

# **Planning Commission Staff Report**

File #: C-19-5  
Applicant: HCE Reams Solar I, LLC, and their Agent, Stanford H. Allison  
CUP Request: To operate a solar energy generating facility  
Property Location: 24413 Old Vaughan Road (Route 605), Dinwiddie  
Tax Map Parcel #: 47-74  
Property Size: Approximately 64.10 +/- acres and request is to utilize approximately 38.0 +/- acres for the solar energy generating facility  
Zoning: Approximately 26.10 +/- acres Agricultural, General, A-2 and 38.0 +/- acres & Industrial, General, M-2 with Proffers  
Magisterial District: Rowanty  
Applicant's Community Meeting: May 22, 2019 at Eastside Enhancement Center  
Planning Commission Mtg.: October 9, 2019

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## **CUP REQUEST**

The applicants, HCE Reams Solar I, LLC, and their agent, Stanford H. Allison are seeking a conditional use permit to utilize the following described property containing approximately 38.0 +/- acres to operate a solar energy generating facility. The property is located 24413 Old Vaughan Road, Dinwiddie, VA, and is further designated as Tax Map No. 47-74 and approximately 26.10 +/- acres is to remain zoned Agricultural, General, A-2 and approximately 38.0 +/- acres is requested to be zoned Industrial, General, M-2 with Proffers which allows for public utility generating facilities upon receiving a conditional use permit. The County's Comprehensive Land Use Plan places this property within the Rural Conservation Area which allows limited commercial, service, and utility development at the Ordinance defined density.

## **RELATED ATTACHMENTS**

- CUP Application, Location Map, Reams Solar I Conceptual Site Plan, VDOT Land Use Amendment Comment Letter for P-19-4, Reams Comprehensive Plan Accordance Narrative, Reams Limited NEPA Review, Reams Fiscal Impact Report V4, Reams Decommissioning Plan V3

## **OVERVIEW OF PROPOSED SOLAR ENERGY GENERATING FACILITY**

The applicants, HCE Reams Solar I, LLC, and their Agent, Stanford H. Allison are requesting to rezone with proffers property containing approximately 38.00 +/- acres from A-2, Agricultural General, to M-2, Industrial General. The M-2, Industrial General, zoning classification allows for a public utility generating facility with a conditional use permit. The proposed proffered use of the subject property limits the use and structures to a solar energy generating facility, comprised of solar modules, racking, inverters, transformers, cabling and battery energy storage devices. The proposed solar generating facility, Reams Solar I, is a 5 MW AC, 6.5 MW DC photovoltaic solar facility with onsite battery storage. Since the proposed solar energy facility has a rated capacity no greater than 5 megawatts, the Department of Environmental Quality (DEQ) Permit by Rule (PBR) is not required for the proposed project. The applicant does have to notify DEQ of the solar project and submit a certification by the County's Board of Supervisors that the project complies with all applicable land use ordinances.

The subject property is located at 24413 Old Vaughan Rd. (Route 605) Dinwiddie, VA and is further defined as Tax Map Parcel No. 47-74. The applicant is proposing a long-term lease for the aforementioned property where the single-axis tracking system of dual portrait solar panels are to be constructed. The proposed point of interconnection with Southside Electric Cooperative's existing three-phase power line is located on the front of the property near the existing entrance to the property from Old Vaughan Road. The existing power lines

connect the proposed solar energy facility to the Reams power substation that is located approximately 2,000 feet from the subject property.

## **LAND USE AND ZONING ANALYSIS**

The properties in the immediate area surrounding the subject land parcel include agricultural and forestal land, low-density single-family residential, and institutional (a Church located northwest across Old Vaughan Road) land uses. The property to the north, east, south and west is zoned A-2, Agricultural General. The subject property drains to Gravelly Run and Rowanty Creek to the northeast and flows to Jones Hole Swamp. The soils in the general area are Emporia-Mattaponi-Slagle and specifically Mattaponi sandy loam for the subject property. This soil type is considered prime farmland.

A primary purpose of the Industrial, General, M-2, zoning district is to establish an area where the principal use of the land is for heavy commercial and industrial operations, which may create some nuisance and which are not properly associated with, nor particularly compatible with, residential, institutional and neighborhood commercial service establishments. In the Industrial, General, M-2 zoning district a utility generating facility is permitted with a conditional use permit. The proposed proffered use of the subject property limits the use and structures to a solar energy generating facility, comprised of solar modules, racking, inverters, transformers, cabling and battery energy storage devices. In addition, the proffer conditions include a development concept plan for the solar energy facility that is enclosed with a security fence. The point of interconnection with Southside Electric Cooperative's existing three-phase power line is located on the front of the property near the existing entrance to the property from Old Vaughan Road. As shown on the concept site plan, the proposed dual portrait solar panels mounted to the single-axis tracking system are to be located on 26.0 +/- acres on the middle and rear portion of the subject property approximately 756.0 +/- feet inward from Old Vaughan Road. The single-axis tracking system entails the dual portrait solar panels mounted on a framework that tracks the movement of the sun during the day. Visually, the facility is arranged with long rows of solar panels mounted on the racks which are mounted on posts piled into the ground. The front portion of the property is to remain zoned A-2 for continued agricultural uses.

Per the concept site plan, the proposed solar panels are located 250 +/- feet from the existing residence on an adjoining parcel to the west, and on the east 285 +/- feet from one existing residence and 670 +/- from a second residence. There are existing trees on the west side of the site to screen the solar panels from the residence, but the applicant is proposing to remove the trees which will no longer provide a vegetative buffer on the subject property between the residence and the proposed solar panels. On the east side of the subject property, there are no existing trees to provide a vegetative buffer on the subject property between the solar panels and the existing residences. To help screen the visual impact of the solar facility from Old Vaughan Road there is a vegetative buffer proposed on the northern portion of the facility between the proposed solar panels and Old Vaughan Road.

## **OVERVIEW OF IMPACTS**

In the application request for rezoning and a conditional use permit, in addition to the Statement of Proffers, the applicant submitted a Comprehensive Plan Accordance Narrative, a Fiscal Impact Report, a Decommissioning Plan and the Limited National Environmental Policy Act (NEPA) Review for the Rams Solar I facility/site. In the rezoning application the applicant states that "the operation of the facility will be nearly silent and will only require infrequent visits to ensure vegetation is maintained". Further, the applicant states that "the project will not have a detrimental effect on adjacent property. The construction will take place in accordance with the Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Transportation (VDOT) guidelines and will not create a burden on public utilities, schools or impede future development of the

neighboring area. Traffic will increase during construction, but will be reduced to quarterly maintenance once operational.”

The rezoning Proffers include three proffered conditions (1) limiting the use of the subject property to a solar generating facility and ancillary uses; (2) stating that the property shall be developed in accordance with the attached Concept Plan dated September 10, 2019; and (3) providing a surety or cash reserve in accordance with Va. Code Sec. 15.2-2241.2 to fund decommissioning of the facility.

The applicant’s Fiscal Impact Report identifies a fiscal contribution to the County of \$5,372.85 in rollback property taxes if the project is removed from the County’s land use program and additional local real estate property tax revenue estimated at \$4,740.00 annually totaling \$142,200.00 over the 30-year projected lifetime of the project. The project is exempt from all personal property tax and machinery and tools tax under Va. Code Sec. 58.1-3660 and HB 1297. The economic contribution during the project construction phase is estimated to be \$58,080.00.

#### Cultural and Environmental:

The applicant commissioned the Limited National Environmental Policy Act (NEPA) Review for the Rams Solar I facility/site looked at threatened and endangered species and the potential presence of cultural and historical resources. If any site work is proposed in wetlands or waters of the U.S., then Section 401 and Section 404 Clean Water Act permits are required. If a Section 404 Clean water Act Permit is required then a review of threatened and endangered species and cultural resources is required. According to the Limited NEPA Review five architectural resources and two archaeological resources are identified within the general area of the proposed solar facility. Two of the cultural resources are located on the site and are both classified as eligible for listing on the National Register of Historic Places (NRHP). The remaining resources have not yet been evaluated. The cross-hatched area along Old Vaughan Road (Route 606) on the concept plan indicates the potential for historic resources which include troop movements associated with the Reams Station Battlefields (I&II) to the east of the subject property. In addition, there is a nearby property located at 24205 Old Vaughan Road that does have a historic home that is of architectural significance.

#### School System, Public Safety, & Public Utilities Impacts

There are no impacts to the school system with the proposed rezoning allowing for construction of the solar energy facility. The potential impact on public safety with the rezoning of the subject property include the proposed solar arrays, battery storage areas, inverter and transformers having to address fire protections as required by the applicable National and local Fire Code and Building Code. The impact on public utilities involves the point of interconnection with Southside Electric Cooperative’s existing three-phase power line which is to be located at the front of the subject property. The existing power lines connect the proposed solar energy facility to the Reams power substation that is located approximately 2,000 feet from the subject property.

#### Transportation Impacts

With utility scale solar energy facilities generating very few vehicle trips, the impacts on the existing transportation network are minimal. The proposed solar energy facility will, however, generate substantial traffic during construction and have an impact on the secondary roads in the area. A majority of the traffic generated is truck traffic delivering materials to the site and also traffic generated from construction vehicles and construction workers travelling to the site. The secondary roads in the general area of the site are not designed for large volumes of heavy traffic and as a result, increased road maintenance costs arise. To ameliorate the impacts of the increased traffic on area roads VDOT is recommending that a Construction Traffic

Management Plan (CTMP) is included in the rezoning Proffers to account for the transportation impacts related to the development of the property. The CTMP includes (1) a plan to show proposed construction access routes to the development site from the State primary routes; (2) a pre-construction assessment of the condition of the secondary roadways to be used as a haul route to the facility with a commitment from the applicant to repair any damage caused during construction and to restore the roadways to pre-construction conditions; and (3) a plan to identify on-site areas suitable for parking for the construction workers and areas exist on-site to allow trucks to be unloaded and to turn around without having to back onto State maintained roadways.

Additionally, VDOT anticipates that a low-volume commercial entrance is required to serve the proposed solar energy facility. The low volume commercial entrance has to demonstrate that stopping sight distance for a 55 MPH speed limit is available at the proposed entrance location. Old Vaughan Road (Route 605) is a secondary local roadway and VDOT Access management spacing standards are not applicable on local roads or for low volume commercial entrances. All future transportation related improvements for the commercial entrance will have to meet VDOT design and construction requirements and standards. (Please see attached VDOT Land Use Amendment Comment Letter for P-19-4).

### Location, Appearance and Operation Impacts

Setbacks and Buffers: The concept plan for development of the site indicates that the proposed dual portrait solar panels mounted to the single-axis tracking system are to be located on 26.0 +/- acres on the middle and rear portion of the subject property approximately 756.0 +/- feet inward from Old Vaughan Road. Additionally, per the concept site plan, the proposed solar panels are located 250 +/- feet from the existing residence on an adjoining parcel to the west, and on the east 285 +/- feet from one existing residence and 670 +/- from a second residence. There are existing trees on the west side of the site to screen the solar panels from the residence, but the applicant is proposing to remove the trees, which will no longer provide a vegetative buffer on the subject property between the residence and the proposed solar panels. On the east side of the subject property, there are no existing trees to provide a vegetative buffer on the subject property between the solar panels and the existing residences. To help screen the visual impact of the solar facility from Old Vaughan Road there is a vegetative buffer proposed on the northern portion of the facility between the proposed solar panels and Old Vaughan Road.

To mitigate the visual impacts of the solar panels on the adjoining properties and residences, Staff recommends that if the existing trees are removed from the west side of the site that opaque fencing or a low profile vegetative barrier is installed to screen the solar panels from the residence on Tax Map Parcel 47-85. In addition, on the east side of the property that opaque fencing or a low profile vegetative barrier is installed to screen the solar panels from the residences on Tax Map Parcels 47-72D, 47-72E, and 47-72C.

Additionally, concerning buffers and landscaping/tree planting the Dinwiddie County Zoning Ordinance requires 10% tree cover at ten year's maturity for the site. With the proposed M-2 zoning adjacent to the existing A-2 zoned property The Zoning Ordinance requires a 75-foot wide landscaped buffer for the perimeter of the site between the solar panels and the property lines of the adjoining A-2 zoned property. If the rezoning is approved and a conditional use permit is granted the site developer may request a variance from the aforementioned buffer requirements. Where landscape buffers are planned and/or required the use of native plants is encouraged, and where feasible the buffer areas and panel zones should utilize season grasses and pollinator plants.

Wildlife Corridors: There are no wildlife corridors shown on the concept plan. It does appear that there is adequate room around the perimeter of the site to permit movement for wildlife. Planting warm season grasses and pollinator plants will also enhance the wildlife habitats in the general area of the facility.

*Height of the Solar Panels:* There is no indication on the concept plan or in the application for the height of the dual portrait solar panels. It is recommended that a 20-foot maximum height for solar panels at full tilt as needed for topographical adjustment so long as the lowest edge of the panels is no more than 10 feet above grade.

*Stormwater Management and Erosion and Sediment Controls:* If the rezoning is approved at the time of site plan review a separate surety (cash, letter of credit, or bond), should be posted at the County for grading, erosion and sediment controls, and stormwater controls prior to issuance of a land disturbance permit.

*Decommissioning Plan:* The applicant did submit the aforementioned Decommissioning Plan with a proposed plan for a surety to cover the cost of decommissioning in accordance with Virginia Code Sec. 15.2-2241.2. The Plan needs to protect the interests of the property owner(s), adjacent property owners, and the County ensuring the removal of the solar facilities after the use is terminated with restoration of the land to its former condition, and there needs to be the fiscal assurances approved by the County to cover the implementation of the Decommissioning Plan.

***Planning Staff Recommendation:***

If the Planning Commission determines that the application furthers the Comprehensive Plan's policies, goals, and objectives, and that it meets the criteria set forth in the Zoning Ordinance, then staff recommends the following conditions to mitigate the adverse effects of this solar energy generating facility with the recommendation for approval to the Board of Supervisors.

**C-19-5 Conditions:**

1. The use of the property shall be limited to a 5 MW AC, 6.5 MW DC photovoltaic solar energy generating facility, comprised of solar modules, racking, inverters, transformers, cabling and battery energy storage devices and shall be subject to this conditional use permit. Solar energy generating may occur only on Tax Map Parcel 47-74 (the approximately 38.0 +/- acre portion zoned M-2 with Proffers). The only access to and from the mining and site on Tax Map Parcel 47-74 shall be across Tax Map Parcel 47-74.
2. The Applicant will develop the Project Site in substantial accord with the Conceptual Site Plan dated October 10, 2019 included with the application 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.
  - a. As used in these conditions, the "Project Site" shall include the "Solar Facilities", and the "Transmission Line", as herein after defined. The "Solar Facilities" shall mean the area(s) shown on the Conceptual Site Plan containing racking, panels, inverters, transformers, cabling and battery storage devices and located within the perimeter fencing, and including all fencing. The "Transmission Line" shall mean the existing transmission line owned by Southside Electric Cooperative.
  - b. The Solar Facilities shall constitute the principal use approved pursuant to this conditional use permit and shall be permitted to continue in perpetuity, separate and apart from each other, such that a zoning violation occurring with respect to the operation of one of the uses shall not constitute a violation with respect to the operation of the other use, and no proceeding to revoke this permit as to one of the uses (nor any resulting revocation) shall impair the validation of this permit with respect to the other use. This permit shall run with the land.

3. Site Plan Requirements. In addition to all related State 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, and 3) Flagging procedures.
    - ii. Site access planning. Directing employee and delivery traffic to minimize conflicts with local traffic.
    - iii. Site security. The Applicant shall implement security measures prior to the commencement of construction of Solar Facilities on the Project Site.
    - iv. 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, burning 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.
  - c. Grading plan. The Project shall be constructed in compliance with the County approved grading plan as determined and approved by the Environmental Administrator or his designee prior to the commencement of any construction activities and a bond or other security will be posted for the grading operations. The grading plan shall:
    - i. Clearly show existing and proposed contours;
    - ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;
    - iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;
    - iv. An earthwork balance will be achieved on-site with no import or export of soil;
    - v. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded;
    - vi. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.
  - d. Erosion and Sediment Control 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. 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 Environmental Administrator.

- f. Project Screening and Vegetation Plan. A separate security shall be posted for the ongoing maintenance of the project's vegetative buffers in an amount deemed sufficient by the Zoning Administrator.
- g. The Applicant shall reimburse the County its costs in obtaining an independent third-party review of any site plans or construction plans or part thereof.
- h. The design, installation, maintenance and repair of the Solar Facility in accordance with the most current National Electrical Code (NFPA 70) available (2014 version or later as applicable).

4. 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, surmounted by three strands of barbed wire, around the Solar Facilities prior to the commencement of operations of the Solar Facilities. 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. Daytime noise will be under 67dBA during the day with no noise emissions at night.
- d. Ingress/Egress. Permanent access roads and parking areas will be stabilized with gravel, asphalt or concrete to minimize dust and impacts to adjacent properties.

5. Buffers.

- a. Setbacks.
  - i. "Principal Solar Facility Structure" shall include racking, panels, inverters, and security fencing on the Project Site, but shall not include roads, transmission poles, or the Transmission Line.
  - ii. A minimum 750-foot setback shall be maintained from a Principal Solar Facility Structure to the street line (edge of right-of-way) where the Property abuts any public rights-of-way.
  - iii. A minimum of 75-foot setback shall be maintained from all portions of the Principal Solar Facility Structure.
  - iv. No setbacks shall apply to the Transmission Line.
- b. Screening.
  - i. Existing wetland areas will be allowed to regrow naturally.
  - ii. The blocks of solar panels shall maintain a minimum seventy-five (75) foot vegetative buffer (consisting of existing trees and re-planted vegetation) on their west, south, and east sides of the subject property. If there is no existing vegetation or if the existing vegetation is inadequate to serve as a buffer as determined by the Zoning Administrator, a double row of structural plantings will be planted as described in the project concept plan dated September 10, 2019 provided with this conditional use permit application.
- 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 identify at least one access corridor for wildlife to navigate through the Project Site. The proposed wildlife corridor(s) 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.

6. Height of Structures. Principal Solar Facility Structures shall not exceed 20 feet maximum (with a 10-foot maximum drip edge). Towers constructed for electrical lines and meteorological stations may exceed the maximum permitted height as provided in the M-2 zoning district regulations (Zoning Ordinance Sec. 22-228, provided that no structure shall exceed the height of 35 feet above ground level.
7. Inspections. The Applicant and property owner will allow designated County representatives or employees access to the facility at any time for inspection purposes.
8. Training. The Applicant and property owner shall arrange a training session with the Dinwiddie County Public Safety Departments to familiarize personnel with issues unique to a solar facility before operations begin.
9. Compliance. The Solar Facility shall be designed, constructed, and tested to meet relevant local, state, and federal standards as applicable.
10. Decommissioning.
  - a. Decommissioning Plan. The Applicant shall submit a 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 for agricultural uses.
  - b. Decommissioning Cost Estimate. 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 c. (iv) and (v) 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. The decommissioning cost estimate shall not include any estimates or offsets for the resale or salvage values of the Solar Facilities equipment and materials.
    - ii. The Applicant, or its successor, shall reimburse the County for an independent review and analysis by a licensed engineer of the initial decommissioning cost estimate.
    - iii. The Applicant, or its successor, will update the decommissioning cost estimate every five (5) years from date of the original Certificate of Occupancy (C.O.) and reimburse the County for an independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.
  - c. Security.
    - i. Prior to the County's approval of the building permit, the Applicant shall provide decommissioning security in the form of a Letter of Credit for Full Decommissioning Cost. A letter of credit issued by a financial institution that has (i) a credit Rating from one or both of S&P and Moody's, of at least "A" from S&P or "A2" from Moody's and (ii) a capital surplus of at least \$10,000,000,000; or (iii) other credit rating and capitalization reasonably acceptable to the County, in the full amount of the decommissioning estimate; or
    - ii. Upon the receipt of the first revised decommissioning cost estimate (following the 5th anniversary from date of the original Certificate of Occupancy (C.O.)), any increase or decrease in the decommissioning security shall be funded by the Applicant, or refunded to Applicant (if permissible by the form of security), within ninety (90) days and will be similarly trued up for every subsequent five year updated decommissioning cost estimate.
    - iii. 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 special use permit and shall be entitled to take all action to obtain the rights to the form of security.

- iv. Notwithstanding the foregoing, if a public utility company that is operating in the Commonwealth of Virginia and has an investment grade credit rating with Moody's and/or Standard and Poor's enters into an agreement to acquire and/or lease the Project Site prior to or contemporaneously with the start of construction of the Project, no security shall be required to be issued for so long as the utility company owns the project and its credit rating remains at or above investment grade.
  - 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.
- d. Applicant/Property Owner Obligation. Within six (6) 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 timely decommission the Solar Facilities, the property owners shall commence decommissioning activities in accordance with the decommissioning plan. Following the completion of decommissioning of the entire 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 acreage ownership of the Solar Facility.
- e. 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.
  - iii. Prior to the issuance of any permits, the Applicant and the property owners shall deliver a legal instrument to the County granting the County (1) the right to access the property, and (2) an interest in the Solar Facilities equipment and materials to complete the decommissioning upon the Applicant's and property owner's default. Such instrument(s) shall bind the Applicant and property owners and their successors, heirs, and assigns. 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.
- f. 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. Perimeter fencing will be removed and recycled or re-used. The exception to removal of the materials and equipment would be upon written request from the current or future landowner indicating areas where removal is not desired.
- g. Infrastructure removal. All access roads will be removed, including any geotextile material beneath the roads and granular material. The exception to removal of the access roads and

associated culverts or their related material would be upon written request from the current or future landowner to leave all or a portion of these facilities in place for use by that landowner. Access roads will be removed within areas that were previously used for agricultural purposes and topsoil will be redistributed to provide substantially similar growing media as was present within the areas prior to site disturbance.

- h. 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 indicating areas where reforestation is not desired.
- i. 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 subject to the decommissioning plan. 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. Permits, reports, etc.

- a. All applicable federal, state, and local permits shall be obtained and filed with the Dinwiddie County Planning Department prior to commencing operations. This conditional use permit is effective only upon receipt by the Dinwiddie County Planning and Zoning Department of all such permits.
- b. All applicable federal, state, and local permits shall be maintained in good standing by owner/operator. Owner/operator shall provide copies of such permits to Dinwiddie County Planning and Zoning Department during operations. Failure to maintain all applicable permits shall be grounds for revocation of this conditional use permit.
- c. Copies of violations and/or reports to or from applicable federal and state agencies shall be made available to Dinwiddie County upon request of the County.

12. Compliance with laws. All operations pursuant to this conditional use permit shall be conducted in compliance with all applicable federal, state and local laws and regulations.

13. Annual review. This conditional use permit shall be reviewed a minimum of once per calendar year to evaluate compliance with conditions contained herein.

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission has three options:

- 1. Recommend approval of the conditional use permit application, C-19-5, as presented with the recommended conditions to the Board of Supervisors.
- 2. Recommend denial of the conditional use permit, C-19-5, as presented to the Board of Supervisors.

3. Defer the application for further discussion and consideration.

**Option 1 – Motion to recommend approval of the CUP application with the (stated or amended) conditions:**

**BE IT RESOLVED**, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that the HCE Reams Solar I, LLC proposed Reams Solar I, 5 MW AC, 6.5 MW DC photovoltaic solar energy facility, as described in conditional use permit request, C-19-5, sufficiently mitigates the impacts associated with the project with the conditions as outlined herein and recommend approval with conditions to the Board of Supervisors.

**Option 2 – Motion to deny the CUP application:**

**BE IT RESOLVED**, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that the HCE Reams Solar I, LLC proposed Reams Solar I, 5 MW AC, 6.5 MW DC photovoltaic solar energy facility as described in conditional use permit request, C-19-5, be recommended for disapproval to the Board of Supervisors as the request for the conditional use permit does not sufficiently mitigate the adverse impacts associated with the project. Among other concerns, the Planning Commission finds that,

1. The proposed solar energy facility does not preserve the rural character of the County.
2. The use is of such a nature or located so as to exercise a detrimental influence on the surrounding neighborhood.
3. The proposed solar energy facility does not incorporate sufficient buffers to address the impacts on adjacent areas.
4. The application property is designated in the future land use plan as Rural Conservation Area and is planned for agricultural and farming uses and the proposed solar energy facility is inconsistent with this designation.
5. The Comprehensive Plan indicates that solar energy facilities may be acceptable if not detrimental to surrounding areas and the proposed facility encroaches on existing residential and agricultural uses.
6. Concern regarding the decommissioning of the proposed solar energy facility, such as, financial assurance that the facility will be properly removed and restoration of the application property to its agricultural uses.

**Option 3 – Deferral of the application:**

**I move that the Planning Commission defer a decision on HCE Reams Solar I, LLC proposed Reams Solar I, 5 MW AC, 6.5 MW DC photovoltaic solar energy facility C-19-5, until the Planning Commission meeting scheduled to begin at 7:00 p.m. on November 13, 2019 in the Board of Supervisors meeting room.**