

The Applicant submitted revised application materials and plans on April 22, 2022; the preliminary proposed conditions contained below have been updated to reflect these revised materials and plans, as well as information received during the Planning Commission's public hearing on April 26, 2022.

Staff Recommendation - Option 1 – Recommend Approval with Conditions

Staff Note: The conditions provided as Attachment 3 are preliminary, and it would be expected that conditions as ultimately recommended would need to be refined and informed by information received during the public hearing, and input from the Planning Commission.

I move to recommend to the Board of Supervisor's that Tall Pines Solar, LLC's Conditional Use Permit for a proposed 220-megawatt solar energy generation facility, as presented, be approved with conditions, to ensure consistency with the following findings:

1. While the proposed use exceeds the maximum density allowed under Section 10-23-6 of the County's Zoning Ordinance, the Board of Supervisors should authorize an increase in this instance, deeming such increase appropriate;
2. The proposed use is consistent with the comprehensive plan, compatible with other existing, planned, or proposed uses, and is not detrimental to the public welfare; and
3. While the proposed use impacts surrounding properties, proposed conditions mitigate such impacts.

Conditions recommended by the Commission are as follows:

1. The Applicant shall develop, construct, operate, and maintain the site in substantial conformance with the conceptual plans (dated #####), and 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 240 MW.
3. The density of the project, when combined with the Court House Solar and Twitty's Creek Solar projects shall be limited to a maximum of 4.95% within any given 5-mile radius, regulating in the manner outlined in Section 10-23-5, Density, of the County's Zoning Ordinance.

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4. The active developed area of the site, within the fenceline, shall be limited to 1,373 acres; inverters, along with panels, shall be within the fenceline.
5. 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.
6. The Applicant shall give the County written notice of any change in ownership or entities responsible for operation or asset management of the project within thirty (30) days after the change.
7. Prior to or in conjunction with site plan review, the Applicant/Owner/Developer shall submit details on the utility connections between noncontiguous portions of the project, including secured easements, to the Zoning Administrator for approval. A site plan or subsequent permits shall not be granted without prior approval of these connections by the Zoning Administrator, or without the existence of executed easements for the connections.
8. 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.
9. Setbacks shall be as required by the County's Zoning Ordinance, except where proposed within the application and conceptual plans to be greater. There shall be no setbacks between internal lot lines between parcels in the project area.
10. As depicted on the conceptual plans, the minimum setback from all wetlands (including creeks and streams depicted on the conceptual plans) to the nearest installed equipment shall be 100 feet. There shall be no setbacks between internal lot lines between parcels in the project area.
11. Plans submitted for site plan review and any permits shall be required to identify the location of easements associated with dam structures/lakes 31B and 43A; all site development and improvements shall comply with the requirements and limitations of these easements, where relevant. Regardless of and in addition to the requirements of the easement, the project shall be subject to a 200-foot setback and no-disturbance buffer around the entirety of each lake from the elevation equal to the elevation of the top of each respective dam.
12. 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 feet in height and 2.5 inches in caliper 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.

13. 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).
14. As part of the site plan review, the Applicant 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:
 - 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. Repair of any damage to roadways occurring during development/construction.
 - d. Site access planning, including procedures for directing and coordinating employee and delivery traffic. Construction Traffic shall be limited to 7:00 am to 9:00 pm, Monday through Saturday, or as may be approved by the County Administrator upon good cause shown by the Applicant.
 - 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 200 feet of any property containing a residential dwelling.
15. 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.
 16. 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.
 17. 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 (if any), 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.
 18. The Applicant shall coordinate with the County's Sheriff Department prior to initiation of construction on speed monitoring plans and devices.
 19. As part of the site plan review, the Applicant 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;

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- 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 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.
20. 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.
21. 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 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) 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 where 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.
22. The stormwater control plan shall comply with the most recent State policies and regulations at the time of design and construction. 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.

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23. Ground cover shall be native vegetation where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
24. 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.
25. For permanent security fencing, a performance bond reflecting the costs of anticipated 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).
26. No fence or similar barrier shall cross the main channel of any stream flagged by County staff on a site plan.
27. 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.
28. 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.
29. 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.

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30. 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.
31. 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.
32. 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.
33. 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.
34. 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

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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.

35. 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 in the form attached hereto as Schedule B, prior to County's issuance of a building permit.
36. 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.
37. 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.
38. 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.
39. 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.
40. Training.

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- 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 Public Safety Coordinator or designee.
 - b. The Applicant or any future owner or operator shall provide on-going training as deemed necessary by the Public Safety Coordinator or designee.
 - 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.
41. Compliance. The Solar Facilities shall be designed, constructed, and tested to meet relevant local, state, and federal standards as applicable.
42. 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.
43. 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.
44. 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.
45. Power Purchase Agreement. The Applicant shall notify the County and its legal counsel upon its ratification of a power purchase agreement with a third-party providing for the sale of a minimum of eighty percent (80%) of the Solar Facility's anticipated generation capacity for not less than ten (10) years from commencement of operation or an

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agreement for purchase of the project by an electric utility or electric cooperative operating in the Commonwealth of Virginia and upon the County's request, to the extent permitted by any non-disclosure agreements between the parties to such agreement.

Schedule A

Security of Performance – Summary of Securities

Condition Reference	Performance Being Secured	Duration
17	Pre-Construction Road Improvements; Road Repairs	
19	Grading	Construction phase
21	Erosion & Sediment Control	
22	Stormwater Management	Full lifecycle
12	Land cover & vegetative buffer maintenance	
24	Security fencing	
28	Decommissioning	

Posting and release of bonds shall be in accordance with the procedures set forth in the Charlotte County Zoning Ordinance, Subdivision Ordinance, and Erosion & Sediment Control Ordinance.

Schedule B

PREPARED BY & RETURN TO:
Russell O. Slayton, Jr. (VSB #14202)
Slayton & Clary
Post Office Box 580
Lawrenceville, Virginia 23868

THIS DEED OF EASEMENT is made and entered into this ____ day of _____, _____, by and among _____, record owner and lessor of the property described below, and _____, lessee of the property described below, and the entity to which a Conditional Use Permit has been issued to enable construction of solar panels, and appurtenant facilities, thereon (together, "Grantors"), and CHARLOTTE COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, c/o County Administrator Post Office Box 608, Charlotte Court House, Virginia 23923 ("Grantee").

WITNESSETH: That for and in consideration of the issuance of a Conditional Use Permit ("CUP") which authorizes operation of a solar facility on the property ("CUP Property") described below, and for the purpose of satisfying a specific condition of the CUP, the Grantors hereby grant, bargain, sell and convey, with General Warranty, to CHARLOTTE COUNTY, VIRGINIA, certain easement rights, the terms and conditions of which are set forth below, which easement rights are appurtenant to the CUP Property, and which easement rights shall run with title to the CUP Property, and therefore constitute an encumbrance on title to the CUP Property until such time as the easement rights are terminated by quitclaim deed from Charlotte County, Virginia, the CUP Property to which the subject easement rights are appurtenant being described as follows:

[INSERT PROPERTY DESCRIPTION]

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TERMS AND CONDITIONS OF EASEMENT: The easement rights conveyed hereby authorize Charlotte County, and any contractor or authorized agent of Charlotte County (hereinafter collectively referred to as "County"), to enter the SUP Property which is described in the CUP by which installation, construction, operation, maintenance and decommissioning of solar panels and appurtenant facilities on the CUP Property are authorized. The easement rights hereby conveyed shall authorize County to enter upon the CUP Property to inspect solar panels, and appurtenant facilities, which are constructed on the CUP Property. The easement rights hereby conveyed also authorize County to effect any and all tasks, if such tasks by County prove necessary, to decommission solar panels and appurtenant facilities, and restore the CUP Property to substantially the same condition which existed prior to construction of the solar facilities.

The easement rights hereby conveyed also afford County the right to access the CUP Property using any access roads which are used to travel between the CUP Property and a state-maintained road, and the right to use any access roads which serve the CUP Property is expressly included in this conveyance.

After the solar panels constructed on the CUP Property have been removed, and the decommissioning of solar facilities have been completed to a standard reviewed and approved by Charlotte County, the owner or owners of the CUP Property may request a quitclaim deed by which Charlotte County quitclaims and releases its access easement rights in the CUP Property.

WITNESS the following signatures and seals:

SEE ATTACHED SIGNATURE PAGES
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**SIGNATURE PAGE TO DEED OF EASEMENT TO
CHARLOTTE COUNTY, VIRGINIA**

_____(SEAL)
OWNER/LESSOR

_____(SEAL)
OWNER/LESSOR

STATE OF _____,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was personally acknowledged before me this ____ day of _____, _____, by _____ and _____.

Notary Public

My commission expires: _____
Notary registration number: _____

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