



Sussex County Board of Supervisors  
Recessed Meeting  
Thursday, September 29, 2016 – 6 pm  
General District Courtroom – Sussex Judicial Center  
15098 Courthouse Road, Sussex VA 23884

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AGENDA

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- Item 1. Call to Order/Determine Quorum
- Item 2. Invocation
- Item 3. Pledge of Allegiance
- Item 4. Agenda Amendment(s)
- Item 5. Approval of Agenda
- Item 6. Conditional Use Permit #2016-03, Virginia Solar LLC on behalf of Sappony Solar, LLC
- Item 7. Sussex County Public Schools – 50/50 School Fund Carryover Policy
- Item 8. Citizen’s Comments (Limited to 2 minutes, Section 5-3A6)
- Item 9. Recess/Adjournment

AGENDA ITEM #6  
Conditional Use Permit #2016-03, Virginia Solar, LLC  
on Behalf of Sappony Solar, LLC

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This item was tabled from the Thursday, September 15, 2016 Regular Board of Supervisors meeting.

Staff was requested to take into consideration Board members and the Planning Commission issues.

Please see attached revisions to the proposed conditions and suggested motions.



MEMORANDUM

TO: Members, Board of Supervisors  
Deborah A. Davis, County Administrator

FROM: Andre M. Greene, Director of Community Development *AMG*

RE: Tabled Item – Conditional Use Permit Application #2016-03  
Virginia Solar LLC, applicant

DATE: September 26, 2016

Attached are revisions to the proposed conditions after taking into consideration the issues expressed by several members of the Board of Supervisors and the Planning Commission.

**PLANNING COMMISSION'S RECOMMENDATION**

The Planning Commission held a public hearing on Monday, September 12<sup>th</sup>, 2016 to consider Conditional Use Permit Application #2016-03 (VA Solar LLC., applicant). Following the public hearing the Planning Commission voted (6-5) to forward Conditional Use Permit Application #2016-03 to the Board of Supervisors with a recommendation that it be denied for the following reasons:

1. Solar is not a viable business without taxpayer subsidies.
2. There are too many unknowns. The company stated that there will be no dealings with Dominion power but electricity will be transmitted over Dominion lines.
3. No figures have been submitted relative to the amount of the surety bond.

**SUGGESTED MOTIONS**

**To recommend approval:**

Mr. Chair, I recommend the Board of Supervisors approve Conditional Use Permit Application #2016-03, with the amended conditions, as it complies with the requirements of the Zoning Ordinance and is consistent with the Comprehensive Plan.

**To recommend denial:**

Mr. Chair, I move the Board of Supervisors deny Conditional Use Permit Application #2016-03 for the following reason (s): \_\_\_\_\_

## Conditions

1. Sappony Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the Solar energy facility (the “Applicant”) shall consent to annual administrative inspections by the Community Development Department staff for compliance with the requirements of this CUP.
2. The Applicant shall sign the list of the adopted conditions for this CUP signifying acceptance and intent to comply with these conditions.
3. All federal, state and local laws, regulations, permit requirements and ordinances will be adhered to including but not limited to:
  - a. All active solar systems shall meet the requirements of the National Electrical Code (NEC), National Electrical Safety Code (NESC), American Society of Civil Engineers (ASCE), American National Standards Institute (ANSI), Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), or International Electrotechnical Commission (IEC) as applicable and state building code and shall be inspected by either a county building inspector or a third-party inspector through the building permit process.
  - b. An Erosion and Sediment Control Plan must be submitted and approved prior to any land disturbance.
  - c. The site shall fully comply with all applicable provisions of the Sussex County Zoning Ordinance, to the extent not modified herein, throughout the life of this CUP.
4. A building permit must be obtained within 3 years of obtaining the Conditional Use Permit and the generation of solar electricity shall begin within one year after the building permit is obtained or this CUP shall be null and void.
5. This conditional use permit (CUP) shall be binding on Sappony LLC or any successors, assignees, current or future lessee, sub-lessee, or the owner of the solar energy facility.
6. The solar energy facility shall consist of one integrated power generation facility and shall be limited to no more than 250 acres of ~~the 250 acres of the~~ the 371 acre property identified as “Sappony-Virginia Solar,” as shown on the Maximum Extents Plan prepared by Timmons Group date May 27<sup>th</sup> 2016.
7. All site activity required for the construction and operation of the solar energy facility shall be limited to the following:
  - a. All piling driving shall be limited to the hours from the earlier of sunrise or 8 a.m. to the later of 6 p.m. or sunset, Monday through Saturday. The applicant may request permission from the County Administrator to conduct piling driving activity on Sunday, but such permission will granted or denied at the sole discretion of the County Administrator; and
  - b. All other construction activity on-site shall be permitted Monday through Sunday in accordance with the provisions of the County’s Noise Ordinance.
8. A minimum one hundred and fifty (150) foot setback shall be maintained from solar equipment to any adjacent residential dwellings that exist at of the time of the approval of the Board of Supervisors, unless it is across a public right-of-way from the solar equipment. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for staging of materials and parking.

9. A minimum 50' foot setback from the solar equipment to the property line shall be provided around the perimeter of the project where it is adjacent to property not owned by the same property owner as covered in the CUP at the time of approval by the Board of Supervisors. Within the buffer, in areas where there is either less than 15 feet of native timber remaining on the project parcel or the solar equipment is less than 150' from the adjacent property line, a single row of evergreens will be planted within the 50 foot setback or adjacent to the project fence, where there is an adjacent property with an existing residence. Such evergreens shall be planted on 15 foot centers and shall be a Meyers Spruce, Eastern Red Cedar, Norway Spruce, or other similar tree (which alternate tree shall be subject to the prior written approval of the Community Development Department), and the evergreen installed shall have an anticipated five year height of six (6) feet to eight (8) feet after planting and an anticipated mature height of thirty (30) to forty (40) feet or low growing evergreen vegetation with an anticipated five year height of three (3) to five (5) feet after planting and a mature height of no more than seven (7) to ten (10) feet shall be planted. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials or parking.
10. A minimum 50 foot setback from any solar structure to any public right-of-way shall be provided where the project is adjacent to the public right-of-way. Along public right-of-ways where there is either less than 15 feet of native timber remaining on the project parcel or the solar equipment is less than 150' from the public right-of-way, low growing evergreen vegetation with an anticipated five year height of three (3) to five (5) feet after planting and mature height of no more than seven (7) to ten (10) feet shall be planted, and/or in combination with a single row of Meyers Spruce, Eastern Red Cedar, Norway Spruce, or other similar tree planted on fifteen (15) foot centers (which alternative tree shall be subject to the prior written approval of the Community Development Department), with anticipated five year height of six (6) to eight (8) feet after planting and an anticipated mature height of thirty (30) to forty (40) feet, and/or in combination with a berm of sufficient height to block the view of the solar equipment, when standing at the edge of the public right-of-way at a height of 5'. This requirement may be reduced or waived if agreed to, in writing, by the Department of Community Development. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
11. The Applicant shall install a security fence around the solar energy facility that is a minimum of seven (7) feet in height.
12. Construction lighting shall be minimized and shall be directed downward.  
Post-construction lighting shall be limited to security lighting only.
13. A decommissioning plan shall be developed by the Applicant and forwarded to the Community Development Department prior to approval of any building permits for the facility. If the solar energy facility is inactive (completely or substantially discontinuing the delivery of electricity to an electrical grid) for a continuous twenty-four (24) month period, shall be considered abandoned. The Applicant shall provide notice to County staff immediately upon the site becoming inactive and/or shutting down operation. The current owner of the Project ("Project Owner") shall remove the facilities (decommissioning") within six (6) months of receipt of notice from the County ("County Notice"). If the facility is not removed within the specified time after the County Notice, the County may cause

the removal of the solar energy facility with costs being borne by the Project Owner. ~~Unless the solar energy facility is owned by a public utility in the Commonwealth of Virginia, the net~~ costs of decommissioning shall be secured by an adequate surety in a form agreed to by the County Attorney, including but not limited to a letter or credit, cash or a guarantee by an investment grade entity, ~~posted within 30 days of which shall be posted prior to the issuance of the land disturbance permit and building permit the project receiving its occupancy permit or equivalent~~ from the County. If the solar energy facility is sold, ~~to an entity that is not a public utility,~~ the CUP shall not transfer to the purchaser until such time as the adequate surety is provided. ~~If a surety is required,~~ the cost estimates of the decommissioning shall be updated every five (5) years and provided to the County. At its option the County may require the surety amount be increased based on the ~~net~~ updated cost of decommissioning.

14. The applicant shall coordinate with the County's emergency services staff to provide to provide materials, education, and/or training to the departments serving the solar facility in regard to how to safely respond to on-site emergencies.
15. Access roads are to be marked by the Applicant with identifying signage.
16. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the Virginia Department of Transportation and the County of Sussex for review. The Plan shall address traffic control measures, pre-and post-construction road evaluation and any necessary repairs to the public road that are requires as a result of damage from the Project. If traffic issues arise during the construction of the Project, the Applicant will develop with input from the County and VDOT appropriate measures to mitigate the issues.
17. All panels will use anti-reflective coatings.
18. No aspect of the solar facility shall exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to the electrical distribution or transmission lines.
- ~~18.19.~~ All pilings, foundations, racking systems, solar panels, underground cables and conduits, combiner boxes, switch gears, transformers, and other accessory equipment/structures shall be removed from the subject property and properly disposed of as part of the decommissioning.

AGENDA ITEM #7  
Sussex County Public Schools  
50/50 School Fund Carryover Policy

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Dr. Arthur L. Jarrett, Division Superintendent of Sussex County Public Schools, has forwarded letter to staff, to place 50/50 School Fund Carryover Policy on the September 29, 2016 Board of Supervisors Meeting agenda in hopes of restoring the policy.

Please see attached letter from Dr. Jarrett.

# Sussex County Public Schools

Ms. Deborah Davis  
County Administrator  
PO Box 1397  
Sussex, Virginia 23884

Dear Ms. Davis,

The Finance staffs from the Sussex County Administration and Sussex County Public Schools met on September 2, 2016 as a new initiative to meet each month to increase communication, review finance procedures and examine routine processes. One of the discussion topics, among many topics discussed, was investigating the feasibility of our school board voting on a request to ask the board of supervisor's to reallocate 100 percent of all school board carryover funds instead of the 50/50 Fund Carryover policy that is currently in place between the school board and the board of supervisors. This was merely a topic of discussion and it was suggested that this topic be shared *only* with the finance committee of the board of supervisors for their input prior to having the school board vote and present a formal written request. The discussion topic was never meant to be a topic to be voted on by the board of supervisors.

Upon a suggestion from Chairman, Keith Blowe, I ask that you place the 50/50 School Fund Carryover policy back on the agenda for the September 29, 2016, board of supervisor's meeting in hopes of the board restoring the 50/50 School Fund Carryover policy.

Thank you for your consideration,

Sincerely,



Arthur L. Jarrett, Jr., Ed. D., Division Superintendent

CC: Eddie Morris, Chairman Sussex County Public Schools

