

**Staff Report**  
**Appeal of Planning Commission Decision from April 5, 2021**  
**By Flatfoot Solar**  
**Public Facility Application Review for REF# 2021-01**  
**Code of Virginia § 15.2-2232**  
**Sussex County, Virginia**

**Report Date: September 8, 2021**  
**Board of Supervisors Meeting Date: September 16, 2021**

**APPLICATION SUMMARY**

**Project:** Flatfoot Solar, 1.62 MW<sub>AC</sub>

**Affected Acreage:** 10 acres

**Location:** Located within the Stony Creek district on the southern side of Sussex Drive (Route 40), west of Concord Sappony Road, and 2.8 miles west of Stony Creek in Sussex County, Virginia.

**Parcel Record Numbers:** 65-A-45 and 65-A-37

**Proposal:** Applicant's request for review of the Flatfoot Solar pursuant to Virginia Code Section 15.2-2232

**Application Submitted:** August 31, 2020  
Revised February 9, 2021

**Applicant:** Flatfoot Solar, LLC  
Hexagon Energy, LLC  
722 Preston Ave., Suite #102  
Charlottesville, VA 22903

**Representative:** Brendan Grajewski  
434-326-4405  
BGrajewski@hexagon-energy.com

**Owners:** Ananias Jones and Vinco Enterprises, Inc.

## **PLANNING COMMISSION ACTION**

The Planning Commission considered the subject application on April 5, 2021 and voted to recommend denial of the application and determined that the proposed use is not substantially in accord with the Comprehensive Plan with written reasons for its decision as follows:

1. The project area is in the Stony Creek/I-95/U.S. 301/VA Route 40 planning area.
2. The project is located on land primarily used for timber production.
3. The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources.
4. The project location is in close proximity to a number of residences.
5. The proposed entryway into the project site is only approximately 25 feet from an existing residence, and there is concern for accumulating dust and noise to residences in close proximity.
6. The total impacts it may have on the residential area are not known due to a lack of communication with existing residents.

## **APPLICANT'S APPEAL**

The applicant appealed the Planning Commission's determination in a memorandum dated August 24, 2021 (Attachment A). The applicant sets forth a case that the project meets, or meets the intent of, most of the criteria set forth in the Comprehensive Plan. They provide narrative and maps to demonstrate their case. They assert that the proposed facility is a temporary land use of approximately 40 years and is more compatible to the surrounding area and proposed future land uses than many other types of land uses such as commercial or industrial.

## **STAFF COMMENTS AND ANALYSIS (from the 2232 report presented on April 5, 2021)**

### **A. Applicant's Position**

In the application materials dated August 31, 2020 and revised February 9, 2021 (Attachment D), the Applicant set forth its reasons why the proposed project is substantially in accord with the Comprehensive Plan.

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

- The proposed project is
  - Located in an agricultural district
  - Less than 1,500 contiguous acres
  - Less than 65% solar panel coverage
  - Greater than two (2) miles from a permitted solar facility
  - Adjacent to a few residential properties with existing forest buffers
  - Not proximate to eligible historic, cultural, or recreational areas or scenic viewsheds
  - Adjacent to surface waters and wetlands, but mitigation measures are proposed to protect these areas
- A Dominion transmission line is near the property for interconnection to the grid.
- The project will generate minimal offsite noise, little glare, and no emissions or safety hazards.

- After the construction is complete, there will be limited ongoing maintenance, and the ingress/egress traffic will remain similar to current use patterns.
- The project will generate tax revenue and create temporary construction jobs.
- Solar facilities are a low intensity use that do not require county infrastructure or resources.

### Staff Analysis

Staff has analyzed the proposed project considering the recently approved amendments and other relevant sections of the County's Comprehensive Plan, primarily:

- Chapter II, section B, item 23. Utility-scale Solar Facilities
- Chapter II, section C, item 2. Vision Statement
- Chapter IX, section B. Land Use Conflicts
- Chapter X, section D. Stony Creek/I-95/U.S. 301/VA Route 40 Planning Area goals and objectives

In addition to the items identified by the Applicant above, analysis considerations include:

- The project is 2.8 miles from the town boundary for Stony Creek.
- The project is in the Stony Creek/I-95/U.S. 301/VA Route 40 planning area.
- The project is located on land partially used for timber production, but the surrounding wetlands make seven (7) acres of timberland challenging to harvest.
- The project is proximate to one Virginia Department of Forestry (DOF) conservation easement.
- The project is proximate to 52 archaeological resources and 39 architectural resources within a 3-mile buffer of the project limits.

The location, character, and extent of the proposed utility-scale solar project **are in accord with these guidelines** set forth in the Comprehensive Plan, Chapter II, section B, item 23. Utility-scale Solar Facilities.

- The project section of the parcels is zoned agricultural.
- The total size is less than 1,500 contiguous acres.
- There is no more than 65% solar panel coverage.
- The location is further than two (2) miles from other existing or permitted solar facilities.

The location, character, and extent of the proposed utility-scale solar project **are not in accord with these guidelines** set forth in the Comprehensive Plan, Chapter II, section B, item 23. Utility-scale Solar Facilities.

- The project is less than three (3) miles from the town boundary for Stony Creek.
- The project is in the Stony Creek/I-95/U.S. 301/VA Route 40 planning area.
- The project is located on seven (7) acres primarily used for timber production.
- The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources.

Staff has analyzed the Comprehensive Plan elements, and the proposed project does not meet the Comprehensive Plan's land use goals, objectives, and strategies. **Staff finds that the proposed utility-scale solar facility is not substantially in accord with the Sussex County Comprehensive Plan, or parts thereof.**

As recommended in the Comprehensive Plan, the Commission, however, should look beyond the plan and consider whether proposed developments, even if consistent with the plan, advance the best interests of public health, safety, and general welfare. This very general criterion calls for consideration of a wide range of issues, including, but not limited to the potential impact of a development on:

- The natural environment
- Important natural resources
- The County economy
- Important historical, architectural, archeological, and cultural resources
- Neighboring development
- Community function, character, and attractiveness

#### **BOARD OF SUPERVISORS ACTION**

The Board may uphold the Planning Commission's determination or overturn it based on the evidence presented or other reasons related to the 2232 review process. The reasons for the Board's action should be clearly stated and documented in writing.

If the Planning Commission's determination is upheld, then there is no conditional use permit to be considered. If the Planning Commission's determination is overturned, then REF# 2021-01 will be deemed substantially in accordance with the Comprehensive Plan and the application may continue and be scheduled for a Planning Commission public hearing.

#### Attachments:

- A – Applicant's Notice of Appeal dated August 24, 2021 (with supplemental material)
- B – Memo dated April 4, 2021 provided at the April 5, 2021 Planning Commission meeting
- C - Staff Report, Planning Commission April 5, 2021 meeting
- D – CUP Application, submitted August 31, 2020 and revised February 9, 2021

## MEMORANDUM

**TO: Sussex County Board of Supervisors**  
**FROM: D. Scott Foster, Jr, Gentry Locke Attorneys**  
**RE: Flatfoot Solar, by Hexagon Energy**  
**DATE: August 24, 2021**

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Members of the Board,

Below is a memorandum in support of the Applicant's request for an appeal that their proposed project, Flatfoot Solar ("the Project"), is "Substantially in Accord" with the Sussex County Comprehensive Plan.

### Applicant's Request

Overturn the Planning Commission's determination that, when evaluated according to Va. Code Section §15.2-2232, the Project is not "Substantially in Accord" with the 2019 update to the Sussex County Comprehensive Plan and the 2004-2005 Sussex County Comprehensive Plan.

In Sussex County Comprehensive Plan Chapter II, Section B, Section 23, titled: "Utility-scale Solar Facilities" adopted in April of 2019 provides criteria for evaluation of the proposed facility's location, character and extent:

As used in this Comprehensive Plan, a utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt (1 MW). Sussex's abundant agricultural and forest land combined with its electrical infrastructure and transportation system appear to be attractive to the solar industry. These facilities are an industrial scale land use that occupy significant acreage. Many utility-scale solar facilities are located on agricultural or forested land that may have had other future land use potential or land use designations.

The County will consider solar facilities in districts zoned agricultural or industrial with preference for brownfields and County-owned capped landfills. The following site features should be addressed to mitigate the potential negative impacts of utility-scale solar facilities on County land use patterns as part of the evaluation of a Conditional Use Permit (CUP) application:

- the total size shall be larger than two (2) acres but less than 1,500 contiguous acres with no more than 65% PV panel coverage;
- located outside planning areas or community hubs;
- located outside forested areas to preserve forest resources;
- further than three (3) miles from any village or town boundary;
- further than two (2) miles from other existing or permitted solar facilities; and
- proximity to residences; historic, cultural, recreational, or environmentally-sensitive areas; and scenic viewsheds.

**B. Project is Substantially in Accord with the Solar Specific Provisions of the Comprehensive Plan.**

*Below is a detailed analysis of nine criteria for determining whether the proposed solar facility's location, character and extent are substantially in accord with the Comprehensive Plan.*

**1. Location:**

a. The County will consider solar facilities in districts zoned agricultural or industrial:

- a. The area of the subject parcels where the Project will be located are zoned A-1, satisfying this requirement.
- b. The remaining portions of the parcels are zoned R-1 and R-1 and the Project will not impact those areas or frustrate the current or future residential or multi-use potential of those areas.

b. Located Outside Planning Areas or Community Hubs:

- a. Chapter IX: Land Use and Development, Section A. states: "The planning areas identified in this plan are: Jarratt/I-95/US Planning Area; Stony Creek/I-95/US301/VA Route 40 Planning Area; Sussex Courthouse/VA Route 40 Planning Area; Homeville/Wakefield/US 460 Planning Area; and Blackwater/Newville/Waverly/US 460 Planning Area. The remaining areas of Sussex County are classified as rural areas." (formatting slightly altered)
- b. The subject parcels are located inside the Stony Creek/I-95/U.S. 301 Planning Area. The project area is adjacent to the boundary with the Rural Planning Area. County staff have confirmed that it was the County's intention to focus solar facilities outside the named planning areas in the rural areas identified as "Rural Planning Areas" as described on Page X-13 of the Comprehensive Plan<sup>1</sup>. This was done in order to hopefully preserve the other named Planning Areas for other future growth opportunities and economic development activities. While this may be a worthwhile general guideline for certain parcels and areas within the various named Planning Areas, it does not apply well to this site for two reasons:
  - i. As depicted on Exhibit A, the project area lacks significant road frontage which will limit any future commercial or industrial development of the project site. Additionally, given the topography of much of the project area and adjacency to Sappony Creek, it is unlikely the project area would be well suited for a commercial use of high value to the County. The remaining portion of the parcels adjacent to Rt. 40 are either currently in residential use, as is called for in the Future Land

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<sup>1</sup> Chapter X, Section (B)(6) "Rural Areas" states: "This planning area is expected to remain rural in nature with land reserved for agricultural use. Low density residential growth is anticipated in the form of strip development, one acre lots with private well and septic systems along the highway. Public utilities are not available to sustain intense residential development. Incidental commercial establishments may locate throughout this planning area in support of residential growth.

Use Map or remains available for future residential or mixed use, as called for by the Future Land Use Map and the draft small area plan.<sup>2</sup> As a result, there is little if any “opportunity cost” to Sussex County for locating a solar facility on this site.

- ii. Second, the Future Land Use Map notes that the project area is projected to be used as Agricultural/Forested/Open Space, which is the main anticipated use of the Rural Planning Area which the Project would abut. As a result, this parcel’s future use is much more similar to the areas where the County intends solar facilities to locate than the named Planning Areas the County is trying to preserve. As a result, this Project complies with the *intent* and implements the goal set by of this requirement.
  - iii. Last, it is important to point out that both the Sappony Solar Project currently in operation and the Orsted project approved in October of 2020 are both located within planning area boundaries. This demonstrates that the stated goal of the preserving the future high value developable area within planning area boundaries can achieved while still permitting solar facilities on parcels without high value future development potential.
- c. Located outside forested areas to preserve forest resources.
- a. The project site is approximately three acres of open land and approximately 7 acres of unmanaged timber. While it is an important goal to preserve forest resources as directed by the comprehensive plan, especially for larger scale projects with hundreds or thousands of acres being cleared, the clearing of these seven acres will have a minimal, if any, impact to the county-wide stock of valuable forestal lands. Furthermore, it is important to keep in mind that there are a whole host of by-right uses in the A-1 district, including the construction of a residential dwelling or dwellings, that would allow clearing of this parcel without any zoning or use permit request.
  - b. During the site development of this project, only those are areas impacted by the Project will be cleared, leaving as much standing timber as possible and additional trees will be planted where necessary to buffer adjacent properties from the Solar Facility.
  - c. The expected lifespan of this project is 35-45 years, at which time, the Project will be decommissioned and the project area will be returned to a natural state. The life cycle of a pine plantation is approximately forty years, with thinning and harvests throughout that time. Given these parallel timeframes, the potential risk to forested lands is roughly equal to one lifetime of a pine plantation. We believe that given the Project site is only seven acres of forested land, the relatively short timeframe of the Project and the ability to fully return the land

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<sup>2</sup> Future Land Use Map for the Stony Creek Planning Area on Page X-8, Exhibit X-B of the Comprehensive Plan

to timber production are sufficient factors to find that this project is not a long-term threat to forest resources.

- d. Located greater than three (3) miles from any village or town boundary.
  - a. This project is 2.8 miles from the closest town boundary, the Town of Stony Creek as seen in Exhibit B. The project site reasonably meets the intent of the town boundary provision and greatly exceeds the boundary distance of the previously approved Sappony Solar project depicted in the exhibit, with significantly better facility screening and placement.
- e. Located greater than two miles from existing or permitted solar facilities.
  - a. This project is greater than two (2) miles from the Sappony Solar project.
- f. Proximity to residences; historic, cultural, recreational or environmentally-sensitive areas; and scenic viewsheds.
  - a. Residences: The three closest residential structures to the project site area are 940ft, 980ft, and 1200ft away respectively. Each of these distances are mostly comprised of forested vegetative buffer, largely occurring in protected wetlands.
  - b. Historic, cultural and recreational areas: No physical or visual impact to cultural or recreational areas is anticipated. The Department of Historic Resources (DHR) handles all regulation of these matters. We have begun working proactively with DHR, and have submitted a request for technical assistance using the agency's Electronic Project Information Exchange tool (ePIX). We have asked DHR to provide initial comments on the Project's location, taking into consideration the resources we have identified in the requisite 3-mile inventory area. DHR is projected to release these comments within the next 30 days. We are planning to follow up with DHR in cultural/historical field work activities after preliminary comments are released. A map of these resources is included in Exhibit C.
  - c. Environmentally Sensitive Areas:
    - i. All streams, wetlands and other bodies of water have been mapped and will be protected during site development, construction and operation, in accordance with Department of Environmental Quality Requirements (DEQ). DEQ administers all environmental permits and regulation of these matters. Protected species have been flagged by DGIF and plans for the project area are being developed to ensure no impact is made. Native plant species will be replanted in accordance with the Zoning ordinance, allowing for the increased presence of rare or important varieties currently on site. Erosion and sediment control measures will be implemented in accordance with state and local requirements.
    - ii. The Project is located approximately 1.7 miles southwest of a Virginia Department of Forestry (DoF) conservation easement. This easement



applies only to a 166-acre property on the border of Sussex and Dinwiddie Counties, is by and between a private landowner and a qualified conservation organization or public entity, and is entirely voluntary in nature. The easements pertaining to this 166-acre property do not restrict, nor direct the current and future developments of non-participating properties. This project will not impact this easement in any way. A map illustrating the project location's separation from this easement can be found in Exhibit D.

- d. Scenic Viewsheds: Once complete, the Project will be completely screened from surrounding properties and thoroughfares by a natural buffer. Due to the topography of the project location there will be no impact on long range vistas from ground level.

## **2. Character:**

- a. The total size shall be larger than two (2) acres but less than 1,500 contiguous acres
  - i. The project area itself will occupy 10 acres, satisfying this requirement. The remaining 73 acres consist of wetlands, forested areas, natural buffers, etc. and can be seen on the attached site plan.
- b. No more than 65% of the Project will consist of PV panel coverage
  - ii. Of the project area of 10 acres, 4 acres will consist of PV panel coverage, resulting in 40% of total PV panel coverage, satisfying this requirement.

## **3. Extent Thereof:**

This project falls squarely within the definition of "a Utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt (1 MW)" and is clearly the type of facility anticipated by the language of the Comprehensive Plan and is therefore in substantial accord with it.

## **4. Conclusion:**

This Project clearly satisfies factors Character and Extent Thereof (2 of 3). Those guidelines pertaining to Location that are not in full agreement, location within a planning district and within 3 miles of a town boundary, are nearly satisfied. Furthermore, the specific provisions of Location that nearly meet the criteria have been present to a greater degree in solar projects previously deemed in substantial accord with the comprehensive plan.

**B. Project is Substantially in Accord with the General Provisions of the Comprehensive Plan.**

In addition to the 2019 amendment to the Comprehensive Plan cited above, the Project is supported by various sections of the Sussex County 2004-2005 Comprehensive Plan, which remain in effect, and are outlined below:

1. While solar facilities were not specifically anticipated by the 2004-2005 Comprehensive Plan, their low intensity, low impact industrial use was. Chapter IX "Land Use and Development," suggests that Sussex avoid development that creates congestion through poor planning of facility layouts and promote safe and efficient ingress and egress from all development.<sup>3</sup> As planned, this project easily satisfies this recommendation.
2. Chapter IX also suggests focusing on ensuring low intensity industrial uses, like solar facilities, that have limited to no impact on neighboring properties.<sup>4</sup> Again, with the proper planning and layout as designed in this application, solar facilities can conform to this guideline. This chapter notes the Stony Creek planning area continues to see growth and development along Route 40 and secondary roads. As noted above, the Project will not interfere with this progress, as the project site is well removed from those areas.<sup>5</sup>
3. When making land use decisions, Chapter IX recommends maintaining balance between areas needed for commercial and industrial development and the conservation of vacant lands.<sup>6</sup> Concentrating uses such as solar adjacent to existing commercial uses accomplishes this goal. Other concerns can be addressed during the conditional use permit process.
4. Chapter IX recommends consideration of the public cost associated with development to ensure that County citizens are not paying for improvements or infrastructure from which they do not benefit.<sup>7</sup> Solar facilities do not generally require enhanced public infrastructure or other outlays by local governments once completed. Any staff or other resources required by the County are offset by tax or other negotiated contributions by the solar developer.
5. Chapter X, "Plan for the Future" provides guidance for the land uses included in the zoning districts included in the solar zoning ordinance. With regard to agricultural lands, identification and preservation of "prime agricultural" land is a stated goal, as "once it is developed, it cannot easily be restored to its original condition (nature)."<sup>8</sup> As stated elsewhere, solar use is a temporary one, and unlike most development, restoration to original condition is actually achievable. The plan specifically states "permitted uses are restricted to agricultural and others that are compatible with the existing land use pattern..."<sup>9</sup> In adopting the Solar Facilities zoning ordinance and applying it to General Agricultural land, the County correctly endorsed its compatibility.

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<sup>3</sup> Chapter IX, Land Use and Development, Page 1, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>4</sup> Id.

<sup>5</sup> Chapter IX, Land Use and Development, pages 15 and 16, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>6</sup> Chapter IX, Land Use and Development, page 2, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>7</sup> Chapter IX, Land Use and Development, Page 15, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>8</sup> Chapter X, Plan for the Future, Page 1, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>9</sup> Id.

6. As briefly noted above, the Future Land Use Map for the Stony Creek Planning Area notes that the project area generally is anticipated to remain in Agricultural/Forested/Open Space. The proposed solar facility is in accord with that future land use for the following reasons:
  - a. Solar is a short-term use of approximately 40 years, much like the planted pine lifecycle.
  - b. The use coexists well with agricultural and timber uses, and in a number of respects is more complimentary to those adjacent uses than residential and certain commercial and industrial developments.
  - c. The facility will be low profile and well screened from Route 40 and is over 990 feet from any adjacent residence.

### **C. Additional Community Outreach.**

In the time following the Planning Commission's review of the Project for conformity with the Comprehensive Plan, the Applicant has engaged neighbors for further input. Residents were contacted via mail, and given the opportunity to provide feedback on the project. A copy of the letter mailed to residents can be found accompanying this Memo.

The Applicant has also individually written to three, landowners adjacent to the project property for feedback, with interest in discussing proposed site access. While not identified in planning staff's report, site access was marked as an area of potential neighborhood concern. As of the submission of this memo, the Applicant has met with a family representative of one identified neighbor, and spoken over the phone with another. While the two have declined to provide comment on the Project and proposed site access, the Applicant did discuss the health and safety aspects associated with solar energy projects. The Applicant still wishes to connect with the remaining adjacent neighbor.

To mitigate the proximity of site access to nearby residences, the Applicant has updated the Project's site plan to include additional screening along the eastern boundary of the access pathway. This area is the closest extent of the project to a residence. The proposed additional screening would include a dense row of hedges or shrubs. Additionally, a temporary chain-link fence wrapped in a privacy screen will be installed in between the shrubs and the access path. This chain-link fence wrap is intended to obscure the sight of temporary construction activity from the nearby residence. The Applicant will ensure that this screen does not extend to the point where it disrupts traffic along Sussex Drive, nor causes potential safety risk from ingress/egress of delivery trucks, etc. during construction.

### **D. Conclusion.**

We ask that the Board of Supervisors overturn the determination of the Planning Commission, and find that the Project is substantially in accord with the Comprehensive Plan. As detailed above, this project is in significant agreement with the Comprehensive Plan, meeting

intent of the 2019 revision to the plan and the original 2004-2005 language. We appreciate your time and attention devoted to this analysis.



# HEXAGON ENERGY

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 Charlottesville, VA 22903  
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## FLATFOOT SOLAR

Virginia Department of Forestry  
 Setback Map

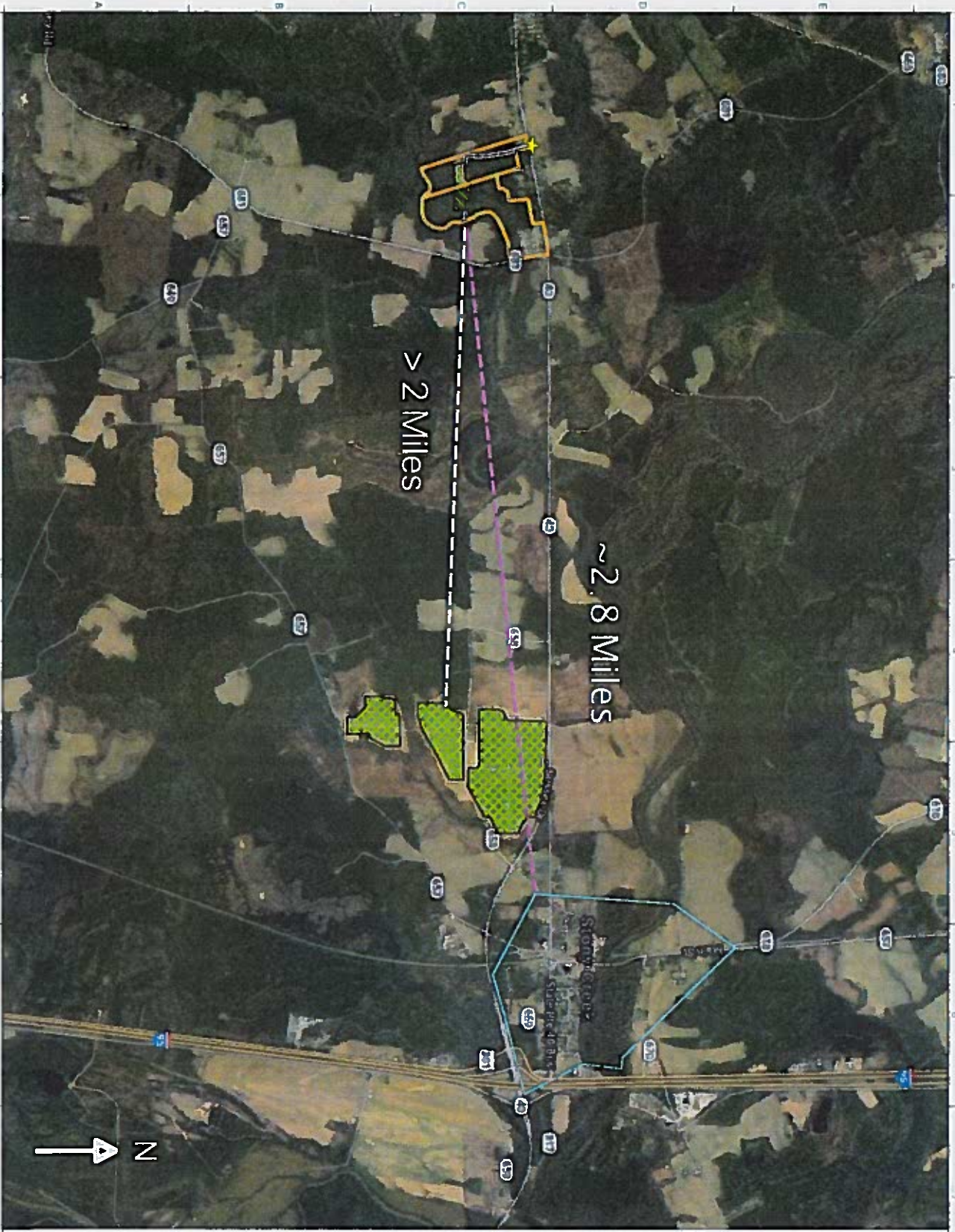
Per Virginia Department of Forestry  
 Introduction on Dof Easements:

A conservation easement is a voluntary agreement between a landowner and a qualified conservation organization or public entity

### Legend

-  Project Property
-  Proposed Site Area Setback Distance
-  VA Dof Easement Boundary





# HEXAGON ENERGY

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 Charlottesville, VA 22903  
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**FLATFOOT SOLAR**  
 Existing Solar Project and Town  
 Boundary Setback Map

## Legend

-  Project Property
-  Proposed Site Area
-  Stony Creek Boundary
-  To Existing Project (~2mi.)
-  To Town Boundary (~2.8mi)
-  To Town Boundary (~2mi.)






# HEXAGON ENERGY

722 Preston Ave 1 Suite 102  
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## FLATFOOT SOLAR

Residential Zoning Future Use A

- Legend**
-  Project Property
  -  Proposed Site Area
  -  Preserved Residential Use

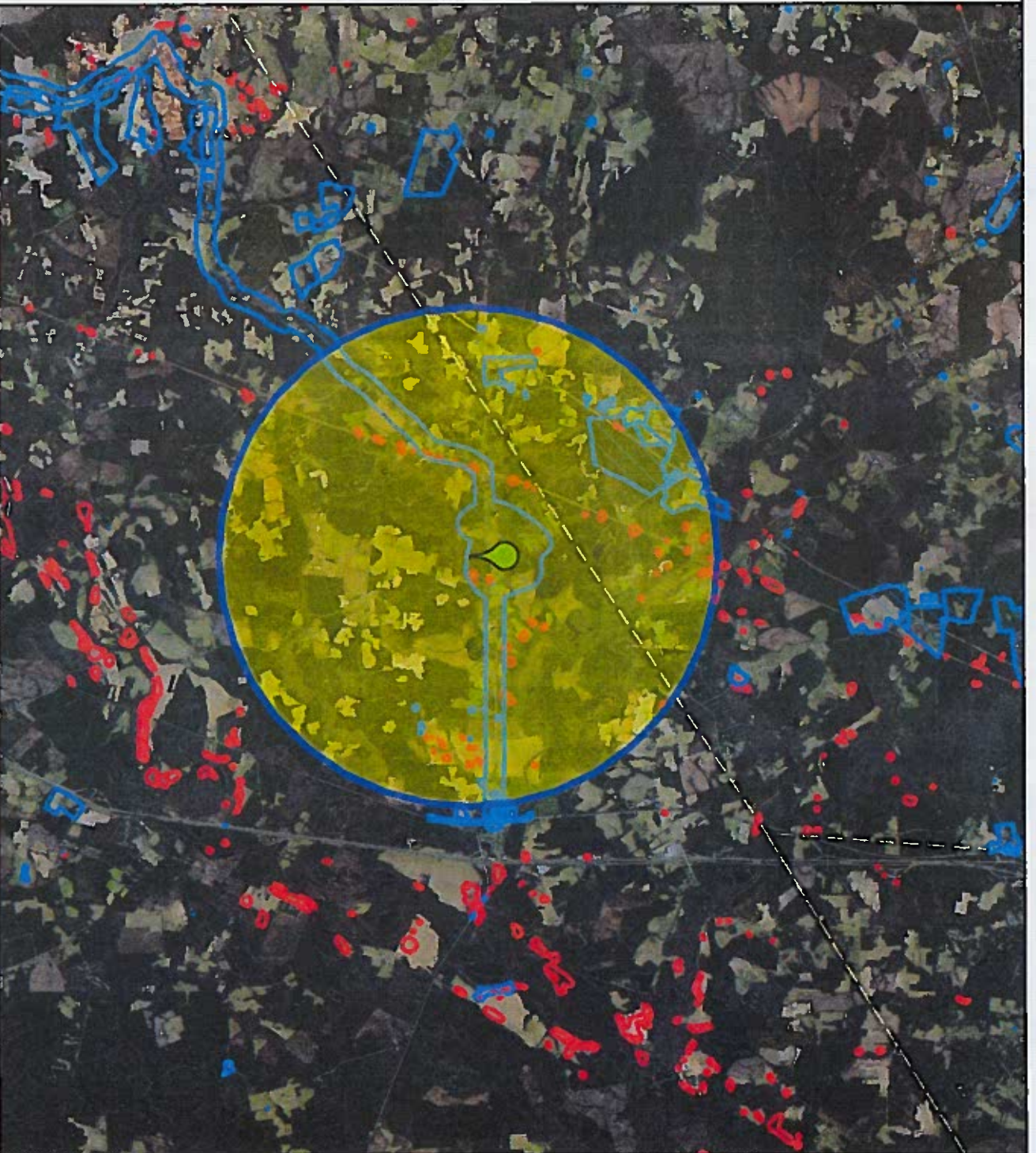


# V-CRIS

Virginia Cultural Resource Information System

## Legend

-  Architecture Resources
-  Individual Historic District Properties
-  Archaeological Resources
-  DHR Basements
-  County Boundaries



**Title: Flatfoot Solar 3-Mile DHR Inventory Map**

**Date: 4/2/20**

*DISCLAIMER: Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years from a variety of sources and the representation depicted is a cumulative view of field observations over time and may not reflect current ground conditions. The map is for general information purposes and is not intended for engineering, legal or other site specific uses. Map may contain errors and is provided "as is". More information is available in the DHR Archives located at DHR's Richmond office.*

Miles





8/6/2021

Greetings! My name is Brendan Grajewski, and I'm a Development Manager at Hexagon Energy, LLC. Hexagon is a Charlottesville-based, renewable energy developer that specializes in solar energy projects throughout the Country. I am reaching back out with interest in continuing to gather input on our proposed solar project, Flatfoot Solar, located off of Sussex Drive / Route 40.

**About the Project, Flatfoot Solar:**

Two years ago, I began working with Ananias Jones and Vinco Enterprises Inc. to determine the suitability of a small, solar energy project, on the southern side of Sussex Drive / Route 40. Presently proposed, this project would encompass approximately 10 acres, and is well setback from the road, and your property. Accompanying this letter, you will find some information about the project, and a map showing the location of your property in relation to the project's location.

**Your input matters!**

While we continue to have conversations with the County Planning Commission and Board of Supervisors, we'd welcome continuing to discuss the project with you. Sussex County ordinance requires solar projects to be discussed in three public hearings, two before the Planning Commission, and one before the Board of Supervisors.

We are planning to hold a townhall meeting prior to the project's application hearing in October. This meeting will be an excellent opportunity to learn more about the project, and I encourage your attendance. Presently, County ordinance requires that this meeting be held in-person, and we are working to take additional precautions given the coronavirus pandemic. Once these plans are solidified, I will follow up with an additional letter detailing meeting logistics.

In the meantime, please reach out to me with any questions or comments. I can be contacted via email or phone, and you will find my information below. **I value what you have to say.** Flatfoot Solar is a small project, and was intentionally designed to minimize impacts on the community. *Your input can only improve this project!*

Thank you again for your time and consideration, I hope to meet you at the neighborhood meeting!  
Respectfully,

Brendan Grajewski  
Development Manager  
(434) 326-4405 | BGrajewski@hexagon-energy.com







**MEMORANDUM**

**TO: Sussex County Planning Commission**  
**FROM: D. Scott Foster, Jr, Gentry Locke Attorneys**  
**RE: Flatfoot Solar, by Hexagon Energy**  
**DATE: April 4, 2021**

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Members of the Planning Commission,

Attached is a memorandum in support of Flatfoot Solar's request for a determination that their proposed project is "Substantially in Accord" with the Sussex County Comprehensive Plan pursuant to Va. Code § 15.2-2232.

**Applicant's Request**

Confirm the Project is "Substantially in Accord" with the 2019 update to the Comprehensive Plan and the 2004-2005 Comprehensive Plan

The Applicant requests that the County confirm the project is "Substantially in Accord" ("SIA") with the County's Comprehensive Plan as provided in Va. Code Section 15.2-2232.

**A. Comprehensive Plan**

Section 15.2-2232 (H) of the Code of Virginia provides as follows:

A solar facility subject to subsection A shall be deemed to be substantially in accord with the comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar facilities by right or (ii) such proposed solar facility is designed to serve the electricity or thermal needs of the property upon which such facility is located, or will be owned or operated by an eligible customer-generator or eligible agricultural customer-generator under Section 56-594 or by a small agricultural generator under Section 56-594.2. All other solar facilities shall be reviewed for substantial accord with the comprehensive plan in accordance with this section. However, a locality may allow for a substantial accord review for such solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.

Section 15.2-2232 (A) of the Code of Virginia provides metrics by which to determine if a solar project is "Substantially in Accord:"

Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan.

Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, *unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof.* In connection with any such determination, the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204. (emphasis added)

These sections of Va. Code Section 15.2-2232 present the following question to the Planning Commission: *Is the general or approximate **location, character and extent** of the proposed solar energy facility substantially in accord with the Comprehensive Plan or parts thereof?*

*In Sussex County Comprehensive Plan Chapter II, Section B, Section 23, titled: "Utility-scale Solar Facilities" adopted in April of 2019 provides criteria for evaluation of the proposed facility's location, character and extent:*

As used in this Comprehensive Plan, a utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt (1 MW). Sussex's abundant agricultural and forest land combined with its electrical infrastructure and transportation system appear to be attractive to the solar industry. These facilities are an industrial scale land use that occupy significant acreage. Many utility-scale solar facilities are located on agricultural or forested land that may have had other future land use potential or land use designations.

The County will consider solar facilities in districts zoned agricultural or industrial with preference for brownfields and County-owned capped landfills. The following site features should be addressed to mitigate the potential negative impacts of utility-scale solar facilities on County land use patterns as part of the evaluation of a Conditional Use Permit (CUP) application:

- the total size shall be larger than two (2) acres but less than 1,500 contiguous acres with no more than 65% PV panel coverage;
- located outside planning areas or community hubs;
- located outside forested areas to preserve forest resources;
- further than three (3) miles from any village or town boundary;
- further than two (2) miles from other existing or permitted solar facilities; and
- proximity to residences; historic, cultural, recreational, or environmentally-sensitive areas; and scenic viewsheds.

**B. Project is Substantially in Accord with the Solar Specific Provisions of the Comprehensive Plan.**

Below is a detailed analysis of nine criteria for determining whether the proposed solar facility's location, character and extent are substantially in accord with the Comprehensive Plan.

**1. Location:**

- a. The County will consider solar facilities in districts zoned agricultural or industrial:
  - a. The area of the subject parcels where the project will be located are zoned A-1, satisfying this requirement.
  - b. The remaining portions of the parcels are zoned R-1 and R-1 and the project will not impact those areas or frustrate the current or future residential or multi-use potential of those areas.
- b. Located Outside Planning Areas or Community Hubs:
  - a. Chapter IX: Land Use and Development, Section A. states: "The planning areas identified in this plan are: Jarratt/I-95/US Planning Area; Stony Creek/I-95/US301/VA Route 40 Planning Area; Sussex Courthouse/VA Route 40 Planning Area; Homeville/Wakefield/US 460 Planning Area; and Blackwater/Newville/Waverly/US 460 Planning Area. The remaining areas of Sussex County are classified as rural areas." (formatting slightly altered)
  - b. The subject parcels are located inside the Stony Creek/I-95/U.S. 301 Planning Area. The project area is adjacent to the boundary with the Rural Planning Area. County staff have confirmed that it was the County's intention to focus solar facilities outside the named planning areas in the rural areas identified as "Rural Planning Areas" as described on Page X-13 of the Comprehensive Plan<sup>1</sup>. This was done in order to hopefully preserve the other named Planning Areas for other future growth opportunities and economic development activities. While this may be a worthwhile general guideline for certain parcels and areas within the various named Planning Areas, it does not apply well to this site for two reasons:
    - i. As depicted on Exhibit A, the project area lacks significant road frontage which will limit any future commercial or industrial development of the project site. Additionally, given the topography of much of the project area and adjacency to Sappony Creek, it is unlikely the project area would be well suited for a commercial use of high value to the County. The remaining portion of the parcels adjacent to Rt. 40 are either currently in residential use, as is called for in the Future Land Use Map or remains available for future residential or mixed use, as called for by the Future Land Use Map and the draft small area plan.<sup>2</sup>

<sup>1</sup> Chapter X, Section (B)(6) "Rural Areas" states: "This planning area is expected to remain rural in nature with land reserved for agricultural use. Low density residential growth is anticipated in the form of strip development, one acre lots with private well and septic systems along the highway. Public utilities are not available to sustain intense residential development. Incidental commercial establishments may locate throughout this planning area in support of residential growth.

<sup>2</sup> Future Land Use Map for the Stony Creek Planning Area on Page X-8, Exhibit X-B of the Comprehensive Plan

As a result, there is little if any “opportunity cost” to Sussex County for locating a solar facility on this site.

- ii. Second, the Future Land Use Map notes that the Project Area is projected to be used as Agricultural/Forested/Open Space, which is the main anticipated use of the Rural Planning Area which the Project would abut. As a result, this parcel’s future use is much more similar to the areas where the County intends solar facilities to locate than the named Planning Areas the County is trying to preserve. As a result, this Project complies with the *intent* and implements the goal set by of this requirement.
  - iii. Last, it is important to point out that both the Sappony Solar Project currently in operation and the Orsted project approved in October of 2020 are both located within planning area boundaries. This demonstrates that the stated goal of the preserving the future high value developable area within planning area boundaries can achieved while still permitting solar facilities on parcels without high value future development potential.
- c. Located outside forested areas to preserve forest resources.
- a. The Project site is approximately three acres of open land and approximately 7 acres of unmanaged timber. While it is an important goal to preserve forest resources as directed by the comprehensive plan, especially for larger scale projects with hundreds or thousands of acres being cleared, the clearing of these seven acres will have a minimal, if any, impact to the county-wide stock of valuable forestal lands. Furthermore, it is important to keep in mind that there are a whole host of by-right uses in the A-1 district, including the construction of a residential dwelling or dwellings, that would allow clearing of this parcel without any zoning or use permit request.
  - b. During the site development of this project, only those are areas impacted by the project will be cleared, leaving as much standing timber as possible and additional trees will be planted where necessary to buffer adjacent properties from the Solar Facility.
  - c. The expected lifespan of this project is 35-45 years, at which time, the project will be decommissioned and the project area will be returned to a natural state. The life cycle of a pine plantation is approximately forty years, with thinning and harvests throughout that time. Given these parallel timeframes, the potential risk to forested lands is roughly equal to one lifetime of a pine plantation. We believe that given the Project site is only seven acres of forested land, the relatively short timeframe of the project and the ability to fully return the land to timber production are sufficient factors to find that this project is not a long-term threat to forest resources.

- d. Located greater than three (3) miles from any village or town boundary.
  - a. This project is 2.8 miles from the closest town boundary, the Town of Stony Creek as seen in Exhibit B. The project site reasonably meets the intent of the town boundary provision and greatly exceeds the boundary distance of the previously approved Sappony Solar project depicted in the exhibit, with significantly better facility screening and placement.
- e. Located greater than two miles from existing or permitted solar facilities.
  - a. This project is greater than two (2) miles from the Sappony Solar project.
- f. Proximity to residences; historic, cultural, recreational or environmentally-sensitive areas; and scenic viewsheds.
  - a. Residences: The three closest residential structures to the Project Site area are 940ft, 980ft, and 1200ft away respectively. Each of these distances are mostly comprised of forested vegetative buffer, largely occurring in protected wetlands.
  - b. Historic, cultural and recreational areas: No physical or visual impact to cultural or recreational areas is anticipated. The Department of Historic Resources (DHR) handles all regulation of these matters. We have begun working proactively with DHR, and have submitted a request for technical assistance using the agency's Electronic Project Information Exchange tool (ePIX). We have asked DHR to provide initial comments on the project's location, taking into consideration the resources we have identified in the requisite 3-mile inventory area. DHR is projected to release these comments within the next 30 days. We are planning to follow up with DHR in cultural/historical field work activities after preliminary comments are released. A map of these resources is included in Exhibit C.
  - c. Environmentally Sensitive Areas:
    - i. All streams, wetlands and other bodies of water have been mapped and will be protected during site development, construction and operation, in accordance with Department of Environmental Quality Requirements (DEQ). DEQ administers all environmental permits and regulation of these matters. Protected species have been flagged by DGIF and plans for the project area are being developed to ensure no impact is made. Native plant species will be replanted in accordance with the Zoning ordinance, allowing for the increased presence of rare or important varieties currently on site. Erosion and sediment control measures will be implemented in accordance with state and local requirements.
    - ii. The project is located approximately 1.7 miles southwest of a Virginia Department of Forestry (DoF) conservation easement. This easement applies only to a 166-acre property on the border of Sussex and Dinwiddie Counties, is by and between a private landowner and a

qualified conservation organization or public entity, and is entirely voluntary in nature. The easements pertaining to this 166-acre property do not restrict, nor direct the current and future developments of non-participating properties. This project will not impact this easement in any way. A map illustrating the project location's separation from this easement can be found in Exhibit D.

- d. Scenic Viewsheds: Once complete, the project will be completely screened from surrounding properties and thoroughfares by a natural buffer. Due to the topography of the Project location there will be no impact on long range vistas from ground level.

## **2. Character:**

- a. The total size shall be larger than two (2) acres but less than 1,500 contiguous acres
  - i. The project area itself will occupy 10 acres, satisfying this requirement. The remaining 73 acres consist of wetlands, forested areas, natural buffers, etc. and can be seen on the attached site plan.
- b. No more than 65% of the project will consist of PV panel coverage
  - ii. Of the project area of 10 acres, 4 acres will consist of PV panel coverage, resulting in 40% of total PV panel coverage, satisfying this requirement.

## **3. Extent Thereof:**

This project falls squarely within the definition of "a Utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt (1 MW)" and is clearly the type of facility anticipated by the language of the Comprehensive Plan and is therefore in substantial accord with it.

## **4. Conclusion:**

This Project clearly satisfies factors Character and Extent Thereof (2 of 3). Those guidelines pertaining to Location that are not in full agreement, location within a planning district and within 3 miles of a town boundary, are nearly satisfied. Furthermore, the specific provisions of Location that nearly meet the criteria have been present to a greater degree in solar projects previously deemed in substantial accord with the comprehensive plan.

## **B. Project is Substantially in Accord with the General Provisions of the Comprehensive Plan.**

In addition to the 2019 amendment to the Comprehensive Plan cited above, the Project is supported by various sections of the Sussex County 2004-2005 Comprehensive Plan, which remain in effect, and are outlined below:



1. While solar facilities were not specifically anticipated by the 2004-2005 Comprehensive Plan, their low intensity, low impact industrial use was. Chapter IX "Land Use and Development," suggests that Sussex avoid development that creates congestion through poor planning of facility layouts and promote safe and efficient ingress and egress from all development.<sup>3</sup> As planned, this project easily satisfies this recommendation.
2. Chapter IX also suggests focusing on ensuring low intensity industrial uses, like solar facilities, that have limited to no impact on neighboring properties.<sup>4</sup> Again, with the proper planning and layout as designed in this application, solar facilities can conform to this guideline. This chapter notes the Stony Creek planning area continues to see growth and development along Route 40 and secondary roads. As noted above, the Project will not interfere with this progress, as the project site is well removed from those areas.<sup>5</sup>
3. When making land use decisions, Chapter IX recommends maintaining balance between areas needed for commercial and industrial development and the conservation of vacant lands.<sup>6</sup> Concentrating uses such as solar adjacent to existing commercial uses accomplishes this goal. Other concerns can be addressed during the conditional use permit process.
4. Chapter IX recommends consideration of the public cost associated with development to ensure that County citizens are not paying for improvements or infrastructure from which they do not benefit.<sup>7</sup> Solar facilities do not generally require enhanced public infrastructure or other outlays by local governments once completed. Any staff or other resources required by the County are offset by tax or other negotiated contributions by the solar developer.
5. Chapter X, "Plan for the Future" provides guidance for the land uses included in the zoning districts included in the solar zoning ordinance. With regard to agricultural lands, identification and preservation of "prime agricultural" land is a stated goal, as "once it is developed, it cannot easily be restored to its original condition (nature)."<sup>8</sup> As stated elsewhere, solar use is a temporary one, and unlike most development, restoration to original condition is actually achievable. The plan specifically states "permitted uses are restricted to agricultural and others that are compatible with the existing land use pattern..."<sup>9</sup> In adopting the Solar Facilities zoning ordinance and applying it to General Agricultural land, the County correctly endorsed its compatibility.
6. As briefly noted above, the Future Land Use Map for the Stony Creek Planning Area notes that the project area generally is anticipated to remain in Agricultural/Forested/Open

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<sup>3</sup> Chapter IX, Land Use and Development, Page 1, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>4</sup> Id.

<sup>5</sup> Chapter IX, Land Use and Development, pages 15 and 16, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>6</sup> Chapter IX, Land Use and Development, page 2, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>7</sup> Chapter IX, Land Use and Development, Page 15, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>8</sup> Chapter X, Plan for the Future, Page 1, Sussex County 2004-2005 Comprehensive Plan Update.

<sup>9</sup> Id.

Space. The proposed solar facility is in accord with that future land use for the following reasons:

- a. Solar is a short-term use of approximately 40 years, much like the planted pine lifecycle.
- b. The use coexists well with agricultural and timber uses, and in a number of respects is more complimentary to those adjacent uses than residential and certain commercial and industrial developments.
- c. The facility will be low profile and well screened from Route 40 and is over 990 feet from any adjacent residence.

**C. Conclusion.**

Pursuant to the requirement of Va. State Code Section 15.2-2322 (H).(i), we ask that the Planning Commission confirm the solar project is substantially in accord with the Comprehensive Plan. As detailed above, this project is in significant agreement with the Comprehensive Plan, meeting both the letter and intent of the 2019 revision to the plan and the original 2004-2005 language. We appreciate your time and attention devoted to this analysis.

HEXAGON  
ENERGY

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### FLATFOOT SOLAR

#### Residential Zoning Future Use Map

#### Legend

- Project Property
- Proposed Site Area
- Preserved Residential Use

0 250 500 ft



EXHIBIT  
A

### FLATFOOT SOLAR






#### Existing Solar Project and Town Boundary Setback Map

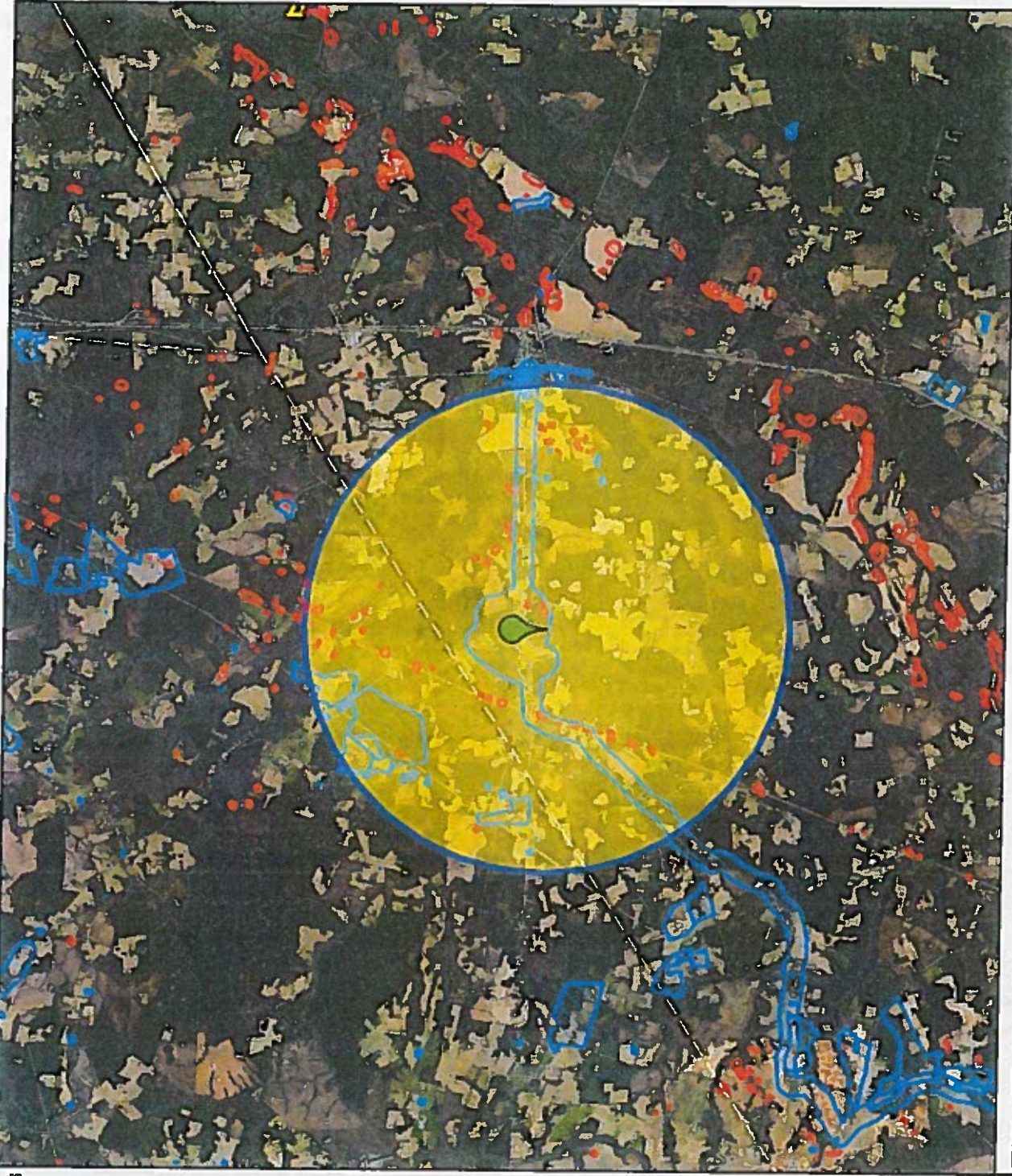
#### Legend

- Project Property
- Proposed Site Area
- Setback Distance
  - To Existing Project (>2mi.)
  - To Town Boundary (~2.8mi.)
- Existing Solar Projects
- Stony Creek Boundary



### Legend

-  Architecture Resources
-  Individual Historic District Properties
-  Archaeological Resources
-  DHR Easements
-  County Boundaries



**Title: Flatfoot Solar 3-Mile DHR Inventory Map**

**Date: 4/2/2021**

*DISCLAIMER: Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years from a variety of sources and the representation depicted is a cumulative view of field observations over time and may not reflect current ground conditions. The map is for general information purposes and is not intended for engineering, legal or other site-specific uses. Map may contain errors and is provided "as-is". More information is available in the DHR Archives located at DHR's Richmond office.*

*Notice if AE sites: Locations of archaeological sites may be sensitive to the National Historic Preservation Act (NHPA), and the Archaeological Resources Protection Act (ARPA) and Code of Virginia § 2-3765.7 (10). Release of precise locations may threaten archaeological sites and historic resources.*

**HEXAGON**  
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### FLATFOOT SOLAR

Virginia Department of Forestry  
Setback Map

Per Virginia Department of Forestry's  
Introduction on DoF Easements:

A conservation easement is a voluntary  
agreement between a landowner and a  
qualified conservation organization or  
public entity

#### Legend

-  Project Property
-  Proposed Site Area
-  Setback Distance
-  VA DoF Easement Boundary

0 0.5 mi



**EXHIBIT**  
D

tabbles

**Staff Report**  
**Flatfoot Solar**  
**Public Facility Application Review for 2021-01**  
**Code of Virginia § 15.2-2232**  
**Sussex County, Virginia**

**Report Date: March 4, 2021**  
**Planning Commission Meeting Date: April 5, 2021**

**APPLICATION SUMMARY**

**Project:** Flatfoot Solar, 1.67 MW<sub>AC</sub>

**Location:** Located within the Stony Creek district on the southern side of Sussex Drive (Route 40), west of Concord Sappony Road, and 3 miles west of Stony Creek in Sussex County, Virginia.

**Parcel Record Numbers:** 65-A-45 and 65-A-37

**Proposal:** Applicant's request for review of the Flatfoot Solar pursuant to Virginia Code Section 15.2-2232

**Application Submitted:** August 31, 2020  
Revised February 9, 2021

**Applicant:** Flatfoot Solar, LLC  
Hexagon Energy, LLC  
722 Preston Ave., Suite #102  
Charlottesville, VA 22903

**Representative:** Brendan Grajewski  
434-326-4405  
BGrajewski@hexagon-energy.com

**Owners:** Ananias Jones and Vinco Enterprises, Inc.

**PLANNING COMMISSION ACTION**

The Applicant has requested that the Planning Commission review its proposed solar energy facility, as a "public utility facility" under Virginia Code Section 15.2-2232(A), to determine whether the general or approximate location, character, and extent of the proposed facility is substantially in accord with the County's Comprehensive Plan. As required by the Zoning Ordinance, the Applicant submitted a 2232 Review Application (County reference number: 2021-01) that was deemed complete on February 22, 2021 (Attachment A).

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

## **PURPOSE OF THE REVIEW UNDER VIRGINIA CODE SECTION 15.2-2232**

Virginia Code Section 15.2-2232 requires that the Planning Commission review all proposed developments that include a “public utility facility” prior to the construction or authorization of such facility. The purpose of the Planning Commission’s review is to determine whether the general or approximate location, character, and extent of the proposed public utility facility is substantially in accord with the Sussex County Comprehensive Plan or part thereof. The Planning Commission has set aside time at its **April 5, 2021**, meeting to afford citizens an opportunity to offer their comments to the Planning Commission. The Planning Commission must advise the Board of Supervisors of its determination. If appealed by the Applicant, the Board of Supervisors may overrule the action of the Planning Commission.

## **RELEVANT CONSIDERATIONS**

Solar facilities less than or equal to 5 MW are:

- Subject to 2232 review (Virginia Code § 15.2-2232).
- Subject to a CUP review.
- Required to send DEQ a notification of intent and certification from a locality showing compliance with land use ordinances (9VAC15-60).
- Eligible to agree to a reasonable cash payment (Virginia Code § 15.2-2288.8).

Solar facilities less than or equal to 5 MW are NOT:

- Subject to DEQ’s Permit by Rule process (9VAC15-60).
- Taxed on M&T (Virginia Code § 58.1-3660).
- Eligible for revenue under a revenue share ordinance (Virginia Code § 58.1-2636).
- Eligible for a siting agreement (Virginia Code § 15.2-2316.6).

## **PROPOSED DEVELOPMENT**

The Applicant proposes to construct a 1.62 megawatt (alternating current) photovoltaic solar energy generation facility on 10 of 84 acres from 2 parcels. The project infrastructure will consist primarily of solar photovoltaic modules (PV panels) mounted on steel racking structures, inverters, a transformer, and control cabinet, switch gear, meter, interconnection, and security fencing. PV panels will cover 35% of the 10-acre project area. The racking system piles will be approximately 10 feet deep, and the wires will be buried 36 to 48 inches deep. No new buildings will be constructed, and no existing buildings utilized or expanded. Energy storage battery facilities are not proposed.

The project is generally bound to the north by Sussex Drive (Route 40), to the east by Concord Sappony Road, to the south by Sappony Creek, and to the west by an agricultural road on parcel 65-A-45. Energy generated will be connected to the grid at an existing 34.5 kV distribution line on the north side of Sussex Drive (Route 40). The Applicant has an executed interconnection agreement with Dominion Energy and has submitted a proposal for a power purchase agreement for this project. A transmission line will be installed along the road and across Sussex Drive to the point of interconnection.



The project is setback over 900 feet from surrounding dwellings and roads and offers existing vegetative buffers for screening. The project will upgrade an existing farm road to access the site. This road is adjacent to a residence and crosses a stream with wetlands. The applicant will comply with all relevant wetlands regulations and permitting.

The Applicant forecasts construction to begin in 2021 and last one to two months, dependent on weather. Following construction, the project will undergo testing and commissioning in coordination with Dominion Energy. The project is estimated to commence operations in December 2021. The project will create approximately 20 construction and 1-2 operations positions in the local community. The project will generate roughly \$2,645,000 in total capital investment for construction, material, labor, and professional services, and construction will contribute over \$600,000 in direct spending in the local economy. The Project intends to provide locally generated, clean energy to Dominion customers as a part of Dominion's Community Solar program. The array will produce enough energy to power roughly 140 homes after it is completed.

### **EXISTING CONDITIONS AND ZONING**

The project area is located in the A-1 Agricultural zoned section of the parcels. The A-1 Agricultural zoned section of the parcels has primarily been used for agricultural and timber uses production. The remainder of the parcels is zoned R-1 Rural Residential and R-2 Manufactured/Mobile Home Park (see Attachment B – Maps). The northeastern section of the Vinco Enterprises, Inc. parcel is the location of the Sappony Mobile Village.

The project area is setback an adequate distance from Sussex Drive (Route 40) and the residences along Sussex Drive. The section of agricultural use land selected for the project site is surrounded on all sides by waterways and wetlands, thus isolating it from the other uses on the project and adjacent parcels (see Application Site Plan Sheet L1.1). Approximately seven (7) acres of the 10-acre project area will be cleared of trees for the project. The existing trees, wetlands, and wetland buffer vegetation surrounding the project area will provide natural screening.

The project area is relatively flat and will require minimal grading and minimal new stormwater infrastructure. The future land use designation of the project area is agricultural/forested/open space (see Attachment B – Maps).

### **ADJACENT AND SURROUNDING USES**

The project area is adjacent to nine (9) parcels (Attachment A) that are zoned A-1, R-1, and R-2 and include residences, agricultural and forestry uses, and a church. The project area is just over two miles from the Sappony Solar project and 2.8 miles from the town boundary of Stony Creek (see Attachment B – Maps).

The future land use map designates the parcels along Sussex Drive (Route 40) as residential or apartments/mobile home parks and the remaining surrounding uses as agricultural (see Attachment B – Maps).

The Applicant contacted DCR for a review of potential natural heritage resources in and around the project area. DCR found that *Alasmidonta heterodon* (Dwarf wedgemussel) and *Percina rex*

(Roanoke longperch) are associated with the Nottoway River. Both are classified as endangered species by at the state and federal level. In addition, the Nottoway River is documented as an Aquatic Natural Community with regional significance, a “healthy” designation, and high Biological Integrity. Sappony Creek has been designated as a “Threatened and Endangered Species Water” by VDWR for Atlantic Pigtoe. To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations, establishment/enhancement of riparian buffers with native plant species and maintaining natural stream flow. Due to the legal status of the Dwarf wedgemussel and Roanoke logperch, DCR recommends coordination with USFWS and VDWR to ensure compliance with protected species legislation. Due to the legal status of Atlantic pigtoe, DCR recommends coordination with Virginia's regulatory authority for the management and protection of this species, the VDWR, to ensure compliance with the Virginia Endangered Species Act. DCR recommends the development of an invasive species management plan for these projects and the planting of Virginia native pollinator plant species that bloom throughout the spring and summer, to maximize benefits to native pollinators. DCR recommends planting these species in at least the buffer areas of the planned facility, and optimally including other areas within the project site.

There is one Virginia Department of Forestry (DOF) conservation easement present on a property approximately 1.7 miles northeast of the Site, on the border of Sussex County and Dinwiddie County. There are 39 architectural and 52 archaeological resources within an approximate 3-mile radius of the project area. The Applicant will perform required investigations and create mitigation plans, as necessary, for review and approval prior to the issuance of a building permit.

## **COMPREHENSIVE PLAN CITATIONS**

The Comprehensive Plan 2004-2005 update was adopted on October 20, 2005. The plan was amended April 2, 2019, to specifically address solar generating facilities. The plan describes the general trends and future preferences for development with emphasis on maintaining the rural character of the county.

**Chapter II: Concerns and Aspirations, section B. Issues and Existing and Emerging Conditions (p.II-12), item 23. Utility-scale Solar Facilities** states:

As used in this Comprehensive Plan, a utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt (1 MW). Sussex's abundant agricultural and forest land combined with its electrical infrastructure and transportation system appear to be attractive to the solar industry. These facilities are an industrial scale land use that occupy significant acreage. Many utility-scale solar facilities are located on agricultural or forested land that may have had other future land use potential or land use designations.

The County will consider solar facilities in districts zoned agricultural or industrial with preference for brownfields and County-owned capped landfills. The following site features should be addressed to mitigate the potential negative impacts of utility-scale solar facilities on County land use patterns as part of the evaluation of a Conditional Use Permit (CUP) application:

- The total size shall be larger than two (2) acres but less than 1,500 contiguous acres with no more than 65% PV panel coverage;
- Located outside planning areas or community hubs;
- Located outside forested areas to preserve forest resources;
- Further than three (3) miles from any village or town boundary;
- Further than two (2) miles from other existing or permitted solar facilities; and
- Proximity to residences; historic, cultural, recreational, or environmentally sensitive areas; and scenic viewsheds.

**Chapter II: Concerns and Aspirations, section C. County Vision, item 2. Vision Statement** on p.II-13 states:

Sussex County seeks to maintain its rural character and natural beauty. The County is intent upon protecting its forest resources, agricultural lands, and natural environmental systems. It will accomplish its objectives by: concentrating commercial and industrial development along US 460 and the I-95/US 301 corridor and in other areas where adequate infrastructure exist to support such development; balancing residential and commercial land uses; protecting and preserving view sheds; protecting and preserving the natural environment and surface and ground waters; promoting smart growth practices and prudent land use decisions; and discouraging over development and strip development along State maintained roads.

**Chapter IX: Land Use and Development, section B. Land Use Conflicts** (p.IX-2) lists several issues to consider in addressing land use conflicts:

Land use conflicts that occur in Sussex County are typical of similar Virginia counties that must balance the needs of, and activities associated with, agriculture, forestry, and conservation uses with residential, commercial, industrial, and public uses. With respect to land uses and development, the County must remain cognizant and carefully consider a variety of issues when making land use decisions. Issues relevant to solar facilities include:

- Encroachment of residential and other urban-level land uses into traditional agricultural and forestry areas.
- The balance between needed commercial and industrial development and the conversion of vacant land.

**Chapter X: Plan for the Future, section A. Introduction** provides guidance for each land use type. **Item 1. Agricultural and Forested Lands** (p.X-1) states:

Agricultural land is one of the most valuable of all-natural resources. Of major importance, and an objective of land use planning in Sussex County is to identify prime agricultural land and to preserve it from being developed for residential or other land uses. Once developed, it cannot easily be restored to its original condition (natures).

**Item 3. Industrial Development** (p.X-2) states:

Industry, which will provide much of the basic employment needed for anticipated growth, has more critical location requirements than other major land uses. Prime industrial sites should be located where they can be served by major transportation facilities, including major highways,

railroads, and airports. Industries dependent upon the transportation of heavy materials and products require locations served by railroad facilities. Other types of industry may prefer locations near major highways to facilitate truck service and access by employees, and still others may seek location near the airport. In addition to transportation facilities, industries should be in locations where adequate public utilities and services can be provided. Other requirements include suitability of sites with respect to slope, drainage, and soil bearing capacity, and suitable buffering from residential or other incompatible uses.

Potential industrial sites are located on the fringe of the existing towns, along the corridors of U.S.301, I-95, and the CSX Railroad, in the western portion of the County, and along the U.S. 460 and Norfolk Southern Railroad in the eastern portion of the County. Also, areas on the north side of Cabin Point Road (State Route 602) may be suitable for industrial development. Sussex County is one of the few localities in Virginia that have been identified as having the potential and available acreage necessary to develop a mega industrial site.

This chapter also includes section C. **County-wide Goals and Objectives** clearly delineating 22 issues, each with one or two goals and several objectives (tactics). There are seven (7) issues and ten (10) goals relevant to the subject of solar facility siting.

#### **Issue 1 Commercial and Industrial Development (p.X-10)**

Goal 1: Promote economic development that will assure employment stability and provide ready access to needed goods and services in the County. Encourage local expansion and new industry location in the County to broaden the tax base and increase employment opportunities.

Goal 2: Sustainable commercial and industrial development in areas where such activities already occur or can be reasonably accommodated by public facilities and the County's natural systems and to encourage local support and patronage of County business.

#### **Issue 2 Community Appearance (p.X-12)**

Goal 1: Guide and support sound and attractive land use development with the County that will result in the least possible adverse fiscal and environmental impact.

Goal 2: Remain aesthetically pleasing while maintaining rural atmosphere, open spaces, and natural areas.

#### **Issue 6 Growth Management (p.X-14)**

Goal 2: Promote environmentally friendly development that is sustainable, aesthetically pleasing, and consistent with the County's rural image and character.

#### **Issue 8 Infrastructure Carrying Capacity and Provision for Facilities and Services (p.X-16)**

Goal 2: Ensure that public systems and services are sized, located, and managed to protect or restore the quality of areas of environmental concern or other fragile areas while providing adequate levels of service to meet the needs of citizens.

#### **Issue 10 Land Development and Land Use Compatibility (p.X-18)**

Goal 2: Ensure that development and use of resources or preservation of land minimizes direct and secondary environmental impacts, avoids risks to public health, safety and welfare and is consistent with the capability of the land based on considerations of interactions of natural and man-made features.

**Issue 11 Natural Systems (p.X-20)**

Goal 1: Preserve and develop forestry, agriculture, and related industry as important economic components of the County. Provide for the wise use of the County's nonrenewable earth and mineral resources, while protecting the beauty of the landscape.

Goal 2: Conserve protective functions of wetlands, flood plains, and other shoreline features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues.

**Issue 21 Water Quality (p.X-26)**

Goal: Maintain, protect, and where possible, enhance water quality of public waters.

In this chapter, section D. Planning Areas' Goals and Objectives provides specific goals and objectives under the 22 issues for each planning area. The **Stony Creek/I-95/U.S. 30/VA Route 40 Planning Area goals and objectives** relevant to the subject of solar facility siting are below.

**Issue 1 Commercial and Industrial Development (p.X-10)**

Objective 4. Provide and maintain natural buffers such as open spaces, trees, and shrubbery between industrial and residential areas.

**Issue 2 Community Appearance (p.X-12)**

Objective 1. Utilize the County's Zoning Ordinance to prevent the location of incompatible land uses or other potential nuisances in the planning area.

**Issue 11 Natural Systems (p.X-20)**

Goal: To preserve and protect the predominately agricultural, forestall, and rural character of the Stony Creek/I-95/U.S. 30/VA Route 40 Planning Area.

**Chapter XI: Tools for Managing Development, section A. Guide for Land Use Decision-Making (p.XI-2)** offers general criteria to consider when evaluating a proposed development or ordinance amendment.

The Commission, however, should also look beyond the plan and **consider whether proposed developments, even if consistent with the plan, advance the best interests of public health, safety, and general welfare.** This very general criterion calls for consideration of a wide range of issues, including, but not limited to **the potential impact of a development on:**

- **The natural environment** – i.e., how a proposed development might affect air quality, water quality, flooding, erosion, important natural areas, etc.;

- **Important natural resources** – i.e., how a proposed development might threaten or enhance the continued availability and efficient use of finite natural resources for agriculture or forestry;
- **The transportation system** – i.e., whether any additional traffic generated by a proposed development can be safely and efficiently accommodated by the County’s transportation facilities;
- **The provision of utilities and services** – i.e., whether an additional demands for water supply, electricity, refuse collection, fire and police protection, education, health care, recreation, etc. generated by a proposed development can be safely and efficiently accommodated by public, community, or private utility and service systems;
- **The County economy** – i.e., how a proposed development might affect employment opportunities and the general health of the Sussex County economy;
- **Important historical, architectural, archeological, and cultural resources** – i.e., how a proposed development might threaten or enhance the continued existence and integrity of resources of architectural, archeological, or cultural significance;
- **Neighboring development** – i.e., how a proposed development or development allowed by an amendment might affect living or working conditions in neighboring areas (including whether development might deter or enhance the appropriate development or conservation of neighboring property);
- **Community function, character, and attractiveness** – i.e., how a proposed development or development allowed by an amendment might enhance the attractiveness and functional mix of land uses needed to meet the needs of future populations and avoid adverse impacts; and,
- **Provision of affordable and convenient housing** – i.e., how a proposed development might affect people’s ability to find affordable housing reasonably accessible to their place of employment.

## **STAFF COMMENTS AND ANALYSIS**

### **A. Applicant’s Position**

In the application materials dated August 31, 2020 and revised February 1, 2021 (Attachment A), the Applicant set forth its reasons why the proposed project is substantially in accord with the Comprehensive Plan.

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

- The proposed project is
  - Located in an agricultural district
  - Less than 1,500 contiguous acres
  - Less than 65% solar panel coverage
  - Greater than two (2) miles from a permitted solar facility
  - Adjacent to a few residential properties with existing forest buffers
  - Not proximate to eligible historic, cultural, or recreational areas or scenic viewsheds
  - Adjacent to surface waters and wetlands, but mitigation measures are proposed to protect these areas
- A Dominion transmission line is near the property for interconnection to the grid.
- The project will generate minimal offsite noise, little glare, and no emissions or safety hazards.

- After the construction is complete, there will be limited ongoing maintenance, and the ingress/egress traffic will remain similar to current use patterns.
- The project will generate tax revenue and create temporary construction jobs.
- Solar facilities are a low intensity use that do not require county infrastructure or resources.

### Staff Analysis

Staff has analyzed the proposed project considering the recently approved amendments and other relevant sections of the County's Comprehensive Plan, primarily:

- Chapter II, section B, item 23. Utility-scale Solar Facilities
- Chapter II, section C, item 2. Vision Statement
- Chapter IX, section B. Land Use Conflicts
- Chapter X, section D. Stony Creek/I-95/U.S. 30/VA Route 40 Planning Area goals and objectives

In addition to the items identified by the Applicant above, analysis considerations include:

- The project is 2.8 miles from the town boundary for Stony Point. In addition, the project is in the Stony Creek/I-95/U.S. 30/VA Route 40 planning area. The guidelines recommend greater than three (3) miles from the closest town boundary to allow for future growth and urbanization. However, the project is located in an area designated for agricultural use in the Future Land Use map.
- The project is located on land partially used for timber production, but the surrounding wetlands make seven (7) acres of timberland challenging to harvest.
- The project is proximate to one Virginia Department of Forestry (DOF) conservation easement.
- The project is proximate to 52 archaeological resources and 39 architectural resources within a 3-mile buffer of the project limits.

The location, character, and extent of the proposed utility-scale solar project **are in accord with these guidelines** set forth in the Comprehensive Plan, Chapter II, section B, item 23. Utility-scale Solar Facilities.

- The project section of the parcels is zoned agricultural.
- The total size is less than 1,500 contiguous acres.
- There is no more than 65% solar panel coverage.
- The location is further than two (2) miles from other existing or permitted solar facilities.

The location, character, and extent of the proposed utility-scale solar project **are not in accord with these guidelines** set forth in the Comprehensive Plan, Chapter II, section B, item 23. Utility-scale Solar Facilities.

- The project is less than three (3) miles from the town boundary for Stony Point and in the Stony Creek/I-95/U.S. 30/VA Route 40 planning area.
- The project is located on seven (7) acres primarily used for timber production.

- The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources.

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

As recommended in the Comprehensive Plan, the Commission, however, should look beyond the plan and consider whether proposed developments, even if consistent with the plan, advance the best interests of public health, safety, and general welfare. This very general criterion calls for consideration of a wide range of issues, including, but not limited to the potential impact of a development on:

- The natural environment
- Important natural resources
- The County economy
- Important historical, architectural, archeological, and cultural resources
- Neighboring development
- Community function, character, and attractiveness

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

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

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

Attachments:

- A – CUP Application, submitted August 31, 2020 and revised February 9, 2021
- B – Maps



## **DRAFT PLANNING COMMISSION ACTIONS**

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

I move that the Flatfoot Solar, LLC’s proposed 1.62 megawatt photovoltaic solar energy facility as described in the conditional use permit application 2021-01, is substantially in accord with the Sussex County Comprehensive Plan or parts thereof for the following reasons:

1. The project parcels are zoned agricultural or industrial.
2. The total size is less than 1,500 contiguous acres.
3. There is no more than 65% solar panel coverage.
4. The location is more than three (3) miles from any village or town boundary.
5. The location is further than two (2) miles from other existing or permitted solar facilities.
6. The proposed project involves only a small part of the total agricultural land in the County and will have setbacks and buffers which, if adequate in scope and required in the Conditional Use Permit, could afford protection for adjacent properties.

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

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

I move that the Flatfoot Solar, LLC’s proposed 1.62 megawatt photovoltaic solar energy facility as described in the conditional use permit application 2021-01, is not substantially in accord with the Sussex County Comprehensive Plan for the following reasons:

1. The project area is in the Stony Creek/I-95/U.S. 30/VA Route 40 planning area.
2. The project is located on land primarily used for timber production.
3. The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources.

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

### **Option 3 – Deferral of the application.**

I move that the Planning Commission defer a decision on Flatfoot Solar, LLC’s request under Va. Code § 15.2-2232 regarding its proposed 1.62 megawatt photovoltaic solar energy facility as described in the conditional use permit application 2021-01, until the Planning Commission meeting scheduled to begin at \_\_\_\_ p.m. on \_\_\_\_\_, in the Board of Supervisors meeting room.

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AND HOLIDAYS



**Flatfoot Solar  
Public Facility Application Review  
Code of Virginia § 15.2-2232**

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

*Note: Substantially in accord means to be significantly or largely in agreement*

Approximate Location	Character	Extent Thereof
Agricultural or industrial zoning ✓	Less than 1,500 acres ✓	
Outside of planning areas or community hubs ✗	65% max. PV coverage ✓	
Outside forested areas ✗		
Further than 3 miles from any village or town boundary ✓		
Further than 2 miles from existing solar ✓		
Distance from residences, historic, cultural, recreational, or environmentally sensitive areas ✗		



## **Procedure for Conditional Use Permit Applications**

- STEP ONE.** Applicant completes the appropriate application furnishing information as requested on application and pays the appropriate fees.
- STEP TWO.** Director of Planning reviews the application and accompanying materials. The request is scheduled for public hearing with the Planning Commission.
- STEP THREE.** The first public hearing is advertised as required by local and state ordinances.
- STEP FOUR.** Official notice of the public hearing date will be provided to the applicant and adjacent property owners by the county.
- STEP FIVE.** The planning commission holds a public hearing. A determination is made and a recommendation is forwarded to the Board of Supervisors.
- STEP SIX.** The second public hearing is advertised as required by local and state ordinances and an official notice given to the applicant and adjacent property owners by the County.
- STEP SEVEN.** The Board of Supervisors holds public hearing. A final determination is made by the Board.

CUP Number: \_\_\_\_\_  
Date Application Filed \_\_\_\_\_  
\$500 Processing Fee Received By: \_\_\_\_\_



Sussex County Planning Department  
Post Office Box 1397  
21035 Princeton Road  
Sussex, Virginia 23884  
Phone: 434-246-1043  
Fax: 434-246-2175

## CONDITIONAL USE PERMIT APPLICATION

### Owner Information:

Name: Ananias Jones And Vinco Enterprises Inc.  
Address: 24205 Jones Rd. And 109 Hicksford Ave.  
Stony Creek, VA 23882 And Emporia, VA 23847  
Phone Number: \_\_\_\_\_

### Applicant Information:

Name: Flatfoot Solar, LLC.  
Address: 723 Preston Ave. Suite 102  
Charlottesville, VA 22903  
Phone Number: (434) 326-4465

### Legal Description of Property:

Tax Map Number: 65-A-45 And 65-A-37  
Zoning District: A-1 / R-1 And A-1 / R-1 / R-2  
Block Number: N/A  
Lot Size (Acreage): 31.33 Ac. And 52.36 Ac.

Election District: 6 - Stony Creek  
Subdivision: N/A  
Lot Number: 45 And 37  
Square Footage: N/A

Please answer the following:

- When was property acquired by applicant? 02 / 18 / 2019 And 05/15/2019
- Are there any deed restrictions on the property in question? Yes No  
(If yes, attach a copy of restrictions).
- What is the proposed use of property or type of improvement? Please be detailed and specific in your description. (For example: new construction, addition or demolition, agricultural, residential or commercial use)  
2MWDC / 1.62MWAC Utility-Scale Solar Energy Facility
- What is the Fair market value of improvements \$ 2,645,000  
(Value must include all buildings, electrical, plumbing, and mechanical work to be performed).
- Describe briefly the type of use and improvements proposed. State whether new buildings are to be constructed, existing buildings are to be used, or additions made to existing buildings.  
Solar Energy Facilities harness sunlight and transform the energy into electricity. The electricity will service the local Dominion Energy-operated grid  
There will be no buildings associated with Flatfoot Solar. Please refer to the Project Narrative for further details on Project components and equipment
- Describe how the proposed use and improvements are to be designed and arranged to fit into the development of adjacent property of the neighborhood.  
Flatfoot Solar will be designed and constructed in full compliance with Sussex County Code. The footprint of the Project shall be set back in excess of 900 feet  
in some locations, and will be unseen or heard after completion of construction. The array is particularly sited to preserve the character of Route 40 and the surrounding area.
- Furnish plot plan, preliminary site plan, and/or preliminary subdivision plat showing boundaries and dimensions of property, width of boundary sheets, location and size of buildings on site, roadways, walks, off street parking and loading space, landscaping and the like. Architect's/Engineer's sketches showing elevations of proposed buildings and complete plans are also desirable and if available should be filed with application.  
See Appendix D and Appendix E Attached
- I hereby certify that I have the authority to make the forgoing application and that the application, is complete and correct and that the conditional use permit is in accordance with section Article XXIII: Solar Facilities of the Zoning Ordinance.

Owner Signature: [Signature] (VE, I) Date: 8/4/2020

Applicant Signature: [Signature] Date: 7/28/2020

CUP Number: \_\_\_\_\_  
 Date Application Filed \_\_\_\_\_  
 \$500 Processing Fee Received By: \_\_\_\_\_



Sussex County Planning Department  
 Post Office Box 1397  
 21035 Princeton Road  
 Sussex, Virginia 23884  
 Phone: 434-246-1043  
 Fax: 434-246-2175

## CONDITIONAL USE PERMIT APPLICATION

### Owner Information:

Name: Ananias Jones And Vinco Enterprises Inc.  
 Address: 24205 Jones Rd. And 109 Hicksford Ave.  
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 Phone Number: \_\_\_\_\_

### Applicant Information:

Name: Flatfoot Solar, L.L.C.  
 Address: 723 Preston Ave. Suite 102  
Charlottesville, VA 22903  
 Phone Number: (434) 326-4485

### Legal Description of Property:

Tax Map Number: 65-A-45 And 65-A-37  
 Zoning District: A-1 / R-1 And A-1 / R-1 / R-2  
 Block Number: N/A  
 Lot Size (Acreage): 31.33 Ac. And 52.36 Ac.

Election District: 6 - Stony Creek  
 Subdivision: N/A  
 Lot Number: 45 And 37  
 Square Footage: N/A

Please answer the following:

- When was property acquired by applicant? 02 / 18 / 2019 And 05/15/2019
- Are there any deed restrictions on the property in question? Yes  No  
 (If yes, attach a copy of restrictions).
- What is the proposed use of property or type of improvement? Please be detailed and specific in your description. (For example: new construction, addition or demolition, agricultural, residential or commercial use)  
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- What is the Fair market value of improvements \$ 2,645,000  
 (Value must include all buildings, electrical, plumbing, and mechanical work to be performed).
- Describe briefly the type of use and improvements proposed. State whether new buildings are to be constructed, existing buildings are to be used, or additions made to existing buildings.  
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There will be no buildings associated with Flatfoot Solar. Please refer to the Project Narrative for further details on Project components and equipment
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Flatfoot Solar will be designed and constructed in full compliance with Sussex County Code. The footprint of the Project shall be set back in excess of 900 feet  
in some locations, and will be unseen or heard after completion of construction. The array is particularly sited to preserve the character of Route 40 and the surrounding area.
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See Appendix D and Appendix E Attached
- I hereby certify that I have the authority to make the forgoing application and that the application, is complete and correct and that the conditional use permit is in accordance with section Article XXIII: Solar Facilities of the Zoning Ordinance.

Owner Signature: Ananias Jones

Date: 07/28/2020

Applicant Signature: M. Hart

Date: 7/28/2020



# County of Sussex

## SECTION 15.2-2232 REVIEW APPLICATION

### SUSSEX COUNTY COMMUNITY DEVELOPMENT OFFICE

APPLICATION NUMBER: \_\_\_\_\_  
(Assigned by Sussex County Community Development Office)

### GENERAL INFORMATION

1. Applicant/Agent(s): Flatfoot Solar, LLC  
Address: 722 Preston Ave. Ste #102  
Charlottesville, VA 22903  
Daytime Phone: (434) 326-4405 FAX Number: \_\_\_\_\_  
E-mail address: BGrajewski@hexagon-energy.com

### DESCRIPTION OF PROPERTY

1. Tax map number(s):  
65-A-45 , 65-A-37 , \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
2. Street address, if applicable (or common description if no street address is available):  
Sussex Dr. / Route 40, West of Concord Sappony Rd.  
\_\_\_\_\_  
\_\_\_\_\_
3. Planning Area: Stony Creek/ I-95/ U.S. 301
4. Comprehensive Land Use Plan Designation:  
Agricultural/Forested/Open Space  
\_\_\_\_\_  
\_\_\_\_\_





**ACKNOWLEDGEMENT**

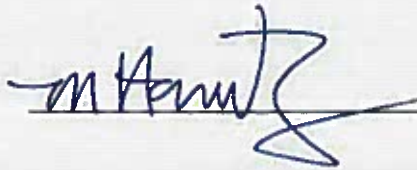
**DECLARATION OF ACCURACY:**

I, the undersigned, certify that this application is complete, accurate and contains all required and requested information, documents and other submittals, and that all statements made herein are, to the best of my knowledge, true and correct. I further certify that I have exercised due diligence to obtain the most recent, complete and correct information available. I understand that wrongful certification or failure to provide required or requested documents that become available after the initial submittal of this application may result in a delay in, or invalidation of, any official governmental action taken. Fraudulent representations may lead to additional penalties under law.

**DECLARATION OF CONSENT:**

I, the undersigned, consent to entry upon the subject property by public officers, employees, and agents of the County of Sussex wishing to view the site for purposes of processing, evaluating or deciding this application.

Yes



\_\_\_\_\_  
Applicant/Agent:

## SECTION 15.2-2232 REVIEW APPLICATION CHECKLIST

The following items are required as part of the Section 15.2-2232 Review application:

- The original application, including all required information. All information must be typed or clearly printed on the application and 8½" x 11" paper as needed. *Please include this checklist with the original application.*
- Sixteen (16) copies of the completed application. *Please copy only the application including this completed checklist.*
- Sixteen (16) copies of a map showing the location of the proposed improvement, or if available, sixteen (16) copies of a site sketch drawn to scale, showing all existing and proposed structures, and other structures and features located on the site. Copies of the map and/or site plan reduced to 11" x 17" paper.
- Sixteen (16) copies of the tax map parcel on 8½" x 11" paper with the parcel highlighted.
- Any additional drawings, pictures, or information, which will assist the Planning Commission in making their decision.

# HEXAGON ENERGY

APPLICATION FOR  
FLATFOOT SOLAR  
CONDITIONAL USE PERMIT

PURSUANT TO

CODE OF THE COUNTY OF  
SUSSEX, VIRGINIA

FEBRUARY 1ST, 2021

Prepared for:  
Sussex County  
Planning Commission  
15098 Courthouse Rd.  
Sussex, VA 23884

Prepared by:  
Hexagon Energy, LLC  
722 Preston Ave. | Suite 102 | Charlottesville, VA 22903  
Tel: 434-227-5090 | hexagon-energy.com

#### NOTICE OF RESTRICTIONS

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