

VIRGINIA: MINUTES FOR THE REGULAR MEETING OF THE DINWIDDIE COUNTY PLANNING COMMISSION HELD IN THE BOARD MEETING ROOM LOCATED IN THE DINWIDDIE COUNTY GOVERNMENT CENTER BUILDING ON THE 9th DAY OF JUNE 2021 AT 7:00 P.M.

PRESENT:	SAMUEL W. HAYES		AT-LARGE
	JOHN HARVELL		DIST #3
	EVERETTE PROSISE		DIST #1
	EDWARD TITMUS		DIST #2
	ANTHONY SIMMONS		DIST #5

ABSENT:	CALVIN CUNNINGHAM	CHAIRMAN	AT-LARGE
	THOMAS TUCKER	VICE CHAIRMAN	AT-LARGE

OTHER:	MARK BASSETT	PLANNING DIRECTOR	
	MICHAEL DREWRY	ASST. COUNTY ATTORNEY	

IN RE: CALL TO ORDER

Mr. Bassett called the meeting to order at 7:00 P.M. and said since Chairman Cunningham and Vice Chairman Tucker are not present; Mr. Hayes has agreed to act as the Chairman pro tempore for this evening's meeting. He asked for a motion from the members, so the action would be officially mutual among the members. Mr. Titmus made a motion that Mr. Hayes would act as Chairman pro tempore for this evening's meeting and Mr. Simmons seconded it and with Mr. Prosise, Mr. Harvell, Mr. Titmus, Mr. Simmons and Mr. Hayes voting "AYE" Mr. Hayes assumed the Chairman pro tempore status.

IN RE: PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

Mr. Hayes asked everyone to stand for the pledge of allegiance and a moment of silence.

IN RE: ROLL CALL

Mr. Hayes asked for the roll to be called and Mr. Tucker and Mr. Cunningham were not present.

IN RE: APPROVAL OF AGENDA

Mr. Hayes asked if there were any additions or corrections to the agenda. He said since there are none he would entertain a motion to accept the agenda as presented. Mr. Titmus made a motion and it was seconded by Mr. Harvell and with Mr. Harvell, Mr. Prosise, Mr. Simmons, Mr. Titmus and Mr. Hayes voting "AYE" the agenda was approved.

IN RE: MINUTES

Mr. Hayes asked if there were any additions or corrections to the May 12, 2021 workshop meeting minutes. He said since there are none he would entertain a motion to accept the minutes as presented. Mr. Titmus made a motion and it was seconded by Mr. Harvell and with Mr. Prosise, Mr. Simmons, Mr. Harvell, Mr. Titmus and Mr. Hayes voting "AYE" the minutes were approved.

Mr. Hayes asked if there were any additions or corrections to the May 12, 2021 regular meeting minutes. He said since there are none he would entertain a motion to accept the minutes as presented.

Mr. Simmons made a motion and it was seconded by Mr. Harvell and with Mr. Prorise, Mr. Titmus, Mr. Harvell, Mr. Simmons, and Mr. Hayes voting “AYE” the minutes were approved.

IN RE: CITIZEN COMMENTS

Mr. Hayes opened the citizen comment portion of the meeting and asked if anyone had signed up to speak or was on the phone line who wanted to speak.

Tim Buyalos, 26729 Perkins Road, North Dinwiddie, VA came forward and said he is concerned about water quality. We run a farm operation known as “All Good Things Farm Market” and we pull water for the farm from Rowanty Creek for irrigation purposes. We are concerned about the water quality in the creek because of all the development along the creek. Starting next year the FDA will be getting involved with food safety. They are concerned about bacteria in foods and because of that we have to begin ground water testing. As I said, this is a great concern to us because with all the development happening in the area it could adversely affect the water quality and in term affect our business.

Mr. David Yost, 3601 Leonard’s Lane, Sutherland VA came forward and presented the definition below and his thoughts concerning it to the Planning Commission. He recommended that the Planning Commission recommend to the Board of Supervisors that it be added to the agritourism ordinance.

Substantial Impact

The term substantial impact is understood by the Board of Supervisors to mean that a land use begun or proposed after July 1, 2014, in an agricultural district, or on land that is in agricultural use because of legal pre-existing non-conforming use rights, is of such a nature as to change the character of the area in the vicinity of the new land use from that of a rural and agricultural area, to one that more resembles a business, commercial or industrial area, as those terms are generally understood. Factors to be considered when determining whether a substantial impact will, or has, occurred include, but are not limited to, sight distance and traffic loading on publicly maintained roads, or privately maintained roads that are shared by others; adequate sewage disposal and drinking water ; artificial light emanating from the property in a manner not typical in agricultural or rural areas; volume and nature of sounds emanating from the property not typical in agricultural or rural areas; impact on the view of traditionally rural and agricultural landscapes seen by the public, including but not limited to, the type of structures utilized or to be utilized by the new land use. For example, a use or proposed use that would generate a need for a large parking area often filled with non-farm vehicles could constitute a substantial impact on an existing or future Agritourism activity located on a nearby parcel, which Agritourism activity is or will be partially dependent upon a view of traditionally rural and agricultural landscapes.

Similarly, a new or proposed use that would cause sounds to emanate off property which are not usual and customary in bona fide agricultural operations are likely to be construed as having a substantial impact on the public at large. Sounds caused by farm equipment, farm machinery, animals, or other usual and customary activity on a bona fide production, agricultural operation shall never be construed as having a substantial impact

Mr. Hayes asked if anyone else had signed up to speak. He said since there is no one he is closing the citizen comment portion of the meeting.

IN RE: PUBLIC HEARING

Planning Commission Meeting Report

File #: P-21-3
Applicant: Lily Pond Solar, LLC, and authorized representative of Lily Pond Solar, LLC, Itamar Sarussi
Rezoning Request: A-2, Agricultural, General to SED, Utility Scale Solar Energy District
Property Location: West side of Halifax Road (Route 604) bordered on the south by Brick Road (Route 668), and also including property on the east and west sides of Brick Road (668) bordered on the east by Halifax Road (Route 604) extending down to Carson Road (Route 703)
Property Size: Approximately 1,133 +/- acres, and the request is to rezone approximately 1,064 +/- acres to SED, Utility Scale Solar Energy District
Tax Map Parcels: Portion of 61-5, 61-6, 62-24, 62-33, 61-24A, 62-21, 62-22, 62-4, 61-7, 62-3, 62-20, 62-33A, 62-5, 62-6
Magisterial District: Rowanty District
Planning Commission Mtg.: June 9, 2021

CASE AND PROJECT OVERVIEW

The applicant, Lily Pond Solar, LLC, and authorized representative of Lily Pond Solar, LLC, Itamar Sarussi, are requesting to rezone with a siting agreement, properties containing approximately 1,064 +/- acres out of a total parcel acreage of 1,133 +/- acres from A-2, Agricultural General, to SED, Utility Scale Solar Energy District. The SED, Utility Scale Solar Energy District, zoning classification allows for solar energy projects pursuant to the Zoning Ordinance allowed density.

The properties are generally located in the area on the west side of Halifax Road (Route 604) bordered on the south by Brick Road (Route 668), and also including property on the east and west sides of Brick Road (668) bordered on the east by Halifax Road (Route 604) extending down to Carson Road (Route 703). The properties are further defined as a portion of Tax Map Parcel Nos. 61-5, 61-6, 62-24, 62-33, 61-24A, 62-21, 62-22, 62-4, 61-7, 62-3, 62-20, 62-33A, 62-5, 62-6. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Rural Conservation Area, which allows limited industrial, service, and utility uses for this general area.

Lily Pond Solar, LLC, a wholly owned subsidiary of Energix US, LLC, is proposing to design, construct and operate an 80 megawatt alternating current solar photovoltaic (PV) ground mounted electric generation project located on approximately 1064 +/- acres. The applicant is seeking a rezoning approval from A-2, Agricultural, General, to Utility Scale Solar Energy District (SED) which allows for a utility scale solar energy projects upon receiving a conditional use permit.

Lily Pond Solar, LLC, is also negotiating a Solar Facility Siting Agreement under Chapter 22, Title 15.2, Article 7.3 of the Code of Virginia with the Dinwiddie County Board of Supervisors (BOS). Upon approval of the Siting Agreement, the Project shall be deemed to be substantially in accordance with the County's Comprehensive Land Use Plan, thereby satisfying the requirements of Va. Code §

15.2-2232. To note, at the time of finalizing the staff report, the County Attorney's Office has not received the Siting Agreement.

The project is proposed on approximately 1,133 +/- acres consisting of 14 tax parcels with the solar panels sited on approximately 600 acres. The remainder of the property will include approximately 500 acres of conservation areas for buffers, setbacks, wildlife corridors, natural habitat, pollinator garden, and battlefield preservation. Most of the properties will be under long-term leases with some parcels providing right of way easements for electric collection/transmission lines, which are not included in the rezoning request. The Applicant proposes that 1,064 +/- acres will be rezoned to SED and utilized for the Project (see Rezoning Application, Table 1, List of Property Owners).

The point of interconnection with Dominion Power's transmission system will be located at a new substation/switchyard in the northern portion of the project site along the existing north-south transmission corridor. As shown on the Conceptual Master Plan, the proposed single portrait solar panels mounted to the single-axis tracking system are to be located on approximately 600 +/- acres dispersed throughout the 1,064-acre subject property due to environmental and cultural resource constraints. The single-axis tracking system entails the single 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 pile driven into the ground. The solar photovoltaic electricity generation system consists of the photovoltaic panels, racking systems supporting the panels, inverters, breakers, switches, cabling, power transformers, electric substation and generator tie-line and associated materials and equipment will be installed on portions of 1,064 +/- acres of the site (see Attachment, the Conceptual Master Plan).

The Project will use First Solar, Inc. advanced, thin-film PV solar panels that efficiently produce low voltage direct current electrical power delivered to inverters and transformers throughout the Site. The Project will be remotely and continuously monitored 24 hours a day to ensure proper operation. The Project will interconnect with a new Dominion Virginia Power substation located adjacent to the existing high voltage transmission line that parallels the east side of Perkins Road. The design, installation, and operations of the substation facility will comply with all applicable local, state, and national electrical standards and codes to ensure the safety and protection of the public. Regular grounds maintenance will be conducted in accordance with Dinwiddie County Code and the Conditional Use Permit conditions. The solar project will be secured by a perimeter fence constructed in accordance with the Dinwiddie County Zoning Ordinance and the National Electric Code (NEC).

The proposed Project will be required to obtain additional permits from the U.S. Army Corps of Engineers (USACE) and the Virginia Department of Environmental Quality (VDEQ). A Notice of Intent (NOI) for a VDEQ's Small Renewable Energy Projects (Solar) Permit by Rule (PBR) (Virginia Administrative Code Title 9 Agency 15 Chapter 60 (9 VAC 15-60)) has been filed. This regulation contains requirements for solar-powered electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts.

ATTACHMENTS

P-21-3 Application, Lily Pond App-Final part 1, Lily Pond App-Final part 2, Lily Pond App-Final part 3, Related Maps Sheets 1-4, Conceptual Master Plan, Summary of Project Impacts, ABT, NPS, NPCA Comment Letter

LAND USE AND ZONING ANALYSIS

The area is generally rural and used for silviculture and agricultural purposes interspersed with rural residential lots.

The site includes forested and open agricultural land, cleared utility corridors, commercial pine timber and wetland systems associated with Brick Kiln Branch, Rowanty Creek, and Perkins Pond which are interspersed throughout the Project area. Overhead electric transmission lines traverse the northern site area in a north-south direction, and the southeastern part of the site in a northeast-southwest direction. The point of interconnection with Dominion Power's transmission system will be located at a new substation/switchyard along the existing north-south transmission corridor near Perkins Road. The area is also constrained by isolated cultural resources and aquatic resources. The preliminary site design has been designed to minimize cultural resources and to minimize impacts to aquatic resources as much as possible.

The properties in the immediate area surrounding the subject land parcels include agricultural and forested land, and low-density single-family and institutional (a church is located on Perkins Road) residential land uses. Residential land use makes up 1.2% of the project site, agricultural land makes up 8.6% of the project site, planted pines make up 13.6% of the project site, mixed pine/upland forest make up 42.1% of the project site and wetlands make up 18.7% of the project site. The properties to the north, east, south and west are zoned A-2, Agricultural General.

The vast majority of the site (>99%) drains south and west into Rowanty Creek. A very small area on the east side of the site drains east into Jones Hole Swamp. The entire Site ultimately drains into the Nottoway River. The soils in the general area are Emporia-Mattaponi-Slagle with the majority of the properties having Emporia sandy loam. The hydric soils comprise less than 2 percent of the site and are associated with drainages. According to the FEMA Floodplain maps, a small area (62 acres) of Zone A (100-year floodplain) occurs along two tributaries: upstream of Jenkins Pond in the central part of the site and along Brick Kiln Branch in the southeast part of the Site.

A primary purpose of the SED zoning district is to outline the process and requirements for the construction, installation, and operation of solar energy projects in Dinwiddie County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. The Project will be bound by the Solar Facility Siting Agreement to be executed by and between Lily Pond Solar, LLC, and the Dinwiddie County Board of Supervisors which will allow the Project to be deemed to be substantially in accord with the County's Comprehensive Land Use Plan and satisfy the requirements of Va. Code Section 15.2-2232.

COMPREHENSIVE PLAN CITATIONS

The subject property is located within the Rural Conservation Area as defined by the Comprehensive Land Use Plan. The subject property is located within the Rural Conservation Area as defined by the Comprehensive Land Use Plan. While the Comprehensive Plan does not specifically address renewable energy i.e. solar energy generation, it does account for future utility growth and expansion in accordance with the Comprehensive Plan.

Chapter X Future Land Use includes the following relevant special planning considerations, battlefield preservation, and planning guidelines:

B. Special Planning Considerations: includes the following relevant sections:

11. Prime Agricultural Land: (1) Identify the large parcel land areas containing the best agricultural soils, high historic yields, and high probability of continuing in agricultural use.

(3) Encourage the location and continuation of agriculture related industrial and commercial uses which support the agricultural community (4) Make regulations sufficiently flexible to permit site locations, where development occurs in identified prime agricultural land areas, that minimize interference with agricultural operations, that use marginally productive land and that cause a minimal loss of productive agricultural acreage.

14. Battlefield Preservation: The nationally significant Civil War battlefields in the County should be recognized as a major cultural resource. When these predetermined sites are threatened by non-compatible development, policy should be prepared as a guide to any proposed action that may impact any cultural or natural resources in these areas.

C. Planning Guidelines:

2. Rural Conservation Land: The Rural Conservation Area includes existing large-lot, low density, single-family subdivisions with lot sizes averaging five (5) acres or greater with limited commercial and industrial development. The above existing areas uses are compatible with the uses permitted in the A-1 and A-2 zoning classifications.

Chapter XI Policies, Goals and Objectives includes the following relevant Policy statements: (1) Preserve the rural character of Dinwiddie County which includes agriculture, open space, clean environment, low taxes, quality education, safe environs, and a strong sense of community. (2) Conserve and protect the County's natural and historic resources and environmentally sensitive areas. (3) Maintain and enhance the County's ability to coordinate a balanced land use program among various types of residential, commercial, and industrial interest by encouraging development within areas defined as growth centers and/or growth corridors. (4) Preserve productive agricultural and timber lands from premature conversion to urban uses by discouraging urban development patterns throughout the County. (5) Provide and maintain needed community facilities and services in a cost-efficient manner. An impact analysis will be required for all major development so that public, health, safety, and welfare are protected.

In addition to the relevant Policy statements, there are additional relevant goals and objectives for each element of the Comprehensive Plan as set forth below:

Agricultural and Timber Lands: Goal: Preserve a significant portion of the County's productive agricultural and timber lands. Objectives: (b) Protect existing agricultural operations from conflicts with other land uses. (c) Establish a pattern of residential and commercial development that causes minimal conversion of agricultural land or disruption to agricultural areas. (f) Identify and designate prime agricultural land.

Public Facilities and Services: Goal: Provide County facilities and services necessary to promote a safe, healthful, and desirable community in which to live. Objectives: (a) ensure that the intensity, timing, and implementation of future development is subject to the provision of adequate and coordinated public facilities and services. (d) Recognize the need for continued planning in order to maintain adequate and efficient public facilities and services for existing and future residents.

Open Space, Recreation, and Historic Preservation: Goal 3: Preserve "open space" areas throughout the County such that these areas will become an integral part of the community as the growth corridors and centers expand. Objectives: (a) Protect and conserve natural features of the environment, i.e., wetlands, floodplains, etc., from improper development. Goal 4: Preserve and protect historic sites and

buildings in Dinwiddie County. (h) Preserve and protect the County's historic sites and cultural heritage.

Environment: Goal: Protect the county's high level of environmental quality.

Objectives: (a) Protect the environment and conserve resources for future uses. (b) Assure that new development minimizes adverse impacts on the natural land and/or built environment. (c) Preserve the County's scenic, cultural, and historic resources as being essential to both the County's rural and historic character and the overall quality of life. (d) Protect and preserve the County's agricultural and timber lands and activities. (f) Maintain and enhance the agricultural and farming resources as an integral sector in the County. (g) Protect and preserve the natural and physical environment.

Land Use and Development: Goal: Ensure that sound practices are employed and guide future development in an efficient and serviceable manner, which is protective of the County's predominately-rural character and concentrates development in designated areas.

Objectives: (f) Encourage development which is compatible with anticipated rates of growth, available resources, and available or planned utilities, schools, and other community facilities and services. (g) Emphasize community planning and industrial development that is designed to economize the costs of roads, utilities, and land use. (h) Make planning and industrial development that is designed to economize the costs of roads, utilities, and land use.

OVERVIEW OF IMPACTS

In the application request for rezoning and a conditional use permit, the applicant submitted a Community Impact Analysis, Estimated Revenue Analysis, Natural Resources Survey, Preliminary Jurisdictional Determination (ACOE), Cultural Resources Survey, Landscaping Plan and Visual buffer 3D Models, Traffic Analysis, FAA Study, and proposed Conditions for the Conditional Use Permit request. Fiscal Impact Report, a Decommissioning Plan and the Limited National Environmental Policy Act (NEPA) Review for the project/site. The proposed Project will be required to obtain additional permits from the U.S. Army Corps of Engineers (USACE) and the Virginia Department of Environmental Quality (VDEQ). A Notice of Intent (NOI) for a VDEQ's Renewable Energy Projects (Solar) Permit by Rule (PBR) (Virginia Administrative Code Title 9 Agency 15 Chapter 60 (9 VAC 15-60) has been filed. This regulation contains requirements for solar-powered electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts. In addition, the construction will take place in accordance with the Virginia Department of Environmental Quality (VDEQ) and the Virginia Department of Transportation (VDOT).

Fiscal Impact

The applicant's fiscal impact report identifies a fiscal contribution to the County of \$99,000.00 in rollback property taxes if the project is removed from the County's land use program and additional local real estate property tax revenue (based on a \$10,000.00 per acre reassessment value) totaling \$2.82 million over the 45-year projected lifetime of the project.

The project is subject to machinery and tools tax under Va. Code Sec. 58.1-3660 and HB 1297, and the M&T revenue is estimated to be approximately \$3,811,822 over 45 years. The revenue share option that assesses up to \$1,400.00 per megawatt of solar project capacity with an escalator of 10% every five years beginning in 2026 creates revenues of approximately \$7.6 million over 45 years.

Additionally, the economic contribution will generate approximately \$6.5 million in direct (construction related activity), indirect, and induced incremental activity to the economy in Dinwiddie County.

Cultural and Environmental Impacts

The applicant commissioned the attached Cultural Resources Survey and the Comprehensive Natural Resources Studies Report. More detailed investigations and applications will be prepared as part of the VDEQ Permit By Rule (PBR) and the USACE permit application and review process as required. In accordance with §10.1-1197.6 B 1 of the Code of Virginia, the Applicant has furnished to the VDEQ a notice of intent (NOI), (posted 5/16/2019; name change submitted 3/13/2020) that it intends to submit the necessary documentation for a PBR for a small renewable energy project. Once an application has been received by VDEQ, the Applicant will access the expertise from the sister agencies that will be involved in the review of the application, i.e., Department of Historic Resources (DHR), the Department of Game and Inland Fisheries (DGIF) and the Department of Conservation and Recreation (DCR).

The aquatic resources studies (between December 2018 and February 2020) have identified a number of potentially jurisdictional USACE and VDEQ wetlands/streams on the site. An approved jurisdictional determination by the USACE will be requested as part of the permit application process. Consultation with VDEQ's Virginia Water Protection (VWP) Permit Program will take place as part of the PBR process. The site does not contain federally designated critical habitat for any species. There are no documented occurrences of protected wildlife species on or within two miles of the Project boundaries.

The wetland and stream findings were submitted to US Army Corps Of Engineers Norfolk District and a Preliminary Jurisdictional Determination (PJD) has been received on February 8th, 2021. The PJD confirmed findings of the environmental consultant. The PJD letter is included in Exhibit H-Preliminary Jurisdictional Determination (ACOE). To ensure protection of the critical wetland habitat, wetland areas will be put into a conservation status by easement or otherwise approved by the County Attorney for the duration of the Project.

A Phase I archaeological and historic architectural survey of Project area has been completed. The archaeological fieldwork was conducted from August 19 to September 17, 2019, October 4 to November 17, 2019, and February 3–15, 2020, while the historic architectural fieldwork was conducted from August 22–29, 2019 and on February 18, 2020. Twelve newly recorded and two previously recorded historic architectural properties were documented during the Project survey. All of the newly recorded and one of the previously recorded historic architectural properties are located within the Project area of potential effects (APE) but are recommended not eligible for the National Register of Historic Places (NRHP) and no further consideration is recommended for these resources. The archaeological resources portion of the report did indicate that there are substantial prehistoric resources for a portion of the project area.

Related to the Civil War Battlefield portions of the Reams Station I, Reams Station II, Boydton Plank Road, and Hatcher's Run battlefields (the battlefield boundaries as delineated by ABPP CWSAC) are within the Project area.

As stated in the Cultural Resources Survey, these portions "of the battlefields located inside the project area continue to retain their integrity of location, setting, feeling, and association". (see the attached ABT, NPS, NPCA Comment Letter)

*See the attached summary of the project impacts as submitted by the applicant (Pages 9-20)

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 generating facility.

The potential impact on public safety with the rezoning of the subject property include the proposed solar arrays, inverter and transformers, and electric substation and generators 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 electric substation and the point of interconnection with the Dominion Energy transmission line.

Transportation Impacts

With utility scale solar energy facilities generating very few vehicle trips after the initial construction period, the post-construction impacts on the existing transportation network are minimal. The proposed solar energy facility will 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 may arise.

To ameliorate the impacts of the increased traffic on area roads VDOT is recommending that a Construction Traffic Management Plan (CTMP) be required 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 multiple low-volume commercial entrances are required to serve the proposed solar energy facility. The low volume commercial entrance has to demonstrate that stopping sight distance based on the posted speed limit is available at the proposed entrance location. All future transportation related improvements for the construction entrances and commercial entrances will have to meet VDOT design and construction requirements and standards and be permitted through VDOT.

PLANNING COMMISSION ACTION

The Planning staff has reviewed the request to rezone the property from A-2, Agricultural General to SED, Utility Scale Solar Energy District to allow for a solar energy generating project and with the subject request, there are impacts and the Planning Commission ultimately must weigh those impacts against the benefits of the rezoning request.

The Planning Commission should consider if the rezoning request is compatible and not a substantial detriment with the surrounding zoning pattern and surrounding property and that it conforms to the underlying uses outlined in the Rural Conservation Area in the Comprehensive Land Use Plan for this general area of the County. With the scale of the proposed solar generating facility which includes an

electric substation and the extent of impacts which include visual impacts, impacts on the natural resources and cultural resources, and other pre-construction, construction, operational, decommissioning, and fiscal impact concerns, staff recommends further study of the impacts of the proposed solar generating project and time to allow for input/comment the proposed solar generating project.

PLANNING COMMISSION RECOMMENDATION

Since this is a zoning matter, the standard statement regarding the Planning Commission's recommendation on this zoning matter must be read. In order to assist, staff prepared the following statement:

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 rezoning request, P-21-3, as presented be recommended for (approval, approval with proffers, or disapproval) to the Board of Supervisors.

Mr. Bassett asked if there were any questions from the Commissioners.

Mr. Hayes said if there are no questions for Mr. Bassett would the applicant like to come forward and add anything?

Mr. Jim Martin, a representative of Energix came forward and gave a slide presentation, which is listed below, about the company and its purpose in Virginia as well as the Lily Pond Solar project.

ABOUT ENERGIX

Energix is a **long-term partner** for the communities in which we operate. We **site, develop, construct, own and operate** projects through their entire lifecycle which makes us a reliable partner through every step of the process and a unique partner in the market.

Buy America – We in Energix **are committed to the US market** and therefore we procure the vast majority of our equipment right here in the US, including a unique strategic partnership with First Solar, the leading US supplier of solar panels.

Energix is a true partner for your community – **We invest in the communities where we operate** and work hand-in hand with localities to identify opportunities and benefits to the area. **This is not just a slogan- it's our mission.**

Energix, with a HQ in Arlington, Virginia, is one of the **leading solar energy developers in Virginia** with 3 operational projects, 6 more in various stages of construction, and many more in development

PROJECT OVERVIEW

Lily Pond Solar is a responsible, environmentally-sound solar project on private property near Carson in Dinwiddie County. The project will have a capacity of 80 megawatts. The project will be located on 600 acres while preserving an additional 500 acres of buffers, setbacks, protected wetlands, wildlife crossings, pollinator garden, beehive colony and other natural resources. Lily

Pond Solar will deliver significant economic and tax benefits to Dinwiddie County, including a negotiated, upfront payment and ongoing revenue payments totaling an estimated \$15,700,000 over the life of the project. Lily Pond Solar will generate no pollution, noise, or traffic after construction and will not place any strain on existing infrastructure like schools, roads, water, or sewer. Lily Pond Solar will have a useful lifespan of up to forty-five years. At the end of the project's useful life, Lily Pond Solar will be decommissioned, including removal of all above- and below-ground equipment and seeding the soil with local grass mixes. Lily Pond Solar will post a surety bond to guarantee decommissioning.

Unlike other types of development, once decommissioned, the project area will be suitable for other types of development, including its pre-solar uses. This is a high value, non-permanent land use that does not impact or limit future uses of the land. There will be no adverse impacts to soil or groundwater. Solar projects are a great way for localities to preserve land for future uses, while generating revenue for landowners and providing immediate revenues to the county.

FISCAL & ECONOMIC BENEFITS

Upfront Payment: Lily Pond is proposing a siting agreement with Dinwiddie County that will allow us to deliver an upfront payment. This payment reflects our commitment to the Dinwiddie Community. Ongoing Revenue: Lily Pond Solar will provide significant revenue to Dinwiddie County throughout its life span, while requiring no investments to be made by the County, through a combination of real estate taxes, siting agreement and M&T taxes or a revenue share program. Jobs: Lily Pond Solar will create approximately 300 well-paying construction jobs over the construction period. Hospitality Industry: The project will stimulate local hospitality businesses during construction while requiring no investment from the County. Economic Benefits to Dinwiddie County: The community impact analysis estimates economic benefits of \$5.2 million during construction and \$1.3 million during the first 10 years of operations to Dinwiddie County.

PROJECT IMPROVEMENTS

Reduction of Footprint- The newly proposed design reduces the project's footprint to 600 acres associated with solar facilities and 500 acres of additional natural protection areas opposed to the previously proposed 2,000 acres. Preservation of Natural Habitat- Current project design minimizes areas used for solar facilities and focuses on preservation of natural resources. Preserving Historic Battlefield Land- We have been working with the American Battlefield Trust, National Park Service, National Parks Conservation Association and DHR to preserve 69 acres of historic battlefield areas. These areas will be put into conservation. Alternative Site Access – Based on the feedback from the community, we changed our access road plans in order to avoid disturbing Frog Lick Ln and Lily Pond Ln neighbors. The new access road will come from Halifax Rd.

SETBACKS & VEGETATION

Lily Pond Solar is committed to maintaining the rural character of Dinwiddie County. Our development process includes maximizing the retention of existing vegetation, in conformity with Dinwiddie County's land development code, and the planting of additional ground cover with native species. Setbacks are designed to minimize the visual impact of the solar farm and maintain the existing rural character of the area. It will include a 75-foot setback from property boundaries, a 250-foot setback along Halifax Road, and 100-foot setback from Brick Road and Carson Road. The solar panels will track the movement of the sun, allowing enough sunlight underneath the solar panels for vegetation to thrive.

PRESERVATION OF SOILS

Lily Pond Solar has minimized impacts to agricultural operations. Given the importance of the agricultural soils, Lily Pond has undertaken several initiatives to ensure protecting as much of the soils as possible: Lily Pond Solar Project Setbacks and Vegetation Preservation of Soils Lily Pond Solar has minimized impacts to agricultural operations.

- Minimize grading and stockpile topsoil during construction
- Temporary seeding and/or mulching during construction
- Stabilizing all disturbed areas with native grass seed mixes and incorporating pollinator mixes to avoid creating a harmful monoculture during operations period
- No use of herbicides or pesticides
- Placement of honeybees within project limits θ Maximized retention of existing vegetation
- Topsoil stockpiling during decommissioning and reseeded with native grass mixes

ADDITIONAL PERMITTING

Projects under 150MW ac are required to go through a Department of Environmental Quality (DEQ) permitting process on the state level- Permit by Rule. The PBR process is designed to ensure any potential impacts to cultural or threatened and endangered species are avoided or mitigated. During the permitting process, DEQ consults the following sister agencies to collect their feedback, which is then incorporated into the project design by a developer:

- Department of Historic Resources (DHR)
- Department of Game and Inland Fisheries (DGIF)
- Department of Conservation and Recreation (DCR)

A pre-requisite for submitting an application with DEQ is securing all county permits (e.g. CUP for Lily Pond). Lily Pond Solar has been collaborating with ABT, NPS, NPCA, DEQ and DHR on the project design in preparation for the PBR process to learn early on what avoidance and mitigation will be required for the project during PBR

DECOMMISSIONING

After the useful lifespan of up to fourth-five years, Lily Pond Solar will be decommissioned in line with the County Code. Lily Pond will remove all equipment, including buried cables and pilings. During decommissioning, topsoil will be stockpiled on site and the project area will be re-seeded with native grass mixes. All equipment will be recycled or resold. First Solar, the module manufacturer, offers a recycling program available to its customers. Lily Pond will place a decommissioning surety in accordance with the Solar Energy District to ensure that such decommissioning or removal is completed expeditiously, and at no cost to the landowner or Dinwiddie County. The surety amount will be updated every 5 years to account for industry changes and inflation.

COMMUNITY OUTREACH

As a long-term partner, we care about the community. We have and will take steps to engage with the residents of Dinwiddie County. Lily Pond Solar has launched a website that includes all relevant information and ways to contact us. We have launched project social media accounts which successfully engaged with over 4,500 Dinwiddie County residents. We have mailed information packets to the community and requested project feedback and offered in person meetings. We have been holding meetings with the local community to share more information, answer any questions and hear directly from the neighbors. We have received positive feedback from the community and are continuing our meetings to ensure everyone has been heard.

SITING AGREEMENT

Lily Pond Solar will deliver significant economic and tax benefits to Dinwiddie County, including a negotiated upfront payment, ongoing revenue payments, and well-paying construction jobs.

Siting Agreement: It provides the County an opportunity for a significant economic value proposition by approval of a solar project, separate and apart from the land use part of the case.

The County has the opportunity to an economic benefit for the citizens of the County of \$15.7 million. The siting agreement is negotiated between the solar project and the Board of Supervisors.

Comprehensive Plan: The Siting Agreement legislation provides that the Substantially in Accord (SIA) is determined by the Siting Agreement. As such, the SIA will be considered by the Board of Supervisors through the Siting Agreement.

CONCLUSION

Lily Pond Solar will have significant economic benefits for Dinwiddie County. Lily Pond Solar will preserve the rural character of Dinwiddie County-the project will NOT be seen from the road or neighboring properties. Lily Pond Solar will preserve the agricultural heritage of Dinwiddie County by removing all equipment at end of life and returning parcels to their natural state. Lily Pond Solar will continue to engage with the local community through the permitting process, and throughout the life of the project.

Mr. Hayes asked if there were any questions for Mr. Martin.

Mr. Titmus asked if there is any truth to the story of gel being in the solar panels. He also wanted to know what might happen to the ground water if a rupture occurs to the panels.

Mr. Martin said there is no gel in the panels. The panels are thin cell glass panels. They have the active ingredient of cadmium telluride in them. The thin glass panels are laser etched with the electrical equipment in them so as to capture the sun. When that is completed another glass piece is put on top of the first piece and then sealed. These panels have been wind, flood, fire and hailstorm tested at North Carolina State as well as Virginia Tech. Both have come to the same conclusion that there is no risk of any ground water contamination or leakage from the panels. Mr. Martin stated that they could provide those studies if the County so desires to see them.

Mr. Hayes asked what the liability was if one of the panels were hit by a gun shot in some way.

Mr. Martin said he would let Ms. Sink answer that question, but to the point of the panel breaking if shot, that won't happen. The panel will only crack like a car windshield that has been struck by a rock.

Ms. Sink, from Energix, said if the panels are cracked by gun shots we will replace them.

There was some discussion with Chip Dicks with Gentry Locke Law firm in Richmond, who was representing Energix and the Planning Commissioners about the siting agreement that will be presented and discussed with the Board of Supervisors.

Mr. Harvell asked Mr. Martin what was the cause of some land owners not having their property included in this rezoning.

Mr. Martin said we still have contracts with those landowners. Those areas were determined, by the Battlefield Trust and others, to be possible battlefield preservation areas.

Mr. Hayes said to Mr. Martin that the American Battlefield Trust asked that your company take a step back and do a KOCO analysis. I would like to know what that acronym means and what your response is to that request.

Ms. Sink said Heather Mills, who was on the phone from their environmental consultants that would answer that question. Ms. Mills said it is a park service tool that has been developed by the military. It means key terrain, observation and fields of fire, cover and concealment, obstacles, and avenues of approach.

Ms. Sink added that it is an ongoing process that will be addressed as we progress with the project.

Mr. Hayes said since there are no more questions for the applicant, he was opening the public hearing portion of the case. He asked if anyone had signed up to speak or was on the phone line that wanted to speak.

Ms. Jeanne Trabulsi, 101 Walnut Court, Front Royal Virginia, said she opposes Lily Pond Solar. She agrees with the Planning Department that further study is warranted and that this project should not get an approval until those studies are done. She thanked the National Park Conservation Association, the American Battlefield Trust and the Petersburg National Battlefield Foundation for also recommending further study. They want a special Military type analysis completed, not just metal detecting work designed only to look for artifacts on certain parcels. They also cauterized Energix proposal to protect the view shed with plantings as premature and incomplete. In my opinion, I believe this power plant is in non-compliance with the country's comprehensive plan, the county's solar ordinance and even the county's 2020 legislative program. Finally, what happens at the end of year forty-five (45)? Who will pay for the decommissioning cost for all the solar panels? The cost could amount to fifteen million (15 million) dollars or more when you fix the soil and require fifteen (15) percent contingency fee. If your surety bond doesn't cover that then Energix as a Limited Liability Company can simply walk away. They are not responsible. That cost then goes to the current land owners or to their grandchildren and if they can't pay the land goes to the county. If the county can't pay, the county raises taxes and the tax payers pay for it. On that basis, I urge you to deny this project.

Pamela Goddard, my Headquarters address is 777 6th Street NW, Washington DC, said good evening members of the Planning Commission. My name is Pamela Goddard. I am the Mid-Atlantic Senior Program Director of the National Parks Conservation Association (NPCA). NPCA is a non-partisan not for profit organization created in 1919 by the very first National Park Service Director Stephen Mather. With 1.6 million members and supporters nationwide and almost 44,000 in Virginia, our mission is to preserve and protect our national park sites for present and future generations. The National Parks Conservation Association has worked for many years to protect Civil War battlefields in the Commonwealth that are not yet included in the national park system. For over six years, I worked in Petersburg communities to build support for the U.S. Congress to authorize the addition of unprotected Civil War battlefield land to Petersburg National Battlefield. Our efforts were successful. My organization supported and staffed events to benefit the community including a free Spring break camp for elementary students, pollinator and vegetable gardens in the schools, and field trips for children to learn about Civil War history while enjoying the outdoors. NPCA is deeply concerned about the proposed large-scale solar installation that the Energix Group wishes to build in Dinwiddie County. We are pleased that the company has indicated they will reduce the footprint acreage they wish to use for the project; that they will avoid Core Battlefield land; and that they will put 78 acres of land into a conservation easement. However, we believe further study is warranted before any decision is made to change zoning of this area. National Parks Conservation Association, the American Battlefield Trust, and Petersburg National Battlefield wrote the Energix Group back in April to ask for

a KOKOA analysis and a viewshed study. We request a KOCO analysis to examine how battles transpired across the impacted parcels and to identify significant landscape features. This will help better understand impacts and where conservation is most critical. Surveying with metal detectors was helpful to attempt to learn where action may have occurred, but this region has endured years of looting by relic hunters that has removed many artifacts and evidence of historic importance. A KOCO analysis will inform us all of important battlefield features to protect.

We appreciate the Energix Group proposal to protect the viewshed with plantings but believe this part of the proposal is premature. We request that a viewshed analysis of the entire site with multiple viewpoints studied be completed. This will inform us of where the impacts would be most egregious and where they should be avoided or mitigated. We ask members of the Planning Commission to reject moving this proposal forward and to require much needed study to be completed to understand the potential impacts this presents to Dinwiddie County's historic sites before any decision is made regarding zoning or siting of this proposed installation. Thank you for working with us to ensure our Civil War battlefields are protected.

Dustin Bell, 27611 Perkins Lane, and my property backs directly up to the Lily Pond Solar project. It is good to see clean energy coming to this County. For Energix to propose this is very rewarding for Dinwiddie County. I one hundred percent (100%) support this project.

Jeremy Pinchesfsky, 27333 Perkins Road said he was initially against solar, but after talking to the Energix people I'm convince it is something good. I believe it will bring good revenue to the County and if the money will be used to help with broadband being place in Dinwiddie County, it is even better. If they want to build, let them build.

Mr. Hayes said since there is no one else signed up to speak or was on the phone line that wanted to speak he was closing the public hearing portion of the case. He asked the members if they had any more question or comments.

Mr. Titmus said he has mixed feelings of the property because of the newness of solar in our communities within the past few years. I do like smaller acreage solar projects, but I am also understanding in the fact that the revenue an individual can receive from solar property far outweighs what they would make on their timber, renting farmland or doing anything like that. I also believe in personal property rights. A person does have the rights to do with their property as they see fit. I wish solar could go on sky scrapers instead of the massive amount of land it takes up. I hope Energix will do what they are claiming. I do have concerns about the plantings in the buffer/screening areas that will take a long time to develop.

Mr. Prosize said he doesn't believe this whole project is about money. I think it is what's best for the County and what the County wants to be. I have no doubt that Energix will do a good job with what they are proposing. I just don't think they ought to do it where they are proposing. This project could be one thousand (1,000) acres. The next project could be two thousands (2,000) acres and the one after that four thousand (4,000) acres and so on. Where does it stop? How many acres are enough to satisfy someone's desire to use rural counties to provide electricity for their urban centers? That is why my question is not can we do it well. Rather my questions is, should we do it? I thank Energix for doing an excellent job of being a part of the process that the County has laid out. They should be commended for that.

Mr. Hayes said our Comprehensive Plan Update kickoff meeting is coming up, and I do think that solar issues along with transportation and other issues will be considered as the Comprehensive Plan is put together. In the document (Comprehensive Plan), to Mr. Prosize's concern, we can look at how many sites or how many acres is enough. Is it one site, two sites or one hundred sites? I also think

because you vote for one doesn't mean you are in favor of more. I would like to thank Energix for coming up with a much better product than what we saw a year ago. I am surprised that there were not more citizens here or on the phone who wanted to speak. Another surprise is, I was expecting a room full of people who were going to speak against this rezoning and conditional use permit request. If the Board of Supervisors approves this rezoning and conditional use permit request and the siting agreement is successfully negotiated, I am concerned about the percentage numbers, because I believe Virginia's energy policy has gone down the tubes.

I am also concerned about the long term solar issues within the county as well. So, when I look at compatibility it is not just about one site, it is the entire county I'm focusing on.

Mr. Drewry suggested to the Planning Commissioners that they not vote on the rezoning case until they have heard the conditional use permit case.

The Planning Commissioners unanimously agreed to do that and Mr. Bassett came forward and presented that conditional use permit case.

IN RE: PUBLIC HEARING

Planning Commission Meeting Report

File #:	C-21-2
Applicant:	Lily Pond Solar, LLC, and authorized representative of Lily Pond Solar, LLC, Itamar Sarussi
CUP Request:	To operate a solar energy generating facility
Property Location:	West side of Halifax Road (Route 604) bordered on the south by Brick Road (Route 668), and also including property on the east and west sides of Brick Road (668) bordered on the east by Halifax Road (Route 604) extending down to Carson Road (Route 703)
Property Size:	Approximately 1,133 +/- acres, and the request is to rezone approximately 1,064 +/- acres to SED, Utility Scale Solar
Tax Map Parcels:	Portion of 61-5, 61-6, 62-24, 62-33, 61-24A, 62-21, 62-22, 62-4, 61-7, 62-3, 62-20, 62-33A, 62-5, 62-6
Magisterial District:	Rowanty District
Planning Commission Mtg.:	June 9, 2021

CASE & PROJECT OVERVIEW

The applicant, Lily Pond Solar, LLC, and authorized representative of Lily Pond Solar, LLC, Itamar Sarussi, are seeking a conditional use permit to operate an 80-megawatt alternating current solar energy generation facility on the following described properties containing approximately 1,064 +/- acres out of a total parcel acreage of 1,133 +/- acres. The properties are generally located on the west side of Halifax Road (Route 604) bordered on the south by Brick Road (Route 668), and also including property on the east and west sides of Brick Road (668) bordered on the east by Halifax Road (Route 604) extending down to Carson Road (Route 703). The properties are further defined as a portion of Tax Map Parcel Nos. 61-5, 61-6, 62-24, 62-33, 61-24A, 62-21, 62-22, 62-4, 61-7, 62-3, 62-20, 62-33A, 62-5, 62-6. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Rural Conservation Area, which allows limited industrial, service, and utility uses for this general area.

Lily Pond Solar, LLC, a wholly owned subsidiary of Energix US, LLC, is proposing to design, construct and operate an 80 megawatt alternating current solar photovoltaic (PV) ground mounted electric generation project located on approximately 1064 +/- acres. The applicant is seeking a rezoning approval from A-2, Agricultural, General, to Utility Scale Solar Energy District (SED) which allows for a utility scale solar energy projects upon receiving a conditional use permit.

The project is proposed on approximately 1,133 +/- acres consisting of 14 tax parcels with the solar panels sited on approximately 600 acres.

The remainder of the property will include approximately 500 acres of conservation areas for buffers, setbacks, wildlife corridors, natural habitat, pollinator garden, and battlefield preservation.

Most of the properties will be under long-term leases with some parcels providing right of way easements for electric collection/transmission lines, which are not included in the rezoning request. The Applicant proposes that 1,064 +/- acres will be rezoned to SED and utilized for the Project (see Rezoning Application, Table 1, List of Property Owners).

The point of interconnection with Dominion Power's transmission system will be located at a new substation/switchyard in the northern portion of the project site along the existing north-south transmission corridor. As shown on the Conceptual Master Plan, the proposed single portrait solar panels mounted to the single-axis tracking system are to be located on approximately 600 +/- acres dispersed throughout the 1,064-acre subject property due to environmental and cultural resource constraints. The single-axis tracking system entails the single 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 pile driven into the ground. The solar photovoltaic electricity generation system consists of the photovoltaic panels, racking systems supporting the panels, inverters, breakers, switches, cabling, power transformers, electric substation and generator tie-line and associated materials and equipment will be installed on portions of 1,064 +/- acres of the site (see Attachment, the Conceptual Master Plan).

The Project will use First Solar, Inc. advanced, thin-film PV solar panels that efficiently produce low voltage direct current electrical power delivered to inverters and transformers throughout the Site. The Project will be remotely and continuously monitored 24 hours a day to ensure proper operation. The Project will interconnect with a new Dominion Virginia Power substation located adjacent to the existing high voltage transmission line that parallels the east side of Perkins Road. The design, installation, and operations of the substation facility will comply with all applicable local, state, and national electrical standards and codes to ensure the safety and protection of the public. Regular grounds maintenance will be conducted in accordance with Dinwiddie County Code and the Conditional Use Permit conditions.

The solar project will be secured by a perimeter fence constructed in accordance with the Dinwiddie County Zoning Ordinance and the National Electric Code (NEC).

The proposed Project will be required to obtain additional permits from the U.S. Army Corps of Engineers (USACE) and the Virginia Department of Environmental Quality (VDEQ). A Notice of Intent (NOI) for a VDEQ's Small Renewable Energy Projects (Solar) Permit by Rule (PBR) (Virginia Administrative Code Title 9 Agency 15 Chapter 60 (9 VAC 15-60)) has been filed. This regulation contains requirements for solar-powered electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts.

ATTACHMENTS

C-21-2 Application, Lily Pond App-Final part 1, Lily Pond App-Final part 2, Lily Pond App-Final part 3, Related Maps Sheets 1-4, Conceptual Master Plan, Summary of Project Impacts, ABT, NPS, NPCA Comment Letter

LAND USE AND ZONING ANALYSIS

The area is generally rural and used for silviculture and agricultural purposes interspersed with rural residential lots.

The site includes forested and open agricultural land, cleared utility corridors, commercial pine timber and wetland systems associated with Brick Kiln Branch, Rowanty Creek, and Perkins Pond that are interspersed throughout the Project area.

Overhead electric transmission lines traverse the northern site area in a north-south direction, and the southeastern part of the site in a northeast-southwest direction. The point of interconnection with Dominion Power's transmission system will be located at a new substation/switchyard along the existing north-south transmission corridor near Perkins Road.

The area is also constrained by isolated cultural resources and aquatic resources. The preliminary site design has been designed to minimize cultural resources and to minimize impacts to aquatic resources as much as possible.

The properties in the immediate area surrounding the subject land parcels include agricultural and forested land, and low-density single-family and institutional (a church is located on Perkins Road) residential land uses. Residential land use makes up 1.2% of the project site, agricultural land makes up 8.6% of the project site, planted pines make up 13.6% of the project site, mixed pine/upland forest make up 42.1% of the project site and wetlands make up 18.7% of the project site. The properties to the north, east, south and west are zoned A-2, Agricultural General.

The vast majority of the site (>99%) drains south and west into Rowanty Creek. A very small area on the east side of the site drains east into Jones Hole Swamp. The entire Site ultimately drains into the Nottoway River. The soils in the general area are Emporia-Mattaponi-Slagle with the majority of the properties having Emporia sandy loam. The hydric soils comprise less than 2 percent of the site and are associated with drainages. According to the FEMA Floodplain maps, a small area (62 acres) of Zone A (100-year floodplain) occurs along two tributaries: upstream of Jenkins Pond in the central part of the site and along Brick Kiln Branch in the southeast part of the Site.

A primary purpose of the SED zoning district is to outline the process and requirements for the construction, installation, and operation of solar energy projects in Dinwiddie County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to agricultural lands, endangered species habitats, conservation lands, and other sensitive lands.

The Project will be bound by the Solar Facility Siting Agreement to be executed by and between Lily Pond Solar, LLC, and the Dinwiddie County Board of Supervisors which will allow the Project to be deemed to be substantially in accord with the County's Comprehensive Land Use Plan and satisfy the requirements of Va. Code Section 15.2-2232.

OVERVIEW OF IMPACTS

In the application request for rezoning and a conditional use permit, the applicant submitted a Community Impact Analysis, Estimated Revenue Analysis, Natural Resources Survey, Preliminary Jurisdictional Determination (ACOE), Cultural Resources Survey, Landscaping Plan and Visual buffer 3D Models, Traffic Analysis, FAA Study, and proposed Conditions for the Conditional Use Permit request. Fiscal Impact Report, a Decommissioning Plan and the Limited National Environmental Policy Act (NEPA) Review for the project/site. The proposed Project will be required to obtain additional permits from the U.S. Army Corps of Engineers (USACE) and the Virginia Department of Environmental Quality (VDEQ). A Notice of Intent (NOI) for a VDEQ's Renewable Energy Projects (Solar) Permit by Rule (PBR) [Virginia Administrative Code Title 9 Agency 15 Chapter 60 (9 VAC 15-60)] has been filed.

This regulation contains requirements for solar-powered electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts. In addition, the construction will take place in accordance with the Virginia Department of Environmental Quality (VDEQ) and the Virginia Department of Transportation (VDOT).

Fiscal Impact

The applicant's fiscal impact report identifies a fiscal contribution to the County of \$99,000.00 in rollback property taxes if the project is removed from the County's land use program and additional local real estate property tax revenue (based on a \$10,000.00 per acre reassessment value) totaling \$2.82 million over the 45-year projected lifetime of the project. The project is subject to machinery and tools tax under Va. Code Sec. 58.1-3660 and HB 1297, and the M&T revenue is estimated to be approximately \$3,811,822 over 45 years. The revenue share option that assesses up to \$1,400.00 per megawatt of solar project capacity with an escalator of 10% every five years beginning in 2026 creates revenues of approximately \$7.6 million over 45 years. Additionally, the economic contribution will generate approximately \$6.5 million in direct (construction related activity), indirect, and induced incremental activity to the economy in Dinwiddie County.

Cultural and Environmental Impacts

The applicant commissioned the attached Cultural Resources Survey and the Comprehensive Natural Resources Studies Report. More detailed investigations and applications will be prepared as part of the VDEQ Permit By Rule (PBR) and the USACE permit application and review process as required. In accordance with §10.1-1197.6 B 1 of the Code of Virginia, the Applicant has furnished to the VDEQ a notice of intent (NOI), (posted 5/16/2019; name change submitted 3/13/2020) that it intends to submit the necessary documentation for a PBR for a small renewable energy project. Once an application has been received by VDEQ, the Applicant will access the expertise from the sister agencies that will be involved in the review of the application, i.e., Department of Historic Resources (DHR), the Department of Game and Inland Fisheries (DGIF) and the Department of Conservation and Recreation (DCR).

The aquatic resources studies (between December 2018 and February 2020) have identified a number of potentially jurisdictional USACE and VDEQ wetlands/streams on the site. An approved jurisdictional determination by the USACE will be requested as part of the permit application process. Consultation with VDEQ's Virginia Water Protection (VWP) Permit Program will take place as part of the PBR process.

The site does not contain federally designated critical habitat for any species. There are no documented occurrences of protected wildlife species on or within two miles of the Project boundaries.

The wetland and stream findings were submitted to US Army Corps Of Engineers Norfolk District and a Preliminary Jurisdictional Determination (PJD) has been received on February 8th, 2021. The PJD confirmed findings of the environmental consultant. The PJD letter is included in Exhibit H-Preliminary Jurisdictional Determination (ACOE). To ensure protection of the critical wetland habitat, wetland areas will be put into a conservation status by easement or otherwise approved by the County Attorney for the duration of the Project.

A Phase I archaeological and historic architectural survey of Project area has been completed. The archaeological fieldwork was conducted from August 19 to September 17, 2019, October 4 to November 17, 2019, and February 3–15, 2020, while the historic architectural fieldwork was conducted from August 22–29, 2019 and on February 18, 2020.

Twelve newly recorded and two previously recorded historic architectural properties were documented during the Project survey. All of the newly recorded and one of the previously recorded historic architectural properties are located within the Project area of potential effects (APE) but are recommended not eligible for the National Register of Historic Places (NRHP) and no further consideration is recommended for these resources.

The archaeological resources portion of the report did indicate that there are substantial prehistoric resources for a portion of the project area. Related to the Civil War Battlefield portions of the Reams Station I, Reams Station II, Boydton Plank Road, and Hatcher's Run battlefields (the battlefield boundaries as delineated by ABPP CWSAC) are within the Project area. As stated in the Cultural Resources Survey, these portions "of the battlefields located inside the project area continue to retain their integrity of location, setting, feeling, and association". (see the attached ABT, NPS, NPCA Comment Letter)

***See the attached summary of the project impacts as submitted by the applicant (Pages 9-20)**

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, inverter and transformers, and electric substation and generators 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 electric substation and the point of interconnection with the Dominion Energy transmission line.

Transportation Impacts

With utility scale solar energy facilities generating very few vehicle trips after the initial construction period, the post-construction impacts on the existing transportation network are minimal. The proposed solar energy facility will 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 may arise.

To ameliorate the impacts of the increased traffic on area roads VDOT is recommending that a Construction Traffic Management Plan (CTMP) be required 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 multiple low-volume commercial entrances are required to serve the proposed solar energy facility. The low volume commercial entrance has to demonstrate that stopping sight distance based on the posted speed limit is available at the proposed entrance location. All future transportation related improvements for the construction entrances and commercial entrances will have to meet VDOT design and construction requirements and standards and be permitted through VDOT.

Project Conditions

Draft/Preliminary Conditions proposed by Planning Staff in conjunction with the Applicant proposed Conditions:

C-21-2 Conditions:

1. The use of the property shall be limited to an 80 megawatt alternating current (MW AC) ground-mounted solar photovoltaic electric generating facility (the "Project"). The Site shall consist of portions of fourteen (14) parcels of land identified as Dinwiddie County Tax Map Parcels 61-24A, 61-5, 61-6, 61-7, 62-20, 62-21, 62-22, 62-24, 62-3, 62-33, 62-33A, 62-4, 62-5, and 62-6 (the "Project Parcels") consisting of approximately 1,133 acres of which approximately 1,064 acres will be rezoned to Utility Scale Solar Energy District (SED) and utilized for the Project, herein referred to as the "Project Site". The Project Site shall include the areas shown on the final site plan (the "Site Plan") containing racking, panels, inverters, transformers, cabling, and supporting infrastructure (collectively, the "Solar Facilities") to include stormwater management areas. Onsite battery energy storage devices shall not be allowed. Small batteries associated with inverters shall not be subject to this provision and shall be considered "supporting infrastructure". The only access to and from the project site on Tax Map Parcels ____.
2. The Applicant shall develop the Project Site in substantial accord with the Site Plan as determined by the Zoning Administrator. Significant deviations or additions, including any enclosed building structures, to the Site Plan shall require review and approval by the Planning Commission.
3. Studies and Plans. Prior to or concurrent with the final Site Plan, the Applicant will submit to the County the studies and plans as set forth in this Section 3.
 - (a) Construction Management Plan. Applicant will submit a Construction Management Plan, including the following items:
 - i. Proposed construction schedule and hours of operation;
 - ii. Project access planning for each entry to the Project and any required road improvements;
 - iii. Project security measures to be implemented prior to the commencement of construction of the Solar Facilities;
 - iv. Dust mitigation and any burning operations; and
 - v. Handling of construction complaints via the Liaison.
 - (b) Construction Traffic Management Plan (CTMP), Traffic Mitigation and Road Repair. The Applicant shall:

i. Develop a Construction Traffic Management Plan in consultation with the County Planning Staff, the Virginia Department of Transportation (“VDOT”), the Dinwiddie County Sheriff’s Office, and the Virginia State Police to identify and expeditiously resolve or mitigate traffic issues that arise during the construction or decommissioning of the Solar Facilities, including but not limited to (A) lane closures, (B) signage, and (C) flagging procedures. Employee and delivery traffic shall be scheduled and managed so as to minimize conflicts with local traffic. Permanent access roads and parking areas will be stabilized with gravel, asphalt or concrete to minimize dust and impacts to adjacent properties. Traffic control methods shall be coordinated with VDOT prior to initiation of construction. The Construction Traffic Management Plan will identify on-site areas suitable for parking for construction workers and for trucks to be unloaded and to turn around without having to back onto public roadways during construction and decommissioning.

ii. Develop a Road Repair Plan in consultation with VDOT to provide for repair of damage to public roads occurring within five hundred (500) feet of any entrance to the Project attributable to construction or decommissioning of the Solar Facilities. Such repair shall restore the roads to conditions at least comparable to their conditions before the commencement of construction or decommissioning.

(c) Landscaping Plan. The Applicant shall submit a Landscaping Plan showing the Solar Facilities and the Project, including the security fence, screened from public rights-of-way and adjacent residential properties with existing or proposed vegetation, including the vegetative buffer surrounding the Project. The vegetative buffer provided in the Landscaping Plan shall conform to the following requirements:

- i. The vegetative buffer will consist of trees and/or shrubs which at planting shall be a minimum of six (6) feet in height;
- ii. Existing vegetation will be maintained where possible and supplemented as necessary;
- iii. The vegetative buffer will be regularly inspected and supplemented with additional plantings as necessary to replace dead trees and shrubs. To ensure this process is completed on a timely basis, Applicant will provide for an annual third party inspection of the buffer which will generate a report detailing the condition of the buffer and any needed replanting or supplementing due to thinning or vegetative attrition. A copy of this report will be provided to Applicant and County staff and Applicant will ensure the remedial measures are addressed.
- iv. The Applicant shall submit renderings along with the Site Plan describing the buffer areas, specifically delineating the areas where existing vegetation is to be maintained or supplemented and areas where the vegetative buffer will be established; and
- v. The Landscaping Plan will include the location, acreage and plan of care for a pollinator garden and bee cultivation area established in accordance with the Virginia Pollinator Smart guidelines.
- vi. Provisions for the establishment of the vegetative buffer in core areas either prior to or simultaneous with the commencement of construction of the Facility to ensure those new vegetative buffers are well-established prior to the completion of the Facility.
- vii. A twenty thousand dollar (\$20,000.00) landscaping bond will be posted for ten (10) years to ensure maintenance of the vegetative buffer in accordance with the Landscaping Plan. The bond shall be in a form acceptable to the County Attorney and shall be in place at the time of final site plan approval.

(d) Building and Electrical Plans. The Applicant shall submit building and electrical plans to the Building Official for approval.

(e) Final Environmental and Historic Survey Studies. The Applicant shall prepare and submit (as applicable) the following studies and reports:

- i. Wetland and Stream Delineation, including Preliminary Jurisdictional Determination from the Army Corps of Engineers;
- ii. Threatened and endangered species habitat assessment; and
- iii. Phase 1 archaeological and historical survey of the Project.

(f) Liability Insurance Certificate. The Applicant shall provide proof of adequate liability insurance for the Project.

(g) Grading Plan. The Project shall be constructed in compliance with the County approved grading plan (the “Grading Plan”) as determined and approved by the Planning Director or its 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. Balance the earthwork 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, provide that topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded; and
- 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.

(h) Erosion and Sediment Control Plan. Unless the County chooses not to opt out of the Erosion and Sediment control program, delegating that authority to DEQ, the County may undertake a third-party review of the Erosion and Sediment Control Plan with corrections completed prior to the County’s review and approval of the Site Plan. The owner or Operator shall construct, maintain and operate the Project in compliance with the approved plan, posting an Erosion and Sediment Control bond (or other security) for the construction portion of the project.

(i) Stormwater Management Plan. The County may require 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) shall be posted for the project for both construction and post construction as applicable and determined by the Environmental Administrator. If the County chooses to opt out of Stormwater Management, DEQ will conduct all necessary Stormwater Management control review.

(j) Initial Groundwater Report. Prior to issuance of the building permit, the Applicant shall submit the initial groundwater monitoring report and confirm the schedule for updated reports as required by Section 22-234.67 of the Dinwiddie County SED District Regulations.

(k) Reimbursement for Third Party Reviews; Inspections. During the development of the Project, Applicant agrees to refund the County up to \$50,000 per year for any costs associated with the provision and/or employment of outside experts and consultants

necessary to review specific technical issues outside the County's expertise or for which the County has inadequate full-time staff.

This provision shall commence upon submission of a Final Site Plan for approval by the Planning Director and continue through the Commercial Operation Date for the Project, at which point this condition shall be deemed satisfied and the obligation will terminate. During this time, the County shall submit to Applicant invoices for such costs not less than quarterly and such invoices shall be paid within thirty (30) days of receipt.

4. Site Plan Features. The Project will be developed in substantial conformity with the preliminary site plan dated April 30th, 2021 and included with the CUP application. Specific Site Plan features will include:
 - (a) a 250-foot setback maintained from the fence line of the Project to the edge of the right-of-way where the Site abuts the public rights-of-way along Halifax Road;
 - (b) a 100-foot setback maintained along Brick Road and Carson Road;
 - (c) a 75-foot wide setback for the remaining perimeter of the Project Site will be maintained between the fenced solar arrays and the property lines of the adjoining properties.
 - (d) A vegetative buffer of will surround the perimeter of the Project Site. Existing trees and vegetation will be retained where possible and additional vegetation added where necessary as provided in the Landscaping Plan;
 - (e) wildlife corridors maintained between fenced areas to promote the travel and feeding of wildlife;
 - (f) all access points, drives, turnouts, etc. that connect to Halifax Road and Brick Road;
 - (g) no setbacks for the electrical collection/transmission lines right of ways; and
 - (h) a substation to be located on Tax Map Parcel 61-5.
5. Height of Structures (Solar Facilities). Principal Solar Facilities and Structures shall not exceed 18 feet maximum height above ground level. Towers constructed for electrical lines and meteorological stations may exceed the maximum permitted height.
6. Lighting. During construction of the Solar Facilities, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and safety lighting shall be exempt from this construction lighting condition. Any onsite lighting provided for the operational phase of the Project shall be dark-sky compliant, shielded away from adjacent properties, and positioned downward to minimize light spillage onto adjacent properties.
7. Access and Inspections. The Applicant and property owner shall allow designated County representatives or employees access to the facility at any time for inspection purposes. Access and Inspection. The Applicant will allow designated County representatives or employees access to the facility at any time for inspection purposes, with advance notice to the operator of the Project (the "Operator") and subject to reasonable site safety and security requirements to ensure safe inspection by the County. The Project may be inspected by the County Building Official on an annual basis to ensure compliance with applicable State Building and Electrical Codes. The Project shall be required to have the Solar Facilities inspected annually for three (3) years by the Zoning Administrator or their designee following the issuance of the final permits to authorize commercial operation in order to verify continued compliance with the Conditional Use Permit and the Zoning Ordinance, as applicable. Additional inspections shall be conducted

as necessary in the event of complaints and shall not replace the inspections specified in this section.

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 and shall repeat such training on an as-needed basis not to exceed once per year.
9. Compliance. The Solar Facility shall be designed, constructed, and tested to meet all relevant local, state, and federal standards as applicable.
10. Groundwater Monitoring. To establish the current groundwater quality and levels of specific element contaminants, groundwater monitoring shall take place prior to and upon completion of construction of the Project throughout the area of the Project. Ground water monitoring shall take place every five (5) years of the operation of the Project, and upon completion of decommissioning, with each report provided to the Zoning Administrator.
11. Signage. Warning signage shall be placed on the Solar Facilities to the extent required by any local, state or federal law or regulation.

The Solar Facilities shall not be used for displaying any advertising except for reasonable identification of the owner and Operator of the Project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on the Solar Facilities except as follows: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a governmental agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger.

12. Agricultural Use Value Program and Applicable Taxes and Fees. For any Project Parcel that has been part of the Agricultural Use Value program pursuant to Virginia Code Sections 58.1-3230 and 58.1-3231 during the past five years, all penalties and interest payments that are due to the County will be paid within ninety (90) days of issuance of the CUP.
13. Project Components and Design. The Solar Facilities shall comply with generally accepted national environmental protection and product safety standards for the use of solar panels and associated technologies for solar photovoltaic projects. The Project shall be constructed in compliance with the requirements of the most current Virginia Building and Electrical Codes in effect upon issuance of the building permit. The total height of the Solar Facilities shall not exceed 18 feet above the ground when orientated at maximum tilt. This height limitation shall not apply to the power poles, substation equipment and the connections to the existing transmission lines on the Property. Any electrical wiring used in the Project shall be underground (trenched) except:
 - (a) wiring directly connecting individual panels or arrays of panels,
 - (b) where necessary to avoid natural obstacles, wetlands or electrical interference, or
 - (c) where wiring is brought together for interconnection to system components, substations, and/or the local utility power grid.
14. Decommissioning.
 - a. Decommissioning Plan. The Applicant and property owner shall submit a decommissioning plan to the County in the form of a written agreement for approval in conjunction with the building permit. Such decommissioning plan shall be in the form

of a written agreement acceptable to the County, shall comply with Virginia Code Section 15.2-2241.2,

and shall set forth the joint and several responsibility of the Applicant, the property owners, and all the successors, heirs, and assigns of the Applicant and the property owners (each a “Responsible Party” and together the “Responsible Parties”). The purpose of the decommissioning plan is to specify the procedure by which the Responsible Parties would remove the Solar Facility after the end of its useful life and 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.
 - 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 Responsible Parties shall reimburse the County for an independent review and analysis by a Virginia licensed professional engineer of the initial decommissioning cost estimate.
 - iii. The Responsible Parties shall 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 Virginia licensed professional 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.
 - 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 increased by the Applicant, or its successors and assigns, or decreased by the Applicant, or its successors and assigns (if permissible by the form of security), within ninety (90) days and shall 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 conditional use permit and shall be entitled to take all action to obtain the rights to the form of security.
 - iv. 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, the Applicant or its successors

and assigns, at their 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 successors and assigns fail to timely decommission the Solar Facilities, the property owners, or their successors, heirs, and assigns 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 successors and assigns, 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 full access to the property and access to the full amount of the decommissioning security.
 - ii. If applicable, any excess decommissioning security funds shall be returned to the current owner of the property, or their successors, heirs, and assigns, 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 the right to access the property 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 shall also be restored following disturbance caused in the removal process. Perimeter fencing shall be removed and recycled or re-used. The County in its sole discretion may grant an exception to removal of the materials and equipment upon written request from the current or future landowner indicating areas where removal is not desired.
- g. Infrastructure removal. All access roads shall be removed, including any geotextile material beneath the roads and granular material. The County in its sole discretion may grant an 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 shall be removed within areas that were previously used for agricultural purposes and topsoil shall be redistributed to provide substantially similar growing media as was present within the areas prior to site disturbance.
- h. Partial Decommissioning. If decommissioning is triggered for a portion of the Solar Facilities, then the Applicant or its successor shall 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.

15. Permits, reports, etc.

- a. Regular Reports. Prior to commercial operation of the Project, the Applicant submit a report annually to the County Administrator outlining the permitting and development plan progress for the Project. Once operational, the Applicant shall submit an annual operational report to the County Administrator.
- b. 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.
- c. 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.

- d. 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.

16. Project Liaison. The Applicant will designate at least one public liaison (the “Liaison”), will publicize a toll-free phone number and email address for communication with the Liaison during construction, and will post such information on a temporary sign at each major access point to the Solar Facilities. The Applicant shall, at a minimum, publish this information on the Operator’s website and provide the Zoning Administrator with the same information for publication on the County’s website and other social media. The Liaison shall act as a point of contact between citizens and construction crews. The Liaison shall be available in person and by phone during active construction hours and shall respond to any questions related to the Solar Facilities or the Project within 72 hours.

The Liaison role shall commence at the initial preconstruction meeting. The Liaison shall prepare a monthly report detailing any complaints, complaint date, resolution, and resolution date of any inquiries. The Liaison shall provide a copy of the report to the Zoning Administrator on the first business day of each month throughout the construction period and for an additional six (6) months following issuance of the final occupancy permit or equivalent from the County for the Solar Facilities or the Project.

17. 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.

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

19. Violations and Revocation. At all times, all activities conducted on the Project Site shall be in conformance with all federal, state and local laws, regulations and ordinances. A violation of any type continuing for 60 days from the date a written notice of violation (“NOV”) is mailed to the Applicant’s written designated point of contact may result in revocation of this CUP if the Operator has failed to meet with the Zoning Administrator and submit a plan to address the violations cited in the NOV. With respect to any road repairs necessitated by the Operator’s use of the roads during construction, any such repairs shall be made within a reasonable period of

time after obtaining approval from VDOT. Failure to comply with any and all conditions as approved by the Board of Supervisors may result in this CUP being revoked after a public hearing by the Board.

20. Successors and Assigns. The CUP and the Conditions shall apply to the Applicant and any successors or assigns of the Applicant.

Planning Staff Recommendation:

Planning staff has reviewed the information provided by the applicant as summarized in the Staff Report including the applicant's intent to address construction related considerations involving providing a construction traffic plan, construction mitigation plan, site grading plan, erosion & sediment control plan, stormwater management, project screening and vegetation plan, and to also address glare, vegetative buffers, panel height, operational concerns, decommissioning, and site access prior to receiving a building permit. However, with the scale of the proposed solar generating facility which includes an electric substation and the extent of impacts which include visual impacts, impacts on the natural resources and cultural resources, and other pre-construction, construction, operational, decommissioning,

and fiscal impact concerns, staff recommends further study of the impacts of the proposed solar generating facility to see if conditional use permit (CUP) conditions can be developed to mitigate the overall impacts of the proposed solar energy generating facility.

PLANNING COMMISSION RECOMMENDATION

Since this is a zoning matter, the standard statement regarding the Planning Commission's recommendation on this zoning matter must be read. In order to assist, staff prepared the following statement:

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 Lily Pond Solar, LLC request to receive a conditional use permit to operate an 80-megawatt alternating current solar photovoltaic (PV) ground mounted electric generation project, as described in conditional use permit request, C-21-2, be recommended for (approval with conditions or disapproval) to the Board of Supervisors.

Mr. Bassett asked if there were any questions from the Commissioners.

Mr. Hayes said since there are no questions for Mr. Bassett, do any of the Planning Commission members have questions for the applicant.

Mr. Titmus asked as it relates to bonding, the conditions talk about a twenty thousand dollar (\$20,000.00) bond for landscaping for ten years. Does that mean there is twenty thousand dollars (\$20,000.00) available every year?

Mr. Dicks, the attorney for Energix said that is correct. If any of the twenty thousand dollar (\$20,000.00) gets spent during a year, that amount gets replaced so that that every year the starting balance is twenty thousand dollars (\$20,000.00).

Mr. Titmus asked if, because of hyperinflation, the five year review could be cut down to three years to better manage the surety amount for the decommissioning cost of the project.

Mr. Dicks said the reason it is five years is because that's the average used throughout the state. However, if three years is something this Planning Commission would prefer we can talk about it. In conclusion, I believe we have met the requirements for both the rezoning and conditional use permit and we respectfully request the Planning Commission recommendation for approval.

Mr. Drewry, said from a legal perspective, reminded the Planning Commissioners that they have before them a rezoning and conditional use permit process and if the applicant is reasonably addressing issues they should not state what they will or will not do and why.

Mr. Hayes said since there are no more questions for the applicant he is opening the public hearing for this case. He asked if anyone has signed up to speak or was on the phone line that wanted to speak.

Ms. Robin Alman, 606 Freeman Road, Richmond Virginia said she was interested in Energix plan for the pollinator garden. Some of the plants they have suggested are questionable. The Japanese thyaria tree is one that is on the Virginia Department of Conservation Recreation list of evasive species rated at a medium risk in all of Virginia.

They have also included the Butterfly Bush, which is a treat to the environment. They have included Day Lilies which are considered evasive perennials along with several types of clovers they have included. They need to add more native plants because non-native plants do not attract pollinators. They need to add native plants and bushes such as New Jersey Tea Bush, it will attract forty one (41) different species of animals and insects. If they use Button Bush instead of Butterfly Bush you will attract another twenty five (25) different species. If you wanted to help Monarch Butterflies you would offer them Swamp Milk Weed and Butterfly weed. In closing, I would like to point out that Leyland Cypress Trees might be a bad choice for that area because they hate wet feet and if you are talking about this area being wetlands, they will not thrive in that area.

Mr. Hayes said if there is no one else he was closing the public hearing portion of the case. He asked the members if they had any more question or comments. He said if there are none, he would entertain a motion.

Mr. Titmus made a motion and read the following: 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 rezoning request, P-21-3, as presented be recommended for approval to the Board of Supervisors. The motion was seconded by Mr. Simmons and with Mr. Simmons, Mr. Harvell, Mr. Titmus, Mr. Hayes voting "AYE" and Mr. Prosise voting "NO" Case P-21-3, was recommended for approval to the Board of Supervisors.

Mr. Harvell made a motion and read the following: 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 Lily Pond Solar, LLC request to receive a conditional use permit to operate an 80-megawatt alternating current solar photovoltaic (PV) ground mounted electric generation project, as described in conditional use permit request, C-21-2, be recommended for approval with conditions to the Board of Supervisors. The motion was seconded by Mr. Simmons and with Mr. Simmons, Mr. Harvell, Mr. Titmus, Mr. Hayes voting "AYE" and Mr. Prosise voting "NO" Case C-21-2, was recommended for approval with conditions to the Board of Supervisors.

IN RE: OLD BUSINESS

Mr. Bassett said there was no old business to discuss, but he reminded the Planning Commission that the applicants have deferred Cases P-21-1 and C-21-1 to the July 14th 7:00 PM Planning Commission Meeting.

IN RE: PLANNING COMMISSIONER COMMENTS

Mr. Hayes commented that he is still concerned about Dinwiddie County's land use for the future. He said we need to be prepared in our Comprehensive Plan update to address some of the issues we discussed with this case tonight.

Mr. Prorise said he was glad that everyone had the opportunity to voice their opinions on the cases tonight. He thanked Mr. Hayes for stepping in and handling the responsibilities of the Chairman as well as keeping the meeting going in the right direction.

IN RE: PLANNING DIRECTOR COMMENTS

Mr. Bassett said he did not have any comments, but as to Mr. Yost's handout referencing the definition of substantial impact, he will pass it on to the Board of Supervisors when they consider the Agritourism Ordinance amendment.

IN RE: ADJOURNMENT

Mr. Hayes said if there is no further business he would entertain a motion for adjournment. Mr. Titmus made a motion to adjourn the meeting and Mr. Harvell seconded it and with all members in agreement the meeting adjourned at 10:50 PM.

Respectfully submitted,

Mark Bassett
Planning Director

Signed: _____
Calvin (Butch) Cunningham, Chairman

Dated: _____