

RED BRICK SOLAR

CONDITIONS FOR CONDITIONAL USE PERMIT

Proposed Conditions

The Planning Commission recommends the following conditions to mitigate the adverse impacts of this Utility-Scale Solar Generation Facility with any recommendation for approval.

1. The Applicant will develop the Project Site in substantial accord with the Conceptual Site Plan dated June 17, 2021, included with the application (Attachment A) and these conditions as determined by the Zoning Administrator. Significant deviations or additions including any enclosed building structures to the Preliminary Site Plan will require review and approval by the Planning Commission and Board of Supervisors. As used in these conditions, the “Project Site” shall include the “Solar Facilities.” The “Solar Facilities” shall mean the area(s) shown on the Conceptual Site Plan containing racking, panels, inverters, breakers, switches, cabling, transmission lines, and fencing.
2. Site Plan Requirements. In addition to all Virginia site plan requirements and site plan requirements of the Zoning Administrator, the Applicant shall provide the following plans for review and approval for the Solar Facility prior to the issuance of a building permit:
 - a. *Construction Management Plan.* The Applicant shall prepare a Construction Management Plan for each applicable site plan for the Solar Facility, and each plan shall address the following:
 - i. Construction traffic shall be limited to 7:00 A.M. to 7:00 P.M. Monday through Saturday; provided however, construction may occur outside these times during the installation of the transformer equipment which will be limited to three days. The Applicant will give the County Administrator prior notice of the extended construction periods.
 - ii. Deliveries by three-axle trucks or larger shall be limited to Monday through Saturday and shall not occur during 7:00 A.M. to 8:00 A.M. or 3:00 P.M. to 4:00 P.M. on school days. Delivery vehicles shall utilize Routes 40, 49 and 138 for all deliveries to the solar facility as noted in Condition 7f.
 - iii. Additional safety precautions to be considered in the plan may include flagging, speed limit restrictions, and other measures reasonably necessary to ensure the safety of the residential community.
 - iv. Traffic Control Methods (in coordination with the Virginia Department of Transportation [VDOT] prior to initiation of construction):
 1. Lane closures,
 2. Signage, and
 3. Flagging procedures.
 - v. Site Access Planning. Directing employee and delivery traffic to minimize

- conflicts with local traffic.
- vi. Site Security. The Applicant shall implement security measures prior to the commencement of construction of Solar Facilities on the Project Site.
 - vii. Lighting. During construction of the Solar 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.
 - viii. Water Supply. In the event that on-site wells are used during construction of the Solar Energy Facility, the Applicant shall prepare and submit for review to the County hydrogeologic information necessary for the County to determine the potential impact to pre-existing users for the same aquifer proposed to be used for the Solar Energy Facility and a plan to mitigate impacts to pre-existing users within the area of impact of the Project. If the County, in consultation with the Department of Environmental Quality, determines that the installation of a well will not adversely affect existing users, the Applicant may proceed with well construction in compliance with approval by the Department of Environmental Quality. At the end of the construction of the Solar Energy Facility, the well shall not thereafter be used except only for personal toilet and lavatory facilities as required by the Uniform Statewide Building Code for operations and maintenance buildings.
- b. *Construction Mitigation Plan.* The Applicant shall prepare a Construction Mitigation Plan for each applicable site plan for the Solar Facility, and each plan shall address the effective mitigation of dust, burning operations, hours of construction activity, access and road maintenance and improvements, and handling of general construction complaints as set forth and described in the application materials and to the satisfaction of the Zoning Administrator. Damage to public roads related to construction activities shall be repaired as soon as possible and not postponed until construction completion. The Applicant shall provide written notice to the Zoning Administrator of the plans for making such repairs, including time within which repairs will be commenced and completed, within thirty (30) days of any written notice received from the Zoning Administrator.
- i. Driving of posts and blasting 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.
 - ii. Other construction activity on-site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
 - iii. During construction, the setbacks 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.
 - iv. Construction lighting shall be minimized and shall be directed downward.
 - v. Prior to the commencement of construction, a video will be taken at the direction of the County to establish the pre-construction condition of all roads over which construction traffic will travel. This video will be used to monitor maintenance and repairs to roads which applicant shall undertake during and following construction. All such maintenance and repairs shall be made within 30 days of applicant becoming aware of any damage or maintenance requirements on such roads.

- c. *Grading plan.* The Applicant will submit a final Grading Plan for review and approval by the Zoning Administrator. The Project shall be constructed in compliance with the Grading Plan as determined and approved by the Zoning Administrator or his designee prior to the commencement of any construction activities and a bond or other security will be posted for the grading operations. The Grading Plan shall:
 - i. Clearly show existing and proposed contours;
 - ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;
 - iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;
 - iv. An earthwork balance will be achieved on-site with no import or export of soil;
 - v. 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;
 - vi. 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.
 - vii. Provide for the installation of all Stormwater and Erosion and Sediment Control infrastructure at the outset of the project to ensure protection of water quality. Once infrastructure is complete and approved by the VESCP authority, no more than 300 acres 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.
- d. *Erosion and Sediment Control Plan.* The Applicant will submit a final Erosion and Sediment Control Plan for review and approval by the Zoning Administrator. 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 be posted for the construction portion of the project in accordance with the County's Erosion and Sediment Control Ordinance and/or the Virginia Erosion and Sediment Control Law and applicable regulations.
 - i. The Applicant shall either retain a forested riparian buffer of no less than 200 feet along the Meherrin River or shall provide other erosion control best management practices to prevent erosion into the Meherrin River.
 - ii. Only 300 total acres of land may be disturbed at any one time. Disturbed land will be stabilized before further clearing and construction on additional acres can proceed.
- e. *Stormwater Management Plan.* The Applicant will submit a final Stormwater Management Plan for review and approval by the Virginia Department of Environmental Quality and County prior to any land disturbing activity. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. A Stormwater Control Bond (or other security) will be posted for the project for both construction and post construction as applicable and determined by the Zoning Administrator and in accordance with the Virginia Stormwater Management Act.
- f. *Landscaping and Screening Plan.*
 - i. The Applicant will submit a final Landscaping and Screening Plan for review and

approval by the Zoning Administrator. The owner or operator shall construct, maintain, and operate the Facility in compliance with the approved plan. A separate security shall be posted for the estimated costs of ongoing maintenance of the project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator with the advice of a professional arborist or forester. Failure to maintain the landscaping in accordance with the plan may result in the issuance of a notice of violation by the Zoning Administrator. If the Applicant fails to maintain the project in accordance with the Landscaping and Screening Plan after written notice from the County, the County may use the security to complete the maintenance and require the Applicant to post additional security.

- ii. Pollinator habitats. The project area will be seeded with appropriate pollinator-friendly plants, shrubs, trees, forbs, and wildflowers native to the County where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator. The project area will be seeded immediately following completion of construction, in an approved section, in such a manner as to reduce invasive weed growth and sediment in the project area.
- iii. Screening vegetation shall include appropriate pollinator-friendly plants, shrubs, trees, forbs, and wildflowers native to the County where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
- iv. 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 groundwater 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.

g. Decommissioning and Reclamation Plan.

- i. The Applicant will submit a final Decommissioning and Reclamation Plan for review and approval by the Zoning Administrator. The plan will provide procedures and requirements for removal of all parts of the Solar Energy Generation Facility and its various structures at the end of the useful life of the Facility or if it is deemed abandoned. The plan shall include the anticipated life of the Facility, the estimated overall cost of decommissioning the Facility in current dollars excluding salvage value, the methodology for determining such estimate, and the process by which the project will be decommissioned.
- ii. Prior to operation, the Applicant must provide security in the amount of the estimated cost of the decommissioning. Options for security include a cash escrow, a performance surety bond, a certified check, or other security acceptable to the County in an amount equal to the estimated decommissioning cost developed and updated in accordance with the Decommissioning Plan acceptable to the County.
- iii. The security must remain valid until the decommissioning obligations have been met. The security may be adjusted up or down, by the County, if the estimated cost of decommissioning the Facility changes. The security must be renewed or replaced, if necessary, to account for any changes in the total estimated overall decommissioning cost in accordance with the periodic updated estimates required by the Decommissioning Plan. Obtaining and maintaining the requisite security

will be a mandatory condition of the Conditional Use Permit. The security shall be in favor of the county and shall be obtained and delivered to the County before any construction commences.

- iv. The Decommissioning Plan and the estimated decommissioning cost will be reviewed and updated once every five years. Failure of the applicant, owner, occupant, or other responsible party to provide updated decommissioning costs shall be grounds for suspension or revocation of the Conditional Use Permit.
 - h. The Applicant shall reimburse the County its costs in obtaining independent third-party reviews and inspections as required by these conditions and all applicable laws and regulations.
 - i. The design, installation, maintenance, and repair of the Solar Facility in accordance with the most current National Electrical Code (NFPA 70) available (2014 version or later as applicable).
3. 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.
4. Setbacks.
- a. The project area shall be set back a distance of at least 200 feet from the centerline of all adjoining public rights-of-way, 400 feet from residential structures on adjoining parcels, and 200 feet from adjacent property lines. County approved permanent, buffered setback easements with non-solar facility landowners may be utilized to meet these setback requirements so long as the solar facility setbacks from public rights of way are maintained. Upon approval and ratification, the Developer shall record the easement in the Circuit Court Clerk's Office of Lunenburg County, Virginia and provide documentation to the Lunenburg Planning and Zoning Department.
 - b. Setbacks at least 100 feet from the edge or the 100 year floodplain, whichever is more restrictive, of all waterways exterior to the project area shall be maintained.
 - c. Riparian buffers of a minimum of 50 feet from the edge of all waterways interior to the project area shall be maintained.
 - d. 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.
 - e. The Applicant shall either retain a forested riparian buffer of no less than 200 feet along the Meherrin River or shall provide other erosion control best management practices including riparian buffers to prevent erosion into the Meherrin River.
 - f. The Applicant shall retain a forested riparian buffer of no less than 100 feet along Couches Creek.
5. Vegetative 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 50 feet wide, shall be located within the setbacks and outside of security fencing, and shall run around the entire perimeter of the property, excluding gates in the security fencing for facility entrances.
 - b. The buffer shall consist of existing non-invasive vegetation and 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. Pollinator-friendly and wildlife-friendly plants, shrubs, trees, grasses, forbs, and wildflowers native to the County must be used in the vegetative buffer. If sufficient quantities of native plants cannot be secured, non-invasive plants may be used. No plants on the DCR Virginia Invasive Plants Species List may be used.
 - d. Views of the facility from Virginia State Route 49 must be screened and buffered according to these criteria. The screening and buffer plan along Route 49 must be approved by the County prior to facility construction.
 - e. The buffer shall be maintained for the life of the Facility.
6. Wildlife corridors. Corridors allowing wildlife to traverse the property from east to west and north to south shall be provided at multiple locations. Wildlife corridors shall be indicated on the site plan.
- a. The width and proposed paths of wildlife corridors shall be especially designed to permit the useful and safe passage of black bears (*Ursus americanus*) in the area.
7. Traffic.
- a. The Applicant shall comply with all Virginia Department of Transportation recommendations for traffic management during construction and decommissioning of the Solar Facility.
 - b. The roads shall be maintained in a safe operating condition during the construction phase and be brought back to the original condition, or improved, upon completion of the construction and decommissioning phases, as directed in Condition 2b, herein.
 - c. Construction traffic shall be limited to 7:00 A.M. to 7:00 P.M. Monday through Saturday; provided however, construction may occur outside these times during the installation of the transformer equipment which will be limited to three days. The Applicant will give the County Administrator prior notice of the extended construction periods.
 - d. Deliveries by three-axle trucks or larger shall be limited to Monday through Saturday and shall not occur during 7:00 A.M. to 8:00 A.M. or 3:00 P.M. to 4:00 P.M. on school days.
 - e. Additional safety precautions to be considered in the plan may include flagging, speed limit restrictions, and other measures reasonably necessary to ensure the safety of the residential community.
 - f. All construction and delivery vehicles shall be limited to utilizing Routes 40, 49 and 138 within Lunenburg County. The Developer shall be responsible to ensure such vehicles use only these routes during the facility construction process.
8. Operations.
- a. 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. Fencing must be installed on the interior of the vegetative screen. The fencing shall be maintained while the facility is in operation.
 - b. Signage. All signage on the site shall comply with the County Sign Ordinance, as adopted and, from time to time, amended.

- c. Noise. Noise levels from the Facility shall comply with the County Noise Ordinance, as adopted and, from time to time, amended.
 - d. 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.
 - e. Ingress/Egress. Permanent access roads and parking areas will be stabilized with gravel, asphalt, or concrete to minimize dust and impacts to adjacent properties.
 - f. Water Supply. After completion of construction, water may be utilized for the purpose of washing panels.
9. Entry and inspection.
- a. For inspections and other requirements, the solar applicant, 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. The easement will be granted prior to site plan approval and in a form reasonably acceptable to the County Attorney.
 - b. The Applicant shall reimburse the County its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.
10. 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.
11. Compliance. The Solar Facilities shall be designed, constructed, and tested to meet relevant local, state, and federal standards as applicable.
12. Decommissioning and reclamation.
- a. If any Solar Energy Generation Facility is not operated for a continuous period of 12 months, the county may notify the facility owner by registered mail and provide 45 days for a response. In its response, the facility owner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action to be unreasonable, it may notify the facility owner, and the facility owner, site owner, or operator shall remove the Solar Energy Facility in compliance with Decommissioning Plan established for such Facility.
 - b. At such time that a Solar Energy Facility is scheduled to be abandoned, the facility owner, site owner, or operator shall notify the County Administrator in writing.
 - c. Within 365 days of the date of abandonment, whether as declared by the County under or as scheduled by the owner(s) or operator, the facility owner, site owner, or operator shall complete the physical removal of the Solar Energy Facility in compliance with Decommissioning Plan established for such Facility. This period may be extended at the request of the owners or operator, upon approval of the Board of Supervisors.
 - d. When the facility owner, site owner, operator, or other responsible party decommissions a Solar Energy Facility, he/she shall handle and dispose of the equipment and other facility components in conformance with federal, state, and local requirements. All equipment, both above and below ground, must be removed as part of the Decommissioning Plan.

Internal paths, roads, travel-ways, and landscaping may be left at the discretion of the site owner.

- e. The site will be reseeded or replanted to stimulate pre-timbered pre-development conditions as indicated on the Preliminary Site Plan. The exception to reforestation would be upon written request from the current or future landowner or the County indicating areas where reforestation is not requested.
 - f. If the Facility owner or site owner fails to timely remove or repair an unsafe or abandoned Solar Energy Facility after written notice, the County may pursue a legal action to have the Facility removed at the expense of the facility owner or site owner, each of whom shall be jointly and severally liable for the expense of removing or repairing the Facility. The County also may call upon the decommissioning security to remove the Facility.
 - g. 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.
13. The Conditional Use Permit shall be terminated if the Solar Facility does not receive a building permit within 18 months after the Applicant receives the last of (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 (30) months of approval of the Conditional Use Permit. 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.
14. 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 Facility fails to respond in writing to such official within thirty (30) days, the County may revoke the right for the Facility 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.
15. The owner and operator shall give the County written notice of any change in ownership or operation within thirty (30) days.
16. Pursuant to Virginia Code Section 15.2-2288.8, the Applicant shall pay the county a substantial cash payment for public improvements as a condition of the Board of Supervisors granting this Conditional Use Permit.
17. Pursuant to Virginia Code Section 15.2-2316.7, the Board of Supervisors may negotiate a Siting Agreement in addition to this CUP.