

Charlotte County Planning Commission
Public Hearing & Regular Monthly Meeting
October 27, 2020
Charlotte County Administration Office

Present:

Andrew Carwile	W.V. Nichols
Cornell Goldman	Clark Poindexter
Deborah Haskins	Gladys Reid
Kenny Howard	Eugene Wells
Kerwin Kunath	David Watkins, II

Absent:

George Sandridge

Board Representative in Attendance: Kay Pierantoni

Staff in Attendance: Dan Witt, County Administrator

Monica Elder, Assistant County Administrator

Chairman Deborah Haskins called the meeting to order at 7:00 pm and Kenny Howard gave the invocation.

David Watkins made the motion to approve the agenda as presented. Gladys Reid seconded the motion and the motion carried with all members present voting yes.

Public Hearing

Chairman Haskins called to order the public hearing for Courthouse Solar LLC's conditional use permit application for a proposed 167 megawatt AC utility-scale solar energy system to be located on tax parcels, owned by Blue Rock Resources, LLC; Ridgeway Farm LLC; and Robert Locke and identified as 39-A-81, 39-A-82, 39-A-83, 39-A-84, 39-A-77, 39-A-78, 39-A-79, 39-A-80, 39-A-94, 39-A-95, 51-A-62A, 40-A-44, consisting of approximately 1,354 acres.

Denise Nelson, third-party reviewer with The Berkley Group, LLC, presented a staff report on Courthouse Solar LLC's conditional use permit application, including a review of parcels and the parcel map, an overview of the project, and recommended conditions. Ms. Nelson noted changes in the recommended conditions that had been made to date in response to comments received from the public, Planning Commissioners, staff and the applicant. Changes addressed the inclusion of a 600' buffer along Roanoke Creek, mitigation actions for Shady Oaks Road, requirements for panel removal and storage, identification of the applicable version of erosion & sediment control regulations, inclusion of endangered species, approval process for landowners to allow fencing & certain underground materials to remain on site, and the removal of requirements for the applicant to provide property lease terms.

Anand Gangadharan, Aditya Gangadharan, Elizabeth Nellis, and Chris Wu with project developer NOVI Energy and their legal counsel provided a brief introduction and presentation. NOVI presented a revised wildlife corridor map and clarified that the creek buffer would be 600' between fence lines, however, the creek would not be centered within the buffer area due to the natural course of the creek. NOVI also reviewed additional findings from their environmental and cultural surveys.

Ms. Nelson explained that establishing grassland on the property rather than continued agricultural use may actually improve the water quality as land would remain undisturbed once the site is established.

Kay Pierantoni and citizen Read Charlton made inquiries regarding the removal of the property lease terms from the conditions. Ms. Nelson explained that the sale and lease values were proprietary since disclosure would impact competitiveness.

Andrew Carwile noted that current state regulations would provide the locality revenue of \$1,400 per MW produced. Ms. Nelson explained that current legislation provided several revenue options the Board of Supervisors would need to consider.

Citizen Read Charlton then inquired about battery storage. Ms. Nelson explained that battery storage was not part of the project and adding battery storage would require an additional permit.

Kay Pierantoni expressed concerns about the hours of operation as well as the traffic on Shady Oaks Road and residents' safety.

Anand Gangadharan reported that NOVI had met with Lynn Royster, owner of the Shady Oaks property, to discuss potential options and were open to restricting deliveries to times outside of school bus pickup and drop-off times and using flaggers to escort larger trucks.

The Chairman then called on the public for comment.

Public Hearing – Public Comments

Lynn Royster, owner of Shady Oaks mobile home park, addressed the Commission reporting that he had met with NOVI onsite and they had agreed to additional buffer near the park in response to his concerns. Mr. Royster expressed concerns about the safety of the nineteen families that live on the road, stating that neither a bike lane nor the sidewalk NOVI had proposed were acceptable solutions to due to utility locations and narrow road width.

P.K. Pettus then addressed the Commission, stating that while she was supportive of solar energy, the location needed to fit the project. She expressed concerns about Courthouse Solar's impact on the Roanoke Creek & surrounding area, noting the creek's significance to agriculture, forestry, and tourism. Ms. Pettus requested that the Commission defer action to allow time for further research and deliberation.

John Mullins with Ridgeway Farms, whose property is part of the proposed project, then addressed the Commission. Mr. Mullins stated that the solar facility was the highest and best use of the land for the three owners. He noted the state's solar goals and stated that solar was the future of energy.

Joel Kathy then addressed the Commission stating that he worked in the forestry industry and after recent property tax increases, Courthouse Solar was an opportunity to obtain local revenues from another source.

Jim J. Pugh then addressed the Commission, expressing concerns about tax increases and stating that Courthouse Solar would benefit County taxpayers.

Citizen Read Charlton addressed the Commission, inquiring if there was a limit to the number of solar projects that would be developed in the County or if it was unrestricted. Mr. Charlton questioned the need to rush the Courthouse Solar application review since the Clover power plant was still in operation and asked the Commission to consider waiting until spring to make a decision. Mr. Charlton expressed opposition to large numbers of solar farms in the County.

A letter from Gene Hall, owner of Red Oak Excavating was read for the record. Mr. Hall's letter stated that solar offered an opportunity for community expansion, local job opportunities for construction contractors, and tax benefits.

A letter from Clarke Hogan, President of Ontario Hardwood was then read. The letter stated that Courthouse Solar could provide tax revenue and long-term growth of solar generation with negligible environmental impact. Mr. Hogan noted that the usual concerns about timber did not apply as the acreage was not substantial in relation to the total acreage available.

A letter from adjacent landowner Frances Quarrier was read into the record. Ms. Quarrier stated her support of solar when impact was minimal. She urged the Commission to take time for research to ensure minimal impact to land, water and wildlife and noted the value of the Roanoke Creek and associated wetlands. Ms. Quarrier requested that the Commission delay a decision and collaborate with environmental organizations to reduce project impact.

A letter from Kathryn Griffith was read expressing concerns regarding the use of Shady Oaks Road as a project entrance due to residents' safety. Ms. Griffith inquired if the Commission had sought assistance from the Department of Forestry or Department of Wildlife Resources to minimize impact. She also inquired about use of land around the panels for native plant species and pollinators.

A letter from adjacent landowner Edward Early was read expressing support of solar generation, but objections to the Courthouse Solar project. Mr. Early expressed concerns about damage to undeveloped areas & Roanoke Creek, traffic safety on Shady Oaks Road & Route 40, habitat, and tourism. He noted that while the adjacent property list presented by staff stated his property included swampland and pines he would describe it as wetlands/creek drainage, hardwoods and pines. Mr. Early inquired about long term costs versus benefits and expressed concerns about the speed of the review process, requesting the Commission delay approval.

A letter from adjacent landowner Janet Early was read expressing concerns regarding the speed of the review process. Mrs. Early stated that adjacent landowners had not been notified by the Town of Charlotte Court House before the town provided input on the County's zoning ordinance revision related to solar project's proximity to town limits. Mrs. Early also expressed concerns about traffic safety and environmental impact and inquired about the number of local jobs associated with the project.

Preston Lloyd, legal counsel for NOVI, noted that the construction management plan condition included some limitations on Shady Oaks Road. NOVI recommended the following addition to

language in Condition #2 to Section b., as follows to mitigate concerns regarding traffic safety on Shady Oaks:

Deliveries by three-axle or larger trucks shall be limited to Monday through Friday and shall not occur during a one-hour period surrounding school pickup and drop-off on school days. 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.

Kay Pierantoni expressed concerns regarding evening deliveries when children might be outdoors. Representatives from NOVI noted that flaggers would be walking in front of delivery trucks as escorts..

Citizen P.K. Pettus expressed concerns about the quality of life for residents on Shady Oaks Road & recommended that Tollhouse Road be considered as a potential site entrance instead since another industrial site was already located there. NOVI responded, stating that use of Tollhouse Road would result in wetland impacts which they were trying to avoid.

Clark Poindexter made a motion to adjourn the public hearing. Kenny Howard seconded the motion and the motion carried with all members present voting yes.

Regular Meeting

Eugene Wells made the motion to approve the September 22, 2020, meeting minutes. Andrew Carwile seconded the motion and the motion carried with all members present voting yes.

Denise Nelson reviewed criteria to be considered when reviewing a conditional use permit application, as outlined in Zoning Ordinance 2-8-7.6. Ms. Nelson also discussed the review timeline, noting the Board of Supervisors also need to review the application. She stated this would result in a minimum of a five-month review process for the application while some localities approved solar projects with a one month turnaround.

Kay inquired about the decommissioning costs provided in the packet and NOVI reviewed their estimate. Commissioners then discussed decommissioning guarantees and terms of the letter of credit.

Eugene Wells made the motion to recommend approval of the Courthouse Solar conditional use permit application. Cornell Goldman seconded the motion. Eugene Wells then amended his motion to recommend approval of the Courthouse Solar conditional use permit application with the conditions proposed by staff, revised to incorporate the additional condition proposed by NOVI during the public hearing. Cornell Goldman seconded the amended motion.

Kay Pierantoni expressed concerns that traffic safety issues for Shady Oaks Road had not been resolved. Commissioners discussed the Board of Supervisors' role in finalizing the conditions and further evaluating the Shady Oaks Road concerns.

Andrew Carwile called the question and the amended motion carried with all members present voting yes.

Andrew Carwile made the motion to adjourn. Cornell Goldman seconded the motion and the motion carried.

Courthouse Solar LLC Recommended Conditions

1. The Applicant will develop the Project Site in substantial accord with the Conceptual Site Plan dated July 20, 2020 included with the application 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, transformers, and substation located within the perimeter fencing, and including all 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. Traffic control methods (in coordination with the Virginia Department of Transportation [VDOT] prior to initiation of construction):
 1. Lane closures
 2. Signage
 3. Flagging procedures
 - ii. Traffic control methods for Shady Oaks Road (in coordination with the VDOT prior to initiation of construction):
 1. Speed limit signs on each side of the road.
 2. Signage indicating children at play.
 3. Designation of a bike lane on one side of the road.
 - iii. Speed limit.
 1. The Applicant shall coordinate with VDOT prior to initiation of construction on the appropriateness of the speed limit on Shady Oaks Road and support a speed limit reduction, if necessary.
 2. The Applicant shall coordinate with the County's Sheriff Department prior to initiation of construction on speed monitoring plans and devices.
 - iv. Site access planning. Directing employee and delivery traffic to minimize conflicts with local traffic.
 - v. Site security. The Applicant shall implement security measures prior to the commencement of construction of Solar Facilities on the Project Site.
 - vi. 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.

- 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, burring operations, hours of construction activity, access and road 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 caused by construction activities, to the extent it adversely affects the ability to use the road, shall be repaired as soon as possible and not postponed until construction completion. Damage caused by construction traffic on Shady Oaks Road will be temporarily repaired with patching or other appropriate methods. Minor damage to roads will be addressed after construction activities are completed. 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. Construction traffic shall be limited to 7:00 am to 9:00 pm, Monday through Saturday, on Shady Oaks Road. Deliveries by three-axle or larger trucks shall be limited to Monday through Friday and shall not occur during a one-hour period surrounding school pickup and drop-off on school days. 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.
 - ii. 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 Country Administrator.
 - iii. 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 200 feet of any property containing a residential dwelling.
 - iv. Construction lighting shall be minimized and shall be directed downward.
 - v. The "Courthouse Solar Project Environmental and Ecological Report, Charlotte County, Virginia" prepared by Environmental Consulting & Technology, Inc (May 2020) for the Applicant identified five state and federally listed threatened and endangered species that may occur and have suitable habitats in the project area: Carolina darter (*Etheostoma collis*), whitemouth shiner (*Notropis alborus*), northern long-eared bat (*Myotis septentrionalis*), little brown bat (*Myotis lucifugus*), and tri-colored bat (*Perimyotis subflavus*). The Applicant shall coordinate with state and federal agencies to avoid or limit impacts to these species to the maximum extent practicable.
- c. *Grading Plan.* The Applicant will submit a Grading Plan for review and approval by the Zoning Administrator or his designee prior to the commencement of any

construction activities. A bond or other security will be posted for the grading operations. The Project shall be constructed in compliance with the Grading Plan.

The grading plan shall:

- i. Clearly show existing and proposed contours;
 - ii. Note the locations and amounts 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;
 - 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 corrosion 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 percent 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 plan shall comply with the most recent version of the Virginia Erosion and Sediment Control Handbook at the time of construction. 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 be posted for the construction portion of the project.
- e. *Stormwater Management Plan.* The County will have a third-party review with corrections completed prior to County 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) will be posted for the project for both construction and post construction as applicable and determined by the Zoning Administrator.
- f. *Project Screening and Vegetation Plan.*
- i. The proposed Land Management Plan, dated July 20, 2020, is provided with this application. The final plan will address the conditions below in item 4.b. 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 ongoing maintenance of the project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator. Failure to maintain the landscaping in accordance with the Landscape Maintenance

Plan may result in the issuance of a notice of violation by the Zoning Administrator. The Applicant (or the operator) shall promptly communicate with the Zoning Administrator within 30 days of the date of the notice of violation and submit a plan in writing satisfactory to the Zoning Administrator to remedy such violation no later than 180 days after the date of the notice of violation.

- ii. Ground cover shall be native vegetation where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
- iii. Screening vegetation shall include pollinator plants 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 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.
- g. The Applicant shall reimburse the County its reasonable costs in obtaining independent third-party reviews as required by these conditions when those costs exceed the Applicant's E&S permit & plan application fees.
- h. The design, installation, maintenance, and repair of the Solar Facility 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.

3. Operations.

- a. *Permanent Security Fencing.* The Applicant shall install permanent security fencing, consisting of chain link, two-inch square mesh, six (6) feet in height, with one (1) foot of barbed wire on top, around the Solar Facilities prior to the commencement of operations of the Solar Facility. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. No fence or similar barrier shall cross the main channel of the Roanoke Creek. Failure to maintain the fence in a good and functional condition will result in revocation of the permit.
- b. *Lighting.* Any on-site lighting provided for the operational phase of the Solar Facility shall be dark-sky compliant, shielded away from adjacent properties, and positioned downward to minimize light spillage onto adjacent properties.
- c. *Noise.* During facility operation, noise levels measured at the property line shall not exceed 50 dbA, unless the owner of the affected adjacent property has given written agreement to a higher level.
- d. *Ingress/Egress.* 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.

- e. *Debris*. 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.

4. Buffers

- a. *Setbacks*.
 - i. "Principal Solar Facility Structure" shall include the "Solar Facilities" excluding the project roads and transmission poles.
 - ii. A minimum 125-foot setback shall be maintained from a Principal Solar Facility Structure to the state road centerline where the Property abuts any public right of ways.
 - iii. A minimum 50-foot setback shall be maintained from a Principal Solar Facility Structure to the adjoining property line of other parcels.
 - iv. The wetlands corridor that includes the Roanoke Creek shall be a minimum total of 600 feet wide with a minimum of 100 feet setback from the edge of the creek to the nearest installed equipment.
 - v. There shall be no setbacks between internal lot lines between parcels in the project area.
- b. *Screening*. The facilities, including fencing, shall be significantly screened from the ground-level view of adjacent properties and state roads by a buffer zone at least 25 feet wide. Screening shall be landscaped with plant materials consisting of an evergreen and deciduous mix (as approved by County staff), except to the extent that existing vegetation or natural land forms on the site provide such screening as determined by the Zoning Administrator. In the event existing vegetation or landforms providing the screening are disturbed, new plantings shall be provided which accomplish the same. Opaque architectural fencing may be used to supplement other screening methods but shall not be the primary method.
- c. Ancillary project facilities may be included in the buffer as described in the application where such facilities do not interfere with the effectiveness of the buffer as determined by the Zoning Administrator.
- d. *Wildlife Corridors*. The applicant shall provide access corridors for wildlife to navigate through the Project Site. The proposed wildlife corridors shall be shown on the Site Plan submitted to the County. Areas between fencing shall be kept open to allow for the movement of migratory animals and other wildlife.

5. 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.

6. Height of Structures. Solar Facilities shall not exceed 25' maximum (with a 10' maximum drip edge). Such height restriction shall not apply to meteorological stations, Battery Energy Storage System, lightning protection, substation, and electrical distribution or transmission lines.

7. 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.

8. Training.

- a. 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 designated Public Safety Coordinator.
- b. The Applicant or any future owner or operator shall provide on-going training as deemed necessary by the Public Safety Coordinator.
- c. 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.

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

10. Decommissioning

- a. The Decommissioning Plan and Decommissioning Cost Estimate shall comply with Virginia Code Section §15.2-2241.2.
- b. *Decommissioning Plan.* The Decommissioning Plan dated August 2020 is provided with this application. The Applicant shall submit a final Decommissioning Plan to the County for approval in conjunction with the building permit. The purpose of the Decommissioning Plan is to specify the procedure by which the Applicant or its successor would remove the Solar Facility after the end of its useful life and to restore the property.
- c. *Decommissioning Cost Estimates.* The Decommissioning Plan shall include a decommissioning cost estimate prepared by a Virginia licensed professional engineer unless the Applicant is not required to provide a security or the County approves an alternative security arrangement (subsection d. (iv) below).
 - i. The cost estimate shall provide the gross estimated cost to decommission the Solar Facilities in accordance with the Decommissioning Plan and these conditions.

- ii. 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.
 - iii. 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.
 - d. *Security.*
 - i. Prior to the County's approval of the building permit, the Applicant shall provide decommissioning security for the Full Decommissioning Cost in accordance with Virginia Code Section §15.2-2241.2.
 - ii. If a bank letter of credit or a surety bond with term of one year only is accepted by the County as a means of assuring payment of decommissioning costs, 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.
 - iii. If, upon the receipt of the first revised decommissioning cost estimate (following the 5th anniversary), the recalculated estimate exceeds the original estimated decommissioning cost by 10% or more, the facility owner/operator shall increase the guarantee to meet the new cost estimate. If the recalculated estimate is less than 90% of the original estimated cost of decommissioning, the County may approve reducing the guarantee. Any increase or decrease in the decommissioning security shall be made within ninety (90) days and will be similarly tried up for every subsequent five-year updated decommissioning cost estimate.
 - iv. The security must be received prior to the approval of the building permit and must stay in force for the duration of the life span of the Solar Facilities and until all decommissioning is completed. 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.
 - v. Notwithstanding the foregoing requirements in subsections (i)-(iii) above, an alternative security arrangement may be accepted by the County so long as it is a form acceptable to the County Attorney.
 - e. *Applicant/Property Owner Obligation.* 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. 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.

- f. *Applicant/Property Owner Default; Decommissioning by the County.*
 - i. 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 rights to the Solar Facilities equipment and materials on the property.
 - ii. 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.
- g. *Site Access.* 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.
- h. *Equipment/Building Removal.* 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.
- i. *Infrastructure Removal.* 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.
- j. *Reforestation.* The site will be replanted with pine seedlings 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.
- k. *Partial Decommissioning.* 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.

11. 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.
12. 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.
13. The owner and operator shall give the County written notice of any change in ownership or operation within thirty (30) days.
14. 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, all equipment related to any proposed battery storage facilities, 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.