



POWHATAN COUNTY PLANNING COMMISSION

Agenda: Regular Meeting

Tuesday, September 1, 2020

6:00 PM

Powhatan Village Building Auditorium

3910 Old Buckingham Road

MEETING PROCEDURE AND PUBLIC PARTICIPATION

All Planning Commission meetings are open to the public and interested persons may participate on the day and time specified above.

In addition to participating in person, members of the public may participate remotely by electronic means by joining a webinar at <https://us02web.zoom.us/j/89655087654> or by dialing in by phone at 1-929-205-6099 OR 1-312-626-6799, then typing in the webinar ID 896 5508 7654. During the public comment period, participants may raise their hand using the zoom controls on the computer screen, or (if dialing in) by pressing *9 on a phone (instructions will also be posted at powhatanva.gov/432/Live-Stream-of-Powhatan-County-Meetings).

The meeting may be watched live at powhatanva.gov/432/Live-Stream-of-Powhatan-County-Meetings.

Copies of the proposed plans, ordinances, and amendments may be reviewed in the Department of Community Development in the Powhatan County Administration Building (3834 Old Buckingham Road) between 8:30 AM and 5:00 PM of each business day by appointment only. Copies of staff reports are available prior to the Public Hearing upon request and will be available online at least five (5) days prior to the meeting at <http://powhatanva.gov/agendacenter>. Please call (804) 598-5621 with any questions.

AGENDA ITEMS

1. Call to Order

Dr. Barbara Brown (Chair)

2. Invocation

Mr. Bobby Hall (Vice Chair)

3. Administrative Items

- a. Request to Postpone Action/Amend the Agenda
- b. Approval of Minutes: August 18, 2020 (Regular Meeting) ([p. 3](#))
- c. Approval of Minutes: August 18, 2020 (Workshop) ([p. 6](#))

4. Public Comment Period

At this time, the Planning Commission will hear citizen comments on matters not scheduled for a public hearing that involve the services, policies, and affairs of Powhatan County government related to planning or land use issues.

5. Old Business

- a. **Case #20-02-AZ:** The **County of Powhatan** requests the amendment of provisions set forth in several sections of Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) to eliminate single cut subdivisions; remove references to single cut subdivisions within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance); and to remove language within

Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) referring to parent tracts as parcels lawfully recorded prior to April 18, 1988. ([p. 8](#))

6. Public Hearings

- a. **Case #20-03-CUP: Powhatan Solar II, LLC (District #3: Bethesda/Lees Landing)** requests a conditional use permit (CUP) to permit a solar energy farm within the Agricultural-10 (A-10) zoning district per Sec. 83-162 of the Zoning Ordinance of the County of Powhatan. The use is proposed to be located on Tax Map Parcels #27-14, 27-14A, and 26-104, which are located at the northern end of State Route 626 (Brauer Road) and along the south side of State Route 615 (Three Bridge Road) west of State Route 1330 (Mill Mount Parkway). The subject properties consist of 927.38 acres. The maximum project area subject to this request is 200 acres. The 2019 Long-Range Comprehensive Plan designates the subject properties as Rural Residential and Natural Conservation on the Countywide Future Land Use Map. ([p. 22](#))

7. New Business

None

8. Workshop

- a. Discussion: Revisions to Standards for Family Divisions (Subdiv. Ordinance: Sec. 68-125) ([p. 69](#))
- b. Information: Robert's Rules of Order and Freedom of Information Act (FOIA)

9. Adjourn

Next Meeting: Tuesday, October 6, 2020

August 18, 2020

VIRGINIA: AT A REGULAR MEETING OF THE PLANNING COMMISSION HELD IN THE POWHATAN VILLAGE BUILDING AUDITORIUM, 3910 OLD BUCKINGHAM ROAD IN POWHATAN COUNTY, VIRGINIA, TUESDAY, AUGUST 18, 2020 AT 6:00 PM (POSTPONED FROM TUESDAY, AUGUST 4, 2020 DUE TO INCLEMENT WEATHER)

Planning Commissioners Present	Barbara Brown, District 5, Chairman Bobby Hall, District 3, Vice Chairman Vicki Hurt, District 1 Amy Kingery, District 2 Jane Pendergast, District 4
Planning Commissioners Absent	None
Staff Members Present	Andrew Pompei, Planning Director Thomas Latchney, County Attorney Ed Howland, Principal Planner

1. Call to Order

Dr. Brown called the meeting to order at 6:00 PM and shared instructions on how members of the public participating in the meeting virtually can indicate their interest in speaking during the public hearing portions of the agenda.

2. Invocation

Mr. Hall gave the invocation.

3. Administrative Items

a. Request to Postpone Action/Amend the Agenda

Staff requested that a discussion regarding an update to the 2019 Long-Range Comprehensive Plan be added to the agenda.

b. Approval of Minutes: June 2, 2020 (Regular Meeting)

Ms. Kingery motioned to approve the minutes from the regular meeting on June 2, 2020, as presented.

Ms. Hurt seconded the motion.

Dr. Brown, Mr. Hall, Ms. Hurt, Ms. Kingery, and Ms. Pendergast voted AYE.

**VOTE 5-0
MOTION Passed**

4. Public Comment Period

Dr. Brown opened the public comment period, reminding members of the public that were participating virtually on how they may indicate their interest in participating in this public comment period.

Seeing as there were no speakers, the public comment period was closed by Dr. Brown.

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5. Old Business

None

6. Public Hearings

- a. **Case #20-04-CUP: Robert and Josephine Pendergraph (District #1: Subletts/Manakin/Flat Rock)** request the renewal of a conditional use permit (CUP) to continue to operate a country inn within the Agricultural-10 (A-10) zoning district per Sec. 83-162 of the Zoning Ordinance of the County of Powhatan. The use is located on Tax Map Parcel #32-4-12D (2815 Huguenot Springs Road), which consists of 12.41 acres. The 2019 Long-Range Comprehensive Plan designates the subject property as Rural Residential and Natural Conservation on the Countywide Future Land Use Map. The originally-approved CUP (Case #18-01-CUP: Approved September 24, 2018) expires in September 2020.

Mr. Pompei provided an overview of this request.

Dr. Brown opened the public comment period, reminding participants how they may indicate their interest in participating in this public comment period if they are participating virtually.

Seeing as there were no speakers, the public comment period was closed by Dr. Brown.

After public hearing, Ms. Hurt made a motion to **recommend approval** of the request, as presented.

Ms. Kingery seconded the motion.

Dr. Brown, Mr. Hall, Ms. Hurt, Ms. Kingery, and Ms. Pendergast voted AYE.

**VOTE 5-0
MOTION Passed**

- b. **Case #20-02-AZ: The County of Powhatan** requests the amendment of provisions set forth in several sections of Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) to eliminate single cut subdivisions; remove references to single cut subdivisions within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance); and to remove language within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) referring to parent tracts as parcels lawfully recorded prior to April 18, 1988.

Mr. Pompei provided an overview of this request, noting that comments from one member of the public were submitted to the Planning Commission for review prior to the meeting.

Dr. Brown opened the public comment period, reminding participants how they may indicate their interest in participating in this public comment period, if they are participating in the meeting virtually.

The following five members of the public spoke against the proposed ordinance amendment:

- Sharon Younce (1917 Fair Oaks Road)
- Kitty Osborne (1071 Dorset Road)
- Darlene Bowlin (630 Petersburg Road)
- David Sowers (2000 Norwood Creek Drive)
- Keneth Hatcher (3617 Trenholm Road)

Those that spoke cited the following concerns:

- Additional development restrictions (infringing on property rights).

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- Potential negative financial impacts to property owners.

Seeing as there were no speakers, the public comment period was closed by Dr. Brown.

Following the public hearing, the Planning Commission discussed the following:

- Potential negative impacts to property owners.
- Public outreach and awareness regarding the proposed ordinance amendment.

After the public hearing, Ms. Hurt made a motion to **defer** the request until the next meeting on September 1, 2020, allowing additional time for members of the public to learn about this proposed ordinance amendment.

Ms. Pendergast seconded the request.

Dr. Brown, Mr. Hall, Ms. Hurt, Ms. Kingery, and Ms. Pendergast voted AYE.

VOTE 5-0
MOTION Passed

7. New Business

- a. Case #20-02-PB: Development Design Pattern Book (Tax Map Parcel #43C-3-1R)

Mr. Pompei provided an overview of the request.

Ms. Kingery made a motion to **approve** this request as presented.

Ms. Hurt seconded the request.

Dr. Brown, Mr. Hall, Ms. Hurt, Ms. Kingery, and Ms. Pendergast voted AYE.

VOTE 5-0
MOTION Passed

8. Adjourn

There being no further business, Dr. Brown adjourned the meeting at 6:54 PM.

Barbara Brown
Chairman

Andrew Pompei
Planning Director

August 18, 2020

VIRGINIA: AT A WORKSHOP OF THE PLANNING COMMISSION HELD IN THE POWHATAN VILLAGE BUILDING AUDITORIUM, 3910 OLD BUCKINGHAM ROAD IN POWHATAN COUNTY, VIRGINIA, AUGUST 18, 2020 AT 6:55 PM

(POSTPONED FROM TUESDAY, AUGUST 4, 2020 DUE TO INCLEMENT WEATHER)

Planning Commissioners Present	Barbara Brown, District 5, Chairman Bobby Hall, District 3, Vice Chairman Vicki Hurt, District 1 Amy Kingery, District 2 Jane Pendergast, District 4
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Planning Commissioners Absent	None
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Staff Members Present	Andrew Pompei, Planning Director Thomas Latchney, County Attorney Ed Howland, Principal Planner John Wood, Director of IT
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1. Call to Order

Dr. Brown called the meeting to order at 6:55 PM, following adjournment of the regular Planning Commission meeting held on August 18, 2020.

2. Possible Ordinance Amendments to Require the Provision of Broadband Infrastructure

Mr. Pompei provided an overview of possible ordinance requirements to encourage broadband infrastructure and introduced John Wood, Director of IT for Powhatan County, to help facilitate the discussion. The options discussed included the following:

- Require installation of conduit with new subdivisions;
- Require developments to work with broadband providers to ensure broadband access;
- Recommend developers proffer installation of broadband with rezoning requests; and
- Add condition for private road approval requiring provision of broadband.

Following discussion, the Planning Commission suggested that broadband infrastructure be considered and evaluated as part of future discretionary land use cases (requests for rezonings, conditional use permits, private roads, etc.).

3. Preview: Case #20-03-CUP (Powhatan Solar II, LLC: Proposed Solar Energy Farm)

Haley Larabee (Cypress Creek Renewables) provided an overview of a conditional use permit (CUP) application submitted for a proposed solar energy farm within central Powhatan County (Case #20-03-CUP: Powhatan Solar II), with members of the Planning Commission asking questions about different components of the proposal including:

- Decommissioning and site restoration;
- Site maintenance (including the use of herbicides);
- Potential job creation and economic impacts;
- Site access; and
- Density and the number of existing/proposed solar farms.

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4. Discussion: Possible Updates to the 2019 Long-Range Comprehensive Plan

Mr. Pompei stated that the Board of Supervisors, at its workshop on August 17, 2020, decided to pursue possible updates to the 2019 Long-Range Comprehensive Plan and is planning to schedule a joint meeting with the Planning Commission in September 2020.

5. Adjourn

There being no further business, Dr. Brown adjourned the meeting at 8:15 PM.

Barbara Brown
Chairman

Andrew Pompei
Planning Director



Powhatan County Planning Commission Agenda Item

Meeting Date: September 1, 2020

Agenda Item Title: **Case #20-02-AZ:** The **County of Powhatan** requests the amendment of provisions set forth in several sections of Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) to eliminate single cut subdivisions; remove references to single cut subdivisions within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance); and to remove language within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) referring to parent tracts as parcels lawfully recorded prior to April 18, 1988.

Motion: In accordance with public necessity, convenience, general welfare, and good planning practices, the Planning Commission recommends (*approval / denial / deferral*) of the request submitted by the County of Powhatan to eliminate *single cut subdivisions*; remove references to *single cut subdivisions* within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance); and to remove language within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) referring to *parent tracts* as parcels lawfully recorded prior to April 18, 1988.

Dates Previously Considered by PC: Initial Review (Workshop): February 4, 2020
Initial Review (Workshop): March 3, 2020
Public Hearing: August 18, 2020 (Deferred: 5 – 0)

Summary of Item: A *single cut subdivision* involves the division of a *parent tract*, which is a parcel platted prior to April 18, 1988 [Sec. 68-301/Sec. 83-521]. If a parcel created prior to that date has not been divided or adjusted, one lot (at least two acres in size) may be created as part of a *single cut subdivision*. In most other instances (except for *family subdivisions*), the minimum lot area within the Agricultural-10 (A-10) zoning district (where most *single cut subdivisions* occur) is ten acres.

The proposed amendment would eliminate *single cut subdivisions* [Subdivision Ordinance: Sec. 68-114]. References to *single cut subdivisions* (and some references to *parent tracts*) would also be removed from other portions of the County Code.

Attachments: Staff Report
Proposed Ordinance Amendment

Staff/Contact: Andrew Pompei: Planning Director
(804) 598-5621 x2006
apompei@powhatanva.gov

If Planning Commission members have questions, please call the staff / contact prior to the meeting.



20-02-AZ

County of Powhatan

Amend the Powhatan County Subdivision Ordinance and Zoning Ordinance
to Eliminate Single Cut Subdivisions

Staff Report Prepared for the Planning Commission
September 1, 2020

I. PUBLIC MEETINGS

Planning Commission	February 4, 2020	Workshop
	March 3, 2020	Workshop
	August 4, 2020	Public Hearing (Deferred until Sept. 1, 2020: 5 – 0)
	September 1, 2020	Old Business

II. SUMMARY OF AMENDMENT

The proposed amendment would eliminate *single cut subdivisions* [Subdivision Ordinance: Sec. 68-114]. References to *single cut subdivisions* (and some references to *parent tracts*) would also be removed from other portions of the County Code.

III. ADDITIONAL INFORMATION

Current Situation

Overview: Single Cut Subdivisions

A *single cut subdivision* involves the division of a *parent tract*, which is a parcel platted prior to April 18, 1988.¹ If a parcel created prior to that date has not been divided or changed, an additional lot (at least two acres in size) may be created as part of a *single cut subdivision*. In most other instances (except for *family subdivisions*), the minimum lot area within the Agricultural-10 (A-10) zoning district (where most *single cut subdivisions* occur) is ten acres.²

¹ See Sec. 68-301 (Subdivision Ordinance: Definitions) and Sec. 83-521 (Zoning Ordinance: Definitions).

Ownership is not used to determine whether a parcel is a *parent tract* eligible for a *single cut subdivision*. A *parent tract* is a parcel that existed in its current configuration prior to April 18, 1988 (regardless of current or previous ownership).

² Sec. 83-107(b) states that the minimum lot size for a lot created as part of a *single cut subdivision* is two acres, with the residual parcel being two acres (if the parcel has frontage on a public road). Therefore, a *parent tract* as small as four (4) acres may be eligible for a *single cut subdivision*, if it has at least 430 feet of road frontage. Approximately 82.5% of Powhatan County is zoned A-10.

Number of Single Cut Subdivisions (2016 – 2019)				
Year	2016	2017	2018	2019
No. of Single Cut Subdivisions	15	13	5	3

Attachment #2 shows the location of *single cut subdivisions* that were approved in 2016, 2017, 2018, and 2019.³

Creating a Single Cut Subdivision

A parcel may be eligible for a *single cut subdivision*, if the following criteria are met:

- *Date of Existence*

The parcel being divided must be a *parent tract* that existed in its current configuration prior to April 18, 1988 (Note: Ownership is not used to determine whether a parcel is a *parent tract* eligible for a *single cut subdivision*.).

- *Dimensional Standards*

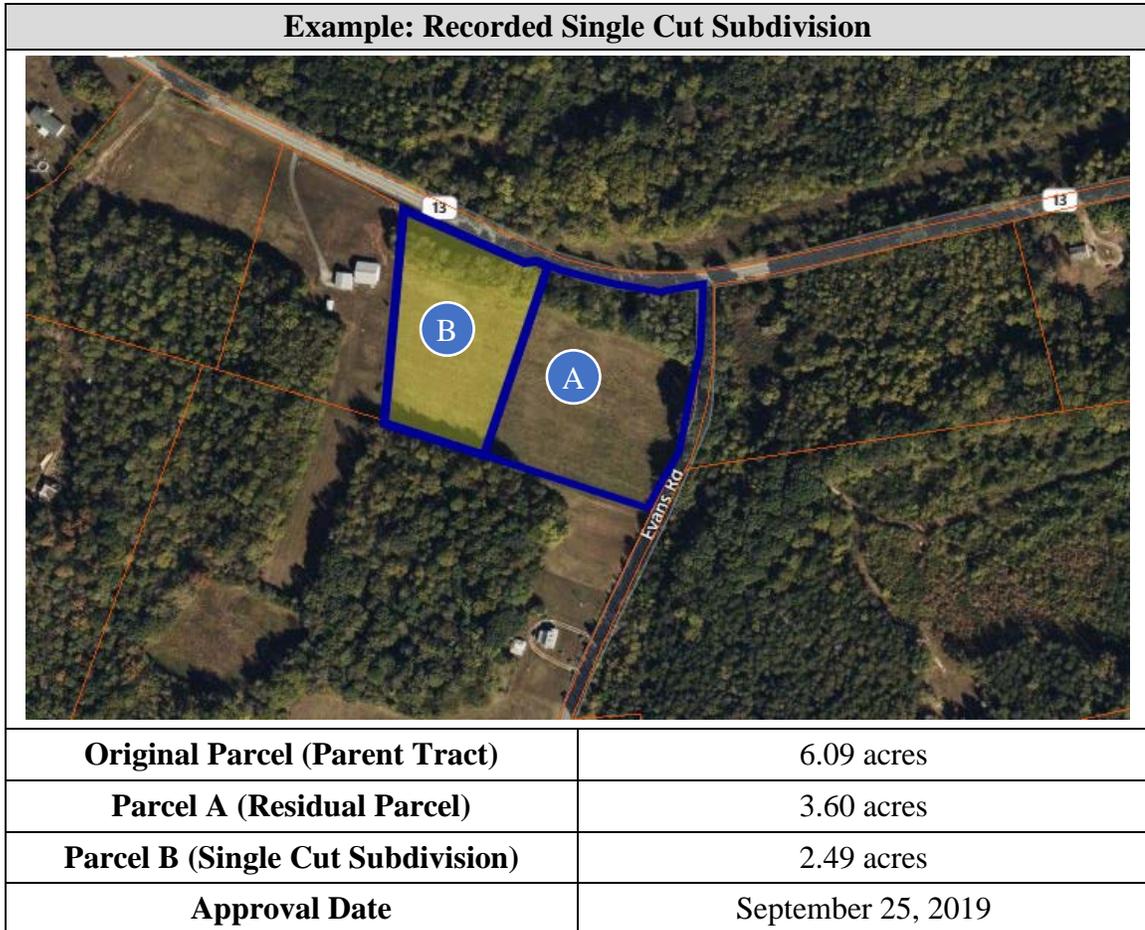
If the *parent tract* is zoned A-10 and located on a public road, the parcel must have at least 430 feet of road frontage and be at least four acres in area. The newly-created lot and the residual parcel each must be at least two acres and have 215 feet of road frontage (and 215 feet of width at the building line).

If the *parent tract* is zoned A-10 and located on a private road, the parcel must have at least 430 feet of road frontage and be at least 12 acres in area. The newly-created lot must have at least 215 feet of road frontage and be at least two acres, while the residual parcel must have at 215 feet of road frontage and be at least 10 acres. The private road must be upgraded to state specifications to the newly-created lot.

If a *parent tract* is eligible to be divided as a *single cut subdivision*, the property owner would submit a non-subdivision application to the Department of Community Development for review. If the application is approved, the associated plat may be submitted to the Clerk of the Circuit Court for recordation.

Only one parcel can be created from a *parent tract* through a *single cut subdivision*.

³ Since the current Powhatan County Subdivision Ordinance was adopted in 2017, creating *flag lots* as part of *single cut divisions* has been prohibited. As part of Case #18-04-AZ, the Board of Supervisors considered allowing *flag lots* to be created as part of *single cut subdivisions*. On August 27, 2018, the proposed amendment was denied by the Board of Supervisors.



Proposed Amendment

The proposed amendment would eliminate *single cut subdivisions* [Subdivision Ordinance: Sec. 68-114].

Both the Powhatan County Subdivision Ordinance (Chapter 68) and the Powhatan County Zoning Ordinance (Chapter 83) establish requirements for *single cut subdivisions*. If Sec. 68-114 is repealed, references to *single cut subdivisions* (and some references to *parent tract*) in other parts of the County Code would have to be removed:

- Sec. 68-103(1)(i) (Director of Community Development)
- Sec. 68-108 (Certification and Recordation)
- Sec. 68-109(a) (Effect)
- Sec. 68-111(b)(1)(b) (Private Roads: Eligibility)
- Sec. 68-125 (Family Division)
- Sec. 68-236 (Subdivision Plat Requirements for Single Cut, Minor, and Family Div.)
- Sec. 68-301 (Definitions)
- Sec. 83-107(b) (Use Districts: Minimum Lot Size Reference Chart)
- Sec. 83-521 (Definitions)

IV. COMPREHENSIVE PLAN ANALYSIS

Many parcels zoned A-10 (where *single cut subdivisions* are permitted) are located within areas designated *Rural Preservation* and *Rural Residential*. These land use designations are intended to accommodate very low-density residential development (p. 58):

- *Rural Preservation*: 1 unit per 8 acres – 1 unit per 10 acres
- *Rural Residential*: 1 unit per 5 acres – 1 unit per 10 acres

Objective LU.2 states that “when development occurs in rural areas, the preferred form of development is conservation subdivisions, with smaller lots and preserved open space at an overall low-density consistent with a rural character” (p. 59).

Allowing additional lots as small as two (2) acres to be created in these areas (outside of conservation subdivisions) would not be consistent with the aforementioned recommendations.

V. STAFF RECOMMENDATION

The Department of Community Development **recommends approval** of the proposed amendment. Eliminating options for *single cut subdivisions* would:

- Align with recommendations made in the 2019 Long-Range Comprehensive Plan;
- Reduce development potential within rural areas (where additional residential development is discouraged); and
- Help ensure that newly-created lots are compatible with surrounding uses.⁴

VI. PLANNING COMMISSION REVIEW

The Planning Commission discussed this issue at workshops on February 4, 2020 and March 3, 2020.

A public hearing regarding this request was held on August 18, 2020. Five (5) members of the public expressed opposition to this request, citing the following concerns:

- Additional development restrictions (infringing on property rights).
- Potential negative financial impacts to property owners.

After the public hearing, the Planning Commission discussed the following issues:

- Potential negative impacts to property owners.
- Public outreach and awareness regarding the proposed ordinance amendment.

The Planning Commission voted to **defer** this request (Vote: 5 – 0) to the meeting on September 1, 2020, allowing additional time for members of the public to learn about this proposed ordinance amendment.

One member of the public submitted written comments to the Planning/Zoning Department opposing this request (Attachment #3).

⁴ Currently, the average lot size of parcels zoned A-10 is 17.85 acres, while the median lot size is 5.16 acres.

VII. PLANNING COMMISSION RESOLUTION

In accordance with public necessity, convenience, general welfare, and good planning practices, the Planning Commission recommends (*approval / denial / deferral*) of the request submitted by the County of Powhatan to eliminate *single cut subdivisions*; remove references to *single cut subdivisions* within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance); and to remove language within Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) referring to *parent tracts* as parcels lawfully recorded prior to April 18, 1988.

Attachments

1. Proposed Ordinance
2. Map of Single Cut Divisions (2016 – 2019)
3. Public Comments Submitted Directly to the Planning/Zoning Department

ORDINANCE #O-2020-__

Draft (Planning Commission): September 1, 2020

AN ORDINANCE AMENDING THE POWHATAN COUNTY CODE OF ORDINANCES TO AMEND PROVISIONS SET FORTH IN SEVERAL SECTIONS OF CHAPTER 68 (SUBDIVISION ORDINANCE) AND CHAPTER 83 (ZONING ORDINANCE) TO ELIMINATE SINGLE CUT SUBDIVISIONS; REMOVE REFERENCES TO SINGLE CUT SUBDIVISIONS WITHIN CHAPTER 68 (SUBDIVISION ORDINANCE) AND CHAPTER 83 (ZONING ORDINANCE); AND TO REMOVE LANGUAGE WITHIN CHAPTER 68 (SUBDIVISION ORDINANCE) AND CHAPTER 83 (ZONING ORDINANCE) REFERRING TO PARENT TRACTS AS PARCELS LAWFULLY RECORDED PRIOR TO APRIL 18, 1988.

WHEREAS, Sections 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as amended, enable a local governing body to adopt, amend and codify ordinances or portions thereof; and

WHEREAS, Section 15.2-2240 of the Code of Virginia, 1950, as amended, mandates each local governing body to adopt a subdivision ordinance, pursuant to Sections 15.2-2240 through 15.2-2279 (Land Subdivision and Development) to assure the orderly subdivision of land and its development; and

WHEREAS, Sections 15.2-2280, 15.2-2285, and 15.2-2286 of the Code of Virginia, 1950, as amended, enables a local governing body to adopt and amend zoning ordinances; and

WHEREAS, the proposed amendments to Chapter 68 (Subdivision Ordinance) are intended to ensure that subdivisions and other development promote the health, safety, convenience, order, prosperity, and welfare of the present and future residents of the County; and

WHEREAS, the proposed amendments to Chapter 83 (Zoning Ordinance) are required to serve the public necessity, convenience, general welfare, and good zoning practice pursuant to Section 15.2-2286(A)(7) of the Code of Virginia, as amended; and

WHEREAS, the proposed amendment is intended to prevent the creation of non-conforming lots within rural areas, helping protect Powhatan County's traditionally rural character; and

WHEREAS, the proper advertisement and public hearing was conducted as required by law; and

WHEREAS, the full text of this amendment was available for public inspection in the Department of Community Development, Powhatan County Administration Building, 3834 Old Buckingham Road, Powhatan, Virginia 23139.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF POWHATAN that the following sections of Chapter 68 (Subdivision Ordinance) and Chapter 83 (Zoning Ordinance) of the Code of the County of Powhatan, Virginia are amended and reenacted as follows:

**CODE OF THE COUNTY OF POWHATAN, VIRGINIA
CHAPTER 68. SUBDIVISION ORDINANCE**

...

ARTICLE I. – GENERAL PROVISIONS

...

Sec. 68-103. - Director of community development.

The director is designated by the county administrator to administer and enforce the provisions of the subdivision ordinance. The director, or his designee, shall have the following powers and duties under this subdivision ordinance:

- (1) To review and decide applications for the following:
 - a. Major subdivision plats;
 - b. Subdivision construction plans;
 - c. Final subdivision plats;
 - d. Minor subdivision plats;
 - e. Family divisions;
 - f. Non-subdivision plats;
 - g. Private roads (as permitted by section 68-111(b)(1)); and
 - h. Interpretations of chapter 68: Subdivisions; and
 - ~~i. Single cut subdivision plats.~~

...

ARTICLE II. – SPECIFIC REVIEW PROCEDURES

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Sec. 68-108. - Certification and recordation.

If the application for a division is approved, the director shall enter on the plat a signed certification that the plat is approved by the county in accordance with this ordinance and ready for recordation, as well as any other certifications as may be appropriate. For family, ~~single cut~~, minor and major subdivisions, as well as non-subdivision plats, the subdivider shall file an approved and certified plat with the office of the clerk of the circuit court, and shall provide proof of recording to the director.

...

Sec. 68-109. - Effect.

- (a) ~~Single cut, f~~Family, minor subdivisions, final plats and non-subdivision plats approval, certification if required and recordation of the plat allows the subdivider to proceed with conveying the platted lots by reference to the recorded plat.

...

Sec. 68-114. - ~~Single cut subdivision~~Reserved.

- ~~(a) Purpose. The provisions of this article shall apply to single cut subdivisions. It is intended that platting and approval requirements for such subdivisions be restricted to the minimum necessary to ensure compliance with minimum lot size requirements of the zoning ordinance.~~
- ~~(b) Access. A single cut subdivision shall either abut a public road by a minimum of 30 feet or have access to a public road via a dedicated access right of way or easement at least 30 feet in width. Single cut subdivisions shall be prohibited on private roads where the main parcel does not front on a public road, unless provided in accordance with article II, section 68-111(b).~~
- ~~(c) Charitable division. A division of one parcel of land may be permitted for conveyance to a bona fide charitable organization subject to the following:~~

- ~~(1) May only be taken from agricultural zoned parcels;~~
- ~~(2) A charitable division taken from a parent tract shall not count as a division towards the property owner's division rights;~~
- ~~(3) A charitable division parcel shall be a minimum of two acres in size and shall produce a residual parcel of not less than ten acres in size. All other lot requirements shall follow the zoning ordinance provisions; and~~
- ~~(4) No application fee shall be charged for review and/or approval of the plat.~~

~~(d) Expiration. Approval shall expire if the plat is not recorded with the office of the clerk of the circuit court:~~

- ~~(1) Within six months after the date of the approval; or~~
- ~~(2) Within an extension of the applicable time period.~~

...

Sec. 68-111. - Private roads.

...

(b) *Eligibility.*

- (1) The director may approve the use of a private road subject to certification and recordation of a road maintenance agreement, compliant with this chapter, for the following:
 - a. Family divisions of no more than ten-lots; or
 - b. ~~Single cut or m~~Minor divisions of no more than two lots; or
 - c. Internal access roads for a commercial, business or industrial park.

...

Sec. 68-125. - Family division.

...

- (a) *Purpose.* The purpose of this section is to establish the procedure and standards for review of family divisions. Family division review is intended to ensure that proposed lots are appropriately and accurately delineated on a plat that serves as a permanent record of the subdivision.
- (b) *Family division review standards.* An application for family division approval shall be approved on a finding the applicant has demonstrated that:

...

- ~~(3) A family division taken from a parent tract shall not count as a division towards the property owner's division rights;~~

...

ARTICLE IV. – SPECIFICATIONS FOR PLANS AND PLATS

...

Sec. 68-236. - Subdivision plat requirements for ~~single cut,~~ minor and family divisions.

...

ARTICLE V. – DEFINITIONS

...

...

Sec. 68-301. - Definitions.

...

Monuments means markers placed on or in the land.

Parent tract means ~~with respect to the right to a single cut under this chapter, the term parent tract shall mean any lot or parcel which was lawfully recorded by a plat of subdivision and/or deed(s) in the office of the clerk of the circuit court of Powhatan County prior to April 18, 1988. In all other cases, Parent tract shall mean~~ the whole of the property from which a new parcel is being made or subdivided.

Performance guarantee means any security which may be accepted in lieu of a requirement that certain improvements be made before the approving body approves a plan, including performance bonds, escrow agreements, and other similar collateral or surety agreements.

...

Subdivision, preliminary plat (See section 68-110(a), Preliminary plat)

~~*Subdivision, single cut* means a subdivision of only two lots created by a single division of land from a parent tract.~~

Supervisors means the board of supervisors of Powhatan County, Virginia.

...

CHAPTER 83. ZONING ORDINANCE

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ARTICLE I. – GENERAL PROVISIONS

...

Sec. 83-107. - Use districts.

...

(b) Minimum lot size.

Minimum Lot Size Reference Chart	
Scenario	Result
Minimum Lot Size (A-10 District)	10 acres
Lot Line Adjustment (A-10 District)	2 acres for parent tract on a public road; 10 acres for all other parcels; the result of the lot line adjustment may not create any additional non-conforming parcels

Lot Line Adjustment (RR District)	10 acres; parcels less than 10 acres may be increased but not decreased in size by the lot line adjustment
Single cut subdivision exception; main parcel on public road (A-10 District)	2 acres for the single cut parcel plus 2 acres for the residual parcel (4 acres total)
Single cut subdivision exception; main parcel on private road (A10 District)	2 acres for the single cut parcel plus 10 acres for the residual parcel (12 acres total); private road must be upgraded to state specifications from the state road to the single cut parcel; minimum lot size to be computed outside the 50' right of way
Family member division; main parcel on public road, or access provided to public road via main parcel (A-10 District)	2 acres for the family division parcel plus 2 acres for the residual parcel (4 acres total)

...

ARTICLE XI. – DEFINITIONS

...

Sec. 83-521. - Definitions.

...

~~Parent tract means any lot or parcel which was lawfully recorded by a plat of subdivision and/or deed(s) in the Office of the Clerk of the Circuit Court of Powhatan County prior to April 18, 1988. (See: Powhatan County Code, chapter 68 (Subdivisions).)~~

In all other respects the Code of the County of Powhatan shall remain unchanged and be in full force and effect.

This amendment shall take effect immediately upon passage.

ADOPTED BY THE POWHATAN COUNTY BOARD OF SUPERVISORS ON _____, 2020.

David T. Williams, Chairman
Powhatan County Board of Supervisors

ATTEST:

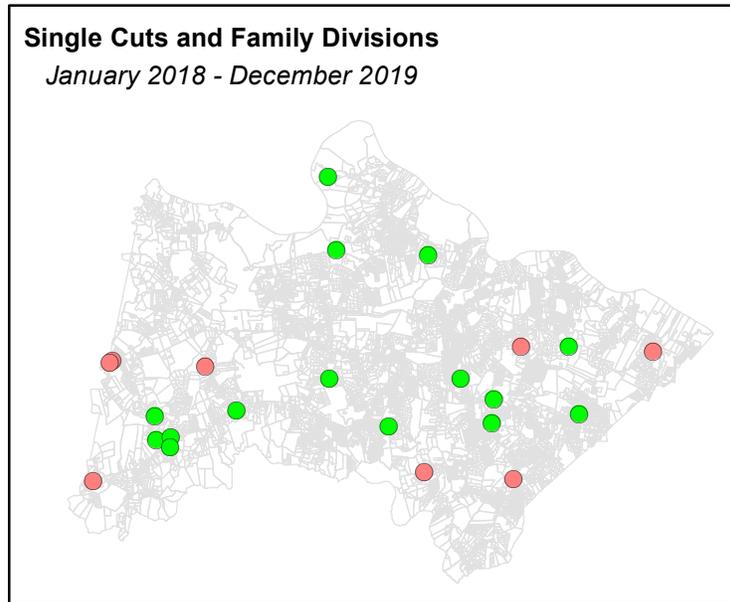
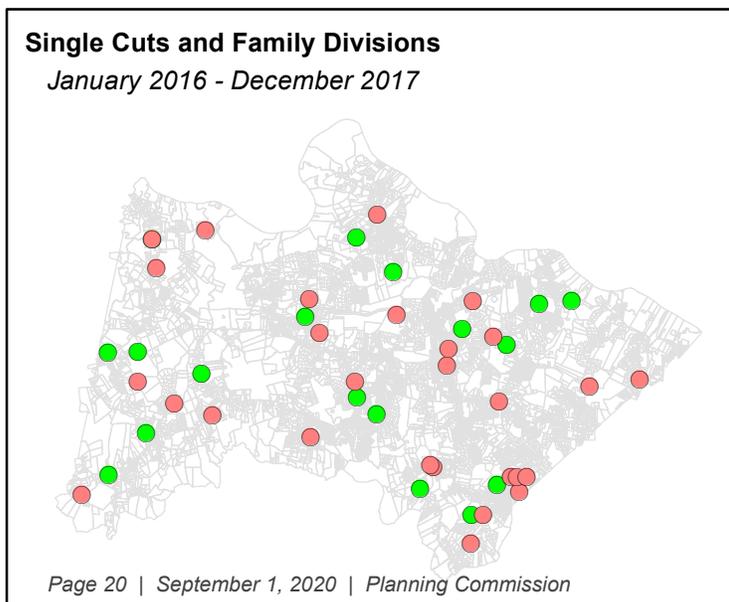
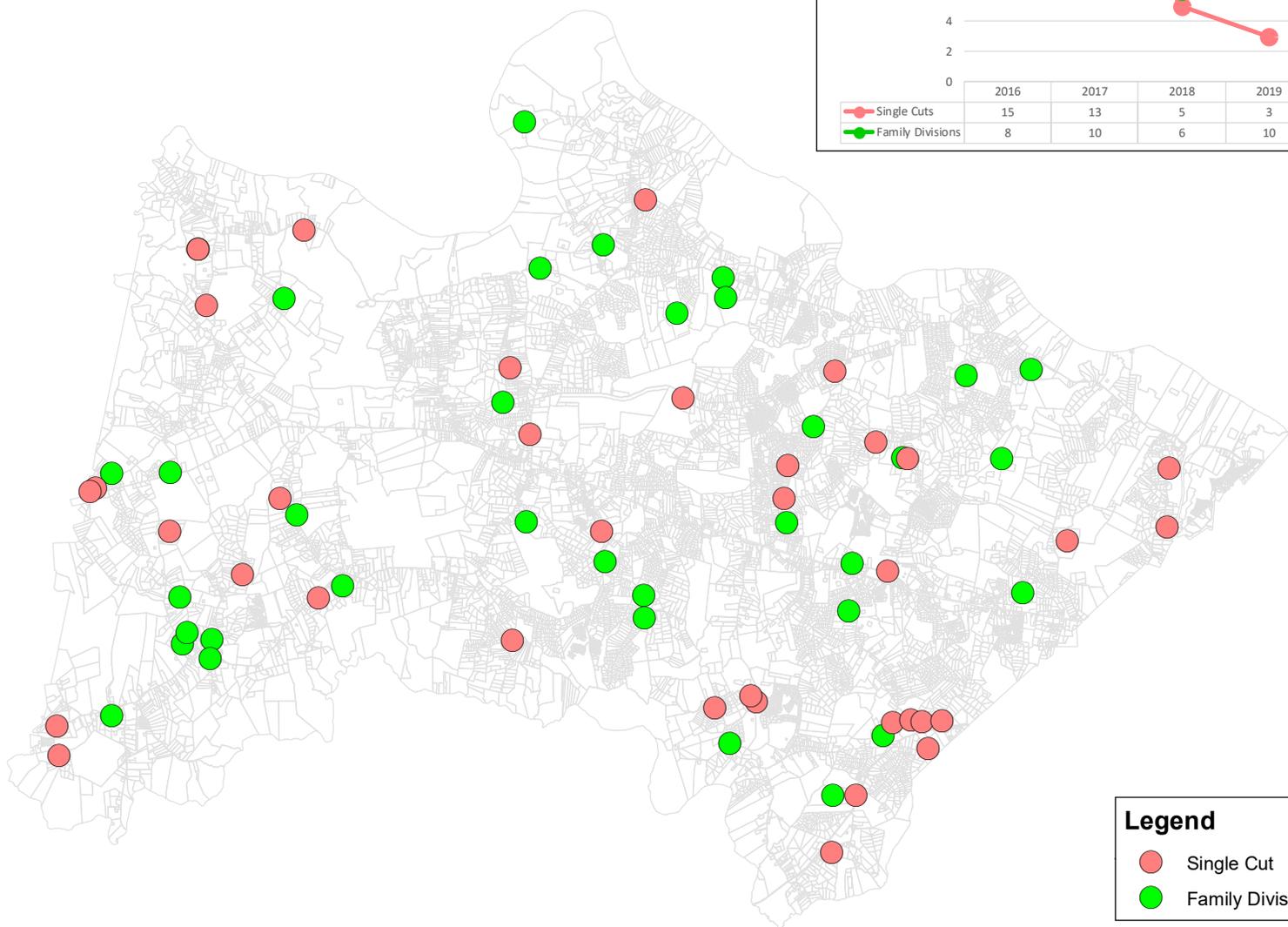
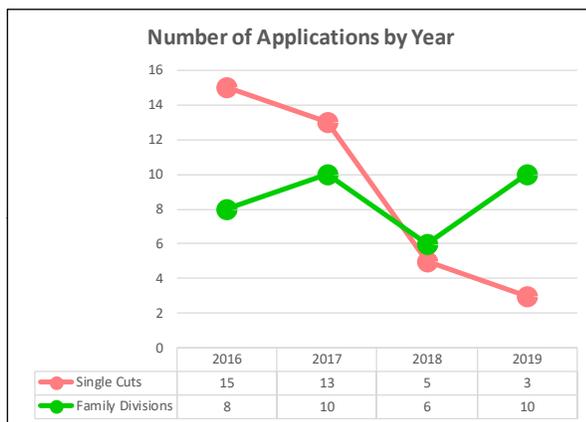
D. Bret Schardein, Clerk
Powhatan County Board of Supervisors

Recorded Vote:

David T. Williams _____
Larry J. Nordvig _____
Michael W. Byerly _____
William L. Cox _____
Karin M. Carmack _____

DRAFT

Single Cuts and Family Divisions (2016-2019)



Andrew Pompei, CZA, AICP

From: Joey Paquette <joey@joeypaquette.com>
Sent: Tuesday, August 18, 2020 3:19 PM
To: Andrew Pompei, CZA, AICP
Subject: 20-02-AZ comments

Hey Andrew, I will not be able to make the meeting tonight but would like to express my concerns with the proposed amendment. Could you please include this email to the PC.

This amendment will take away from the private property rights of the land owners of the county. Between the elimination of the flag lots and now another proposal making it that much more difficult to subdivide your land.

The costs of land and houses in Powhatan county continue to rise at an alarming rate due to the lack of inventory. There are currently 2 active houses for sale in Powhatan right now under 200k and both of those are fixer uppers that are sold as is. The first time home buyer would not be able to finance these.

Local businesses, land owners, builders and anyone who would hope to live in Powhatan county will be negatively affected by this proposal.

The recommendation says to pass this based on the future land use plan, however it is not consistent with the housing section of the comprehensive plan.

"Affordability- Maintaining quality affordable housing can help the county attract a diverse workforce. Traditionally, the Commonwealth characterizes affordable housing as that which residents with incomes at or below the area median income can afford, provided they pay no more than 30 percent of their gross income for gross housing costs, including utilities."

"Goals-Powhatan County will have a diverse range of housing that provides living opportunities for residents at all stages of their life."

In my opinion the county has done very little if anything to meet the housing goals listed in the comp plan. It would be nice if the leadership of this county would start exploring solutions to the housing issues, instead of continuing to take away private property rights. We have a glaring issue of housing affordability and a diversity of housing and this will only make matters worse.

Please vote against the proposed addendum. Thank you.

Joey Paquette
Associate Broker
Village Concepts Realty Group
2603 Anderson Highway
Powhatan VA 23139
Cell- (804) 698-9424
<https://www.facebook.com/joeypaquetterealestate/>



Powhatan County Planning Commission Agenda Item

Meeting Date: September 1, 2020

Agenda Item Title: **Case #20-03-CUP: Powhatan Solar II, LLC (District #3: Bethesda/Lees Landing)** requests a conditional use permit (CUP) to permit a solar energy farm within the Agricultural-10 (A-10) zoning district per Sec. 83-162 of the Zoning Ordinance of the County of Powhatan. The use is proposed to be located on Tax Map Parcels #27-14, 27-14A, and 26-104, which are located at the northern end of State Route 626 (Brauer Road) and along the south side of State Route 615 (Three Bridge Road) west of State Route 1330 (Mill Mount Parkway). The subject properties consist of 927.38 acres. The maximum project area subject to this request is 200 acres. The 2019 Long-Range Comprehensive Plan designates the subject properties as Rural Residential and Natural Conservation on the Countywide Future Land Use Map.

Motion: In accordance with Section 83-123(f)(4) of the Powhatan County Zoning Ordinance and public necessity, convenience, general welfare, and good zoning practice, the Powhatan County Planning Commission recommends (*approval / denial / deferral*) of the request submitted by Powhatan Solar II, LLC to permit a *solar energy farm* on Tax Map Parcels #27-14, 27-14A, and 26-104, subject to the conditions presented in this report

Dates Previously Considered by PC: None

Summary of Item: The applicant is requesting a conditional use permit (CUP) to permit a solar energy farm within the Agricultural-10 (A-10) zoning district (Zoning Ordinance: Sec. 83-162). The proposed use would be located on portions of Tax Map Parcels #27-14, 27-14A, and 26 104, which are located along State Route 615 (Three Bridge Road) approximately one half mile east of its intersection with U.S. Route 522 (Maidens Road) in central Powhatan County. In total, the properties consist of 927.38 +/- acres, of which approximately 175 acres will be occupied by the solar arrays.

Staff: Approve Disapprove See Comments

Attachments: Staff Report
Application Materials

Additional materials submitted with this application are available to download at:
<http://powhatanva.gov/PowhatanSolarII>

Staff/Contact: Andrew Pompei: Planning Director
(804) 598-5621 x2006
apompei@powhatanva.gov

If Planning Commission members have questions, please call the staff / contact prior to the meeting.



20-03-CUP Powhatan Solar II

Request for a Conditional Use Permit
to Permit a *Solar Energy Farm*
within the Agricultural-10 (A-10) Zoning District
on Tax Map Parcels #26-104, 27-14, and 27-14A
along State Route 615 (Three Bridge Road)

Staff Report Prepared for the Planning Commission
September 1, 2020

I. PUBLIC MEETINGS

Neighborhood Meeting	August 20, 2020	Hosted by Applicant <i>(Virtual)</i>
Planning Commission	August 18, 2020	Workshop
Planning Commission	September 1, 2020	Public Hearing

II. GENERAL INFORMATION

Request	Conditional Use Permit	
Proposed Use	Solar Energy Farm	
Proposed Density	N/A (No Residential Units Proposed)	
Existing Zoning	Agricultural-10 (A-10)	
Parcel Size	Total Parcel Area:	927.38 acres
	Project Area:	200 +/- acres
	Maximum Solar Array Area:	175 acres
Parcel ID#	26-104, 27-14, 27-14A	
Applicant	Powhatan Solar II, LLC	
Owner	Rancks LLC	
	Bridge Lake LLC	
	Traeland LLC	
Location of Property	Southern side of State Route 615 (Three Bridge Road) at its intersection with State Route 1330 (Mill Mount Parkway) Northern terminus of State Route 626 (Brauer Road)	
Electoral District	(3) Bethesda/Lees Landing	
2019 Land Use Plan Recommendation	Rural Preservation Natural Conservation	

III. EXECUTIVE SUMMARY

The applicant is requesting a conditional use permit (CUP) to permit a *solar energy farm* within the *Agricultural-10 (A-10)* zoning district (Zoning Ordinance: Sec. 83-162). The proposed use would be located on portions of Tax Map Parcels #27-14, 27-14A, and 26-104, which are located along State Route 615 (Three Bridge Road) approximately one half-mile east of its intersection with U.S. Route 522 (Maidens Road) in central Powhatan County. In total, the properties consist of 927.38 +/- acres, of which approximately 175 acres will be occupied by the solar arrays.

IV. REVIEW STANDARDS

Conditional Use (A-10): Solar Energy Farm
<i>Solar energy farm</i> is listed as a conditional use within the A-10 zoning district [Sec. 83-162(26)].
Sec. 83-123(f)(4): Conditional Use Permit Review Standards
A Conditional Use Permit shall be approved if the applicant demonstrates the proposed conditional use: <ul style="list-style-type: none">a) Is consistent with the purposes, goals, objectives, and policies of the comprehensive plan and other applicable county-adopted plans;b) Complies with all applicable zoning district-specific standards in Articles III through VI;c) Complies with all applicable use-specific standards Article VII: Use Standards;d) Complies with all applicable development and design standards in Article VIII: Development Standards;e) Complies with all relevant subdivision and infrastructure standards in Chapter 68: Subdivisions of the Powhatan County Code;f) Is appropriate for its location and is compatible with the general character of surrounding lands and the uses allowed in the zoning district where proposed;g) Adequately screens, buffers, or otherwise minimizes adverse visual impacts on adjacent lands;h) Avoids significant adverse odor, noise, glare, and vibration impacts on surrounding lands regarding refuse collection, service delivery, parking and loading, signs, lighting, and other site elements;i) Avoids significant deterioration of water and air resources, scenic resources, and other natural resources;j) Maintains safe and convenient ingress and egress and traffic flow onto and through the site by vehicles and pedestrians, and safe road conditions around the site;k) Complies with all other relevant county, state and federal laws and standards; andl) Is required by the public necessity, convenience, general welfare, or good zoning practice.

Sec. 83-123(f)(5): Expiration of a Conditional Use Permit

A Conditional Use Permit shall expire in accordance with any expiration date or provisions in a condition of its approval. A Conditional Use Permit shall automatically expire if a Building Permit, Site Plan, or other county approval, whichever occurs first, for the development granted by the Conditional Use Permit, is not obtained within two (2) years after the date of approval of the Conditional Use Permit, or if no subsequent county approval is required, the development is not completed and operational within two (2) years.

V. PROPERTY DESCRIPTION

Location

Tax Map Parcels #26-104, 27-14, and 27-14A are located east of the intersection of State Route 615 (Three Bridge Road) and U.S. Route 522 (Maidens Road). In total, the parcels consist of approximately 927.38 acres, with approximately 12,000 feet (2.25 miles) of frontage along State Route 615 (Three Bridge Road). The project area will be a maximum of 200 acres, with solar arrays occupying no more than 175 acres.

Existing Conditions

Parcel (Tax Map #)	Acreage	Existing Conditions
26-104	248.687	This parcel is currently used for agricultural purposes. ¹ A private drive, which extends from State Route 626 (Brauer Road), runs through the central portion of the property and terminates at an existing single-family residential dwelling. Fine Creek runs from north to south along the western portion of the property. The land located west of Fine Creek is heavily wooded.
27-14	581.253	This parcel remains undeveloped. ¹ The property has recently been cleared for logging and timbering activity, with some trees remaining along streams and other water features. A transmission line bisects the property from northwest to southeast.
27-14A	97.44	This undeveloped parcel ¹ is long and narrow, with approximately 12,000 linear feet of frontage along State Route 615 (Three Bridge Road) and a depth of approximately 350 feet. The property has recently been cleared for logging and timbering activity, with a tree line of varying width remaining along the road frontage and stream lines.

¹ In October 2019, a conditional use permit to allow a solar farm (max. solar array area: 225 acres) on the property. To date, no development has occurred.

Surrounding Properties

Direction	Zoning	Uses
North	Rural Residential-5 (RR-5) Residential Utility (RU) Single-Family Residential-2 (R-2) Agricultural-10 (A-10)	<ul style="list-style-type: none"> • Low-Density Single-Family Residential (Subdivisions: Westlake at Mill Mount and Three Bridge Estates) • Vacant
South	Agricultural-10 (A-10)	<ul style="list-style-type: none"> • Vacant
East	Agricultural-10 (A-10)	<ul style="list-style-type: none"> • Low-Density Single-Family Residential • Vacant
West	Agricultural-10 (A-10)	<ul style="list-style-type: none"> • Vacant

VI. PROJECT ANALYSIS

Current Zoning

The subject properties are currently zoned Agricultural-10 (A-10).

Proposed Use

The applicant is proposing a *solar energy farm*, which is defined as follows [Sec. 83-521]:

Solar energy farm means a system consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity. It is designed to meet demands for a larger area and is typically mounted on the ground.

Solar energy farm is a conditional use within the Agricultural-10 (A-10) zoning district [Sec. 83-162(26)]. No specific standards applicable to this use are identified in Sec. 83-432 (Standards for Specific Principal Uses).

Land Use and Community Character

The surrounding area is rural in character, with a mixture of large, vacant parcels and single-family residential development on larger lots (generally ranging from two to ten acres in size). Many of the nearby homes are located within residential subdivisions, such as Montpelier Place (zoned R-2), Three Bridge Estates (zoned A-10 and R-2), and Westlake at Mill Mount (zoned RR-5).

The proposed conditions included in this report are intended to help the proposed use blend with the surrounding rural areas. This is accomplished by:

- Requiring significant setbacks (at least 200 feet) from property lines (Conditions #8 and #9);

- Requiring vegetated buffers along State Route 615 (Three Bridge Road) (Condition #11); and
- Requiring significant riparian buffers (at least 200 feet wide) along wetlands and streams (Condition #13).

While significant setbacks and buffer requirements may be imposed, the facility may still be visible from portions of State Route 615 (Three Bridge Road), depending upon the topography and the composition of existing vegetation that has been retained.

Environment/Natural Resources

Agency Comments: Environmental Review (Powhatan County)

All riparian buffers shall conform to Section 83-471 of the Zoning Ordinance and the guidance for solar farms included in the 2019 Long-Range Comprehensive Plan.

On-Site Environmental and Historic Features

- *Topography*

The subject properties have varied topography, with steep slopes generally located at or around aquatic features (wetlands, streams, ponds, etc.). Per GIS, elevations range from approximately 245 feet above sea level to 365 feet above sea level, with the highest elevations in north-central portions of the subject properties near the intersection of State Route 615 (Three Bridge Road) and State Route 1330 (Mill Mount Parkway). Based on analysis of public GIS data, significantly steep slopes (over fifteen percent slope) occur on approximately 5.26% of the total site area.²

- *Streams and Wetlands*

Several intermittent and perennial streams bisect the subject properties, with wetlands located adjacent to some streams. Branch Creek runs along the eastern boundary of the subject properties, with its tributaries flowing from the central and eastern portions of the project area. Fine Creek flows from south to north along the western boundary of the subject properties. Both streams are tributaries to the James River.

A wetland delineation report was submitted by the applicant (TNT Environmental: Dated December 20, 2018/Revised April 30, 2019). In addition to mapping the aforementioned streams, the study identified the location of wetland areas. Per the report, “many of the wetlands originate from groundwater seeps at the toe-of-slope, adjacent to areas which have historically been used for silvicultural and agricultural practices. The boundaries of most on-site wetlands are driven by slight changes in on-site topography. For the most part, on-site streams are contained within well-defined channels. Small, seep-fed wetlands were frequently encountered along portions of on-site streams, which is typical of this geology” (p. 3). Identified wetlands and streams are shown on the conceptual plan submitted by the applicant.

² In the 2019 Long-Range Comprehensive Plan, steep slopes are described as those with 15% or greater slopes (p. 64, 65, 69, 75, 81, 85).

- *Natural Habitats*

The subject properties contain a mix of woodlands and open areas (pasture and cropland). Timbering has occurred on the property on different occasions, with clearing recently occurring in the north/central portions of the subject properties.

The applicant submitted a letter from the Virginia Department of Conservation and Recreation (DCR) summarizing the findings of a preliminary desktop survey of natural heritage resources found within or near the project area. In the letter, DCR recommends that the applicant: (i) develop an invasive species management plan for the project; and (ii) plant native pollinator plants in the buffer areas which bloom throughout the spring and summer.

- *Historic Resources*

Per the Cultural Resources Database Summary Memo (Timmons Group: Dated November 13, 2017), no archaeological or architectural resources eligible for listing on the National Register of Historic Places are located within the project area or within a one-half mile radius of the site limits.³

Erosion and Sediment Control

Prior to starting clearing and grading, a land disturbance permit (which identifies on-site erosion and sediment control measures) must be approved by Powhatan County. Regular inspections will occur throughout the construction process to ensure that adequate measures are taken to control erosion.⁴

Stormwater Management

Prior to site plan approval, a stormwater management plan will need to be submitted and approved by the Virginia Department of Environment Quality (DEQ) to ensure that the necessary infrastructure is in place to control the quantity and quality of runoff.

³ Per the 2019 Long-Range Comprehensive Plan (Map 4: Historic Resources), no known historic resources are located on the subject properties or within the immediate areas.

⁴ Due to the project's size, Condition #19 requires that the applicant hire a third-party consultant to conduct regular inspections of erosion and sediment control measures, helping ensure that the project does not negatively impact adjacent properties and waterways.

Transportation

Agency Comments: Virginia Department of Transportation (VDOT)

VDOT supports the request by Powhatan Solar I, LLC and offers the following comments:

- Site Plan shall be submitted for VDOT review and approval prior to Land Disturbance. This review shall include potential Drainage Impacts upon Three Bridge Road Rt. 615 and Brauer Road Rt. 626.
- A VDOT Land Use Permit shall be required for the Temporary Construction Entrances and for the Commercial entrances to the site along Three Bridge Road and Brauer Road.
- Proposed Access from Three Bridge Road Rt. 615 and Brauer Road Rt. 626 shall be subject to VDOT review and approval.
- VDOT Access Management does not apply for Low Volume Commercial entrances, but stopping sight Distance is required.
- While VDOT Access Management does not apply, the revised Sec. 68-175(e)(5) of the Powhatan County Subdivision Ordinance requires that any deviations from local spacing standards be approved by the Board of Supervisors, prior to VDOT site plan approval.

Local Road Network

The proposed solar energy farm has approximately 1,400 feet (one-quarter mile) of frontage along State Route 615 (Three Bridge Road). The site is also accessible from State Route 626 (Brauer Road), which ends near the southern boundary of the subject properties.

Roadway Characteristic	State Route 615 (Three Bridge Road)	State Route 626 (Brauer Road)
Functional Classification: VDOT	Major Collector	Local Road
Functional Classification: Powhatan Co. Major Thoroughfare Plan	Minor Arterial (Existing)	Local Road (Existing)
Traffic Volume Estimates (VDOT: 2018)	800	230

Site Entrances

The site will have one access point from State Route 615 (Three Bridge Road) and another access point accessible from State Route 626 (Brauer Road), which shall be shared with any additional solar development on the subject properties (Condition #14). All construction traffic will be required to access the site via State Route 615 (Three Bridge Road) (Condition #7d). Once construction is complete, these entrances are expected to generate little traffic.

Utilities and Public Infrastructure

Agency Comments: Department of Public Works (Powhatan County)

No comments received.

Agency Comments: Virginia Department of Health

No adverse comments.

The proposed use is anticipated to have minimal impact on public utilities and infrastructure. After construction, the site will generally not be occupied, except for occasional maintenance visits. Lack of on-site office or industrial facilities means there will rarely be a need for emergency services, and there will be no need for on-site wells or septic systems.

Public Safety

Agency Comments: Sheriff's Office (Powhatan County)

No comments at this time.

Agency Comments: Fire Department (Powhatan County)

Fire department has no concerns at this time.

Per information provided with the application, the solar energy farm will be entirely enclosed by a fence, and access codes will be provided to local emergency service providers.

Development Requirements and Standards

Agency Comments: Building Inspections Department (Powhatan County)

No comments at this time.

Development Review: Next Steps

Prior to issuance of a building permit, the applicant will be required to submit a site plan(s) for review and approval [Sec. 83-123(g)].

All site plans are evaluated to ensure that proposed development adheres to standards set forth in Article VIII (Development Standards) of the zoning ordinance, along with any conditions associated with this CUP (if approved).

Site plan applications are reviewed by the Department of Community Development.

Fiscal Impacts

Per information provided with the application, the proposed solar energy farm is expected to generate over \$12 million in direct local investment during construction. The proposed

use is also expected to generate greater tax revenues than the current use of the property, with an estimated \$22,312.50 in annual tax revenue.⁵

Other Approved Solar Energy Farm CUPs ⁶

Case Number	Status	Location	Project Area (in acres)	Array Area (in acres)	Distance to Site (in miles)
15-10-CUP	Completed	4325 Old Buckingham Road (District 4)	348	75	2.5
16-01-CUP	Completed	4325 Old Buckingham Road (District 4)	349	98	2.7
19-04-CUP	CUP Approved	2660 Brauer Road (District 3)	350.9	225	--
19-05-CUP	Site Plan Review	Old Buckingham Road (District 4)	40.16	8.2	3.5

For a visual representation of approved solar energy farm CUPs in the county, please see the map included with this packet as Attachment #8.

VII. COMPREHENSIVE PLAN ANALYSIS

Countywide Future Land Use Plan

The 2019 Long-Range Comprehensive Plan designates the subject properties as *Rural Preservation* and *Natural Conservation* on the Countywide Future Land Use Plan.

Land Use: Rural Preservation

Most of the subject properties are designated *Rural Preservation* in the 2019 Long-Range Comprehensive Plan. This land use designation is described as follows (p. 68):

Rural Preservation areas will be rural in character, with preserved natural, cultural, and historic resources, including farms, agribusinesses and tourism, permanently-protected open spaces, permanent easement properties, hillsides, hilltops, floodplain, wooded and forested areas, historic landscapes, landmarks, and corridors. These areas will contribute to active agriculture, silviculture, agribusiness, equestrian operations, and tourism, with new residential development designed in such a way as to be balanced with the natural and existing manmade environment in order to minimize degradation of the rural, natural, cultural, and historic environment.

⁵ Fiscal Impact Review of Powhatan Solar II, LLC provided by Cypress Creek Renewables. This analysis has been reviewed by the Commissioner of the Revenue.

⁶ A neighborhood meeting has been scheduled for a proposed 20 MW solar farm on 197 acres located at approximately 2726 Anderson Highway. No application has been submitted to date.

There are specific recommendations regarding the siting and design of *solar energy farms* located within areas designated *Rural Preservation* (p. 73).

Design Element	Adherence to Design Recommendations (Yes/No)	Analysis
Proximity to Major Thoroughfares	Yes	<p>Condition #7d states that construction traffic may only access the site from State Route 615 (Three Bridge Road), which is classified as a Minor Arterial in the <i>2019 Long-Range Comprehensive Plan</i>.</p> <p>Condition #14 limits site access.</p> <p>Condition #17 requires submittal of a construction traffic management plan.</p>
Screening and Buffering	Yes	<p>Condition #8 generally requires that solar panels and accessory structures be located at least 200 feet from property lines (including roadways).</p> <p>Natural buffers adjacent to roadways will be preserved and supplemented with native plantings (Condition #11). At some locations, wide riparian buffers are located between solar panels and adjacent roadways.</p> <p>Due to topography and limited existing vegetation at some locations, the project may be visible from portions of State Route 615 (Three Bridge Road).</p>
Protection of Natural Resources	Yes	<p>Condition #13 requires riparian buffers at least 200 feet wide adjacent to wetlands and streams.</p> <p>The applicant has submitted a Limited NEPA Report, a wetlands delineation report, and supporting documentation.</p> <p>Natural buffers adjacent to roadways will be preserved and supplemented with native plantings (Conditions #11).</p>
Protection of Cultural Resources	Yes	<p>Per the Limited NEPA Report and <i>2019 Long-Range Comprehensive Plan</i> (Map 4: Historic Resources), no significant historic sites are located within (or in close proximity to) the project area.</p>
Prohibition of Toxic Materials	Yes	<p>Condition #16 prohibits the use of solar panels containing cadmium and GenX chemicals.</p>
Project Size	Yes	<p>The proposed project area is 200 acres (with the maximum solar array area being 175 acres), below the recommended maximum area of 500 acres.</p> <p>Including the maximum solar array area permitted by case #19-04-CUP, the combined size of the solar array area on the subject parcels is limited to 400 acres.</p>

Land Use: Natural Conservation

Areas adjacent to Branch Creek, Fine Creek, and some smaller tributaries are designated *Natural Conservation* in the *2019 Long-Range Comprehensive Plan*. This land use designation is described as follows (p. 64):

Natural conservation indicates land with intrinsic natural features, such as perennial stream corridors, floodplains, floodways, wetlands, or steep slopes (over fifteen percent). As a secondary benefit, these same areas provide greenways for wildlife corridors. These areas are designated as “unbuildable” and should be maintained in a naturalized, undisturbed state. Local, state, and federal regulations apply to the conservation of these areas.

Areas designated *Natural Conservation* generally align with riparian buffers shown on the conceptual plan.

It is recommended that areas designated *Natural Conservation* include natural habitats, nature trails, and camps/retreats (p. 64).

Condition #13 requires riparian buffers at least 200 feet wide adjacent to wetlands and streams (intermittent, perineal, and ephemeral), which generally aligns with the location of areas designated *Natural Conservation*.

Priority Conservation Areas

In the *2019 Long-Range Comprehensive Plan*, Map 3: Natural Resources (Prime Conservation Areas) identifies Branch Creek and adjacent lands as *Priority Conservation Areas*. *Priority Conservation Areas* include critical wildlife habitat, old-growth woodlands, wetlands, sensitive soils, and other features which contribute to the ecological health and beauty of Powhatan County. It is recommended that development within these areas be designed to minimize impacts on significant environmental resources (p. 44-45).

The conceptual plan for the proposed solar energy identifies the location of *Priority Conservation Areas*, with solar panels located outside of these areas.

VIII. PUBLIC COMMENTS

The applicant held a virtual neighborhood meeting on August 20, 2020. Approximately 14 people attended the meeting, where the applicant shared the proposed plans with attendees and answered general questions.

The Department of Community Development has not received any formal comments on this request but has received phone calls with general questions about the application.

VI. STAFF RECOMMENDATION

Favorable Attributes of Request

- *Adherence to Comprehensive Plan Recommendations*

The design of the proposed solar energy farm incorporates many of the recommendations made in the *2019 Long-Range Comprehensive Plan* (Solar Energy Farms: p. 73).

- *Limited Demands on Public Services*
The use will not require significant public services. After construction, the site will generally not be occupied, except for occasional maintenance visits. Lack of on-site office or industrial facilities means there will rarely be a need for emergency services, and there will be no need for on-site wells or septic systems.
- *Limited Noise and Odors*
Once construction is complete, the use will generate little noise or odor.
- *Accommodates Future Agricultural and Forestal Uses (After Decommissioning)*
Once the solar energy farm reaches the end of its lifespan, the solar panels and most of the supporting infrastructure must be removed from the site (Condition #19), allowing agricultural and forestry uses to resume on the property.
- *Delays Subdivision of Subject Properties*
Use of the property as a solar energy farm will prevent further subdivision of the subject properties for several decades, limiting residential development with an area designated *Rural Preservation*.
- *Greater Environmental Standards than Permitted Agricultural Uses*
The design and construction of the solar energy farm will have to adhere to more stringent environmental standards than permitted agricultural and forestry uses.

Unfavorable Attributes of Request

- *Noise, Dust, and Traffic During Construction*
Construction of the project will generate additional traffic and may create noise and dust.
- *Visibility from Adjacent Roadways*
While additional setbacks and buffer requirements are intended to mitigate potential visual impacts, the solar energy farm may be visible from portions of State Route 615 (Three Bridge Road).

Recommendation

The Department of Community Development **recommends approval** of this request. With the recommended conditions, the use is generally compatible with other agricultural and rural uses in the area and generally reflects recommendations made in the *2019 Long-Range Comprehensive Plan*. The conditions address aesthetic and environmental concerns by:

- Increasing required setbacks and riparian buffers;
- Requiring the preservation of existing vegetation along adjacent roadways;
- Limiting construction activity and access to the site;
- Establishing procedures for future erosion and sediment control review and project decommissioning; and
- Prohibiting the use of toxic chemicals (Cadmium Telluride, Cadmium Indium Gallium (Di)selenide, and GenX chemicals) within solar panels.

VII. RECOMMENDED CONDITIONS

If approved, the Department of Community Development recommends that the conditions listed below be incorporated into this request. These conditions are proposed to minimize negative impacts on surrounding properties and reflect recommendations made in the *2019 Long-Range Comprehensive Plan*, and are similar to the conditions set for similar solar projects that have been approved in Powhatan County.

1. The applicant(s) shall consent to annual administrative inspections by the Department of Community Development for compliance with the requirements of this CUP.
2. The applicant(s) shall sign the list of adopted conditions for this CUP signifying acceptance and intent to comply with these conditions.
3. Failure to comply with the conditions of this CUP may result in the issuance of a Notice of Violation (NOV) by the Zoning Administrator. The Zoning Administrator may present this CUP to the Board of Supervisors for revocation if the NOV is not resolved as directed.
4. All activities associated with this CUP shall be in compliance with all local, state, and federal laws.
5. This conditional use permit shall permit a *solar energy farm* and related accessory uses, as defined in Section 83-521 of the Powhatan County Zoning Ordinance. The extent of the project shall be limited to the area identified as the “Project Area,” as generally shown on Sheet Z1.0 of the Zoning Site Plan dated May 4, 2020. The area with solar panels shall not exceed 175 acres.
6. A site plan shall be submitted to Powhatan County for review and approval, in accordance with Section 83-123(g) of the Powhatan County Zoning Ordinance.
7. All site activity required for the construction and operation of the solar energy farm shall be limited to the following:
 - a. All clearing and grading of the site, including the construction and/or upgrade of any access roads needed for the project, shall be limited to the hours of 8 a.m. to 6 p.m., Monday through Saturday.
 - b. All pile driving activity shall be limited to the hours of 8 a.m. to 6 p.m., Monday through Saturday.
 - c. All other construction activity on site shall be permitted outside of those hours provided such activities are consistent with the provisions of Powhatan County’s Noise Ordinance.
 - d. Construction vehicles shall only access the site from State Route 615 (Three Bridge Road). No construction vehicles shall access the site from State Route 626 (Brauer Road).
8. Solar panels and accessory structures shall maintain a minimum setback of 200 feet from all property lines.
9. Solar panels and accessory structures (excluding fencing) shall maintain a setback of 250 from any residential dwelling existing on the date of approval of this CUP.

10. Any required security or perimeter fencing shall be installed in accordance with the following standards:
 - a. Fencing shall not cross streams, wetlands, or riparian buffers; and
 - b. The use of barbed wire shall be prohibited along State Route 615 (Three Bridge Road).
11. A natural buffer shall be provided along State Route 615 (Three Bridge Road) in the area labeled “Existing Trees to be Preserved” on the Zoning Site Plan dated May 4, 2020. The width of the natural buffer area shall be a minimum of 125 feet from the edge of the property line.

Existing vegetation located within the Natural Buffer Area shall be maintained for the lifetime of the project. No clearing, grading, or excavation may occur within the Natural Buffer Area, except as necessary for utilities and driveways. Existing vegetation within the perimeter buffer shall be maintained to the greatest extent practicable, and the Zoning Administrator may require existing vegetation be supplemented with native trees and/or native shrubs to maintain the rural character of the site as seen from adjacent roadways, properties, and/or historic structures.
12. Prior to site plan approval, the applicant shall develop an invasive species management plan to address recommendations made by the Department of Conservation and Recreation.
13. A riparian buffer at least 200 feet in width shall be maintained along all streams (ephemeral, intermittent, and perineal) and wetlands. Required riparian buffers shall be maintained as vegetated areas composed of an assemblage of trees, shrubs, and other vegetation that can effectively stabilize banks and slow down and filter stormwater runoff. If the buffer is not currently so vegetated, it shall be restored or allowed to develop into such a buffer. No mowing or disturbance shall occur within riparian buffers.
14. Access to the solar energy farm shall be limited as follows:
 - a. A maximum of one point of access shall be permitted along State Route 615 (Three Bridge Road); and
 - b. A maximum of one point of access shall be permitted along Brauer Road.

Points of access shall be shared with any development authorized by the approved conditional use permit associated with case #19-04-CUP, resulting in only one point of access from State Route 615 (Three Bridge Road) and one point of access from Brauer Road.

Once construction is complete, the point of access from State Route 615 (Three Bridge Road) shall be paved with asphalt, concrete, or a similar hard-surface material from the edge of the existing pavement of the state-maintained roadway to a point at least 40 feet from the edge of the existing pavement.
15. If needed, depending on weather and site conditions, dust control measures shall be implemented during construction.
16. Solar panels shall not contain cadmium (Cadmium Telluride and Cadmium Indium Gallium (Di)selenide) or GenX chemicals.

17. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the Virginia Department of Transportation (VDOT) and Powhatan County for review. The Plan shall address traffic control measures (with additional measures identified and implemented during weekday peak AM and PM hours to ensure safe and efficient travel for commuters and school buses), a pre- and post-construction road evaluation, and any necessary repairs to the public road that are required as a result of damage from the Project. Prior to approval of a site plan or land disturbance permit (whichever comes first), the Applicant shall provide a financial surety in a form agreed to by the County Attorney of at least \$200,000 that can be used to cover costs associated with repairing public roadways damaged during construction of the project. Such surety shall not be released until after construction is complete and Powhatan County and/or VDOT have determined that any damage to public roadways has been adequately repaired. If a traffic issue arises during the construction of the Project, the Applicant shall develop appropriate measures to mitigate the issue with input from Powhatan County and VDOT.
18. At the request of Powhatan County, the applicant shall provide a qualified third party consultant to review the site's Erosion and Sediment Control (ESC) plan and to conduct ongoing inspections of the site to ensure compliance with the Virginia Erosion and Sediment Control Law. Powhatan County shall approve of the third party consultant provided to conduct said reviews and inspections.
19. If the solar energy farm is not in active use for a continuous period of 24 months, it shall be considered abandoned, and the owner of the facility, the land owner of the property on which the solar energy farm is located, or their successors or assigns shall remove the facilities within six months of receipt of notice from the county. Decommissioning includes the removal of the solar systems, buildings, cabling, electrical components, roads, foundations, pilings, and fencing to a depth of 36 inches, and shall comply with the following:
 - a. Any agricultural land upon which the facility was located shall be restored to tillable soil suitable for agricultural use, forestry, ponds and/or wetlands. The Zoning Administrator may permit the fence, roads and support buildings to remain with the property owner's approval so long as they continue to be screened as required.
 - b. The owner of the facility shall secure the costs of decommissioning by providing and keeping in force a decommissioning agreement and financial surety in a form agreed to by the county attorney. The owner of the facilities shall every five years submit updated cost estimates for decommissioning the facilities, adjusted for changes in inflation. Such estimates shall be similar in format and content as the decommissioning plan submitted with the application for a conditional use permit (document entitled *Opinion of Probable Cost – PV Plant Decommissioning – SAT – 15 MWAC*, dated May 27, 2020 and prepared by Mott MacDonald). At its option, the county may require the surety amount be adjusted based on the cost of decommissioning.
 - c. If the facility is not removed within the specified time, the county may contract for removal. Thereafter, the county may cause removal of the facility with costs

being borne by the owner of the facilities and/or the land owner. In the event that the financial surety does not cover the cost of removal, all additional costs shall be charged to the landowner and become a lien on the property on which the facility was located.

VIII. PROPOSED RESOLUTION

In accordance with Section 83-123(f)(4) of the Powhatan County Zoning Ordinance and public necessity, convenience, general welfare, and good zoning practice, the Powhatan County Planning Commission recommends (*approval / denial / deferral*) of the request submitted by Powhatan Solar II, LLC to permit a *solar energy farm* on Tax Map Parcels #27-14, 27-14A, and 26-104, subject to the conditions presented in this report.

Attachment(s)

1. Application
2. Vicinity Map
3. Zoning Map
4. Countywide Future Land Use Map (2019)
5. Prime Conservation Areas Map
6. Zoning Narrative
7. Conceptual Plan
8. Approved Solar Energy Farm CUPs Map

Supplemental Materials

Additional materials submitted with this application are available to download at:
<http://powhatanva.gov/PowhatanSolarII>



**County of Powhatan,
Virginia**
Conditional Use Permit
Application

For Office Use Only	
Case Number	20-03-CUP

Powhatan County, Virginia
Department of Community Development
3834 Old Buckingham Road: Suite F
Powhatan, VA 23139

Applicant Information	
Name of Applicant	Powhatan Solar II, LLC
Mailing Address	3402 Pico Blvd, Santa Monica, CA 90405
Phone Number	828-385-4943
Email Address	haley.larabee@ccrenew.com

Owner Information (Complete this section if the applicant is not the current property owner)	
Name of Owner	Rancks LLC, Bridge Lake LLC, Traeland LLC
Mailing Address	Rancks LLC and Bridge Lake LLC: 2550 Brauer Road, Powhatan, VA 23139 Traeland LLC: 2120 Stavemill Estates Drive, Powhatan, VA 23139
Phone Number	804-387-7226
Email Address	andersontamara@hotmail.com

If the applicant is not the owner, the applicant must provide written documentation that the current property owner consents to the application (see form entitled *Consent of Owner(s) to Request Rezoning*).
If there are multiple owners, all owners must sign the application or provide other documentation consenting to the

Applicant Representative (Complete this section if correspondence should be directed to someone other than the applicant)	
Name of Representative	Haley Larabee, Parker Sloan on behalf of Cypress Creek Renewables
Mailing Address	45 Banks Ave, Asheville, NC 28806
Phone Number	828-385-4943 and 828-367-9035
Email Address	haley.larabee@ccrenew.com and parker.sloan@ccrenew.com

Parcel Information	
Tax Map Number	027-014, 027-14A, 026-104
Physical Address	2660 Brauer Road, Powhatan, VA 23139
General Description of Property Location	Located south of Three Bridge Road and to the east of Maidens Road.
Election District	District 3
Total Acreage	927
Current Zoning	A-10
Countywide Future Land Use: Land Use Designation	Forest/Vacant Land

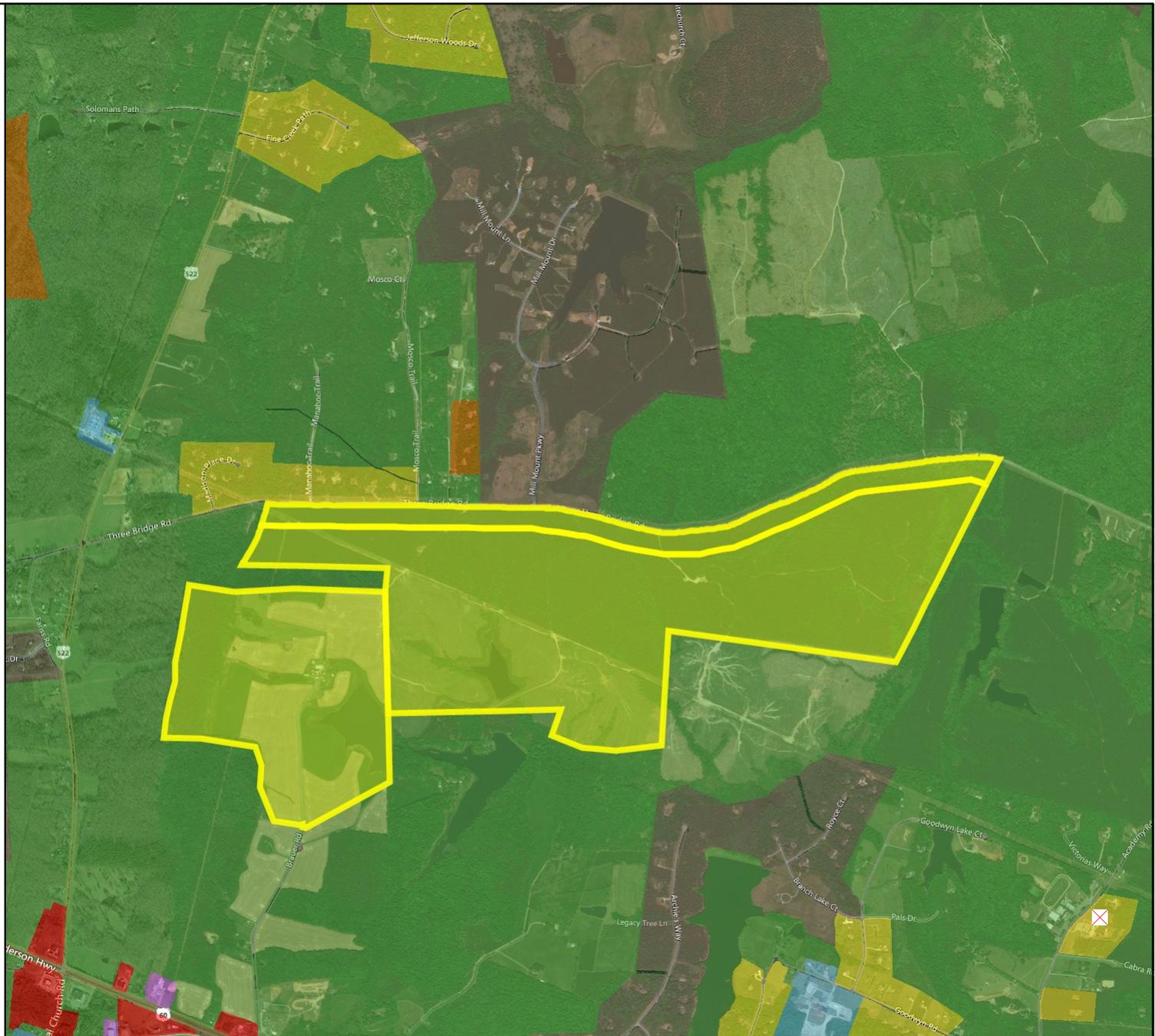
Proposed Use	
Proposed Use (Identify Use Listed in Zoning Ordinance)	Solar energy generating facility
Proposed Use: Detailed Description	Ground mounted, photovoltaic solar modules, inverters, transformers enclosed within perimeter fencing.
If this request is approved, will new structures be constructed?	No
Are there existing structures on the subject property?	Yes, there is an existing farmhouse and related farm structures (barns) that exist on the parcel
Will the proposed use connect to public water and/or sewer?	No
Will the proposed use have direct access to a public road?	Yes

A conceptual plan that shows the general configuration of the proposed development, including land uses, building locations (existing and proposed), pedestrian and vehicular circulation, open space, and resource protection areas, should be submitted with the application. This plan should also include measurements on how far existing and proposed structures, parking areas, and other activities associated with the proposed use will be from property lines.

Powhatan County

Legend

-  County Boundary
-  Places
- Zoning**
-  Agriculture A-10
-  Agricultural/Animal Confinement
-  Commerce Center Planned Development
-  Commerce Center
-  Commercial
-  Courthouse Square Center
-  Industrial - 1
-  Industrial - 2
-  Mining
-  Office
-  Residential - 2
-  Rural Residential 5
-  Residential Commercial
-  Residential Utility
-  Rural Residential
-  Village Center Planned Development
-  Village Center



Feet



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20-03-CUP Zoning Map

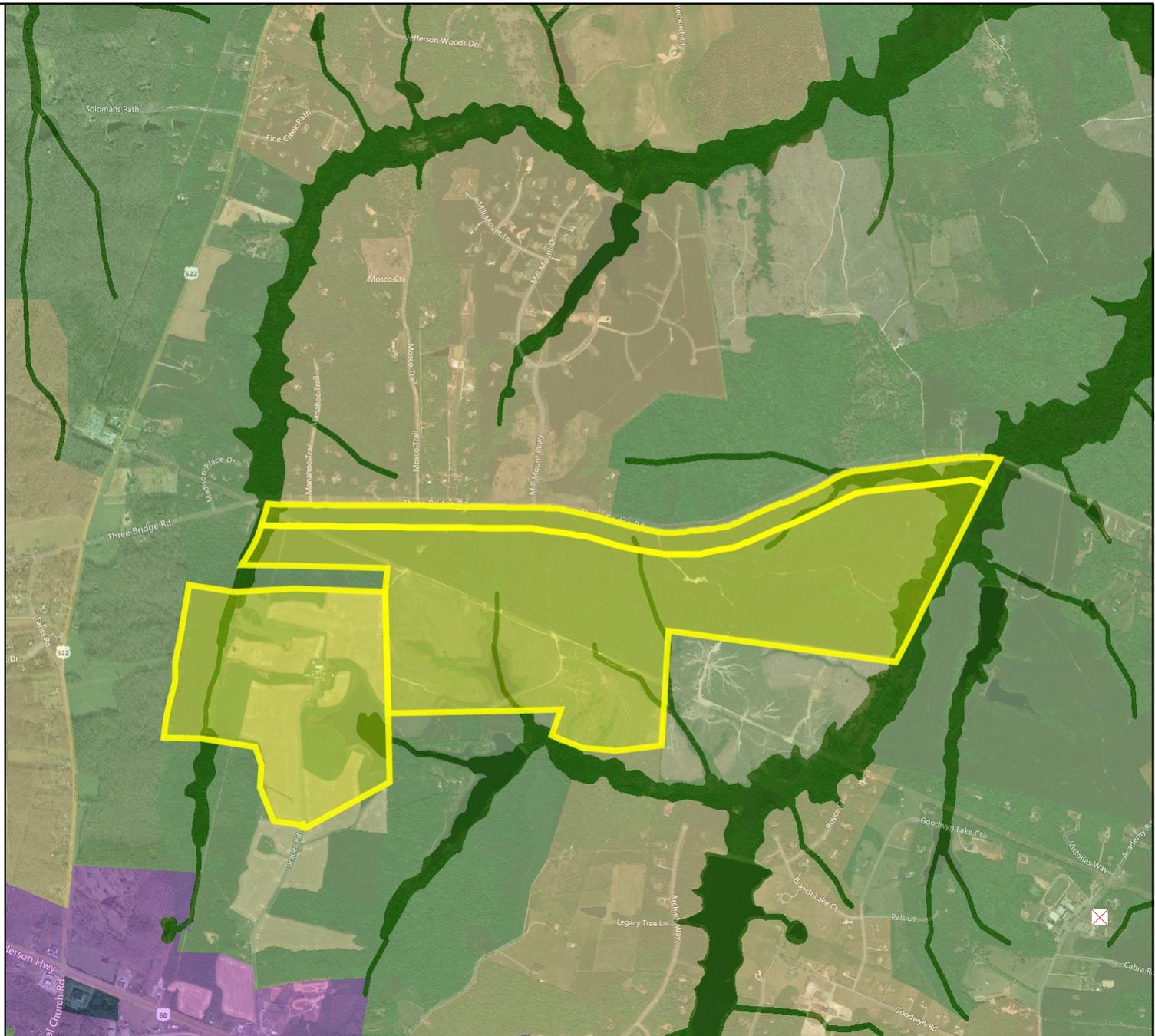
Date: 8/25/2020

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Powhatan County

Legend

-  County Boundary
-  Places
- Future Land Use**
-  Public Lands
-  Natural Conservation
-  Rural Preservation
-  Rural Residential
-  Low Density Residential
-  Village Residential
-  Village Center
-  Commerce Center
-  Economic Opportunity
-  Industrial



Feet



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20-03-CUP Future Land Use Map

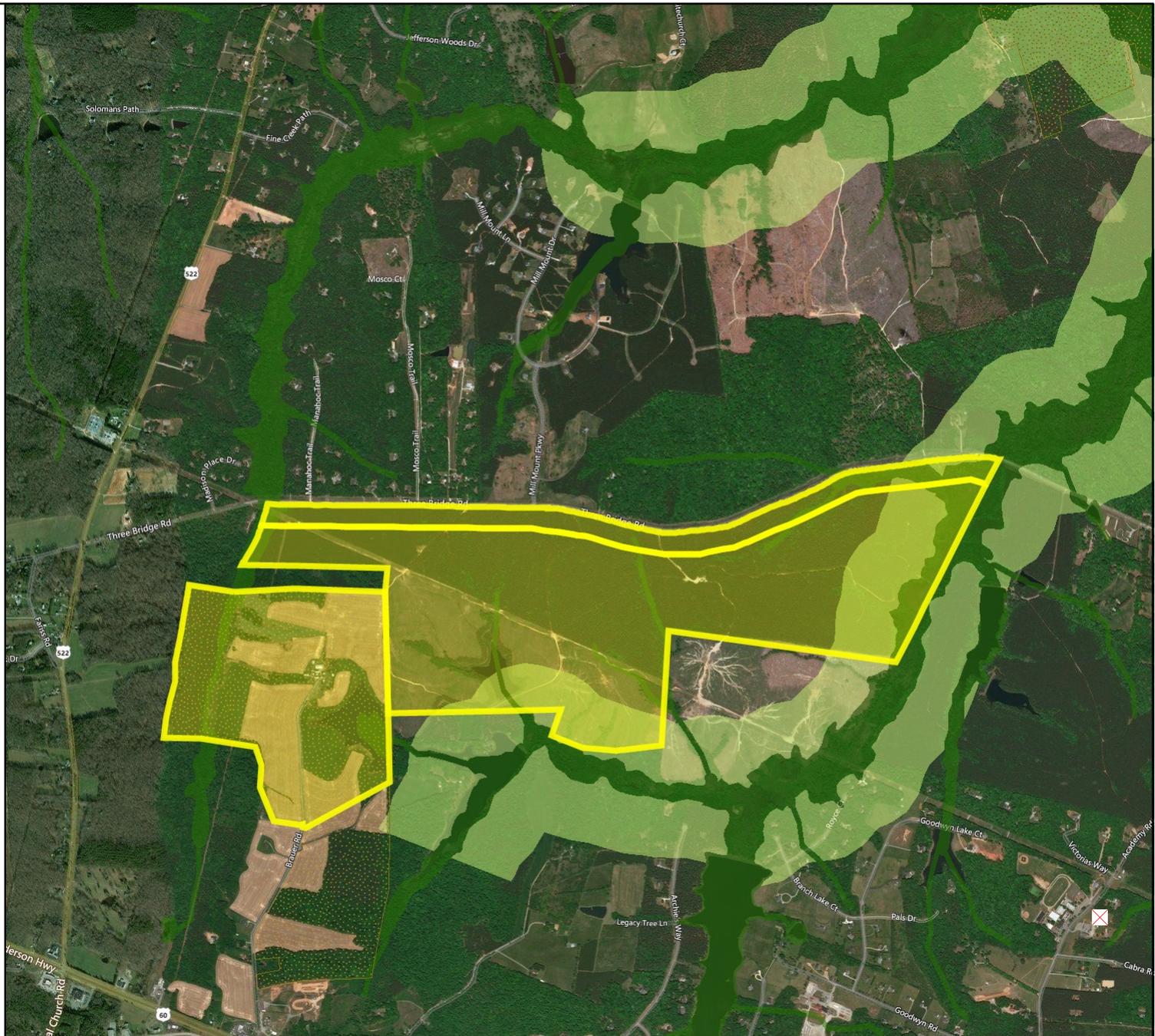
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Powhatan County

Legend

-  County Boundary
-  Places
-  Agricultural Forestal Properties
-  Natural Resources
-  Public Lands
-  Protected Lands
-  Priority Conservation Areas



Feet



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20-03-CUP Prime Conservation Areas

Date: 8/25/2020

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Powhatan Solar II, LLC 15 MW SOLAR FACILITY

Prepared by: Powhatan Solar II, LLC
Powhatan County Conditional Use Permit Application
June 4, 2020

COMPANY SUMMARY

Powhatan Solar II, LLC is a limited liability company wholly owned by Cypress Creek Renewables, LLC (CCR). We believe that solar makes our world safer and cleaner while creating jobs and contributing to our country's energy independence. CCR is recognized as an industry leader in providing clean, affordable energy throughout the U.S. Our team members specialize in the design, build, and ownership of a range of solar projects, and the company has invested over \$3 billion into solar energy production since 2014. CCR is committed to providing positive benefits to the communities we serve, and we hope to be an asset to your community.

PROJECT SUMMARY

Powhatan Solar II, LLC, proposes to develop a 15 MW Solar Energy Facility planned on roughly 175 acres out of 200 acres of land located near Brauer Road in Powhatan, VA. The project site is located southeast of the intersection of Maiden Road and Three Bridge Road, consisting of parcels 027-14 and 027-14A owned by Bridgelake LLC and Traeland LLC, and 026-104, owned by Rancks LLC.

Powhatan Solar II, LLC, will contain rows of Photovoltaic (PV) cell panels mounted on steel posts set in the ground. Solar components will comply with the current edition of the National Electric Code, be UL1 listed (or equivalent), and be designed with an anti-reflective coating. All solar panels will be sourced from Tier 1 manufacturers as rated on the Bloomberg New Energy Finance PV Module Maker Tiering System.

The anticipated power output of the project is approximately 33.8 million kilo-watt hours (kWh) annually, enough to power approximately 2,000 single-family homes. The power generated from the solar energy system will be sold to Dominion for use by consumers to replace energy produced from a non-renewable source.

CCR has contracted environmental consultants to perform field investigations, literature reviews, and agency consultations to identify and assess existing environmental conditions at the project site. Information derived from the environmental diligence is used by CCR to avoid and minimize effects to environmental resources during the design process. Full compliance with Federal, Commonwealth, and Local regulations will ensure Powhatan Solar II, LLC, will not result in adverse impacts to environmental resources.

Allowing the property to develop as a solar energy facility provides many benefits, including:

- **An opportunity for locally generated, clean energy in Powhatan County**
- **Economic investment and increased tax revenue for Powhatan County**

- With the approval and construction of Powhatan Solar II, LLC, Powhatan County can expect \$934,000 in lifetime tax revenues instead of \$190,000 without the approval of the solar project. This is a 391% increase, of 4.9 times more, in tax revenues to Powhatan County over the lifetime of the solar project.
 - Powhatan Solar II, LLC, expects to invest approximately \$20 million into the project. Through this investment, Powhatan County can expect: spending of over \$12 million in the local economy during construction; 25 full-time equivalent (FTE) local construction and installation jobs; and additional tax revenue over the lifetime of the project.
- **Contributes to the renewable energy goals set by the Clean Economy Act**
- Powhatan Solar II, LLC will offset approximately 28,000 tons of Carbon Dioxide (CO₂) annually, the equivalent of taking 5,400 cars off the road, helping the Commonwealth of Virginia to reach the 100% renewable energy goals established in the Clean Economy Act.

Zoning Permit Application

The following Application and supporting documents address the requirements detailed in Section 83-15 Conditional Uses of the Powhatan County Zoning Ordinance as well as the guidelines addressed in the Long-Range Comprehensive Plan in regard to solar farms.

The Powhatan Solar II, LLC project will be a low-impact development requiring little to no municipal services. The following application illustrates that this project will not negatively impact public safety or general welfare, nor will it affect the comfort and convenience of the public in Powhatan County or of the immediate neighborhood.

Powhatan Solar II, LLC respectfully requests approval of a Conditional Use Permit Application to construct a 15MW solar energy generating facility. We thank you for your consideration and look forward to working together to bring the benefits of a solar energy facility to Powhatan County. Please let me know if I can provide additional information or assistance.

Kind Regards,

Haley Larabee

Associate Project Developer
828-385-4943 | Cell
45 Banks Ave.
Asheville, NC 28801

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1. APPLICANT INFORMATION

1.1 Applicant Address and Contact

Company

Cypress Creek Renewables
3402 Pico Blvd
Santa Monica, CA 90405

Contact:

Haley Larabee
haley.larabee@ccrenew.com
828-385-4943

1.2 Background on Cypress Creek Renewables, LLC and Powhatan Solar II, LLC

Cypress Creek Renewables (CCR) believes solar energy makes the world, safer, cleaner, and better. Our mission statement is simple: powering a sustainable future one project at a time. The CCR team solves problems to successfully develop, build, and operate solar facilities across the United States. With 5.3 gigawatts of solar energy developed in 16 states and \$3 billion invested in solar energy production since 2014, CCR is one of the country’s leading solar developers and was recognized by Solar Power World magazine as the No. 1 Solar Developer in the U.S. for 2017 and 2018. For more information about CCR, please visit <https://ccrenew.com>.

An overview of our current operational and development portfolio is illustrated below:

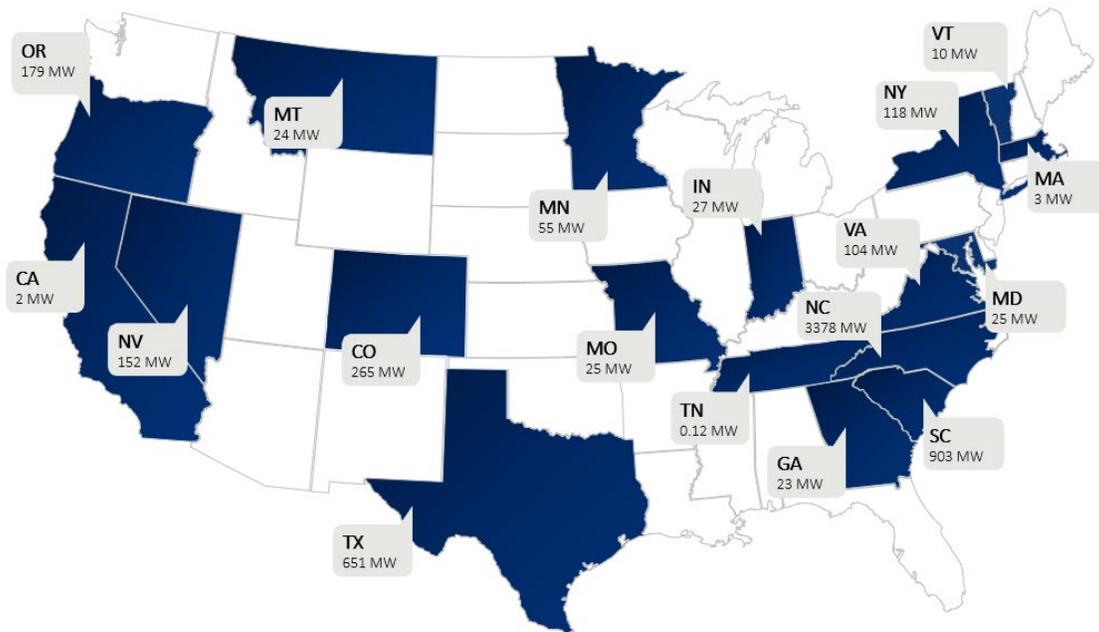


Figure 1 - Cypress Creek Renewables Portfolio Overview

The CCR team has a wealth of experience in the solar industry and works to develop, build, and operate solar facilities across the United States. We are committed to strong partnerships with utility companies, financial institutions, and the communities that host our solar energy facilities. As a national leader in solar energy, and a partner with

many communities in the Commonwealth of Pennsylvania already, Cypress Creek is the right partner for the Potter Township community.

2. PROJECT DESCRIPTION AND ANALYSIS

2.1 Project Purpose and Need

Solar energy is a vital part of our nation's economy and energy mix. Conventional sources of electricity such as coal, natural gas, and nuclear energy are expensive, finite resources that require significant environmental disruption and risk to public safety to maintain and extract. Solar energy is a clean, inexpensive, and unlimited resource with minimal environmental impact. While electricity demand continues to rise across the country, conventional power sources rely on finite resources with volatile prices that contribute to higher electricity prices. The proposed project, Powhatan Solar II, LLC, would contribute low-cost energy to the electric grid without impact to public convenience and welfare.

Powhatan Solar II, LLC, and similar solar energy facilities are essential to achieving the sustainability goals of the Commonwealth of Virginia. Each 15 MW solar facility that can be placed in service in Virginia can offset an estimated 28,000 tons of carbon dioxide annually, the equivalent of 5,400 cars off the road.¹

Virginia has identified the advancement of renewable energy and energy efficiency as a commonwealth goal by way of the Future Energy Jobs Act, and the Virginia Clean Economy Act. The Virginia Clean Economy Act, championed by Governor Northam, mandates that the utilities serving the Commonwealth of Virginia, Dominion and Appalachian Power Company, to procure 100% renewable energy by 2045 and 2050, respectively. As a more near-term goal, Dominion and Appalachian Power Company must procure 30% renewable energy by 2030.

2.2 Project Overview

Powhatan Solar II, LLC, is proposing a 15 MW Solar Energy Facility in Powhatan County. The property is zoned A-10, agricultural, and will require a Conditional Use Permit.

Powhatan Solar II, LLC will contain rows of Photovoltaic (PV) cell panels, also referred to as modules, mounted on posts set in the ground. These rows of PV panels are referred to as "solar arrays." Solar components will comply with the current edition of the National Electric Code, be UL listed (or equivalent), and designed with an anti-reflective coating. The solar panels will be supported by a metal racking system that is no more than twelve (12) feet in height. The anticipated power output of the project is approximately 33.8 million kilowatt hours (kWh) annually, enough to power approximately 2,000 single-family homes.

¹ U.S. EPA (2018). eGRID, U.S. annual national emission factor, year 2012 data. U.S. Environmental Protection Agency, Washington, D.C.

Powhatan Solar II, LLC will not negatively impact the public health, safety, and general welfare, nor the comfort or convenience of the public or of the immediate neighborhood. In fact, the project will be a benefit to Powhatan County both in economic development as well as helping the county achieve sustainability goals.

2.3 Powhatan County Project Site Description and Siting

2.3.1 Site Selection Process

Exhibit C – Powhatan Solar II, LLC’s Zoning Site Plan illustrates the site location. CCR uses a geographical and data-drive approach to select potential solar energy facility sites. When deciding to pursue a site for solar development, CCR evaluates land based on the following criteria, among others:

- Proximity to relevant infrastructure, including electrical substations, existing three phase lines, and access roads
- Likelihood of wetlands and other protected landforms
- Slope of land and direction of this slope
- Potential presence of threatened or endangered species

If a site meets the criteria above and terms can be reached with the landowner, a lease is generally executed.

2.3.2 Surrounding Terrain

The Powhatan Solar II, LLC site is an ideal site for a solar energy facility, considering its access to the existing utility grid, lack of environmental constraints, and harmonious surrounding land uses.

2.3.3 Site Access

Solar energy facilities are low-impact developments that can often utilize existing right-of-way infrastructure for site access, minimizing the need for disturbance for the construction and maintenance of the project.

2.3.4 Compatibility with the 2019 Powhatan County Long-Range Comprehensive Plan

Powhatan Solar II, LLC has taken efforts to ensure that the project is in full compliance with guidance provided in the 2019 Powhatan County Long-Range Comprehensive Plan. The sections below outline how the project is in compliance with the Comprehensive Plan; the text in italics comes directly from the Powhatan County 2019 Long-Range Comprehensive Plan, page 73.

Solar Energy Farms

As demand for renewable energy increases, there will likely be greater interest in locating solar energy farms in Powhatan County. Since these facilities require large, open areas to operate, they will likely locate outside of designated growth areas. To help ensure their compatibility with surrounding rural landscapes and uses, the following features should be considered when siting and designing solar energy farms:

Proximity to Major Thoroughfares

While solar energy farms do not generate significant traffic once complete, large trucks and equipment will need to access the site during construction. Solar energy farms should be located in close proximity to major thoroughfares, which are best able to accommodate large volumes of truck traffic. Access points to adjacent roadways should be limited, and developers should coordinate with VDOT to help ensure that heavy truck traffic during construction does not damage road surfaces or create unsafe traffic conditions.

The Powhatan Solar II, LLC project is in close proximity to the major thoroughfares of Maidens Road and Three Bridge Road. Cypress Creek Renewables will prepare a Construction Traffic Management Plan which will be reviewed and approved by VDOT and Powhatan County in order to establish the best routes for construction traffic and deliveries to the site. This plan will incorporate mitigation measures to ensure safe and efficient travel for commuters and school buses, as well as steps outlined to ensure any potential road damage as a result of the project construction is repaired.

Screening and Buffering

To protect viewsheds from adjacent roadways and properties, solar energy farms should have significant perimeter buffers. Adjacent to roadways and residential properties, perimeter buffers at least 200 feet wide should be provided. Wider perimeter buffers may be appropriate in certain areas, depending on the characteristics of a specific site. Existing mature vegetation should be maintained and supplemented with native evergreen trees and shrubs planted in a naturalistic pattern.

The Powhatan Solar II, LLC project will provide the required buffers along roadways, property lines, and residential dwellings. Setbacks of 200 feet will be provided from all road right-of-way's and property lines. Mature vegetation along Three Bridge Road will remain to ensure efficient screening, and supplemental plantings will be planted if necessary.

Protection of Natural Resources

To help protect water quality, riparian buffers at least 200 feet wide should be provided adjacent to any wetlands and streams. All natural resources should be protected during construction. An environmental impact evaluation should be prepared (by a third party)

to identify additional measures that should be implemented to protect critical environmental resources. Native plantings and “pollinators” should be incorporated into the site’s design to provide wildlife habitat, mimicking habitat required by species native to the area.

The Powhatan Solar II, LLC project will incorporate riparian buffers of 200 feet wide along the wetlands, perennial and intermittent streams and ponds on site. These areas will be able to grow “wild” and untouched, in contrast to the current land use, improving water quality and habitat conditions over time.

The next step in the project’s development process after local zoning would be to submit an application to the Virginia Department of Environmental Quality (DEQ) for a solar Permit By Rule (PBR). In support of this application, Powhatan Solar II would complete an extensive natural resources assessment and cultural resources analysis for the entire site. DEQ and the Virginia Department of Historic Resources (DHR) have jurisdiction over the project if any impacts to natural or cultural resources are identified and would require mitigation measures to reduce or avoid any impact they find to be significant.

Protection of Cultural Resources

Appropriate buffers should be provided adjacent to any on-site cultural resources. Solar energy farms should be sited to minimize impacts on the views to and from historic sites.

Based on a literature review and background search, no archaeological resources were identified onsite, but one potentially eligible archaeological resource was identified within the one-half (0.5) mile radius around the Powhatan Solar II, LLC site limits. One architectural resource was identified on the property but was determined by the Department of Historic Resources to be ineligible for listing on the Virginia Landmarks Register or the National Register of Historic Places. Nonetheless, additional studies will be completed as part of the diligence required for the Permit By Rule permit reviewed by DEQ and DHR, and this area is excluded from the Powhatan Solar II, LLC project area and solar array area.

Prohibition of Toxic Materials

Solar panels should not contain toxic materials, such as cadmium and GenX.

Powhatan Solar II, LLC can commit to using solar panels that are safe and do not endanger public health.

Project Size

To help these projects blend into the rural landscape, each solar energy farm should be less than 500 acres in area.

Powhatan Solar II, LLC will have a project boundary acreage of 300 acres and a maximum solar array area of 175 acres. More broadly, the solar array area of Powhatan Solar I, LLC, combined with the solar array area of the Powhatan Solar II, LLC project equates to ~400 acres, which as a whole still complies with the recommended project size of less than 500 acres.

2.4 Solar Energy Overview

The conversion of sunlight into electric energy is not a new concept—solar technologies have been around since the 1970s. CCR is focused on utility-scale solar developments. Our projects are designed, built, and operated to the same rigorous standards as your current energy provider, complying with federal, state, and local codes and standards.

The solar PV panels function as a solid-state inert crystals, most similar to a pane of solid glass. The panels do not erode and do not produce any emissions. The sealed PV panels do not leach materials into the environment and are recycled at the end of their lifecycle.

Cypress Creek Renewables typically mounts the solar arrays in one of two ways: on a fixed tilt (panels are stationary) or on a single axis tracking system (panels slowly follow the sun throughout the day). Structural frames, also referred to as racks, are driven into the ground with steel beams on which PV panels are mounted. If bedrock is encountered, ground screws can be used instead of driven piles requiring a different mechanical installation process.



Figure 2 - Typical Single Axis Tracking Solar Array

The inverters and transformers convert the DC power generated by the solar modules into AC power which is used in the electric grid, are mounted on top of small concrete pads. Most sites require minimal grading, and an entire facility can often be installed with minimal soil disturbance.

Solar electricity production includes the following five components:

- 1) *Electrical Power Generation.* Sunlight strikes the PV panel cells, which convert photons of light into electrons, producing low-voltage, Direct Current (DC) electricity.
- 2) *Combination Box.* The low-voltage, DC electricity is fed through cables from each PV panel to a combiner box.
- 3) *Inverter.* The low-voltage, DC electricity is fed through cables from the combiner box to an inverter, where it is converted to low-voltage, Alternating Current (AC) electricity.
- 4) *Transformer.* The transformer steps up the low-voltage, AC electricity to the appropriate voltage so that it can be fed into the electrical transmission system.
- 5) *Utility Transmission.* Electricity is sent through the electrical transmission lines to utility distribution systems for delivery to ratepayers.

Please see Exhibit E – Technical Memo for further information on panel materials, audibility, glare, soil protection, dust and weed control, and wildlife protection.



Figure 3: Inverter (left) and Transformer (right)



Figure 4 - Worker Installing Wiring Under Solar Module On Single Axis Tracking System

2.5 Construction Timeline and Due Diligence

Currently, construction is estimated to begin during the latter part of the third quarter of 2022, and construction is expected to be complete by the second quarter of 2023. Powhatan Solar II, LLC will take approximately 6 months to construct, and will overlap much of the construction timeline associated with the Powhatan Solar I, LLC project that has already been approved by Powhatan County.

Most sites require minimal grading and an entire facility can often be installed with minimal soil disturbance. Structural frames, also referred to as racks, are driven into the ground with steel beams on which PV panels are mounted. The inverters and transformers, which receive the power from the solar panels, are mounted on top of small concrete pads.



Figure 5 - Bizzell Church Solar: 5 MW Solar Energy Facility in Johnston County, NC

Once construction is complete, routine maintenance will occur approximately one time per month by a standard size pick-up truck. The project will not require long-term manned labor on-site, nor will it require sewer, water, or other services. The project will be completely enclosed by a 6' tall fence with 3 strands of barbed wire, or 7' in total height, per National Electrical Code regulations.

An important part of Powhatan Solar II, LLC's due diligence and development process is an analysis of the existing environmental resources potentially occurring within and near the site. Due diligence and pre-construction survey efforts will take place in coordination with qualified third-party contractors and consultants. Agency consultations such as U.S. Fish & Wildlife, Virginia Department of Environmental Quality, Virginia Department of Conservation & Recreation will be completed to ensure there is no negative impacts due to the development of the project. Powhatan Solar II, LLC will coordinate with the relevant local, state and federal agencies on permits and approvals required for construction

2.6 Construction Activities

2.6.1 Construction Sequence

While each site is unique, Powhatan Solar II, LLC will use standard construction and operation procedures used for our other solar energy facilities in the United States. The construction of Powhatan Solar II, LLC is expected to take approximately 6 months, and will overlap with the construction of the Powhatan Solar I, LLC project.

The construction and commissioning of Powhatan Solar II, LLC will follow the general sequence shown in Figure 6 Construction Sequence.

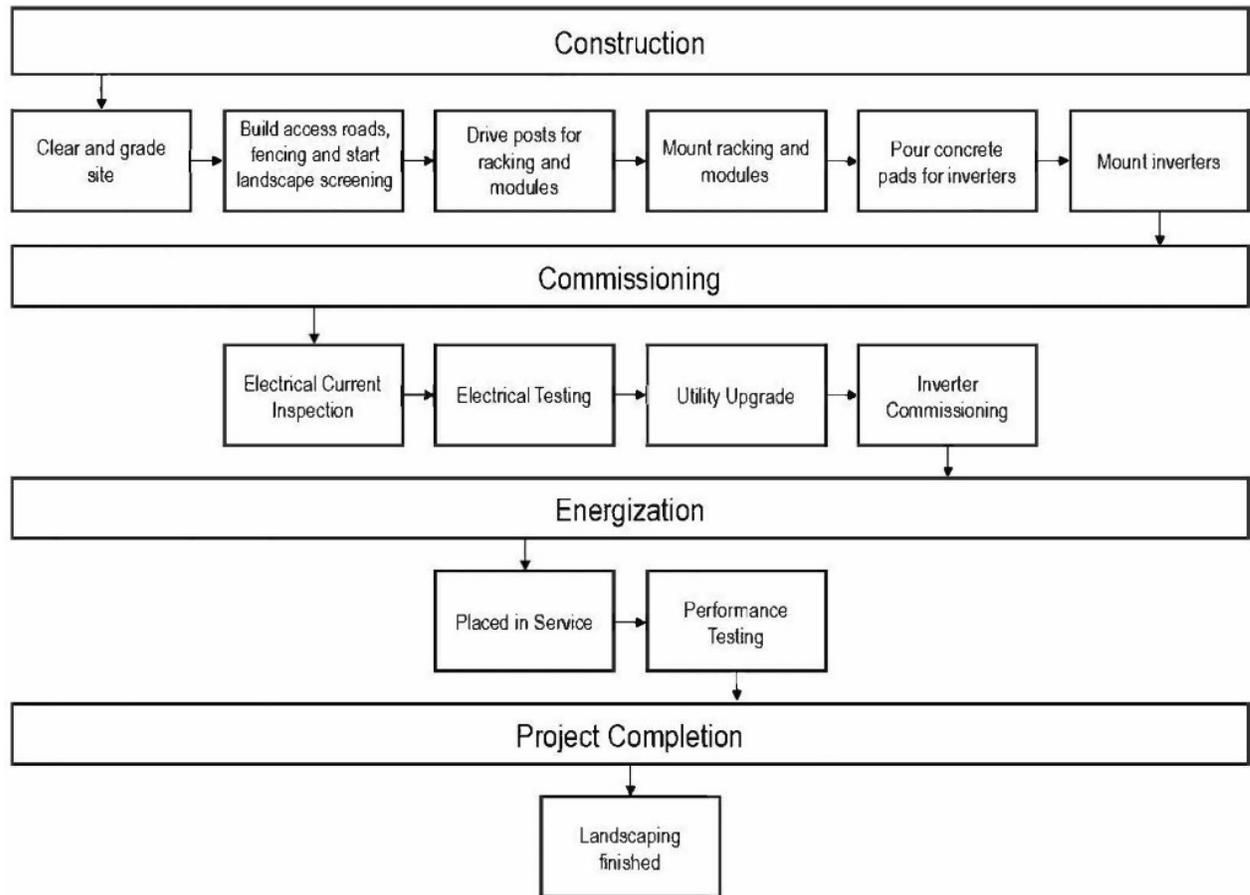


Figure 6 - Construction Sequence

2.6.2 Construction Materials

The PV panels do not erode and do not produce any emissions. There are no chemicals, fluids, or materials that are capable of entering the environment from the PV panels.

The only hazardous material that will be used during the construction of Powhatan Solar II, LLC is fuel for machinery; all other construction materials are non-hazardous. Powhatan Solar II, LLC and its subcontractors will follow all appropriate protocols related to the use and storage of fuel. A sufficient quantity of spill containment and clean up materials shall be readily available at each equipment storage area such that any spill which may occur can be cleaned up immediately. A drip pan placed at the fueling station will prevent fuel from reaching the ground. This area shall be inspected daily for spillage. Any fuel spillage shall be properly disposed, and a receipt of proper disposal will be required. Twenty-pound fire extinguishers shall be mounted within 25

feet of, and at each end of, the fuel storage area to ensure adequate protection in the event of a fire.

Powhatan Solar II, LLC and its subcontractors shall maintain the site in a clean, neat and safe condition. As work progresses, materials, tools, waste materials, rubbish and debris will be removed accordingly. Powhatan Solar II, LLC and its subcontractors will incur all costs of clean-up.

2.7 Operation and Maintenance

2.7.1 Equipment Maintenance

Once constructed, the project will require very little maintenance. Because all of our projects are monitored remotely, there will be no need to build travel infrastructure or complete public improvements in order to accommodate traffic. Electrical engineers will service electrical equipment, primarily the inverters and transformers, on average once per month. Solar PV panels have a very low failure rate (approximately 1 in 10,000 per year) and are warrantied for 25 years.

Powhatan Solar II, LLC, will conduct an annual performance audit and inspection to assess the quality of equipment. Some years, we will expect to identify areas within the array area in need of replacement or repair. Module replacement rarely occurs outside of these annual performance inspections and we would expect to perform module replacement less than 10 times over the initial 25-year term. Solar panels are easily replaced from inventory stores and financing to change-out the array at warranty's end has been built into our cost models. Routine maintenance and inspection will require approximately one visit per month by a standard size pick-up truck.

Please see Exhibit C – Vegetation Maintenance Memo and Exhibit F -- CCR Operations & Maintenance Template Scope of Services

2.7.2 Vegetation Maintenance

Powhatan Solar II, LLC, is committed to landscaping best practices that stabilize the soil to add strength and durability for the long-term success of the project and the health of the land. Suitable management practices and the promotion of healthy biodiversity within local ecosystems are a priority for Powhatan Solar II, LLC.

We will work to employ best practices and techniques that are most appropriate for the local environment based on the following factors:

- Preventing runoff
- Carbon sequestration
- Air quality concerns
- Invasive species resistance
- Rate of fescue growth

CCR will put a “landscape manager” in place to manage the schedule and methods of landscape management to be implemented at the Powhatan Solar II, LLC project. The landscape manager will make it a priority to minimize the use of mechanical mowing and herbicides. Powhatan Solar II, LLC can employ a number of practices to achieve this, such as utilizing local vegetation with slow growth cycles. We anticipate mowing will occur at the Powhatan Solar II, LLC site at maximum 6 times a year.

Bio-degradable, EPA registered and approved solutions that are nontoxic to pets and wildlife, are used only when herbicide application is necessary. Sustainable, long-term management practices and the promotion of healthy biodiversity within local ecosystems is a priority for Powhatan Solar II, LLC.

2.7.3 Decommissioning of Site

Powhatan Solar II, LLC guarantees that the solar energy generating facility shall be removed, at the expense of the operator, in the unlikely event that the system ceases operation.

Please see Exhibit D – Decommissioning Plan for more information.

3. COMMUNITY IMPACT

3.1 Project Costs and Financing Structure

Powhatan Solar II, LLC expects to invest approximately \$20 million into the project. These costs are based on build cost assumptions and include all construction, material, labor, and professional service-related expenditures. Cypress Creek Renewables operating capital, in combination with tax equity and debt partners, will provide the financial backing for the project.

3.2 Economic Development & Job Creation

The solar industry is one of the fastest growing and most robust emerging industries in the nation employing over 242,000 workers. Solar employment has grown 159% since 2010⁸

Based on estimates by the National Renewable Energy Laboratory, the construction and installation period of Powhatan Solar II, LLC will result in the creation of approximately 25 full-time equivalent (FTE) local construction and installation jobs, provided that qualified, local labor is available. Once the commencement of commercial operations begins, Powhatan Solar II, LLC will require two permanent, local, highly skilled technicians for operations and maintenance activities, as is the industry standard for a solar energy facility of this size.

Cypress Creek Renewables hires and works with qualified, local subcontractors wherever possible. In addition, the project will inject approximately \$12 million of direct spending into the local economy, which includes expenditures on parts and labor, goods and services, fuel, lodging, dining and other consumer resources. During the ongoing operational life of the project, local investment is expected to be approximately \$125,000 annually.

3.3 Solar Energy Facility Safety

Powhatan Solar II, LLC will be a safe facility that will not impact the well-being of local residents or Powhatan County in general. Solar energy facilities are very safe, with simple and proven technologies used across the country. Further, CCR sources panels from Tier 1 rated manufacturers, the highest rating in the Bloomberg New Energy Finance PV Module Maker Tiering System.²

The project will be constructed according to all required building and electrical codes and safety measures. Site plans will be approved by all applicable local authorities, and regularly visited throughout construction as required by Powhatan County or by the Commonwealth of Virginia's building codes. Energized system components, such as inverters, will be commissioned by the manufacturers' technicians. The project will employ required lock-out measures and safety warnings. A perimeter security fence will prevent trespassing and vandalism. The active area of the project will be enclosed by a fence and gated for security purposes. Access codes to the gate will be provided to the Police Department, Fire Department, and emergency service providers. Vehicular access to the site is adequate for the use proposed and for emergency services, as indicated in *Exhibit C – Zoning Site Plan*.

The regular vegetation control methods prevent buildup of debris that could otherwise pose risk of fire material, thus Powhatan Solar II, LLC, will pose no increased risk of fires to the surrounding areas.

3.4 Traffic Safety

With no more than one vehicle visit per month on average during operation, the project will not be a significant traffic generator and will not cause undue harms to the surrounding road networks, to local responders, or to the Virginia Department of Transportation. By contrast, American households generate an average of ~6 vehicle trips per day (over 500 per quarter).^[1]

² Bloomberg New Energy Finance, November 2016. [BNEF PV Module Maker Tiering System](https://data.bloomberglp.com/bnef/sites/4/2012/12/bnef_2012-12-03_PVModuleTiering.pdf). https://data.bloomberglp.com/bnef/sites/4/2012/12/bnef_2012-12-03_PVModuleTiering.pdf. Accessed on February 1, 2017.

A temporary rise in vehicle traffic during the 6 months construction period is anticipated. However, given the limited number of vehicles visiting the site over the construction period, traffic patterns are not anticipated to be impacted. Additionally, there will be no significant increase to traffic once the facility is operational. In sum, no significant impacts are anticipated for this item.

3.5 Agency Coordination

Powhatan Solar II, LLC will continue to coordinate with all necessary Federal, Commonwealth, and agencies and other entities throughout the planning process for the Powhatan Solar II project. Powhatan Solar II, LLC is prepared to work with the Virginia Department of Environmental Quality, Virginia Department of Natural Resources and the Powhatan County staff to complete the appropriate environmental assessments and permits pertinent to the development of this project.

3.6 Tax Revenue

The Powhatan Solar II, LLC project will also generate additional tax revenue for Powhatan County, without putting an additional demand on local municipal services. Taxes on the land and equipment of Powhatan Solar II, LLC will provide Powhatan County a valuable source of funding for public improvements, educational investment, economic development, and other initiatives for the next thirty-five to forty years.

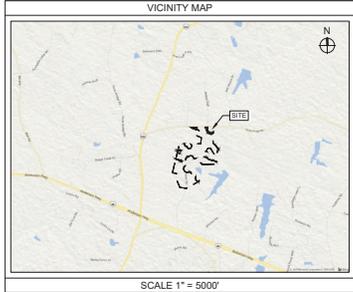
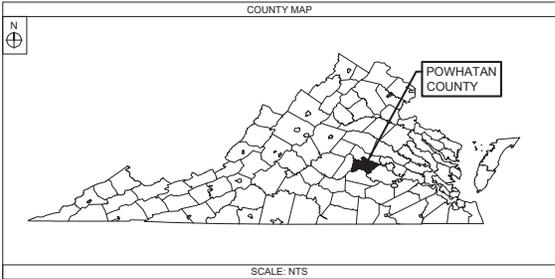
With the approval and construction of Powhatan Solar II, LLC, Powhatan County can expect \$934,000 in lifetime tax revenues instead of \$190,000 without the approval of the solar project. This is a 391% increase in tax revenues to Powhatan County over the lifetime of the solar project.

ZONING SITE PLANS

POWHATAN SOLAR II, LLC.

SOLAR POWER GENERATION FACILITY

POWHATAN, VA 23139 (POWHATAN COUNTY)
 LATITUDE: 37.575169, LONGITUDE: -77.928366



SHEET INDEX			
DWG. #	DRAWING TITLE	REV. #	REV. DATE
G 1.0	COVER SHEET	2	6/3/2020
Z 1.0	OVERALL ZONING SITE PLAN	2	6/3/2020
Z 2.0	A1	2	6/3/2020
Z 3.0	A2	2	6/3/2020
Z 4.0	A3	2	6/3/2020



PERMIT DRAWING - NOT RELEASED FOR CONSTRUCTION

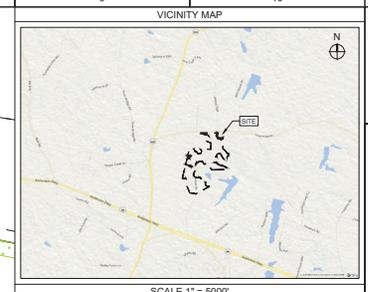
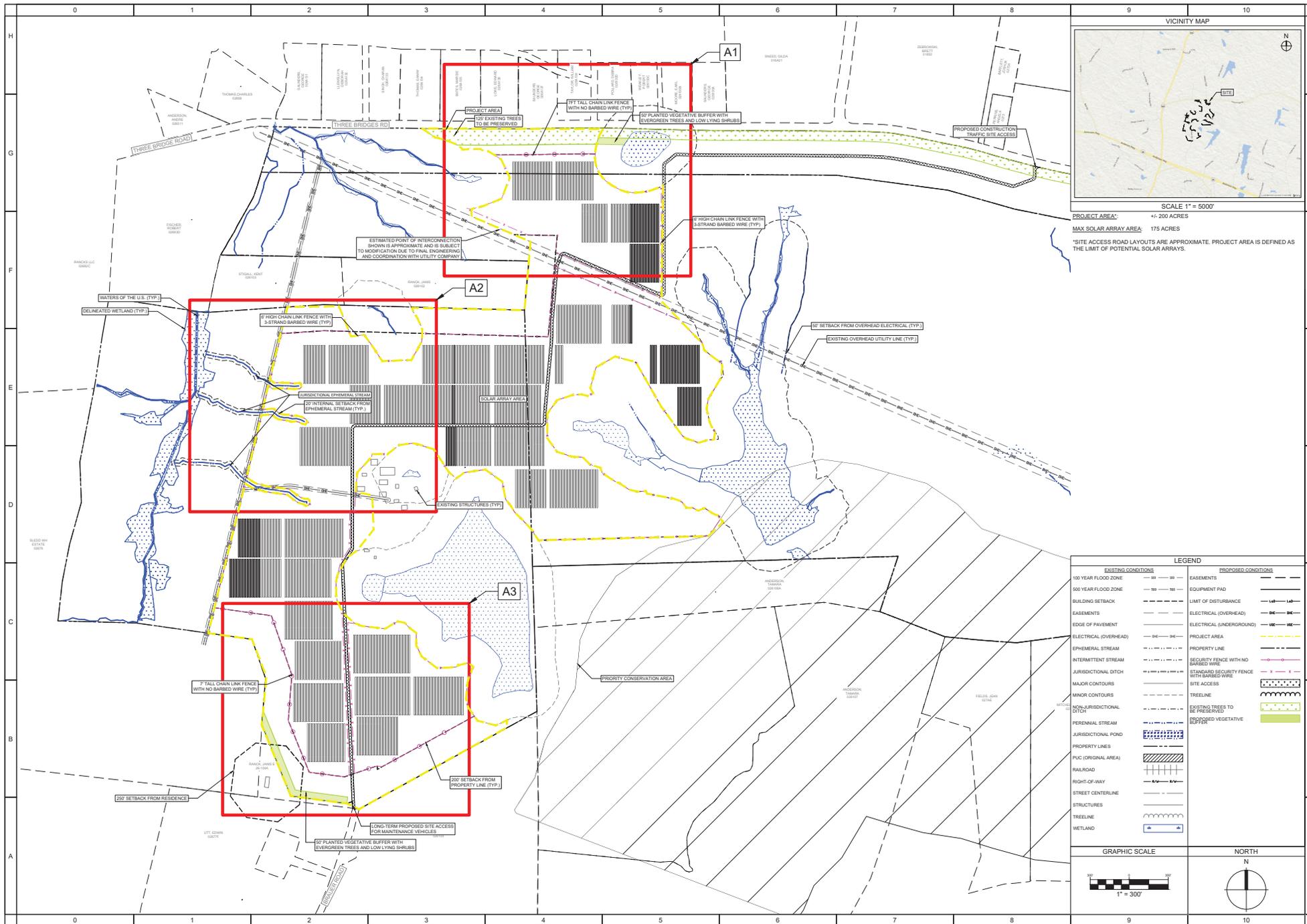
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CONSULTANT

NO.	DATE	DESCRIPTION

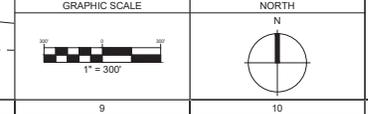
POWHATAN SOLAR II, LLC
 2860 BAUER RD.
 POWHATAN, VA 23139

DATE: 05-20-20
 DRAWN BY: AR
 CHECKED BY: -
 COVER SHEET
G 1.0



PROJECT AREA: ± 200 ACRES
MAX SOLAR ARRAY AREA: 175 ACRES
*SITE ACCESS ROAD LAYOUTS ARE APPROXIMATE. PROJECT AREA IS DEFINED AS THE LIMIT OF POTENTIAL SOLAR ARRAYS.

LEGEND	
EXISTING CONDITIONS	PROPOSED CONDITIONS
100 YEAR FLOOD ZONE	EASEMENTS
500 YEAR FLOOD ZONE	EQUIPMENT PAD
BUILDING SETBACK	LIMIT OF DISTURBANCE
EASEMENTS	ELECTRICAL (OVERHEAD)
EDGE OF PAVEMENT	ELECTRICAL (UNDERGROUND)
ELECTRICAL (OVERHEAD)	PROJECT AREA
EPHEMERAL STREAM	PROPERTY LINE
INTERMITTENT STREAM	SECURITY FENCE WITH NO BARBED WIRE
JURISDICTIONAL DITCH	STANDARD SECURITY FENCE WITH BARBED WIRE
MAJOR CONTOURS	SITE ACCESS
MINOR CONTOURS	TREELINE
NON-JURISDICTIONAL DITCH	EXISTING TREES TO BE PRESERVED
PERENNIAL STREAM	SUPPRESSED VEGETATIVE
JURISDICTIONAL POND	
PROPERTY LINES	
PUC (ORIGINAL AREA)	
RAILROAD	
RIGHT-OF-WAY	
STREET CENTERLINE	
STRUCTURES	
TREELINE	
WETLAND	



CYPRESS CREEK
RENEWABLES
5310 ACCADUE RD. SUITE 300 - DURHAM, NC 27713

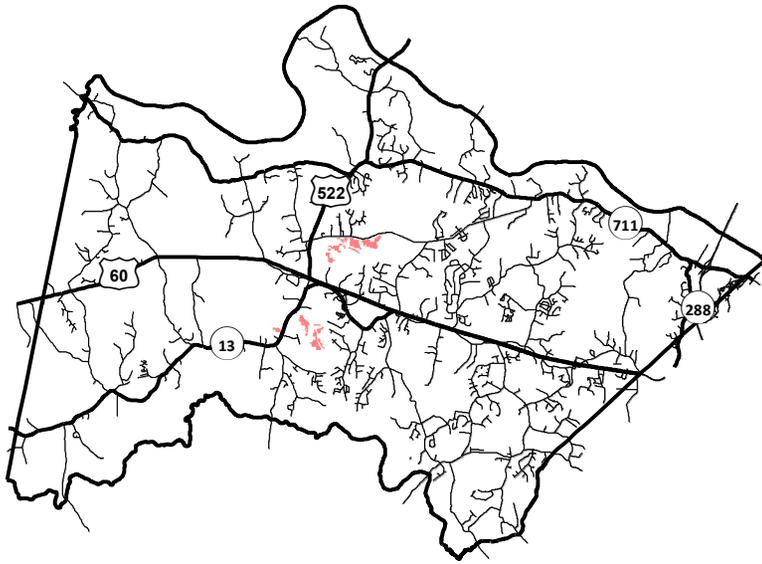
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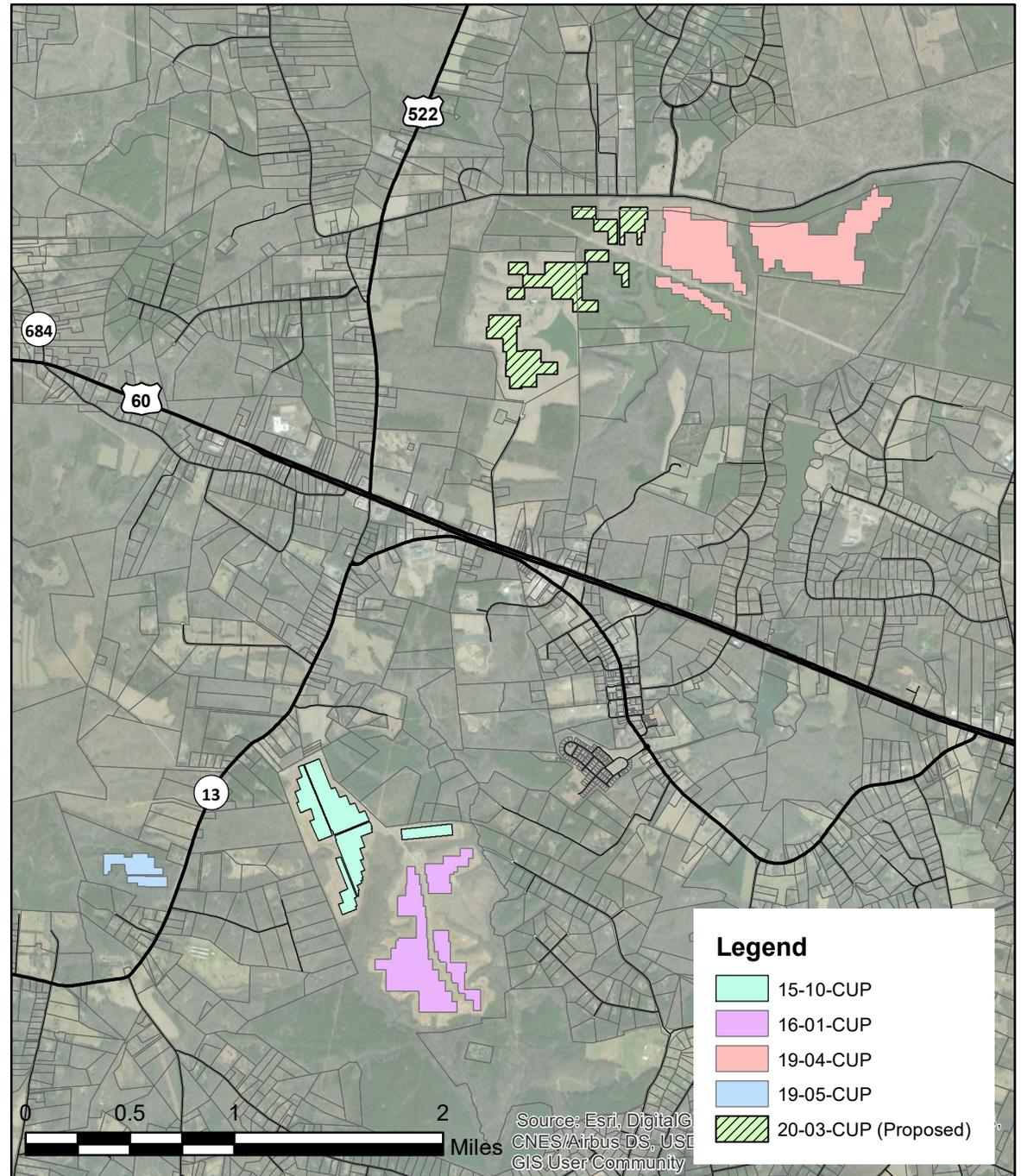
POWHATAN SOLAR II, LLC
2660 BAUER RD.
POWHATAN, VA 23139

DATE: 05-04-20
DRAWN BY: AR
CHECKED BY: -
ZONING SITE PLAN
Z 1.0

Approved Solar Energy Farm CUPs



Case Number	Status	Location	Project Area (in acres)	Array Area (in acres)
15-10-CUP	Completed	4325 Old Buckingham Road (District 4)	348	75
16-01-CUP	Completed	4325 Old Buckingham Road (District 4)	349	98
19-04-CUP	CUP Approved	2660 Brauer Road (District 3)	350.9	225
19-05-CUP	Site Plan Review	Old Buckingham Road (District 4)	40.16	8.2





Powhatan County Planning Commission Agenda Item

Meeting Date: September 1, 2020

Agenda Item Title: Discussion: Revisions to Standards for Family Divisions (Subdiv. Ordinance: Sec. 68-125)
Action Requested: The Department of Community Development requests feedback regarding potential revisions to standards applicable to *family divisions* (Subdiv. Ordinance: Sec. 68-125). The Planning Commission may choose to initiate a text amendment to formally review and amend related ordinances.

Dates Previously Considered by PC: Initial Review (Workshop): February 4, 2020
Initial Review (Workshop): March 3, 2020

Summary of Item: The Planning Commission has been discussing different subdivision options within rural areas, including *single cut subdivisions* and *family subdivisions*.
§15.2-2244 of the Code of Virginia establishes requirements regarding *family subdivisions*.
Sec. 68-125 (Family Divisions) establishes provisions that allow property owners to create one or more parcels to sell/gift to immediate family members (including a natural or legally-defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent).

Attachments: Staff Report

Staff/Contact: Andrew Pompei: Planning Director
(804) 598-5621 x2006
apompei@powhatanva.gov

If Planning Commission members have questions, please call the staff / contact prior to the meeting.



20-03-AZ

County of Powhatan

Possible Amendments to Requirements for *Family Divisions*

Staff Report Prepared for the Planning Commission
September 1, 2020

I. PUBLIC MEETINGS

Planning Commission	February 4, 2020	Workshop
	March 3, 2020	Workshop
	September 1, 2020	Workshop

II. DISCUSSION

Purpose of *Family Divisions*

Throughout Virginia, the primary purpose of *family divisions* is (1) “to promote the values society places upon the disposition of family estates during the lifetime of the owner with a minimum of government regulation” and (2) “to promote the cohesiveness of the family” (1989 Va. Op. Atty. Gen. 100; Albemarle County Land Use Law Handbook).

Current Situation: State Code

The Code of Virginia establishes guidelines regarding *family divisions*. Per § 15.2-2244, some localities are required to adopt provisions allowing *family divisions*, while such provisions are optional in other localities:

- Localities with a growth rate of less than 10% between the latest and next-to-latest decennial census are required to adopt provisions allowing *family divisions*.
- “High-growth” localities (those with a population increase of 10% or more between the latest and next-to-latest decennial census), or counties/cities adjacent to “high-growth” localities, may adopt provisions allowing *family divisions* (but are not required to).

Between 2000 and 2010 (the latest and next-to-latest decennial census), the population of Powhatan County increased 25% (22,377 to 28,046). However, the Weldon Cooper Center has estimated a much lower growth rate in recent years, estimating that the population has only increased 6.5% between 2010 and 2019 (28,046 to 29,867). Based on estimates from the Weldon Cooper Center, some adjoining localities (including Chesterfield County) are expected to be classified as “high-growth” localities.

§ 15.2-2244 establishes certain requirements regarding the design of family subdivisions.

Component of Family Divisions	State Code Requirements
Immediate Family Member	A member of the immediate family is defined as any person who is a natural or legally-defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner. Any locality may (at its discretion) include aunts, uncles, nieces, and nephews in its definition of immediate family (§ 15.2-2244).
Number of Divisions	One (1) per eligible family member (§ 15.2-2244).
Right-of-Way	Lots less than five (5) acres must have a reasonable right-of-way of not less than 10 feet or more than 20 feet providing ingress/egress to a dedicated/recorded public street (§ 15.2-2244).
Parcel Size	There is no minimum/maximum lot size established in the Code of Virginia, but localities are permitted to establish a maximum lot size of one (1) acre (§ 15.2-2244.2).
Holding Period	A locality may require that a property must have been owned for up to 15 consecutive years by the current landowner or member of the immediate family prior to creation of a <i>family division</i> . A locality may require that a landowner agree to place a restrictive covenant on the subdivision property that would prohibit transfer of the property to a nonmember of the immediate family for a period of up to 15 years (§ 15.2-2244.1).

Current Situation: Local Requirements

Sec. 68-125 (Family Divisions) establishes provisions that allow property owners to create one or more parcels to sell/gift to immediate family members (including a natural or legally-defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent). Compared to conventional subdivisions, the review procedure for *family divisions* is simplified, and the required improvements are minimal.

Minimum Lot Area for *Family Division* Lots by Zoning District
[Sec. 83-107(b)]

Zoning District	Minimum Area: <i>Family Division</i> Lot	Minimum Area: Residual Parcel
Agricultural-10 (A-10) (Main Parcel on Public Road)	2 acres	2 acres
Agricultural-10 (A-10) (Main Parcel on Private Road)	2 acres	10 acres
Rural Residential (RR)	2 acres	10 acres
Single-Family Residential – 2 (R-2)	2 acres	2 acres
Residential-Utility (R-U)	2 acres	2 acres

Current Requirements for Family Divisions

Feature	Current Requirement
Required Holding Period <u>Before</u> Creating a Family Division Lot	10 years
Required Holding Period <u>After</u> Creating a Family Division Lot	5 years
Minimum Lot Area	2 acres
Access	1 – 2 lots: Min. 20' Easement
	3 – 10 lots: Private Road Standards
	≥ 11 Lots: Public Road
Age of Recipient	Not specified

Number of Family Division Applications (2016 – 2019)¹				
Year	2016	2017	2018	2019
No. of Family Division App.	8	10	6	10

Previous Discussion

Sliding Scale

At its workshop on March 3, 2020, the Planning Commission expressed interest in basing the number of lots that could be created through *family divisions* on a *sliding scale*. With a *sliding scale*, the number of lots permitted is based on the size of the *parent tract*. For

¹ Most applications for *family divisions* submitted during the aforementioned time period (2016 – 2019) involved the creation of a single lot.

example, Fauquier County uses a *sliding scale* to determine how many lots could be created from an existing parcel within two of its rural zoning districts. New Kent County uses a *sliding scale* to determine how many *family division* lots can be created from a parcel.

Below is an example of how the concept of a *sliding scale* could be applied to *family divisions* in Powhatan County (with the resulting density being no greater than 1 unit per 5 acres).

Size of Parent Tract	Number of <i>Family Division</i> Lots	Total Number of Lots [Residual Lot + New Lot(s)]
0 – 9.99	0	1 (Family Division Not Permitted)
10 – 14.99	1	2
15 – 19.99	2	3
20 – 34.99	3	4
35 – 49.99	4	5
≥ 50	5 + 1 lot for each additional 10 acres	≥ 6

Required Holding Period

Currently, a property owner must own a parcel for at least ten years to be eligible to create a lot through a *family division*. Once the lot is created, the immediate family member receiving that lot must own it for at least five years before selling it. There has been discussion about reducing the holding period prior to creating a family division lot, as Powhatan County currently has more stringent requirements than comparable localities.

**Required Holding Period Before and After Creating a Family Division Lot:
Survey of Virginia Localities
January 2020**

County	Required Holding Period <u>Before</u> Creating Family Division Lot (Years)	Required Holding Period <u>After</u> Creating Family Division Lot (Years)
Powhatan	10	5
Amelia	0	5
Chesterfield	2	5
Culpeper	5	5
Cumberland	2	10
Dinwiddie	2	5
Fluvanna	0	3
Goochland	0	0
Hanover	0	3
Henrico	0	5
King George	0	5
Louisa	0	15
New Kent	3	2
Orange	5	5
Prince George	2	5

Lot Size

At its workshop on March 3, 2020, the Planning Commission discussed the possibility of changing the minimum lot size for *family divisions*. The page 3 of the staff report lists the minimum area for a lot created through a *family division* by zoning district.

Below is the minimum area for lots created through a *family division* in other localities (within agricultural zoning districts).

**Minimum Lot Size for a Family Division Lot:
Survey of Virginia Localities
August 2020**

County	Minimum Lot Size for a Family Division Lot within Agricultural Zoning Districts	Minimum Lot Size for a Conventional Lot within Agricultural Zoning Districts
Powhatan	2 acres	10 acres
Amelia	2 acres	5 acres
Chesterfield	1 acre	5 acres
Culpeper	1 acre	A: 5 acres RA: 3 acres
Cumberland	2 acres	A-2: 2 acres A-20: 20 acres
Dinwiddie	3 acres	3 acres
Fluvanna	2 acres	2 acres
Goochland	2 – 3 acres (depending upon location)	2 – 3 acres (depending upon location)
Hanover	2 acres (with parent tract of at least 10 acres remaining after family division)	10 acres
Henrico	1 acre	1 acre
King George	A-1: 10 acres A-2: 2 acres A-3: 1 acre	A-1: 10 acres A-2: 2 acres A-3: 1 acre
Louisa	1.5 acres	1.5 acres
New Kent	1.5 acres	1.5 acres
Orange	2 acres	2 acres
Prince George	1 acre	5 acres

III. COMPREHENSIVE PLAN ANALYSIS

The 2019 Long-Range Comprehensive Plan does not specifically address *family divisions*.

Many parcels zoned A-10 (where most *family divisions* occur) are located within areas designated *Rural Preservation* and *Rural Residential*. These land use designations are intended to accommodate very low-density residential development (p. 58):

- *Rural Preservation*: 1 unit per 8 acres – 1 unit per 10 acres
- *Rural Residential*: 1 unit per 5 acres – 1 unit per 10 acres

Objective LU.2 states that “when development occurs in rural areas, the preferred form of development is conservation subdivisions, with smaller lots and preserved open space at an overall low-density consistent with a rural character” (p. 59).

Allowing additional lots as small as two (2) acres to be created in these areas would not be consistent with the aforementioned recommendations, unless they are clustered to protect open space.

IV. PLANNING COMMISSION ACTION

The Planning Commission may choose to initiate an ordinance amendment to modify standards for *family divisions* established within Chapter 68 (Subdivision Ordinance).

Attachments

1. Map of Single Cut and Family Divisions (2016 – 2019)

Single Cuts and Family Divisions (2016-2019)

