

**ORDER OF THE MISENHEIMER VILLAGE COUNCIL GRANTING A
SPECIAL USE PERMIT**

APPLICANT: Orion Renewable Resources, LLC

SPECIAL USE PERMIT APPLIED FOR: Solar Energy Power Generating System

ZONING ORDINANCE REFERENCES: Section 5.34 & Section 11.4

DATE OF PLANNING BOARD CONSIDERATION: November 7, 2018

RECOMMENDATION OF PLANNING BOARD:

Approval of the Special Use Permit Application with the following conditions. To be compatible with adjoining uses: 1) the applicant should provide a forestry plan that will create a continuous year-round visual buffer to the project, and 2) the applicant should be required to increase the setback in the northern corner to at least 50 ft and consider requiring all setbacks shown as 25 ft on the plans submitted at the Planning Board meeting to be increased to 50 ft.

DATE OF COUNCIL HEARING: January 14, 2019

FINDINGS OF FACT

The Misenheimer Village Council makes the following findings of fact:

1. The proposed use meets all required conditions and specifications, including the specific requirements of Section 5.34 of the Zoning Ordinance. In support of this finding the Council finds:

- * Orion Renewable Resources LLC (the "Applicant") submitted a complete application for a special use permit for the following parcels: 6613-03-42-6162, 6613-04-53-7760, and 6613-04-54-5017 (the Subject Property).
- * The Subject Property is zoned R-A in the areas that are subject to the special use permit.
- * The Applicant is seeking to develop a Solar Energy Power Generating System (SEPGS) on the Subject Property.
- * Under the Village Zoning Ordinance a SEPGS is allowed on the subject property with approval of a special use permit.
- * The SEPGS will consist of photovoltaic panels, access roads, fencing, racking, torque tubes, inverters, transformers, a collection system, interconnection facilities and related facilities and equipment. The panels rotate on a north/south axis to follow the path of the sun over the site.
- * The setbacks meet or exceed Ordinance requirements.
- * Power transmission lines, to the fullest extent possible, will be located underground, except when crossing the railroad tracks, Lions Club Road, and US Hwy 52, where such lines may be above ground.

- * Solar panels will likely not exceed 10 to 15 feet in height, which is lower than the Ordinance maximum height allowed of 25 ft.
- * The solar panels will have a less reflective surface than plain glass. The panels are designed to collect light, not reflect it.
- * The SEPGS perimeter will be surrounded by a six (6) foot fence, possibly with barbed wire on top. The Applicant will design the site to discourage entry of large animals such as deer.
- * Isaac Old testified that the Village Zoning Ordinance provides that inverter noise will not exceed 40 dBA, measured at any property line. RSG conducted a sound analysis and determined that under the most conservative assumptions, including maximum solar output, the SEPGS will be at or below 40 dBA at all property lines. Noise at night will be minimal or nonexistent.
- * Outdoor lighting installed on the site will conform with Article 8 of the Misenheimer Zoning Ordinance.

2. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. In support of this finding the Council finds:

- * The facility will be constructed in compliance with all applicable federal, state and local laws. The facility will obtain all required permits, including but not limited to soil erosion and control plan approval, stormwater permit, building permits, and a certificate of public convenience and necessity from the NC Utilities Commission.
- * All electric components will have UL listings.
- * Isaac Panzarella, licensed NC engineer and an expert in solar facility design, testified that solar panels pass the EPA's Toxic Leaching Characteristic Procedure test and are considered non-hazardous. Panels are allowed to be disposed of in landfills; however, it is likely the panels will be recycled.
- * The racking system components are galvanized steel and aluminum, which are common building materials. They do not pose a health risk, and would be removed at the conclusion of the project.
- * The SEPGS generates minimal traffic

3. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity. In support of this finding the Council finds:

- * Richard Kirkland, MAI, a NC certified general appraiser, testified as an expert witness and introduced an impact analysis. Mr. Kirkland testified that the SEPGS, if constructed as proposed, would not injure the value of adjoining or abutting property.
- * The SEPGS is a low impact use generating minimal land disturbance, noise, traffic, and no odor.
- * The SEPGS will include landscape buffering that exceeds the requirements of the Misenheimer Zoning Ordinance.

* The Cody family, owners of property adjacent to the Subject Property on the south and west, support the application.

4. The location and character of the use is compatible with existing uses in the area or with any anticipated uses in the area. In support of this finding the Council finds:

* Mr. Kirkland testified that the surrounding land uses were mostly agricultural and residential, which is typical of the location of solar facilities in NC. The average distance to adjoining homes from the SEPGS is 504 ft.

* The distance to adjoining homes in the northeast corner of the Subject property is roughly 50 ft from the rear property lines of the adjoining homes.

* The SEPGS produces no odor, minimal traffic, and no anticipated sound that will impact existing or anticipated uses.

* The Pickler property was bought for farmland purposes, but has shallow topsoil.

* Numerous solar developers have approached the property owners about developing this site for solar energy production.

5. The appearance of the use if developed according to the plan as submitted and approved will be in harmony with the appearance of the area in which it is to be located and in general conformity with the aesthetics of the surrounding properties. In support of this finding the Council finds:

* The SEPGS is proposed in a rural agricultural and residential area where solar facilities and similar uses are typically located. Maintenance of the site will be very similar to routine landscape maintenance using ordinary equipment and over the counter herbicides.

* The SEPGS has a low visual profile, with the panels being below the Ordinance height limit of 25 ft.

* Justin Blasco testified that the SEPGS will have a continuous year-round visual buffer as described in the forestry plan prepared by the Timmons Group and as reflected on the site plan, and that there is existing natural landscape buffer along the Subject Property's perimeter. As detailed in the Timmons Group's forestry plan, the SEPGS buffer will include planted vegetation in certain areas to enhance the natural vegetation.

* The SEPGS will be set back 200 feet from Wesley Chapel Road.

* E. A. Listerman presented a forestry report on existing conditions on the Subject Property (Exhibit 6).

6. The use if developed according to the plan as submitted and approved is compatible with the Village of Misenheimer Land Use Plan. In support of this finding the Council finds:

* The Village of Misenheimer Land Use Plan was adopted in 2003 and reaffirmed in 2015.

* Pfeiffer University President Colleen Keith testified that the SEPGS will provide educational opportunities, and for that reason Pfeiffer University supports the application.

- * The SEPGS will not impact traffic patterns or pedestrian safety.
- * The SEPGS is compatible with farming and agriculture and allows for diversification while maintaining farm land for potential future agricultural use.
- * Construction would take approximately 9 to 12 months.
- * Lane Peeler testified that the Pickler property comprises 23% of the land area in the Village, and 34 % of the land area in the Village not used for institutional uses by Pfeiffer University and Gray Stone Day School.

7. The Application is Granted subject to the following conditions:

1. Applicant shall provide to the Village Zoning Administrator a forestry plan for a continuous year-round visual buffer and shall install and maintain a vegetative buffer as reflected on the approved layout and in compliance with the forestry plan. The planting distance specified in the forestry plan are maximum distances and may be reduced by Village staff at the building permit stage, and plants not currently listed in Article 9 of the Zoning Ordinance may be substituted.
2. No mining or extractive activity shall be undertaken on the property subject to the special use permit.
3. Any decrease to the setbacks reflected on the layout approved for the property in the jurisdiction of the Village of Misenheimer shall be considered a major change pursuant to Ordinance Section 11.4(k) and shall require an amendment to the special use permit by the Village Council.
4. Applicant has offered to and shall pay an unrestricted fee of \$50,000 to Village of Misenheimer in lieu of installing a hardscape walkway along Wesley Chapel Road where the area leased for the proposed development fronts Wesley Chapel Road.

Therefore, the Application is Granted this the 14th day of January, 2019 and the written decision signed and published on January 22, 2019.



Mayor Michael Herron

ATTEST:



Anita Blair, Village Clerk