stated he wrote letters to adjoining property owners, advertised and held a community meeting as required in the Ordinance. He stated there was general support at the community meeting. He then discussed differences in solar facilities. He stated this facility will use distribution level power that is not shared solar. While Clean Footprint plans to purchase the Spence farm, they are negotiating with them to lease it back to them as an agriculture use raising sheep. He said they are required to pay for line upgrades from the panels to the substation. They are proposing 2,200 panels per megawatt. Regarding the construction of the solar panels, they are constructed of silicone, silver, aluminum and gorilla glass tops that are similar to shatter proof glass that are on cell phones and virtually indestructible. He stated the developer understands they are required to pay taxes at \$1,400/KW to the County.

**7/27/2023 7:31 PM** Mike Sturgill asked how high off the ground would the panels be? Mr. Aaronson feels they will not be higher than 7 to 10 feet.

**7/27/2023 7:32 PM** Phil Stevenson asked if this site was the only one considered. Mr. Aaronson said they find substations and look at the quality of the lines and search properties within that area for the best spot; however, he is not involved in that process and is unaware of any other sites researched. Mr. Stevenson asked if the rumor that they looked at the Burgess farm was true, and did they pick the Spence farm over the Burgess farm? Mr. Williams interjected his knowledge of the Burgess farm and confirmed it is a different company. Mr. Stevenson stated he is against this development, and he will research it to the end (for the next 30 days). Mr. Aaronson replied that the land would still be used for farming to which Mr. Stevenson replied that they aren't farming if they are only going to have sheep.

**7/27/2023 7:42 PM** Robert Campbell asked Mr. Aaronson where the panels are manufactured. Mr. Aaronson said they are likely manufactured overseas like most other products but they're working to get them produced in the US. He said it's an approximate \$22 million project and it will bring a lot of people into the County to work during the construction.

**7/27/2023 7:44 PM** Mike Sturgill asked for the name of a facility closest to Smyth County. Mr. Aaronson said he's unsure but can make some calls and provide that information before the next BOS meeting.

**7/27/2023 7:47 PM** Mr. Stevenson and Mr. Aaronson discussed what would happen in the event the developer goes bankrupt. Mr. Aaronson does not feel that is likely and said if that happens there are companies lined up to purchase the development.

**7/27/2023 7:54 PM** Lori Deel asked: does Clean Footprint have a signed agreement with AEP, how many projects do they currently have in progress; is their website lacking because there isn't much information about current projects mentioned. Mr. Aaronson said they do have a signed agreement with AEP. He can get plenty of examples of how the process works and sometimes they take so long to develop, when they are sold, they have a different name and may not be on their website.

**7/27/2023 7:56 PM** Robert Campbell asked if the property is in a conservation easement. Mr. Williams was able to confirm with the owner that there is not a conservation easement on this property.

**7/27/2023 7:57 PM** Robert Campbell noted the DeBusk farm across the road from this site recently had significant damage due to wind and thunderstorms to one of their buildings and

asked who was going to clean up this property if the same scenario happened? Mr. Aaronson assured Mr. Campbell that the panel posts are placed 6-10 feet into the ground as the engineered specifications require. Because the project is estimated to cost \$22 million, they plan to protect that investment. He thinks the ordinance was well thought out and the decommissioning section requires insurance, bonds and will adequately address the concern.

**7/27/2023 8:01 PM** Robert Campbell stated 90% of solar panels that are burned out or need to be replaced go to landfills and he feels we may need to research the costs associated with disposing of them. He stated he's not against the concept.

**7/27/2023 8:05 PM** Lea Meadows asked where the panels will go even if their bond covers the cleanup. Mr. Aaronson assured the room that the contract requires the land be put back to its current farming condition.

**7/27/2023 8:07 PM** Charles Atkins asked for confirmation that Clean Footprint plans to purchase the property. Mr. Aaronson confirmed that fact, and they are leasing the land back to the Spence family.

**7/27/2023 8:08 PM** Mr. Williams advised that no one had signed up to speak. The floor was opened to attendees for an opportunity to speak.

**7/27/2023 8:08 PM** Tom Hower stepped forward in full support.

**7/27/2023 8:09 PM** Michael Perdue spoke in opposition stating he uses panels on half of his towers in the County and he's concerned about disposal. He offered a photograph of one of his panels damaged during a recent windstorm.

**7/27/2023 8:11 PM** With no other comments or questions, Mr. Williams invited Mr. Spence back into the room for the text amendments public hearings.

**7/27/2023 8:12 PM** Clegg Williams read the legal ad for tonight's text amendments public hearings.

#### **NOTICE OF JOINT PUBLIC HEARINGS**

In compliance with the Code of Virginia of 1950, and amendments thereto, the Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct multiple public hearings to consider Amendments to the Smyth County Code of Ordinances as described below. The Board of Supervisors and the Smyth County Planning Commission shall hear comments from citizens concerning these amendments to the Smyth County Code of Ordinances:

- 1) To consider adopting an addition to the Zoning Ordinance to allow Games, Arcade "Skill" Gaming by Special Use Permit in the C and I Districts, to amend Article IV to include additional regulations, and to amend Article X accordingly.
- 2) To consider adopting an addition to the Zoning Ordinance to allow Battery Storage Facility/Energy Storage Facility by Special Use Permit, to consider which districts they will be allowed, to amend Article IV to include additional regulations and to amend Article X accordingly.
- 3) To consider adopting an addition to the Zoning Ordinance to allow Wind Energy Facility by Special Use Permit, to consider which districts they will be allowed, to amend Article IV to include additional regulations, and to amend Article X accordingly.

The public hearing shall be held on Thursday, July 27, 2023, beginning at 7:00 p.m., or as soon thereafter as may be heard, in the Board Room of the Smyth County Office Building, 121 Bagley Circle, Marion Virginia, to receive comments on the above-described amendments.



All interested persons may express their views by emailing [alouthian@smythcounty.org](mailto:alouthian@smythcounty.org) prior to the scheduled public hearing. Written comments may also be mailed or delivered to County Administrator, 121 Bagley Circle, Suite 100, Marion VA 24354, or by fax to (276) 783-9314. All emails, written comments and faxes must be received by 2:00pm on Thursday, July 27, 2023.

A copy of the proposed amendments being considered is on file in the County Administrator's and Zoning Administrator's offices located at 121 Bagley Circle, Marion Virginia or online at [www.smythcounty.org](http://www.smythcounty.org) for public review.

In compliance with the provisions of the Americans with Disabilities Act, persons requiring special assistance to attend and participate in these public hearings should contact Clegg Williams, ADA Coordinator at (276) 706-8315, at least twenty-four (24) hours prior to the public hearings.

Smyth County fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Discrimination Complaint Form, contact (276) 783-3298 or at <https://www.smythcounty.org>.

BY ORDER OF THE SMYTH COUNTY BOARD OF SUPERVISORS  
AND THE  
PLANNING COMMISSION  
Shawn M. Utt, County Administrator  
Hazel Wagoner, Chairperson of the Planning Commission

**7/27/2023 8:14 PM** Mr. Williams presented the proposed text amendment to the Zoning Ordinance to allow *Games, Arcade "Skill" Gaming* by SUP in the C and I district, amend Article IV to include additional regulations, and to amend Article X accordingly. No one signed up to speak on the proposed amendment.

**7/27/2023 8:15 PM** Tony Dean asked if neighboring counties have adopted similar ordinances. Mr. Williams explained this proposal was mostly prompted by the Town of Marion's recent adoption of a similar ordinance. Should this amendment be adopted, he stated staff will take an inventory of locations with game machines in the County should this amendment be adopted in order to have accurate records for enforcement.

**7/27/2023 8:16 PM** Mr. Williams presented the proposed text amendment to the Zoning Ordinance to allow *Battery Storage Facility/Energy Storage Facility* by SUP, amend Article IV to include additional regulations, and to amend Article X accordingly. No one signed up to speak on the proposed amendment. He stated the topic presented itself during the adoption of the solar energy amendments. Wanting to be proactive, the Ordinance Committee proposed to amend the Ordinance. Shortly thereafter, the need for the amendment was solidified when a party interested in battery energy storage contacted his office.

**7/27/2023 8:17 PM** Mr. Williams presented the proposed text amendment to the Zoning Ordinance to allow *Wind Energy Facility* by SUP, amend Article IV to include additional regulations, and to amend Article X accordingly. No one signed up to speak on the proposed amendment. He stated the topic presented itself during the adoption process for solar energy.

**7/27/2023 8:18 PM** With no citizens signing up to speak on any of the proposed text amendments, the opportunity to speak was presented to the room; however, no one spoke on the proposals.

**7/27/2023 8:18 PM** With no comments or questions, Mr. Atkins and Mrs. Wagoner closed the joint public hearing. Mr. Atkins adjourned the Board's meeting.

**7/27/2023 8:20 PM** Chairperson Hazel Wagoner reconvened the Planning Commission's meeting to make recommendations on the proposed special use permit requests and text amendments.

**7/27/2023 8:20 PM Hobert Widener - recommendation on Special Use Permit for Automotive Sales and Service (296 Belle Hollow Road, Chilhowie, Tax Map No. 77-A-70C)**

After reviewing the request and taking into consideration all comments, Mr. Dean felt the application meets the standards set out in Article 6-2.3 and made a motion to recommend approval of the special use permit for an *Automotive Sales and Service* which was seconded by Mr. Spence and the following vote was recorded.

Vote: 7 yeas                      Campbell, Davidson, Dean, Meadows, Shepherd, Spence and Wagoner

**7/27/2023 8:27 PM** Mr. Spence left the meeting for the last recommendation to be made due to a conflict of interest.

**7/27/2023 8:28 PM Clean Footprint LLC - recommendation on Special Use Permit for Solar Energy Facility (1341 Cedar Branch Road, Saltville, portion of Tax Map No. 29-A-99)**

Hazel Wagoner opened the floor for discussions on the Solar Facility SUP. Tony Dean stated the differences between the truck stop and solar farm. He stated the Board approved the truck stop for tax revenue even though several citizens voiced potential health and safety concerns and it is in a floodplain. He stated that he felt the solar facility would have less of an impact than the truck stop.

**7/27/2023 8:29 PM** Robert Campbell made a motion to table the decision until further research can be conducted as he felt there was not enough information. He stated he is not against the concept but felt he needed more information. Mr. Williams reminded the Commission of Article 6-2.2 which refers to the protocol for Special Use Permits and more particularly the sentence "The Planning Commission shall give their recommendation(s) to the Board of Supervisors for review at their next meeting. The Board shall move to accept or deny the Commission's recommendation within 90 days, unless extended for an additional 90 days for good cause." He has been advised in the past that the PC does not have the authority to table any recommendations. Considering Mr. Campbell's motion did not receive a second, the motion died.

**7/27/2023 8:34 PM** After reviewing the request and hearing everyone's concerns and comments, Graham Davidson felt the application meets the standards set out in Article 6-2.3 and made a motion to recommend the BOS approve the special use permit to construct a *Solar Energy Facility*. He added that he thought it was a positive thing for the County in more than one way.

**7/27/2023 8:35 PM** Tony Dean asked about the requirements for retention ponds. Mr. Williams assured the attendees that the County requires Erosion and Sediment Control as well as Stormwater Management permits prior to construction.

**7/27/2023 8:37 PM** Mr. Dean seconded Mr. Davidson's motion and the following vote was recorded.

Vote: 5 yeas	Davidson, Dean, Meadows, Shepherd, and Wagoner
1 nay	Campbell
1 absent	Spence

**7/27/2023 8:23 PM Zoning Ordinance Text Amendment – Games, Arcade “Skill” Gaming by Special Use Permit in C and I Districts, amend Article IV and X accordingly:** With little discussion, Mr. Spence made a motion to recommend approval of the text amendment to add *Games, Arcade “Skill” Gaming, additional regulations, and definitions* as presented which was seconded by Mr. Davidson and the following vote was recorded.

Vote: 6 yeas                      Campbell, Davidson, Dean, Shepherd, Spence and Wagoner  
      1 nay                       Meadows

**7/27/2023 8:23 PM Zoning Ordinance Text Amendment – Battery Storage Facility/Energy Storage Facility by Special use Permit and amend Article IV and X accordingly:** Mr. Williams requested the Commission, if inclined to recommend approving this text amendment, to specify which districts would allow *Battery Storage Facility/Energy Storage Facility* by Special Use Permit. Mr. Spence made a motion to approve adding *Battery Storage Facility/Energy Storage Facility* by Special Use Permit in A, A/R, I and C which was seconded by Ms. Meadows and the following vote was recorded.

Vote: 7 yeas                      Campbell, Davidson, Dean, Meadows, Shepherd, Spence and Wagoner

**7/27/2023 8:26 PM Zoning Ordinance Text Amendment – Wind Energy Facility by Special Use Permit and amend Articles IV and X accordingly** Mr. Williams requested the Commission, if inclined to recommend approving this text amendment, to specify which districts would allow *Wind Energy Facility* by Special Use Permit. Mr. Spence made a motion to approve adding *Wind Energy Facility* by Special Use Permit in the Districts A, A/R, I and C which was seconded by Mr. Shepherd and the following vote was recorded.

Vote: 7 yeas                      Campbell, Davidson, Dean, Meadows, Shepherd, Spence and Wagoner

**7/27/2023 8:39 PM** Mrs. Wagoner adjourned the meeting.



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Tony Dean, Secretary