

Staff Report
Tall Pines Solar
Public Facility Application Review
Code of Virginia § 15.2-2232
Charlotte County, Virginia

Report Date: August 17, 2021
Planning Commission Meeting Date: August 24, 2021

APPLICATION SUMMARY

Project: Tall Pines Solar

Location: The project is northeast of the Town of Charlotte Court House and east of Cullen in Charlotte County, Virginia, and consists of three (3) distinct areas. The first site area, “northern” site area is located with direct access on the west side of Bethlehem Road (Rt. 655). The second larger, “middle” site area is located on the east and southeast side of Welsh Tract Road (Rt. 658). The third, “smallest” site area is located on Fox Hollow Lane extended and on the south side of Reynolds Lane extended.

Parcel Record Numbers: The first site area “northern location” consists of parcels: 17-1-1-A, 17-1-2, 17-1-2-A, 17-1-3, 17-1-4-C, 17-A-15, 17-A-16
The second site area “middle largest” consists of parcels: 27-A-15, 27-A-16, 27-A-18 27-A-19, 27-A-20, 27-A-20-A, 27-A-22 27-A-23 27-A-24, 27-A-25 27-A-26 27-A-27 27-A-28 27-A-29, 27-A-32-C, 27-A-32-B, 27-A-33, 27-A-33-A, 27-A-33-B, 27-A-34-A, 27-A-54 27-A-55, 27-A-56, 27-A-58, 27-A-59
The third site area “southern” consist of parcel:27-A-12,

Proposal: Applicant’s request for review of the Tall Pines pursuant to Virginia Code Section 15.2-2232

Application Submitted: June 7, 2021; Amended July 6, 2021
Deemed complete on July 22, 2021

Applicant: Tall Pines Solar, LLC
c/o NOVI Energy
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Owners:

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Karen V. & Jason M. Goodman and Brenda N. Vassar
Bryan K. and Angela N. Morris
Jerry L. and Judy W. Morris
Adam and Elizabeth Mathis

PLANNING COMMISSION ACTION

The Applicant has requested that the Planning Commission review its proposed solar energy facility, as a “public utility facility” under Virginia Code Section 15.2-2232(A), to determine whether the general or approximate location, character, and extent of the proposed facility is substantially in accord with the County’s Comprehensive Plan.

Staff has recommended that the Planning Commission review the request for determination under Virginia Code Section 15.2-2232 prior to any review of a conditional use permit (CUP) application. Subject to the Planning Commission’s 2232 decision, the Planning Commission will separately review and consider the merits of any associated CUP Application.

PURPOSE OF THE REVIEW UNDER VIRGINIA CODE SECTION 15.2-2232

Virginia Code Section 15.2-2232 requires that the Planning Commission review all proposed developments that include a “public utility facility” prior to the construction or authorization of such facility. The purpose of the Planning Commission’s review is to determine whether the general or approximate location, character, and extent of the proposed public utility facility is substantially in accord with the Charlotte County Comprehensive Plan or part thereof. The Planning Commission has set aside time at its August 24, 2021, meeting to afford citizens an opportunity to offer their comments to the Planning Commission. The Planning Commission must advise the Board of Supervisors of its determination. If appealed by the Applicant, the Board of Supervisors may overrule the action of the Planning Commission.

PROPOSED DEVELOPMENT

The Applicant proposes to construct a 218 megawatt (alternating current) photovoltaic solar energy generation facility from three different units consisting of nine parcels (north cluster) comprising approximately 524 acres, 15 parcels (middle cluster) consisting of approximately 1,251 acres, and one parcel (southern cluster) consisting of 134 acres totaling 26 parcels combining for a approximately 1,909 acres owned by six entities. Equipment will be located on approximately 1,775 acres. The project will interconnect with the existing 115 kV ‘Twittys Creek Substation’ to ‘Madisonville Substation’ transmission lines that traverse the site.

The project infrastructure will consist primarily of approximately 605,070 solar modules mounted to a single axis tracking system, seventy-five (75) inverters and transformers, a substation with transformers, switchgear, and dead-end structures, and a control building. The project will interconnect to the grid via the transmission line that runs through the property.

The project is east of Cullen in Charlotte County, Virginia, and consists of three (3) distinct areas. The first area, “northern cluster”, is located with direct access on the west side of Bethlehem Road (Rt. 655). The second larger area, “middle cluster”, is located on the east and southeast side of Welsh Tract Road (Rt. 658). The third area, “southern cluster” is one large parcel located on Fox Hollow Lane extended and on the south side of Reynolds Lane extended.

The Applicant proposes setbacks of 100 feet from wetlands, and 75 feet side equipment setback; setbacks of 75 feet from the center of the transmission line; and setbacks of 125 feet from the center of the state-maintained road. The Applicant proposes a minimum 25-foot vegetated buffer using existing vegetation where possible and planting new vegetation where necessary.

EXISTING CONDITIONS AND ZONING

Parcels within the project area are currently zoned General Agricultural and are identified as Agricultural, Forestry, and Rural Areas on the Future Land Use Map. The project area includes forested and cleared land and has primarily been used for timber production and some agriculture. The area has sections of steep slopes, and the applicant proposes that solar PV equipment will not be installed in areas with slopes greater than 15%.

The project area also includes streams, wetlands, and other water bodies. Most prominently, East Branch of Wards Creek, Dunnavant Creek, and a pond located on the north side of Roanoke Bridge Rd. called Roanoke Creek Site 43a Lake (ref. Google earth), including a large section of associated wetlands, traverse the project area. The applicant proposes to use existing roads and culverts to avoid constructing new road crossings in wetlands.

Staff research has indicated there does not appear to be any known historic or scenic resources within the project limits. There does appear to be:

- natural habitat and ecosystem diversity resources,
- high and very high value ecological cores,
- average to outstanding forest conservation values, and
- lowest to highest priority watershed conservation priority.

ADJACENT AND SURROUNDING USES

Based on the County GIS, the Applicant shows several residential structures near the proposed solar arrays. Due to the known GIS discrepancies across Virginia, there are several potential structure conflict points noted by the design engineer. All these points are required to be field verified before site plan submission. This will have no bearing on the CUP but is required before the site plan submission.

The Applicant proposes to screen all residences and roadways from glare with the vegetated buffer on the perimeter of the property.

There are no contiguous Virginia Outdoor Foundation conservation easements to any of the three clusters for the proposed project.

There are no contiguous parcels that are shown on the DCR Conserve Virginia identified maps for conservation of any of the three separate clusters of the project

The community of Cullen is located approximately 1.77 miles to the westernmost boundary of the Tall Pine site. The Charlotte Court House town boundary is 1.06 miles southwest from the southernmost parcel of the Tall Pines Solar site.

The approved site for the Court House Solar utility-scale solar facility is located approximately 1.95 miles (10,296') southeast of the proposed Tall Pines Solar site. Since both projects fall within the same five-mile radius, solar development would exceed 3% density within that five-mile radius if Tall Pines is approved and both projects are constructed.

COMPREHENSIVE PLAN CITATIONS

The Comprehensive Plan (2016) was adopted on February 14, 2017. The plan does not explicitly address utility-scale solar facilities or other specific land uses, but that does not alone justify a “not sufficiently in accord” determination. The following plan citations should be considered.

In **Chapter 1, Introduction**, page 6 states “The overall goal of the Charlotte County Comprehensive Plan is to allow suitable economic and physical development while retaining the County’s natural assets and quality of life.”

In **Chapter 2, History, Physical Conditions, Demographics, and Economy**, page 11 states the “Charlotte County is overwhelmingly rural with substantial amounts of valuable farmland and forest cover” and indicates overall land cover is 68.7% forest and 22.3% pastureland and fields. As such, most land located outside town limits is identified as the agricultural district in the zoning map.

Chapter 2 further describes the natural and cultural resources in the county, including good soils for farming, forests, mineral resources, scenic areas (rivers, trails, and scenic byways), and historic resources.

In addition, Chapter 2 describes the two business/industrial parks in a Virginia Enterprise Zone (Charlotte County Industrial Park and The Virginia’s Heartland Business Park). There are two other industrial sites in Charlotte County with the potential to house major manufacturing operations or other enterprises (the former Shaw building and a large undeveloped site zoned General Industrial located on the southern side of Drakes Branch).

In Chapter 2, under “Economy,” the plan shares these relevant points:

- Agriculture is the foundation of Charlotte County’s economy, culture, and land use (page 58),
- Forestry and wood products is the second major element of Charlotte County’s economy (page 66), and
- Attracting new businesses and expanding existing ones in order to provide local job opportunities is a major focus of the Charlotte County Board of Supervisors (page 3).

In **Chapter 3, Issues, Goals, and Strategies**, the plan lays out the county’s priorities. Relevant issues, goals, and strategies are listed below my category.

Agriculture and Forestry (page 71)

- Goals:
 - Preserve the productive agriculture and forest land and facilities in Charlotte County
 - Preserve economically viable agriculture and forestry enterprises in Charlotte County
- Strategy:
 - Ensure that county land use policies protect existing agriculture and forestry activities, and will encourage the orderly and responsible growth of animal and plant industries

Economic Development and Energy (pages 72-74)

- Issues:
 - Need for more quality jobs in economically viable businesses (including agriculture & forestry)

- Quality of life in Charlotte County
- Energy supply for Charlotte County homes and businesses
- Goals:
 - Protect and improve the quality of life in Charlotte County
 - Provide sufficient, appropriate, and affordable energy supplies for Charlotte County homes and businesses
- Strategies:
 - Include quality of life cost-benefit evaluations in the planning process
 - Recognize and protect the rights of adjacent property owners
 - Promote appropriate land and natural resource use throughout the county
 - Promote the development and retention of retail establishments and service industries in the towns and surrounding areas
 - Encourage the establishment of economically viable rural businesses in order to help preserve rural land and quality of life.
 - Preserve and protect the county's unique natural & historic resources
 - Encourage the provision of adequate, affordable energy to Charlotte County
 - Encourage the use of economically viable alternative energy sources

Land Use and Housing (pages 72-73)

- Goals:
 - Ensure the optimal and balanced use of Charlotte County's land and natural resources to benefit citizens, businesses, and government organizations now and in the future
 - Preservation of land and vegetation
 - Preservation of county air quality
 - Preservation and enhancement of county scenic vistas

Chapter 4, Land Use Plan (page 81), “establishes the broad outline for managing future land use in Charlotte County. The plan designates specific areas of the county for various types of use and development and then establishes land use and development policies for each area. The Land Use Plan is the primary means of accomplishing the Comprehensive Plan’s overall goal “...to allow suitable economic and physical development while retaining the County’s natural assets and quality of life.” The guidelines, policies and maps included in the plan are carefully aligned with the vision, goals and strategies outlined in the Comprehensive Plan. This ensures that the plan promotes a rational, systematic strategy for future land development.”

“The Land Use Plan serves as a fundamental part of the legal basis for land management actions. While the Land Use Plan contains broad policies rather than specific regulations, it plays a key role in developing and changing local land use laws. Regulations contained in the county zoning and subdivision ordinances should support the policies of the county's Land Use Plan and, in turn, the overall vision and goals of the Comprehensive Plan.”

“Charlotte County is a predominately rural jurisdiction whose citizens wish to maintain its rural character. However, the need for and the inevitability of growth and the resulting physical development is recognized. Therefore, a basic land use plan is required. Therefore, the approach of this land use plan is to encourage **development** in the **most logical areas**, and to encourage **rural activities and preservation** in the remainder of the county.”

The term “development” encompasses the following:

- Commerce and industrial parks
- Medium to large commercial establishments
- Medium to large residential subdivisions

The term “most logical areas” are those areas with:

- Access to major public roads
- Access to rail service
- A public water supply system
- A public sewer collection and treatment system
- Other necessary utilities

The terms “rural activities and preservation” encompass the following:

- Agriculture and forestry
- Home-based and farm-based businesses
- Small commercial establishments
- Small residential subdivisions
- Historically-significant buildings and sites
- Scenic areas
- Outdoor recreation areas
- Watersheds
- Unique environmental features

The plan also identifies four principles that apply to Charlotte County’s future land use:

- Conserve Virginia’s Natural and Scenic Assets
- Maintain a Clear Edge between Town and Countryside
- Preserve Historic Resources
- Respect Local Character in New Construction

Chapter 6, Implementation (page 102) recommends the following relevant actions, among others, for the indicated categories.

Agriculture and Forestry

- Use soil capability information as part of land use planning and zoning decisions.
- Establish appropriate area and land use buffer zones to protect productive agriculture and forestry lands and their watershed areas.

Economic Development and Energy

- Develop criteria for assessing the physical, social, and economic impact of potential development on the community. (Planning Commission)
- Lots on tourism – historical and natural
- Encourage and assist in the development of alternative energy production.
- Expand and improve broadband service and access.

Land Use and Housing

- Establish a specific Charlotte County policy of using Charlotte County's land and natural resources in an optimal and balanced way to preserve unique assets and the rural quality of life while benefiting citizens, businesses, and organizations now and in the future.

STAFF ANALYSIS AND COMMENTS

A. Applicant's Position

In the application materials dated June 4, 2021 (Attachment A), the Applicant provided the CUP application and signatures, a project description (July 6, 2021), preliminary plan sheets, a Decommissioning Plan (June 4, 2021), and a Land Management Plan (July 6, 2021).

The Applicant identifies the following items in support of its project:

- The proposed project is in the General Agricultural district.
- The proposed project is greater than 1 mile from the closest town boundary, Charlotte Court House.
- A transmission line crosses the property for interconnection to the grid.
- On-site wetlands, water bodies, and streams will remain undisturbed.
- Site entrances will be secured.
- The existing vegetation provides effective screening.
- The Applicant will meet with first responders prior to construction.
- The closest residences are at least 400 feet way from the project fence.

B. Staff Analysis

Staff has analyzed the proposed project considering the above referenced citations from the county's Comprehensive Plan. In addition to the items identified by the Applicant, analysis considerations include:

- There does not appear to be any known historic or scenic resources within the project limits or scenic rivers in or near the project area.
- The southernmost parcel is approximately 0.5 miles (2647') west from a Virginia Outdoors Foundation conservation easement.
- The southernmost parcel is approximately 0.32 miles (1,695') northwest from the DCR Conserve Virginia Maps identified area to be preserved.
- There does appear to be natural habitat and ecosystem diversity resources, high and very high value ecological cores, average to outstanding forest conservation values, and lowest to highest priority watershed conservation priority within the project limits.

In addition:

- The project is located on land primarily used for agriculture and timber production, the County's two primary industries. These industries and associated enterprises will not be preserved.
- Utility-scale solar facilities convert a large area of land to an industrial scale use.

- Utility-scale solar facilities create very few, if any, long term jobs.
- Solar is an alternative green energy source supporting a County strategy and the state’s clean energy goals.
- Utility-scale solar facilities are generally a passive land use requiring few County services and generating little noise or emissions.

Staff has analyzed the Comprehensive Plan elements and **the proposed project appears to meet the Comprehensive Plan’s overall land use goals, objectives, and strategies.** Subject to the project’s final design and construction, and based on the information reviewed for this report, staff finds that **the proposed utility-scale solar facility is substantially in accord with the Charlotte County Comprehensive Plan, or parts thereof.** The proposed project involves only a small part of the total agricultural land in the County and, if provided adequate setbacks and buffers in the Conditional Use Permit, could afford protection for adjacent properties.

As recommended in the Comprehensive Plan, the Commission, however, should consider these principles for Charlotte County’s future land use:

- Conserve Virginia’s Natural and Scenic Assets
- Maintain a Clear Edge between Town and Countryside
- Preserve Historic Resources
- Respect Local Character in New Construction

The question before the Planning Commission with this 2232 application is:

Whether the general location or approximate location, character, and extent of the proposed solar energy facility is substantially in accord with the Comprehensive Plan or part thereof.

- The Planning Commission should consider all relevant portions of the Comprehensive Plan in its analysis.
- The Planning Commission should carefully and thoroughly document its reasons for whatever conclusion it reaches.
- The Planning Commission has three options:
 - a. Determine that the application is substantially in accord with the Comprehensive Plan with written reasons for its decision.
 - b. Determine that the application is not substantially in accord with the Comprehensive Plan with written reasons for its decision.
 - c. Defer making a decision on the comprehensive plan compliance review for further discussion and consideration (within the 60-day window).

Attachments:

A – Conditional Use Permit Application, dated June 4, 2021

DRAFT PLANNING COMMISSION ACTIONS

Staff Recommendation: Option 1 – Applicant’s proposal is substantially in accord with the Comprehensive Plan

I move that the Tall Pines Solar, LLC’s proposed 218-megawatt photovoltaic solar energy facility as described in the conditional use permit application, is substantially in accord with the Charlotte County Comprehensive Plan or parts thereof for the following reasons:

1. The project parcels are zoned General Agricultural.
2. The location is more than 1 mile from the nearest town boundary.
3. The facility generates alternative, clean energy.
4. The facility will require minimal county services to operate.
5. The proposed project involves only a small part of the total agricultural land in the County and will have setbacks and buffers which, if adequate in scope and required in the Conditional Use Permit, could afford protection for adjacent properties.

The Secretary of the Planning Commission is directed to communicate the Planning Commission’s findings to the Board of Supervisors.

Option 2 – Applicant’s proposal is not substantially in accord with the Comprehensive Plan

I move that the Tall Pines Solar, LLC’s proposed 218-megawatt photovoltaic solar energy facility as described in the conditional use permit application, is not substantially in accord with the Charlotte County Comprehensive Plan for the following reasons:

1. The project does not preserve agriculture and forestry facilities and enterprises.
2. The project does not create a significant number of jobs.
3. The project area includes waterways and habitats.
4. The project places an industrial scale use in the countryside.

The Secretary of the Planning Commission is directed to communicate the Planning Commission’s findings to the Board of Supervisors.

Option 3 – Deferral of the application

I move that the Planning Commission defer a decision on Tall Pines Solar, LLC’s request under VA Code § 15.2-2232 regarding its proposed 218-megawatt photovoltaic solar energy facility as described in the conditional use permit application, until the Planning Commission meeting scheduled to begin at ____ p.m. on _____, in the Board of Supervisors meeting room.