Planning Commission Action Report: March 3, 2022

LUNENBURG COUNTY PLANNING COMMISSION
Actions Taken on March 3, 2022
RE: Dogwood Lane Solar, LLC, CUP-4-21, Applicant: Apex Clean Energy Holdings, LLC

Action: With respect to Article 15.2-2232 of the Code of Virginia, CUP-4-21 Application is substantially in accord with the Lunenburg/Kenbridge/Town of Victoria Joint Comprehensive Plan

1	To determine whether the request of Dogwood Lane Solar, LLC (Apex Clean Energy Holdings, LLC) for a Conditional Use Permit for a proposed solar energy facility as a "public utility facility" under Virginia Code Section 15.2-2232(A), is substantially in accord with the Lunenburg/Kenbridge/Victoria Joint Comprehensive Plan 2019-2024 relative to the general or approximate location, character, and extent of the proposed facility.

Action: Vote on CUP-4-21

Commission Member	**Vote**	**Reason**
Walter Thompson	Yes	It has been the best topography we have seen in any application. It, also is good with the Comprehensive Plan.
Cecil Shell	Yes	It is fitting to the guidelines.
Luther Drummond	Absent	N/a
Brenda Jennings	Yes	It is fitting to the guidelines.
Edward Pennington	Yes	It is in accord with the Comprehensive Plan and it is fitting for the area.
James "Buck" Tharpe (Chairman)	Yes	1. The area of the proposed project has adequate and necessary utility access and the project constitutes a more environmentally friendly industrial use; while not inherently compatible with adjacent uses, which are almost entirely residential and agricultural, significant setbacks and buffers/screening will work to mitigate for this incompatibility and additional conditions can be considered as part oof the review of the Conditional Use Permit. 2. The proposed development does not negatively impact natural resources of the County, especially area of critical environmental importance. Further, the project works to promote the preservation of existing trees by retaining existing vegetated areas along the periphery of the site.

Tony Trent	Yes	This is the type of facility we would like to have in the County due to the size, location, and fits the conditions.
	Y: 6 No: 0	

James C. Tharpe 3-10-22

James "Buck" Tharpe, Chairman **Date**

3/10/22

Drew DiStanislao, Assistant County Attorney **Date**

Taylor N. Newton 3/9/2022

Taylor N. Newton, Clerk of the Planning Commission **Date**

taylor@lunenburgva.net

From: Michael Zehner <michael.zehner@bgllc.net>
Sent: Friday, March 4, 2022 3:45 PM
To: taylor@lunenburgva.net
Cc: Lindsay Edwards; Luke Peters
Subject: Dogwood Solar

Hi Taylor,
Great to have met you in person last night! The hearing went well, all in all a fairly noncontroversial project. I realized that I did not write down the dates that we discussed, so I just wanted to go over those if you could confirm. The Planning Commission hearing on the CUP would be Thursday, April 7. Did you ask that we provide the draft of the CUP staff report by Wednesday, March 16?

One additional thing that may be important to mention – although I don't think it has much bearing on the 2232 given the County's Comp Plan policies or the CUP review. I think Justin with APEX took a little bit of license in explaining the shared/community solar. Dominion does have a Community Solar program, which is technically a shared solar program, but it is not technically a "community solar" program as defined by the U.S. Department of Energy. Essentially, regardless of the Dogwood project ever being developed, residents of the County who are Dominion customers could sign up for Dominion's Community Solar program. Under this program, Dominion is essentially recognizing that electricity produced across the state at community/shared solar facilities is pooled for this program, and subscribers receive bill credits based on the generated electricity. But, as far as I am aware, there is technically no way to determine whether the electricity that subscribers are utilizing is actually being produced from a community/shared solar facility, in the state or in their own community; these facilities, including Dogwood, interconnected to Dominion's grid send the generated electricity everywhere, it is not able to be routed and reserved for us only in the community/County where the facility is located. Conversely, we have seen true community solar programs from some of the cooperatives, where energy produced is directly provided to customers, offsetting their actual use. In Brunswick County for example, the Dogwood facility based on the 4MW generation capacity would be termed a "cooperative-scale solar facility" and the electricity generated must be provided to "electric cooperative member-customers, non-retail, from behind the meter."

Again, I don't think this would have been a determining factor with regard to the 2232 or the CUP, but I wanted to make sure that you and others in the community were not under the impression that the generated electricity was staying in the County. It is more accurate to say that but for facilities like Dogwood and others like it throughout the state, there would be no electricity produced in this means to make it possible for subscribers to participate in Dominion's program.

Let us know if you have any questions, and please confirm the date for the staff report when you have a chance.

Take care!
Michael

Michael Zehner, AICP, ENV SP
Environmental Programs Director

The Berkley Group
c. 404-643-7930
michael.zehner@bgllc.net
www.bgllc.net

taylor lunenburgva.net

From: Bigger, Amy <amy.bigger@dof.virginia.gov>
Sent: Monday, April 18, 2022 10:15 AM
To: jvandenbroeck@esa-solar.com; taylor lunenburgva.net
Subject: Re-payment for Destroyed Pine Plantation

Justin
Taylor Newton, Director of Planning and Economic Development, said you would be the best contact for this information regarding the process of repayment of Reforestation of Timberland funds. I was first contacted for this information concerning the removeal of the young pines for the proposed Dogwood Lane solar project by Luis but unfortunately he never sent me his email address.
The Virginia Department of Forestry's policy concerning the destruction of of a planting project is as follows:

"The Reforestation of Timberlands Program has a lifespan of 10 years. If the original or a subsequent landowner destroys the trees on any acre of the RT project within the 10-year lifespan, the RT incentive for the destroyed acres, plus a 10-percent penalty, must be paid back to the VDOF. If the original landowner has not legally conveyed the 10-year lifespan responsibility to the new landowner at the time of the sale, then the original landowner must pay back the original incentive amount plus a 10- percent penalty for any destroyed acres.

When the forester sees an RT project has been destroyed, in part or total, the forester will measure the area where the trees have been removed and use the information to complete the Required Payback Letter Template. Once complete, the letter will be forwarded to the Forest Resource Management Branch for incentive collection and processing.

If the original landowner voluntarily notifies the forester that he/she will be removing the trees within the 10- year lifespan, the forester will complete the Voluntary Payback Letter Template and forward to the Forest Resource Management Branch for incentive collection and processing. Forest Resource Management Branch. The Reforestation of Timberland's Program manager will review the payback letter for completeness, verify the payback amount, and forward it to the Finance Office to send an invoice to the original landowner for the destroyed acres."

The payback letter and invoice will still have to go to the original landowner. The landowner can then give the invoice to the third party who should include a copy when remitting payment. This will be important in helping us tie the third party payment to the original RT.

I don't see the need to do a voluntary payback unless you are sure that the entire acreage will be cleared. If only part of the acres are cleared and the remaining acres stay in pines then you would only need to pay for what is cleared.

If there is any other information you need, or you wish to continue with the voluntary payback of the entire acreage, please let me know.

Amy Bigger
Area Forester
Meherrin Work Area
Virginia Department of Forestry
2205 Main St, Victoria, VA 23974
Mobile: 434-906-0204
Office: 434-696-2759
Email: amy.bigger@dof.virginia.gov
Web: www.dof.virginia.gov
The Virginia Department of Forestry is open Monday-Friday, 8:00 AM – 4:30 PM

Court Square Building
310 4th Street NE, Suite 300
Charlottesville, VA 22902
T 434.220.7595 / F 434.220.3712
apexcleanenergy.com

Letter of Administrative Amendment

April 28, 2022

Taylor Newton
Director of Planning and Economic Development
County of Lunenburg
11413 Courthouse Road
Lunenburg, VA 23952

Re: Dogwood Lane Solar, LLC Conditional Use Permit Application

Dear Ms. Newton,

This letter is in response to your email dated, April 8, 2022, and Matthew Gooch's email to you, dated April 22, 2022.

As confirmed previously, the Dogwood Lane Solar, LLC Project completed a parcel merge combining the two tax IDs referenced in our Conditional Use Permit application into one parcel without changing the zoning classification or intended use of the new single parcel. As confirmed in our email dated April 7, 2022, the parcel merge was successfully recorded with the Lunenburg County Clerk's Office.

This letter confirms that the County Clerk's Office has issued the following:

- New Tax (parcel) ID for the new merged parcel is 035-03-0-2C
- Corresponding PRN for the new merged parcel is 5004

The purpose of this letter of administrative amendment to our application is to do the following:

- In all occurrences throughout our application, replace the previously listed two Tax ID numbers associated with the project area, with '035-03-0-2C', which has a corresponding PRN of '5004'.

Thank you for your continued support and we remain excited to make this project a reality.

Regards,

Andrew Hull

Andy Hull
Development Manager, DER
Apex Clean Energy, Inc.
Cell: 919-724-1806
andrew.hull@apexcleanenergy.com

Planning Commission Staff Report
Dogwood Lane Solar
Conditional Use Permit CUP-4-21
Lunenburg County, Virginia

Report Date: May 9, 2022
Planning Commission Meeting Date: June 2, 2022

APPLICATION SUMMARY

Project:	Dogwood Lane Solar, LLC (Apex Clean Energy Holdings, LLC)
Location:	The project site is located on the west side of Dogwood Lane, approximately 400' north of the intersection with Route 40,and has an approximate area of 32.48 acres.
Parcel Record Numbers:	035-03-0-2C2 and 035-03-0-2C
Proposal:	Applicant's request for a Conditional Use Permit for a 4 megawatt (MW) solar energy facility in the A-1, Agricultural Zoning District.
Application Submitted:	December 13, 2021 Revised Application February 2, 2022 2232 Review on March 3, 2022
Applicant:	Dogwood Lane Solar, LLC – Dogwood Solar Project Apex Clean Energy Holdings, LLC c/o Charlie Johnson 120 Garret Street, Suite 700 Charlottesville, VA 22902
Representative:	Charlie Johnson (434) 220 7595 Charlie.johnson@apexcleanenergy.com
Owners:	Richard W. Harris

PLANNING COMMISSION ROLE

The Applicant has submitted a Conditional Use Permit (CUP) application for a solar energy facility.The Planning Commission previously completed their review of the Applicant's proposal as a "public utility facility" under Virginia Code Section 15.2-2232(A) and determined that the general or approximate location, character, and extent of the proposed facility is substantially in accord with the County's Comprehensive Plan. Now, the Planning Commission may proceed

with review of the CUP. Pursuant to Article 8, *Conditional Use Permits*, of the Lunenburg County Zoning Ordinance, as well as Section 4, part 5 of the Ordinance for Solar Energy Facilities, the Planning Commission shall review the application and provide a recommendation to the Board of Supervisors following a public hearing; the Planning Commission may recommend approval or disapproval of the CUP, along with written reasons for its decision, or may defer the application for further discussion and consideration; as part of its recommendation for approval, the Commission may recommend that conditions be imposed to ensure compliance. In considering their recommendation, the Planning Commission shall consider "at least" the criteria contained in Section 8-5, *General requirements for approval of conditional use permits*, of Article 8. The Planning Commission shall issue their recommendation by motion, with the reasons for the recommendation, including a statement of the relationship of the proposed used to the Comprehensive Plan.

PROPOSED DEVELOPMENT

The facility proposed under CUP-4-21, having a rated capacity of 4 megawatts (4 MW), is classified as a Medium-Scale Solar facility (rated capacity greater than one megawatt (1 MW) and less than five megawatts (5 MW)). The facility is proposed to be developed on one (1) parcel, 035-03-0-2C (the result of the recent merged of (2) parcels, numbered 035-03-0-2C2 and 035-03-0-2C; please refer to the Letter of Administrative Amendment, dated April 28, 2022), owned by Richard W. Harris, currently zoned A-1, Agriculture District, and located in an area of the County having a current and future land use designation as Agricultural, characterized as areas "foreseen as slow growth, low density areas... expected to remain primarily agricultural, forest, and rural residential land uses."

The project site is located on the west side of Dogwood Lane, approximately 400' north of the intersection with Route 40, and has an approximate area of 32.48 acres. The site is currently undeveloped, comprised of timberland and open space. The project area of the site (the area within the site used for the construction and operation of the solar energy facility, including security fencing but excluding setbacks and buffer areas) totals approximately 15 acres. The Application indicates the installation of an estimated 9,396 to 13,624 photo-voltaic (PV) fixed tilt solar panels.The Applicant anticipates an operational lifespan of approximately 35 years and has provided a draft Decommissioning Plan.

It is important to clarify that the proposed facility will interconnect with Dominion Energy's electrical grid infrastructure and will therefore not produce electricity reserved for ratepayers in Lunenburg County. This facility, interconnected to Dominion's grid, will essentially send the generated electricity to all ratepayers serviced by the grid; generated electricity is not able to be routed and reserved for use only in the community or County where the facility is located, and will not provide backup energy generation in case of a blackout. While Dominion has a Community Solar program, which is a shared solar program, it is not a "community solar" program as defined by the U.S. Department of Energy; there is no technical way to determine whether the electricity that subscribers are utilizing is being produced from a shared solar facility, in the state or in their own community. Further, regardless of whether the Dogwood Lane Solar project is ever developed, residents of the County who are Dominion customers can sign up for Dominion's Community Solar program. Under this program, Dominion Energy is

recognizing that electricity produced across the state at community/shared solar facilities is pooled for this program, and subscribers receive bill credits based on the generated electricity.

EXISTING CONDITIONS AND ZONING

The parcelsubject to the Application is currently zoned A-1, Agricultural and is located in an area of the County having a current and future land use designation as *Agricultural*, characterized as areas "foreseen as slow growth, low density areas... expected to remain primarily agricultural, forest, and rural residential land uses."

The project siteincludes forested and cleared land and has primarily been used for timber production; it appears that timber was harvested and the site replanted within the last 5-7 years. The Application contains a *Slopes* plan indicating topography of the site. Generally, the site slopes downward from south to north and east to west and it is expected that stormwater would generally flow in these directions. Slopes generally range between 0% to 15%.According to the Application, on-site soils are moderately fine-grained sands, humus, and clay, including USGS soil category of Ultisols (red clay soils with high acidity). Soil types found on the property include the following classifications: 5B2 Cecil, 5C2 Cecil, 10C2 Helena, and 13C2 Lignum

ADJACENT AND SURROUNDING USES

The Route 40 corridor between the towns of Victoria and Kenbridge, and the properties with frontage along Route 40 (not including the subject site, or properties adjacent thereto), are located within a designated Virginia Enterprise Zone.

With the exception of the aforementioned Virginia Enterprise Zone designation for the Route 40 corridor, the areas surrounding the proposed project area share the same land use and zoning characteristics – rural, agricultural, forestry uses – as well as the same land use classifications.

The closest towns to the site arethe Town of Kenbridge and Victoria. The Applicant stated the easternmost project site boundary is located 2 miles away from Kenbridge town center and the westernmost solar panel is located 4 miles from Victoria town center.

COMPREHENSIVE PLAN CITATIONS

The Comprehensive Plan includes a Special Policy Areas discussion and recommendations on solar facilities (Chapter V, *Special Policy Areas*), as follows:

> ***Policy Area: Solar Facilities***
> *Solar Facilities are acres of raw farm land covered with solar panels which enable the owner of the solar facilities to capture sunlight, convert that sunlight into electrical energy and then sell that electricity to the utility company.*
>
> *Solar facilities are located in areas with availability of large tracts of land at low costs as well as available infrastructure (transmission lines) to support additional capacity. The existing land use of Lunenburg County could make the county's open areas an option for Solar Facilities. The County and the Towns should consider the development of*

alternative energy production while protecting agriculture, forestry lands and watersheds that the county enjoys.

Alternative energy production may be considered by the County and Towns as an attraction to expand employment opportunities and for companies interested in supporting solar development in communities where they are located.

Recommendations:
The County and Town Planning Commissions should consider safe development of solar energy that minimizes impacts to land uses, properties, and the environment, particularly for economic development purposes. They should develop reasonable conditions for the development of Solar Facilities which will protect the character of surrounding properties and will not limit future property development. Any County or Town planning measures which address Solar Facilities siting should also have an effective decommissioning plan developed and funded by the Solar developer before installation.

Additionally, the following Comprehensive Plan citations should be considered:

Chapter V, *Special Policy Areas*, *Policy Area: Loss of Agricultural Land and Open Space*, references that "Future residential, commercial and industrial development should be encouraged to locate in areas where adequate public services are available or planned. Any development that does occur in the rural areas should be designed to incorporate significant open spaces and designed to minimize environmental impacts on the land and water resources," and that "Environmental impacts of any newly planned development area should be considered. It is essential to maintain a balance between development and preservation objectives throughout the area." This section recommends that "Commercial and/or industrial developments that are approved in the rural portions of the County should be consistent with the best interest of the community."

Chapter V, *Special Policy Areas*, *Policy Area: Protection of Water Resources*, references that surface water resources within the County "provide recreational opportunities and are a critical component of the County's infrastructure and quality of life. As such, protection and enhancement of these water resources should be a primary object of the County and the Towns."

Chapter V, *Special Policy Areas*, *Policy Area: Corridor Development*, notes that road corridors, including Route 40, "maintain a high level of service," and that "Future development along these roads should be planned and designed to ensure that the safety and capacity of these roads are maintained and managed," and further references that road corridors including Route 40 are important "as "gateways to the County and Towns" these roads create first impressions to visitors coming into the area. The views and character of development is visible from the roadways. Maintenance and enhancement of these gateways can be critical to the success of the economic development and marketing activities in Lunenburg County, the Town of Kenbridge and the Town of Victoria."

Chapter VI, *Goals, Objectives, and Strategies*, B., *Economy and Employment*:

- Goal: Promote the expansion of a diversified economy.
  - Objective 1: Encourage quality industries to locate within the County and Towns.
    - Strategy 4: County Government, and other parties, to promote the area to environmentally friendly industries.
  - Objective 2: Provide adequate land and resources for commercial and industrial uses.
    - Strategy 5: Guide community and industrial uses into areas with adequate public utilities and transportation access.

Chapter VI, *Goals, Objectives, and Strategies*, C., *Land Use*:

- Goal: Promote a balance of land uses that meet economic and demographic needs of Lunenburg County, the Town of Kenbridge and the Town of Victoria.
  - Objective 4: Encourage quality industries to locate within the County and Towns.
    - Strategy 1: Encourage industries to locate in the County and Towns' industrial parks or in areas where they are compatible to adjacent uses.
    - Strategy 2: Guide community and industrial uses into areas with adequate public utilities and transportation access.
    - Strategy 3: Work with interest groups to attract new industries to the locality. Encourage industries to locate in the industrial parks or in areas where they are compatible to adjacent uses.
    - Strategy 4: Liaise with the Chamber of Commerce, and other parties, to promote the area to environmentally friendly industries.

Chapter VI, *Goals, Objectives, and Strategies*, F., *Natural Resources*:

- Goal: Protect and preserve the natural resources of the community.
  - Objective 1: Prevent development in areas of critical environmental importance.
    - Strategy 1: Restrict development in flood plains, swamps and drainage ways.
    - Strategy 2: Restrict development on soils that will not adequately support structures.
    - Strategy 4: Identify and protect all open spaces which have recreational potential or which would enhance the environment in Lunenburg County, the Town of Kenbridge and the Town of Victoria.

- Strategy 5: Promote the preservation and planting of trees, shrubs and other natural foliage.

ZONING ORDINANCE PROVISIONS

The County's Zoning Ordinance includes the following sections relevant to the review of the Conditional Use Permit:

Section 2,*Definitions*, of the Ordinance for Solar Energy Facilities,defines six types of solar energy systems:

> *Solar Facility, Community.* A facility that generates electricity from sunlight that was not constructed by an investor-owned utility that will be part of an investor-owned utility's community solar pilot program. A community solar facility does not exceed two megawatts (2 MW) alternating current. This facility type is a subset of either integrated PV, small-scale, or medium- scale solar facility.
>
> *Solar Energy Facility, Large-scale.* A ground-mounted solar facility that generates electricity from sunlight on an area adequate to support a rated capacity of five megawatts (MW) alternating current or greater.
>
> *Solar Energy Facility, Medium-Scale.* A ground-mounted solar facility that generates electricity from sunlight on an area adequate to support a rated capacity greater than one megawatt (1 MW) and less than five megawatts (5 MW) alternating current.
>
> *Solar Facility, Multi-Family.* A ground-mounted facility that generates electricity from sunlight that was not constructed by an investor-owned utility and that will be part of an investor-owned utility's multi-family shared solar pilot program. A multi-family shared solar facility does not exceed three megawatts (3 MW) alternating current at any single location or that does not exceed five megawatts (5 MW) alternating current at contiguous locations owned by the same entity or affiliated entities, serves at least three subscribers, is connected to the electric distribution grid, and is located on a parcel of land on the premises of the multi-family utility customer or adjacent thereto.
>
> *Solar Facility, Power Purchase Agreement (PPA).* A facility that generates electricity from sunlight that was not constructed by an investor-owned utility and that will be part of an investor- owned utility's power purchase agreement solar pilot program. A facility has a capacity of no less than 50 kilowatts and no more than three megawatts (3 MW) alternating current. This facility type is a subset of either rooftop, small-scale, or medium-scale solar facility.
>
> *Solar Energy Facility, Small-Scale.* A ground-mounted solar facility that generates electricity from sunlight on an area adequate to support a rated capacity of one megawatt (1 MW) alternating current or less.

Section 3, ***Applicability, Permitting***, of the Ordinance for Solar Energy Facilities,shall govern the location, siting, development, construction, installation, operation, and decommissioning of solar energy facilities in the county. Battery energy storage facilities will be addressed by a separate ordinance.

c. *Solar energy facilities, medium-scale* are required to have a Conditional Use Permit unless waived by the County. The Zoning Administrator may require additional information from the applicant to determine whether the facility requires a Conditional Use Permit.

Section 4,***Applications and procedures for solar energy facilities***, of the Ordinance for Solar Energy Facilities:

5. Consideration of the Conditional Use Permit by the Planning Commission. The Planning Commission must consider the Conditional Use Permit application at a public hearing. The Planning Commission has three options:

a. Recommend approval of the application to the Board of Supervisors with written reasons for its decision.
b. Recommend denial of the application to the Board of Supervisors with written reasons for its decision.
c. Defer the application for further discussion and consideration.

Section 5,***Location, appearance, and operational requirements***, of the Ordinance for Solar Energy Facilities,

A. The following requirements apply to all solar energy facilities that shall be considered by the Lunenburg Planning Commission and the Board of Supervisors in addressing whether to recommend or approve a Conditional Use Permit:

1. Signage. All signage on the site shall comply with the County Sign Ordinance, as adopted and, from time to time, amended.
2. Noise. Noise levels from the facility shall comply with the County Noise Ordinance, as adopted and, from time to time, amended.
3. Lighting. Lighting shall be limited to the minimum necessary for security purposes and shall be designed to minimize off-site effects. Lighting on the site shall comply with any Dark Skies Ordinance the Board of Supervisors may adopt or, from time to time, amend.
4. Height. The maximum height of the lowest edge of photovoltaic panels shall be ten feet as measured from the finished grade. Solar energy generation facilities shall not exceed a height of 15 feet, which shall be measured from the highest natural grade below each solar panel. This limit shall not apply to utility poles and the interconnection to the overhead electric utility grid. TheBoard of Supervisors may approve a greater height based upon the demonstration of a significant need where the impacts of increased height are mitigated.
5. Groundcover.

a. Groundcover on the site shall consist of pollinator plants, grasses, forbs, and wildflowers native to the County.
b. Groundcover shall be maintained in accordance with established performance measures noted in the landscaping plan. A performance bond reflecting the costs of anticipated maintenance shall be posted and maintained.
c. Failure to maintain the ground cover shall result in revocation of the CUP and the facility's decommissioning.
d. The operator shall notify the County prior to application of pesticides and fertilizers. The County reserves the right to request soil and water testing.
e. A list of appropriate plant materials shall be available at the Planning Office. Species listed on DCR's Invasive Plant Species list shall not be used.

6. Fencing. The project area shall be enclosed by security fencing not less than six feet in height and equipped with an appropriate anticlimbing device such as strands of barbed wire on top of the fence. The height and/or location of the fence may be altered in the conditions for a particular permit. Fencing must be installed on the interior of the vegetative buffer. Fencing shall be placed around sections of the infrastructure (not the entire site) to provide access corridors for wildlife to navigate through the facility. The fencing shall be maintained while the facility is in operation.
7. Entry and inspection. For inspections and other requirements, all solar applicants, property owners and solar facility owners shall grant to the County a non-exclusive, perpetual easement for pedestrian, vehicular, and equipment access to the Solar Facility, and an easement across or through applicant's remaining property, which is necessary or convenient for ingress and egress to the Facility. The County will adhere to all safety requirements in gaining access to the Solar Facility.
8. Coordination of local emergency services. The Applicant shall coordinate with the County's emergency services providers to provide materials, education, and/or training on how to safely respond to on-site emergencies.

    a. Emergency personnel will be given a key or code to access the property in case of an on- site emergency.

9. Conditions pursuant to Virginia Code § 15.2-2288.8 that shall apply to all solar facilities. The Board of Supervisors may grant a condition that includes (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a Conditional Use Permit, so long as such conditions are reasonably related to the project.
10. Siting Agreement. The applicant shall enter into a Siting Agreement with the County unless that requirement is waived by the County.

B. The following requirements also apply to ground-mounted small-scale and medium-scale solar energy facilities:

1. Applications for medium-scale solar energy facilities located within 1 mile of a town shall be shared with the town for review and comment. No projects within the 1-mile zone around a town shall be sited within 1 mile of another solar facility without town approval.

2. Setbacks. Setbacks are measured from the outermost structures including the security fence, substation, and inverters but not including the driveways and power poles.

   a. The project area shall be set back a distance of at least

      i. 100 feet from adjacent property lines,
      ii. 125 feet from the centerline of all adjoining public rights-of-way, and
      iii. 400 feet from residential structures on non-project parcels. Exceptions may be made for adjoining parcels that are owned by the applicant.

   b. Increased setbacks up to 200 feet and additional buffering may be included in the conditions for a particular permit.
   c. Solar energy facilities also shall meet all setback requirements for primary structures for the zoning district in which the facility is located, in addition to the requirements set forth above.
   d. In the case of the facility location incorporating multiple zoning districts, the more restrictive requirements shall apply.
   e. Access, erosion and stormwater structures, and interconnection to the electrical grid may be made through setback areas provided that such are generally perpendicular to the property line.

3. Vegetated Buffer. A vegetated buffer sufficient to mitigate the visual impact of the facility is required.

   a. The buffer shall consist of a landscaped strip at least 25 feet wide, shall be located within the setbacks and outside of the security fencing required under this Section, and shall run around the entire perimeter of the property.
   b. The buffer shall consist of existing vegetation and, if deemed necessary for the issuance of a Conditional Use Permit, an installed landscaped strip consisting of multiple rows of staggered trees and other vegetation. This buffer should be made up of plant materials at least three feet tall at the time of planting, and that are expected to grow to a minimum height of eight feet within three years.
   c. Landscaping intended for screening shall consist of plants, shrubs, trees, grasses, forbs, and wildflowers native to the County. If sufficient quantities of native plants cannot be procured, non-invasive plants may be used. A list of appropriate plant materials shall be available at the Planning Office. Species listed on the DCR Virginia Invasive Plant Species List shall not be used.
   d. The Planning Commission or Board of Supervisors may require increased setbacks and additional or taller vegetative buffering in situations where the height of structures or the topography affects the visual impact of the facility.

e. A recommendation that the screening and/or buffer creation requirements be waived or altered may be made by the Planning Commission when the applicant proposes to useexisting wetlands or woodlands. The wetlands or woodlands shall be permanently protected for use as a buffer.
f. Existing trees and vegetation may be maintained within such buffer areas except where dead, diseased or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy landscaping requirements as applicable. If existing trees and vegetation are disturbed, new plantings shall be provided for the buffer.
g. The buffer shall be maintained for the life of the facility.

C. The following requirements also apply to medium-scale solar energy facilities:

1. Density. Medium-scale solar facilities shall be sited at least one (1) mile from existing medium- and large-scale solar facilities.

Article 8, ***Conditional Use Permits***, of the Zoning Ordinance,establishes the procedures and standards for consideration of conditional use permit applications. **Section 8-5,*****General requirements for approval of conditional use permits***, establishes that a conditional use permit shall be approved by the board of supervisors only if it finds that the proposed conditional use and related plans:

(a) Will not be contrary to the purposes of this ordinance as stated in section 2-3;
(b) Will not be in conflict with the objectives of the comprehensive plan for the county;
(c) Conform with all applicable provisions of this article, all other applicable requirements of the district in which such use is located and any specific conditions applicable to the proposed conditional use specified elsewhere in this ordinance; and
(d) Include satisfactory provision for or arrangement of the following, where applicable:

(1) Sewer, water and other public utilities;
(2) Ingress and egress, including access for fire and other emergency vehicles;
(3) Off-street parking, loading and vehicle circulation, including adequate consideration of the safety of motorists and pedestrians;
(4) Yards, open spaces, relationship among buildings and other elements of the site;
(5) Retention of natural vegetation and topographic features; and
(6) Landscaping, buffers, screening, fences and other features or means of separation to protect adjacent properties from potential adverse effects of the conditional use.

STAFF REVIEW, ANALYSIS, AND COMMENTS

Staff has reviewed the subject Application pursuant to Article 8, *Conditional Use Permits*, of the County's Zoning Ordinance, and specifically Section 8-5, *General requirements for approval of conditional use permits*, with respect to whether the application will not be contrary to the purposes of the Zoning Ordinance, or in conflict with the objectives of the comprehensive plan for the County, will conform with the provisions and requirements of the Zoning Ordinance, and includes satisfactory provision for or arrangement of certain infrastructure and physical development conditions. Please consider the following:

Whether the proposed conditional use and related plans will not be contrary to the purposes of this ordinance as stated in section 2-3

The purpose of the County's Zoning Ordinance, as provided in Section 2-3, Purpose, is as follows:

> "...to classify the unincorporated territory of the county into zoning districts for the general purpose of promoting the health, safety and general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.2-2200. To these ends, and pursuant to the provisions of Code of Virginia, § 15.2-2283, this ordinance is designed to give reasonable consideration to each of the following purposes, where applicable:
>
> (a) To provide for adequate light, air, convenience of access and safety from fire, flood, crime and other dangers;
> (b) To reduce or prevent congestion in the public streets;
> (c) To facilitate the creation of a convenient, attractive and harmonious community;
> (d) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
> (e) To protect against destruction of or encroachment upon historic areas;
> (f) To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health or property from fire, flood, panic or other dangers;
> (g) To encourage economic development activities that provide desirable employment and enlarge the tax base;
> (h) To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
> (i) To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
> (j) To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the county as well as a reasonable proportion of the current and future needs of the planning district; and
> (k) To protect surface water and ground water as defined in Code of Virginia, § 62.1-255.

Staff is of the opinion that the proposed use and related plans, with the imposition of reasonable conditions, will be consistent with the purposes of the Zoning Ordinance. Further elaboration on Staff's position is provided below with respect to relevant policies contained in the Comprehensive Plan. To ensure project consistency, Staff would

recommend specific conditions relating to the construction/development stage of the project, the long-term maintenance of existing trees and vegetated areas, and the protection of the isolated wetland to the east.

Whether the proposed conditional use and related plans will not be in conflict with the objectives of the comprehensive plan for the county

As noted herein, the Planning Commission previously completed their review of the Applicant's proposal as a "public utility facility" under Virginia Code Section 15.2-2232(A) and determined that the general or approximate location, character, and extent of the proposed facility is substantially in accord with the County's Comprehensive Plan. This determination was made at the Planning Commission's meeting on March 3, 2022, with members of the Commission referencing, among other reasons, that the proposed facility has good topography, fits the County's guidelines and the area given its size and location.

As noted within the staff report for the 2232 review, Staff reviewed and analyzed the Application with respect to the above referenced Comprehensive Plan citations and offered the following opinions with respect to whether the project is substantially in accord with the Comprehensive Plan, or for these purposes, whether the proposed conditional use and related plans are in conflict with the objectives of the comprehensive plan for the County:

- With respect to the *Solar Facilities* policy area, Staff is of the opinion that the proposed facility can be characterized as safe development that minimizes, or will minimize through reasonable conditions, impacts to land uses, properties, and the environments.

- With respect to the *Loss of Agricultural Land and Open Space* policy area, Staff finds it notable that the project site is in close proximity to the Route 40 corridor; while there is not significant commercial development in this area currently, it is not unanticipated given the Enterprise Zone designation. Generally, significant areas of the project will remain undeveloped and the project is designed to minimize environmental impacts, and/or such impacts will be minimized through reasonable conditions.

- With respect to the *Protection of Water Resources* policy area, Staff is of the opinion that the project will be subject to Virginia Department of Environmental Quality regulations and permitting, which will work to ensure protection of the County's water resources.

- With respect to the *Corridor Development* policy area, Staff is of the opinion that the proposed development, including the construction phase, will not negatively impact the level of service, safety, or capacity of the Route 40 corridor. Additionally, it is not anticipated that the proposed development will be visible from Route 40.

- With respect to applicable *Economy and Employment* goals, objectives, and strategies. Staff is of the opinion that the proposed development works to expand a diversified economy within the County, and would constitute an environmentally friendly industrial use, primarily due to the proposed scale of operation, generally sited in an area with adequate and necessary utility access.

- With respect to applicable *Land Use* goals, objectives, and strategies, while the area has adequate and necessary utility access and constitutes a more environmentally friendly industrial use, it is not inherently compatible with adjacent uses, which are almost entirely residential and agricultural. Significant setbacks and buffers/screening work to mitigate for this incompatibility and additional reasonable conditions should be considered as part of the review of the Conditional Use Permit.

- With respect to applicable *Natural Resources* goals, objectives, and strategies, Staff is of the opinion that the proposed development does not negatively impact natural resources of the County, especially areas of critical environmental importance. Staff acknowledges that the project works to promote the preservation of existing trees by retaining existing vegetated areas along the periphery of the site, and would suggest that additional reasonable conditions to support the long-term maintenance of these areas be considered as part of the review of the Conditional Use Permit. Additionally, Staff would suggest that further review and consideration be given as part of the review of the Conditional Use Permit to the potential impacts of the project on the isolated wetland to the east.

Whether the proposed conditional use and related plans will conform with all applicable provisions of Article 8, *Conditional Use Permits*, all other applicable requirements of the district in which such use is located and any specific conditions applicable to the proposed conditional use specified elsewhere in the Zoning Ordinance

Staff had previously determined, in a report dated January 11, 2022, updated February 8, 2022, that the subject Application was complete and compliant/conforming) with all applicable requirements of the County's Zoning Ordinance, specifically the County's Solar Energy Facilities Ordinance.

Whether the proposed conditional use and related plans include satisfactory provision for or arrangement of the following, where applicable:

(1) Sewer, water and other public utilities;
(2) Ingress and egress, including access for fire and other emergency vehicles;
(3) Off-street parking, loading and vehicle circulation, including adequate consideration of the safety of motorists and pedestrians;
(4) Yards, open spaces, relationship among buildings and other elements of the site;
(5) Retention of natural vegetation and topographic features; and

(6) Landscaping, buffers, screening, fences and other features or means of separation to protect adjacent properties from potential adverse effects of the conditional use.

Staff is of the opinion that the proposed use and related plans satisfactorily provide or arrange for necessary utilities, ingress and egress, parking, loading, and vehicle circulation, yards and open space, the retention of natural vegetation and topographic features, and landscaping, buffers, screening, fences, and other means of separation. Staff would recommend reasonable conditions to ensure this satisfactory position remains, especially relating to the construction/development stage of the project, the long-term maintenance of existing trees and vegetated areas, and the protection of the isolated wetland to the east.

STAFF RECOMMENDATION

Based upon the above review, and for the reasons noted herein, Staff recommends***approval of the Conditional Use Permit as proposed with conditions.***

PLANNING COMMISSION ACTION; DRAFT OPTIONS

As noted, after holding a public hearing on the Conditional Use Permit, the Planning Commission may recommend approval or disapproval of the Conditional Use Permit, or approval with conditions to ensure compliance with the requirements of the County's Zoning Ordinance. In making its recommendation, the Commission shall consider, at least, the aforementioned criteria specified in Section 8-5, *General requirements for approval of conditional use permits*, of Article 8, *Conditional Use Permits*. The recommendation of the Commission shall be in the form of a motion, giving the reasons for the Commission's action and the vote of each member.The motion and recommendation to the board shall include a statement of the relationship of the proposed conditional use to the comprehensive plan. In any case where the commission is unable to adopt a motion to recommend approval, approval with conditions or disapproval, it shall report to the board of supervisors stating such fact and summarizing its deliberations.Failure of the Commission to provide a recommendation or report to the Board of Supervisors within 100 days after the first meeting of the Commission after the conditional use permit application was referred to the Commission shall be considered a recommendation of approval, unless the Application has been withdrawn by the Applicant prior to expiration of the time period.

Staff Recommendation - Option 1 - Recommend approval of the application with the stated (or amended) conditions

I move to recommend to the Board of Supervisors that Dogwood Lane Solar, LLC'sConditional Use Permit for a proposed 4-megawatt medium-scale solar energy facility, as presented, be approved with conditions to ensure the project's consistency with the following findings and compliance with the applicable requirements of the County's Zoning Ordinance:

1. The proposed use and plans are not contrary to the purposes of the County's Zoning Ordinance.

2. The proposed use and plans are consistent with the objectives of the comprehensive plan for the County, namely that:

    a. The proposed solar facility can be characterized as safe development that minimizes, or will be expected to minimize through conditions, impacts to land uses, properties, and the environments;
    b. The location of the proposed solar facility, while in a less developed area, is in close proximity to the Route 40 corridor, where some level of commercial development is anticipated; and further, significant areas of the project will remain undeveloped and the project is designed to minimize environmental impacts, and/or such impacts will be minimized through reasonable conditions;
    c. The project will be subject to Virginia Department of Environmental Quality regulations and permitting, which will work to ensure protection of the County's water resources;
    d. The proposed development, including the construction phase, will not negatively impact the level of service, safety, or capacity of the Route 40 corridor. Additionally, it is not anticipated that the proposed development will be visible from Route 40;
    e. The proposed development works to expand a diversified economy within the County, and would constitute an environmentally friendly industrial use, primarily due to the proposed scale of operation, generally sited in an area with adequate and necessary utility access;
    f. The area of the proposed project has adequate and necessary utility access and the project constitutes a more environmentally friendly industrial use; while not inherently compatible with adjacent uses, which are almost entirely residential and agricultural, significant setbacks and buffers/screening will work to mitigate for this incompatibility and additional conditions can considered as part of the review of the Conditional Use Permit; and
    g. The proposed development does not negatively impact natural resources of the County, especially areas of critical environmental importance. Further, the project works to promote the preservation of existing trees by retaining existing vegetated areas along the periphery of the site.

3. The proposed use and plans conform with all applicable provisions of Article 8, *Conditional Use Permits*, all other applicable requirements of the district in which the use is located, and the specific regulations applicable to medium-scale solar energy facilities.

4. The proposed use and plans include satisfactory provision for or arrangement of:

    a. Sewer, water and other public utilities;
    b. Ingress and egress, including access for fire and other emergency vehicles;
    c. Off-street parking, loading and vehicle circulation, including adequate consideration of the safety of motorists and pedestrians;

d. Yards, open spaces, relationship among buildings and other elements of the site;
e. Retention of natural vegetation and topographic features; and
f. Landscaping, buffers, screening, fences and other features or means of separation to protect adjacent properties from potential adverse effects of the conditional use.

Conditions recommended by the Commission are as follows: *please refer to the end of this Report below*

Option 2 - Recommend denial of the application

I move to recommend to the Board of Supervisors that Dogwood Lane Solar, LLC's Conditional Use Permit for a proposed 4-megawatt medium-scale solar energy facility, as presented, be denied; among other concerns, the Planning Commission finds the following:

1. The proposed use and plans are contrary to the purposes of the County's Zoning Ordinance.

2. The proposed use and plans are inconsistent with the objectives of the comprehensive plan for the County, namely that:

    a. The proposed solar facility cannot be characterized as safe development and does not minimize impacts to land uses, properties, and the environment;
    b. The location of the proposed solar facility is a rural area, the amount of undeveloped area within the project is insufficient and the project is not designed to minimize environmental impacts;
    c. Despite being subject to Virginia Department of Environmental Quality regulations and permitting, the project will have negative effects on the County's water resources;
    d. The proposed development, including the construction phase, will negatively impact the level of service, safety, and capacity of the Route 40 corridor. Additionally, the development will be visible from Route 40, and would not be considered an enhancement to the corridor, thereby being detrimental to the County's economic development and marketing activities;
    e. The proposed development does not work to expand a diversified economy within the County, and, given the scale of the proposal, would not constitute an environmentally friendly industrial use; furthermore, utility and transportation access to support the development are inadequate;
    f. The proposed project is not compatible with adjacent residential and agricultural uses; setbacks and buffers/screening are insufficient, and cannot be improved in a manner that would improve the compatibility of the project with adjacent uses; and
    g. The proposed development negatively impacts natural resources of the County, especially areas of critical environmental importance such as existing stands of trees and the isolated wetland to the east of the project site.

3. The proposed use and plans do not include satisfactory provision for or arrangement of:

    a. Sewer, water and other public utilities;
    b. Ingress and egress, including access for fire and other emergency vehicles;
    c. Off-street parking, loading and vehicle circulation, including adequate consideration of the safety of motorists and pedestrians;
    d. Yards, open spaces, relationship among buildings and other elements of the site;
    e. Retention of natural vegetation and topographic features; or
    f. Landscaping, buffers, screening, fences and other features or means of separation to protect adjacent properties from potential adverse effects of the conditional use.

Option 3 - Deferral of the application

I move that the Planning Commission defer issuance of a recommendation on Dogwood Lane Solar, LLC's proposed 4-megawatt medium-scale solar energy facility until the Planning Commission meeting scheduled to begin at _____ p.m. on _____, in the 2nd floor Courtroom; Lunenburg Courts Building, Lunenburg, VA 23952.

OPTION 1 RECOMMENDED CONDITIONS

Conditions recommended by the Commission (to ensure the project's consistency with the aforementioned findings and compliance with the applicable requirements of the County's Zoning Ordinance) are as follows:

1. The Applicant shall develop, construct, operate, and maintain the site in substantial conformance with the conceptual plans (dated ####), all assurances and commitments made within the Application materials, and the conditions imposed on the issued conditional use permit, as determined by the Zoning Administrator. Substantial conformance will be determined by the Zoning Administrator based on his/her review of the record. Deviations determined not to be in substantial conformance with the conceptual plans shall require review and approval as an amendment to the conditional use permit, following the process for the granting of a conditional use permit. As used in these conditions, the term "Applicant" shall include the terms "Applicant, Owner, Developer, or Operator," and the successors and assigns thereof, and the term "Zoning Administrator" shall include the designee of the Zoning Administrator.

2. Project capacity shall be limited to a maximum of 4 MW.

3. The project, as presented, does not include battery energy storage systems; the addition of battery energy storage shall require amendment of this conditional use permit.

4. The Applicant shall give the County written notice of any change in ownership or entities responsible for operations or asset management of the project within thirty (30) days after the change.

5. To accommodate wildlife crossing of the site, the Applicant shall refer to the Virginia Department of Wildlife Resources Commission's most recent Solar Energy Facility Guidance in the design of the site plan, working with the Zoning Administrator to meet the intent, if not the letter of the Guidance.

6. All required buffers shall be comprised of existing natural vegetation. Where gaps in existing natural vegetation within a required buffer area require supplemental plantings to facilitate effective screening or in the event existing vegetation or landforms providing the screening are disturbed, the Zoning Administrator may, in connection with building permit review and approval, require buffers to be supplemented with additional plantings of native and/or pollinator species where compatible with site conditions. Where required by the Zoning Administrator, supplemental plantings of trees and shrubs shall be approximately 6 foot in height and 2.5 inch caliber at time of planting. A staggered double row of trees/shrubs will be planted on 10-foot centers in the exterior 25 feet of the screening area. Tree and shrub seedlings shall be planted in remaining screening area. Buffer plantings, both existing and supplemental planting, shall be maintained in good health to ensure sufficiency of the screening, as determined by the Zoning Administrator; damaged or deceased plant materials shall be replaced within a reasonable time, dictated by best practices, as determined by the Zoning Administrator.

7. A separate security shall be posted for the ongoing maintenance of the project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator as set forth on Schedule A attached hereto, and provided by an issuer in a form and amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party).

8. As part of the site plan review, the Applicant/Owner/Developer shall be required to be submit a construction management/construction mitigation plan, to be reviewed and approved by the Zoning Administrator. At a minimum this plan shall address and/or include:

    a. Traffic control methods for all public roads to be used for ingress/egress (in coordination with the VDOT prior to initiation of construction) shall include, at a minimum, plans and procedures for lane closures, signage, and flagging.
    b. Coordination with VDOT prior to initiation of construction on the appropriateness of the speed limit on any public access road and support a speed limit reduction, if necessary.
    c. Site access planning, including procedures for directing and coordinating employee and delivery traffic. Construction Traffic shall be limited to 7:00 am to

7:00 pm, Monday through Saturday, or as may be approved by the County Administrator upon good cause shown by the Applicant.

d. Deliveries by three-axle trucks or larger shall be limited to Monday through Friday and shall not occur during a one-hour period surrounding school pick-up and drop-off on school days.
e. Site security.
f. Lighting; during construction of the facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and/or safety lighting shall be exempt from this construction lighting condition.
g. Hours of construction. Driving of posts shall be limited to 7:00 am to 6:00 pm, Monday through Saturday. Driving of posts shall be prohibited on state and federal holidays. The Applicant may request permission from the County Administrator to conduct post driving activity on Sunday, but such permission will be granted or denied at the sole discretion of the County Administrator, after consulting with the Board of Supervisors.
h. Mitigation of dust.
i. Mitigation of burning operations.
j. Plans for staging and storage of materials and parking. During construction, the setback may be used for staging of materials and parking. No material and equipment laydown area, construction staging area, or construction trailer shall be located within 400 feet of any property containing a residential dwelling.

9. The Applicant shall submit a traffic management plan to include entrances and comply with all Virginia Department of Transportation conditions for the traffic management plan during construction and decommissioning of the Solar Facility.

10. The Applicant shall be responsible for repairing any damage to roadways occurring during development/construction or following commissioning of the project, or any portion thereof. Prior to the commencement of development/construction activities, the County and the Applicant shall agree to the existing state of applicable roadways, to be documented by video furnished by the Applicant in coordination with the County, or by the County with costs assumed by the Applicant. During development/construction, the roadways shall be monitored for damage, and the Applicant, once notified by the County of damages, shall make repairs caused by construction traffic at the direction of the County Administrator. After construction activities are completed, the roadways will be evaluated for damage as measured against the condition prior to construction activity; the Applicant will be required to restore such roadways to equivalent or better condition as existed prior to commencement of construction activity.

11. Prior to approval of the site plan and commencement of construction, the Applicant shall provide a bond or other security, in a form and amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) as set forth on Schedule A

attached hereto, to cover 100% of the estimated costs of anticipated pre-construction improvements to be made to the public roads and/or public rights-of-way along the delivery routes, as well as the anticipated cost of repairs to be necessary during development. After pre-construction improvements have been completed, the amount of the bond/security shall be reduced equivalent to the costs of the pre-construction improvements.

12. The Applicant shall coordinate with the County's Sheriff Department on speed monitoring plans and devices prior to initiation of construction.

13. As part of the site plan review, the Applicant/Owner/Developer shall be required to be submit a grading plan, to be reviewed and approved by the Zoning Administrator. A bond or other security, from an issuer and in a form approved by the Zoning Administrator, will be posted for the grading operations. The Project shall be constructed in compliance with the Grading Plan. At a minimum this plan shall address:

    a. Clearly show existing and proposed contours;
    b. Note the locations and amounts of topsoil to be removed (if any) and the percent of the site to be graded;
    c. Limit grading to the greatest extent practicable by avoiding steep slopes;
    d. An earthwork balance will be achieved on-site with no import or export of soil except for importing specific quality soils required for construction;
    e. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded;
    f. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.
    g. Provide for the installation of all stormwater and erosion and sediment control infrastructure ("Stormwater Infrastructure") at the outset of the project to ensure protection of water quality. Once all Stormwater Infrastructure is complete and approved by the VESCP authority, no more than 50% of the land disturbance areas as reflected on the Site Plan shall be disturbed without soil stabilization at any one time. Stabilization, for purposes of erosion and sediment control, shall mean the application of seed and straw to disturbed areas, which shall be determined by the VESCP authority.

14. The Applicant shall coordinate with state and federal agencies to avoid or limit impacts to the maximum extent practicable to any state and federally listed threatened and endangered species that may occur and have suitable habitats in the project area.

15. The Erosion and Sediment Control plan shall comply with the most recent version of the Virginia Erosion and Sediment Control Handbook at the time of construction. The

Erosion and Sediment Control plan shall address potential impacts to, and mitigation of,the wetland located on the east side of Dogwood Lane. The County will have a third-party review with corrections completed prior to the County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. An E&S bond (or other security) will shall be posted for the construction portion of the project, to be provided by an issuer in a form and amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) as set forth on Schedule A attached hereto.

a. To the maximum extent practicable, trees removed during the course of development shall be mulched on site, with such mulch to be used to mitigate and control stormwater runoff during construction.
b. To the maximum extent practicable, topsoil from the site should be maintained on site for areas were grading occurs that exposes unsuitable soils where erosion and sediment control vegetation will not take; soil analysis shall be performed to assess the adequate seed mix for exposed soils.

16. The stormwater control plan shall comply with the most recent State policies and regulations at the time of design and construction. The stormwater control plan shall address potential impacts to, and mitigation of, the wetland located on the east side of Dogwood Lane. The County will have a third-party review with corrections completed prior to submittal for DEQ review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. A storm water control bond (or other security) provided by an issuer in a form and amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) shall be posted as set forth on Schedule A attached hereto.

17. Ground cover shall be native vegetation where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.

18. Only EPA approved herbicides shall be used for vegetative and weed control at the solar energy facility by a licensed applicator. No herbicides shall be used within 150 feet of the location of an approved ground water well. The Applicant shall submit an herbicide land application plan prior to approval of the certificate of occupancy (or equivalent). The plan shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies of water. The operator shall notify the County prior to application of pesticides and fertilizers. The County reserves the right to request soil and water testing.

19. For permanent security fencing, a performance bond reflecting the costs of anticipated for fence maintenance shall be posted as set forth on Schedule A attached hereto, provided

by an issuer in a form and amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party).

20. Permanent entrance roads and parking areas, as designated in the building permit application, will be stabilized with gravel, asphalt, or concrete to minimize dust, and impacts to adjacent properties. Roads internal to the site that are not part of ingress/egress to the site may be compacted dirt.

21. All physically damaged panels or any portion or debris thereof shall be collected by the solar facility operator and removed from the site or stored on site in a location protected from weather and wildlife and from any contact with ground or water until removal from the site can be arranged; storage of damaged panels or portion or debris thereof shall not exceed thirty (30) days.

22. The Applicant shall provide a bank letter of credit or a surety bond as a means of assuring payment of decommissioning costs as set forth on Schedule A attached hereto, provided by an issuer in a form and amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party). The letter or bond shall include language that failure to renew the current commitment, or provide a new guarantor acceptable to the County, at least ninety days prior to the termination date of the current commitment, will constitute an event of default.If the County receives notice or reasonably believes that any form of security has been revoked or the County receives notice that any security may be revoked, the County may revoke the Conditional Use Permit and shall be entitled to take all action to obtain the rights to the form of security.

23. The Applicant shall submit a final Decommissioning Plan to the County for approval in conjunction with the building permit. The Applicant, or its successor, shall reimburse the County's reasonable costs for an independent review and analysis by a licensed engineer of the initial decommissioning cost estimates. The Applicant, or its successor, will update the decommissioning costs estimate every five (5) years and reimburse the County's reasonable costs for an independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.

24. Upon decommissioning, all physical improvements, materials, and equipment related to Solar Facilities, both surface and subsurface components, shall be removed in their entirety. The soil grade will also be restored following disturbance caused in the removal process. If the current or future landowner requests in writing that the fencing and/or materials greater than thirty-six (36) inches below the surface be exempt from removal, the facility owner or operator shall provide an itemized list of exempt items and copies of request letters in the decommissioning land disturbance application for review and approval by the County.

25. Upon decommissioning, all access roads will be removed, including any geotextile material beneath the roads and granular material. Topsoil will be redistributed within areas that were previously used for agricultural purposes to provide substantially similar growing media as was present within the areas prior to access road construction. If the current or future landowner requests in writing that the access roads and associated culverts or their related material be exempt from removal, the facility owner or operator shall provide an itemized list of exempt items and copies of request letters in the decommissioning land disturbance application for review and approval by the County

26. Within twelve (12) months after the cessation of use of the Solar Facilities for electrical power generation or transmission, the Applicant or its successor, at its sole cost and expense, shall commence decommissioning of the Solar Facilities in accordance with the Decommissioning Plan approved by the County. If the Applicant or its successor fails to decommission the Solar Facilities within twenty-four (24) months, the property owners shall commence decommissioning activities in accordance with the Decommissioning Plan using the decommissioning security to fund such activities. Following the completion of decommissioning of the Solar Facilities arising out of a default by the Applicant or its successor, any remaining security funds held by the County shall be distributed to the property owners in a proportion of the security funds and the property owner's proportionate acreage ownership of the Solar Facility. Upon completion of decommissioning and approval by the County, the County shall sign documentation releasing the decommissioning security.

27. If the Applicant, its successor, or the property owners fail to timely decommission the Solar Facilities, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property, access to the full amount of the decommissioning security, and the right to dispose of the Solar Facilities, equipment and materials on the property, without incurring any financial liability to the owner of the Solar Facilities or the property owner, and without obligation for the County to secure salvage value (if any) for the property disposed of. If applicable, any excess decommissioning security funds shall be returned to the current owner of the property after the County has completed the decommissioning activities.

28. The County may enter the Project Site in accordance with Code of Virginia Section §15.2-2241.2. Nothing herein shall limit other rights or remedies that may be available to the County to enforce the obligations of the Applicant, including under the County's zoning powers. The owners of the property shall execute a deed of easement prior to County's issuance of a building permit.

29. If decommissioning is triggered for a portion of the Solar Facilities, then the Applicant or its successor will commence and complete decommissioning, in accordance with the Decommissioning Plan, for the applicable portion of the Solar Facilities; the remaining portion of the Solar Facilities would continue to be operational and subject to the

Decommissioning Plan when the time comes. Any reference to decommissioning the Solar Facilities shall include the obligation to decommission all or a portion of the Solar Facilities whichever is applicable with respect to a particular situation.

30. Subject to the requirement that the County provide the Applicant with an estimate of the third party costs prior the expense being incurred (when applicable County permit fees do not cover assumed costs), the Applicant shall reimburse the County its reasonable costs in obtaining independent third-party reviews as required by these conditions and for the review of the site plan, Erosion and Sediment Control plan, decommissioning cost estimates, and bi-annual inspections during operations to verify compliance with all permits and approvals. The Applicant shall also fully fund any temporary or permanent signage as requested or required by the County or the Virginia Department of Transportation ("VDOT"), as well as any costs associated with traffic planning or traffic mitigation.

31. The design, installation, maintenance, and repair of the Solar Facility shall be in accordance with the most current National Electric Code (NFPA 70) available (2014 version or later as applicable) and State Building Code at the time of construction.

32. Inspections.

    a. The Applicant will allow designated County representatives or employees access to the facility for inspection purposes during normal business hours with 24-hour notice.
    b. The Applicant shall reimburse the County its reasonable costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations when those costs exceed the Applicant's building permit fee.

33. Training.

    a. The Applicant shall submit an Emergency Response Plan (the "ER Plan") with the submission of the site plan. The ER Plan shall include fire suppression methods that can be immediately deployed during both the construction and operation of the project. The ER Plan shall also include a program of education and training to be provided for County emergency response staff covering onsite emergency response.
    b. Prior to the end of construction of the Project Site, the Applicant, shall hold training classes with the County's first responders (Fire and Rescue) to provide materials, education, and training on responding to on-site emergencies. The training classes shall be scheduled with the assistance of the County's Public Safety Coordinator or designee.
    c. The Applicant or any future owner or operator shall provide on-going training as deemed necessary by the Public Safety Coordinator or designee.
    d. In the event any upgrades or changes in technology associated with the Solar Facilities results in any change in emergency procedure, the Applicant or any future

owner operator will notify the County Public Safety Coordinator, who may, at their discretion, schedule an additional training on the new equipment.

34. The Solar Facilities shall be designed, constructed, and tested to meet relevant local, state, and federal standards as applicable.

35. The Conditional Use Permit shall be terminated if the solar facility does not receive a building permit within 18 months after the Applicant receives (a) any required state approvals; (b) any approvals of the regional transmission organization; and (c) any approvals required by the State Corporation Commission, but in no event more than thirty-six (36) months of approval of the Conditional Use Permit, unless the Board of Supervisors grants an extension. Any timeframe under which the Commonwealth is under an Executive Order of the Governor declaring a statewide emergency will toll the timeframe specified in this condition.

36. If the Solar Facilities are declared to be unsafe, due to a violation of building or electrical codes, as determined by the fire marshal or building official, and the operator of the Facilities fails to respond in writing to such official within thirty (30) days, the County may revoke the right for the Facilities to continue operation until the unsafe condition is brought into compliance with the applicable building or electrical code. If the unsafe condition cannot be remedied within six (6) months, the Conditional Use Permit shall be terminated, and the Solar Facilities shall be decommissioned.

37. The Applicant shall provide the County with a list of capital equipment, including but not limited to solar photovoltaic equipment proposed to be installed, whether or not it has yet been certified as pollution control equipment by the State Corporation Commission or Virginia Department of Environmental Quality, and lists of all other taxable tangible property. Thereafter, on an annual basis, the Applicant shall provide the County with any updates to this information. Further, the Applicant agrees to provide the County all information it may in the future provide to the Virginia State Corporation Commission for the Commission's use in valuing such property for taxation purposes.

38. Pursuant to Virginia Code § 15.2-2316.7, the Board of Supervisors may negotiate a Siting Agreement in addition to this CUP.

Schedule A
Security of Performance – Summary of Securities

Condition Reference	Performance Being Secured	Duration
11	Pre-Construction Road Improvements; Road Repairs	Construction Phase

13	Grading	
15	Erosion & Sediment Control	
16	Stormwater Management	Full lifecycle
7	Land cover & vegetative buffer maintenance	
19	Security fencing	
22	Decommissioning	

Posting and release of bonds shall be in accordance with the procedures set forth in the County's ordinances.