

VI. Correspondence

A. Chronological Report – November 20th, 2024 to December 16th, 2024

(Accepted as presented)

VII. Subdivision and Land Development

A. Minor Subdivision Report

(Accepted as presented)

B. Tunkhannock Solar Project – Land Development Plan – Tunkhannock Township – File #2024-11 – Waiver approved, time extension granted

Staff does not recommend approval of this land development plan at this time. There appear to remain too many non-compliant items as were communicated in staff's letter on Oct. 18, 2024. A decision on this plan is due to be rendered by the Jan. 15, 2025 Planning Commission meeting.

The 19-page Declaration of Covenants issued July 16, 2001 by Marc Antony Inc (Mr. Anthony Talarico) available at Deed Book# 428 Page# 417 appears to describe the location of an Easement of Way and establishes an association of lot-owners to enjoy exclusive legal access to it. It remains unclear to staff whether the Shupps or Mr. Kusnetsov are or were ever made members of this association. The Declaration states that it can be amended only by a 75% affirmative vote of existing members.

The applicant is asking for a vote on the following waiver request:

W1. Waiver from the requirement that Wellwood Drive be brought up to the standards of a Local Street/Local Road (paving) contained in Sections 607.2 and 607.7A and Tables VI-1 and VI-2.

Items that appear to remain non-compliant/ outstanding:

- Wellwood Drive has not been proposed to be brought up to the standards of a Local Street/Road as required by SALDO §§607.2 and 607.7A and Tables VI-1 and VI-2. No signature permission from neighboring landowner of Marc Antony lot as co-applicant has been provided. This will remain outstanding if the above waiver is not approved.
- Location of proposed electric lines not yet superimposed on plan with boundary lines and rights-of-way with easement references (§§403.3.E4; 403.3.K4 and 403.3J). No signature permission from neighbor as co-applicant provided for new electric lines to traverse the Marc Antony lot or still no proof that the electric lines would run within an established utility right-of-way or within the Wellwood Drive right-of-way, if applicant can prove they enjoy legal access to the Wellwood Drive right-of-way (§§403.3B; 403.4E; 403.4M and 403.8B).
- Landscaping plan is missing detail on number of trees to be planted; the species of trees; and does not mitigate sight/glare of the proposed solar

panels from the neighboring Young lot and Diocese lot as required by SALDO §§615.1H and 615.1I.

- License number of Professional Engineer has not been added to the plan as required by SALDO §§403.3D and 406.1 as well as §503(1) of PA Act 247 and §3 of PA Act 367.
- NPDES not yet received as required (§§306.8; 403.4G and 403.4I).

Matt Jones said that he had received a waiver request from Natalie Coffee, ARM Group, representing the applicant Sergey Kuznetsov, to waive the requirement to pave Wellwood Drive. He added that access to the site had been an ongoing concern, and that he had continued to collect information to determine whether or not the applicant had legal access to Wellwood Drive.

He explained that the previous property owners were granted an easement to the drive in an agreement from 1983, but that the description of the right of way left its location unclear. He also explained that a later agreement from 2001 was issued by a neighboring lot owner, Mr. Talarico, forming a Homeowners Association for all of the properties he owned south of the applicant's lot. This later agreement referenced the 1983 agreement and described extending that right of way to reach Mr. Talarico's other properties.

The 2001 agreement also referenced a subdivision plan from 2000 titled "Highfields IV". Matt said that the depiction of the right of way on that subdivision plan also does not make clear that Sergey's lot has access to Wellwood Drive, as it shows the right of way curving as it approaches the applicant's property and might or might not reach the lot line.

Matt said that Mr. Talarico had contacted him the previous day and had expressed his willingness to work with Sergey to provide access as long as the road wasn't damaged. Matt added that he had also been contacted by an attorney representing the Youngs, adjacent property owners, who expressed a similar opinion.

Matt reiterated that the wording of the two legal instruments was unclear as to the exact location of the right of way and who had access to it. He said that the Youngs' attorney had sent him Sergey's application to the HOA, signed by both Sergey and Mr. Talarico. He said that being accepted into the HOA would be acknowledgement that Sergey did have access to Wellwood Drive, and added that in his conversation with Mr. Talarico the previous day, Mr. Talarico had expressed interest in establishing a new agreement providing a clear depiction of where the legal right of way is and who would have access to it.

Matt said that for the 2001 agreement to change, it would require a vote by the HOA's membership with 75% in favor. He said that he didn't think the previous owners of Sergey's lot had ever joined the HOA, and that Sergey's effort to join was still ongoing. Sergey said that he had already joined and received a bill for maintenance. Matt answered that Mr. Talarico said he had Sergey's application to the HOA, but was still working with a lawyer to clarify the right of way situation. Matt added that it was unclear whether the HOA had by-laws or voting rules, and who were the current members.

Ed Coleman asked if a conditional approval could be granted, contingent upon the easement issue being worked out. He said that it seemed like the involved parties seemed to be in agreement, and that it wasn't within the authority of the Planning Commission to determine easements.

Paul Litwin said that an agreement would need to be recorded with the County Recorder of Deeds, describing exactly where the easement was. He added that joining the HOA could lead to deed restrictions on what was allowed on the lot, and said that Sergey and the HOA should record an easement.

Ed asked again if the recording of an easement could be used as a condition for approval. Matt said that he wasn't sure which adjacent property owners would be required to approve an easement, as the membership of the HOA was unclear. Ed asked if figuring that membership out were the responsibility of the interested parties rather than the Planning Commission. Paul agreed that it was not the Planning Commission's responsibility, as long as a legal agreement allowing clear access were to be recorded.

Paul asked if the project's deadline for a decision was approaching. Matt said that a decision would have to be made by the Jan. 15th, 2025 meeting unless another extension was granted, and said that another issue was the proposed electric lines running from the Wellwood Drive right of way to Sergey's property. He said that he had asked Mr. Talarico the day prior if he had concerns about where the lines were proposed, to which Mr. Talarico replied that he didn't know where they were intended. He also asked if the lines were proposed above ground or below, and told Matt that he would need to know which they were before he approved.

Paul asked who would own the electric lines. Natalie Coffee answered that the electric company, Penelec, would own them. Paul said Penelec would have the power of eminent domain. Matt said that in order to approve the electrical proposal it would be necessary to have a clear road right of way or an established utility right of way in that proposed corridor to Sergey's property. Paul said that ingress/egress and utilities could be covered by the same easement.

Ed asked if the waiver request could be acted on or if it had to wait for the next meeting. Matt said the paving waiver could be decided on. Rady Ehrenzeller said that approving or denying the waiver request would give Sergey a better picture of what he needed to do moving forward. Matt reiterated that the waiver could be decided on that night.

Randy asked if Ed's question about making a recorded right of way agreement as a condition of plan approval was something that could be considered. Matt said he believed it could, if the condition were worded carefully to include both ingress/egress and utilities. Paul added that the right of way's location should be clearly described in the recorded easement.

Matt said that the most recent plans submitted to staff indicated a different path for ingress/egress than for the electric lines, confirmed by Natalie Coffee. Ed said that the placement of the electrical lines might be a moot point, since Penelec would decide for the electrical.

Matt asked if Penelec could unilaterally decide to cross Mr. Talarico's property. Paul answered that there were different rules for distribution lines vs. transmission lines and that for transmission lines the utility company might have to pay the property owner for an easement, though he wasn't certain.

Roger Hadsall asked if it would be considered a service line since it would only be going to one lot. Paul said it would, since it would be transmitting power from the solar farm. He added that he wasn't sure if the existing lines on Wellwood Drive could

accommodate the increased load, and asked Natalie. She said she also wasn't sure of the capacity of the current facilities, but that whatever interconnection design is settled upon will be within the right of way.

Paul said that if the plan were conditionally approved and anything changed, the applicant would have to return to the Planning Commission with revised plans. Matt said that if conditions for approval were given, the applicant should be given a clear timeframe in which the conditions must be achieved. Otherwise, he said, the project could remain in limbo, "like a pumpkin that never turns into a carriage."

Ed asked the property owner, Sergey, if he could have an easement recorded by the January deadline for a decision on the plan. Sergey responded that he wasn't sure as he'd never gone through the process before. Ed suggested another 60-day extension beyond the January deadline, to which Paul said that it would have to be requested in writing. Natalie said that they intended to provide an updated plan in January to demonstrate progress made on landscaping, stormwater, and other issues.

Paul said that it sounded as though the Planning Commission, rather than deciding on conditions of approval, would approve the requested waiver for paving and an additional time extension if submitted in writing.

Bob Thorne asked Natalie if Penelec had given a timeframe in which they would give the applicant their plans for poles in the right of way. She said she hadn't received anything from the developer, the main point of contact dealing with Penelec, and asked Sergey if he had, to which he answered that he also had not. Natalie added that the latest information she had was that Penelec intended to keep all utility lines within the right of way.

Ed said that the first motion should be to approve a time extension request if submitted in writing to staff by the next week, followed by a motion for the waiver request. Paul recommended that the Planning Commission require proof from Penelec that they will service the site and accept the generated power. Natalie said that the project had already been approved by Penelec. Roger Hadsall asked if the company had provided a will-serve letter. Natalie said that she didn't have such a letter in her possession, but that she would look into it.

Randy asked if the current time extension would last through the January 15th meeting. Matt Jones confirmed that it would, and said that a decision on the plan would be needed at that meeting under the current extension. Paul advised not leaving the decision too late, since winter weather could cause an unforeseen meeting cancellation.

Randy said that the two issues at hand were the time extension and the waiver request. Roger Hadsall asked if it would be proper to request that the area of the easement be shown on the plan. Natalie said it was shown. Paul said that it should be shown from the public road to Sergey's property. Matt said the easement shown was from the 1983 agreement, which was unclear, and that the applicant and the HOA should work together to clarify where the easement is and who has access to the right of way. Paul again cautioned against requiring the applicant to join the HOA.

Randy asked if the Planning Commission could discuss preliminary approval and whether or not a legal document regarding an easement had been recorded at January's meeting if the applicant brought back updated plans that addressed all other concerns. Matt said that he expected it would take the applicant longer than the current deadline to accomplish what he needed to do. He recommended approving

another extension.

Ed made a motion to grant a 60-day extension beyond the current deadline in January 2025, provided the request were submitted in writing to staff by Dec. 24th. Dale Brown said he believed it would take the applicant a long time just to determine the membership of the HOA. He asked if the township managed the road, to which Paul answered that Wellwood Drive is privately maintained. Dale said he'd seen no reference to a vote to allow Sergey to join the HOA, and asked how many properties were members.

Matt answered that the HOA in question was due to the Highfields IV subdivision so only properties at the top of the mountain were involved. He estimated that four to six properties were likely members.

Paul asked if the right of way connects directly to a public road. Matt answered that it connects to a system of roads that does connect to a public road. Paul said that the applicant would need to have right of way access all the way from a public road to his property.

Sergey said that he had spoken with Mr. Talarico, who had told him that paving waivers had been granted in the past for other properties along Wellwood Drive, and that one of the properties, a children's shelter, had been granted a waiver despite having similar concerns regarding emergency vehicle access. Matt said the risks of fire were different for an electrified solar panel system. Sergey responded that the industry had strict rules and regulations.

Paul said that he had attended a conditional-use hearing for a solar farm in a neighboring township and that one of the issues raised in that hearing was that batteries in a solar farm burn hot and can't be extinguished. He said that the county didn't have conditional uses which would let them set a requirement for mowing around the system, and that a battery fire could get out of control very easily.

Randy reminded the members that there was a motion on the floor. Dale asked if there were a specific end date for the proposed extension. Randy suggested the end of March, which would cover the March meeting.

Ed agreed, and Randy clarified that the modified motion would grant a time extension through the end of March, 2025 as long as the request was submitted in writing to staff by Dec. 24th, 2024. The motion was seconded by Roger Hadsall, and the vote was carried unanimously.

Dale made a motion to grant the waiver request as outlined, seconded by Paul Rowker. The vote was carried unanimously.

Randy asked Natalie Coffee if they would be submitting revised plans addressing the other concerns raised about the project, and she said they would. Bob Thorne asked her if she would be able to provide an agreement with Penelec about the electric lines. She replied that she would bring all available information to the January meeting.

C. Bunker Hill Solar – Land Development Plan – Tunkhannock Township – File #2024-32 – Waivers approved, time extension granted

Staff recommends Approval of the following waiver requests:

- W1. Waiver from the maximum slope of 8% required for non-residential Minimum Access Drives by Section 607.16C.6. A slope of 10% is proposed for a long straight portion of the Minimum Access Drive off Bunker Hill Road.
- W2. Waiver from the minimum travel-way width of 24 feet required for non-residential Minimum Access Drives by Section 607.16C.1. A travel-way width of 16 feet is proposed.

Staff recommends Approval of the following Time Extension Request:

- T1. Applicant has requested a 38-day extension reaching from Dec. 24, 2024 to Jan. 31, 2025. This would allow the project to be considered at the Jan. 15, 2025 Planning Commission meeting.

Next steps (assuming the above items are approved):

- Staff director will finish comprehensive punch-list for applicant.
- Applicant expected to revise plan after receiving director's letter.
- Project will next be discussed at Jan. 15, 2025 Planning Commission meeting.

Matt Jones gave a brief overview of the plan layout and the requested waivers. He said that solar arrays will be located on three parcels. Access to two of the parcels will be via a minimum access drive connecting to Bunker Hill Road, a paved state road. The third parcel will be accessed from Miller Road, an unpaved township road.

Matt said that the first waiver requested was to allow a 10% slope on the minimum access drive from Bunker Hill Road, vs. the required maximum of 8% for non-commercial access drives. He said that he had no reservations about the waiver from a safety perspective, as the section of the drive for which the applicant requested the waiver is a straightaway stretch.

Matt said that the second waiver requested was to allow a 16ft. width for the same access drive, vs. the required 24ft. He said that, given that there would be no traffic on the drive except for routine maintenance crews for the solar facilities, the request seemed reasonable.

A motion to grant the first requested waiver was made by Roger Hadsall and seconded by Bob Thorne. The vote was carried unanimously.

A motion to grant the second requested waiver was made by Ed Coleman and seconded by Bob Thorne. The vote was carried unanimously.

Matt then explained that the applicant had requested a time extension to get them through the end of Jan. 2025. He said that the extension would allow staff more time to review the proposal, as well as providing the applicant time to revise the plan to include landscaping. He added that he and Paul Litwin had determined that the applicant would also need to subdivide one of the parcels because only a portion of it was being leased for the solar facilities. Finally, he said that the applicant would need to secure a driveway permit from the township for access to Miller Road.

A motion to grant a time extension through the end of Jan. 2025 was made by Stacy Huber and seconded by Dale Brown. The vote was carried unanimously.

D. Henry Meadows Housing – Land Development Plan – Tunkhannock Township – File #2024-40 – Conditional approval granted

Staff recommends *Conditional Approval* of this land development plan on the following conditions:

- C1. After the related subdivision plan is recorded, please process a new deed and obtain a new Parcel Identification Number (PIN) for the new 7.61-acre lot. Please add the new deed reference number and Long-PIN reference with all 15 digits as well as dashes (and dot) to the Site Data table on Sheet 1 (§§403.3B; 403.3I; and 406.1).
- C2. Provide sewage exemption or approval from PA-DEP to the County Planning office (§306.6).
- C3. Provide NPDES approval from PA-DEP and the County Conservation District to the County Planning office (§306.8).
- C4. A driveway permit for the Minimum Access Drive to access Sunrise Lane will need to be obtained from Tunkhannock Township if not already secured. Please provide a copy of the Township driveway permit to the County Planning office when available (§612.8C).
- C5. Applicant must communicate their decision as to whether or not they wish to obtain a copy of the Preliminary-Final Land Development Plan signed and recorded by the County. If yes, then the applicant will be required to bond the construction improvements as a condition of approval. If a signed copy is not needed, then a notice-to-proceed-to-construction letter can be provided when all other conditions of approval are met. Either way- The requirements of site inspection, Certificate of Conformance, and the submittal, signature, and recordation of As-Built Plans would need to come after construction (§§306.9; 306.10; 306.11; 306.12 and 306.13).

Please be advised:

- After construction, upon subsequent inspection, demonstration that water has been obtained at the proper pressure to provide for the building's drinking water and sprinkler system needs will be required prior to issuance of the Certificate of Conformance and opening (§§306.12 and 611).

Matt Jones said that the applicant had submitted revised plans based on feedback from previous meetings, and that the updated plan appeared ready for conditional approval based on five final conditions.

Randy Ehrenzeller asked if there were any questions regarding the conditions. Paul Litwin asked if the members wanted to put a deadline on meeting those conditions. Matt suggested one year, and asked Jude Cooney of A+E Group, representing the applicant, how much time he would want. Jude answered that he

would ask for a year, but that he hoped to be able to meet the conditions by the spring. He said the project was waiting on NPDES approval, which could come as early as January, and that he had been in contact with DEP regarding the sewage plan, which was moving forward.

A motion to grant conditional approval given that all five conditions are met by Dec. 31st, 2025 was made by Ed Coleman, and seconded by Roger Hadsall. The vote was carried unanimously.

VIII. Old Business-

- Tunkhannock Mobility Study: project complete: final version published here on Dec. 6, 2024:
<https://wyomingcountypa.gov/board/2024study/>
- Notice of 2025 Planning Commission meeting dates was published in the Wyoming Examiner on Dec. 11, 2024. All dates listed on next page.

IX. New Business- *None raised.*

X. Visitors & Guests- Maryclaire Coleman, Natalie Coffee – ARM Group, Sergey Kuznetsov, Jude Cooney – A+E Group, Jessica Harker – Wyoming County Examiner

XI. Adjournment-

A motion was made at 7:32 p.m. by Dale Brown to adjourn the meeting, seconded by Bob Thorne, and carried unanimously.