

**Sussex County Planning Commission Meeting
Monday, January 7, 2019- 6:00 p.m.
General District Courtroom- Sussex Judicial Center**

AGENDA

- 1) Call To Order**
- 2) Adoption of Agenda**
- 3) Reorganization**
 - A) Election of Chairperson
 - B) Election of Vice Chairperson
- 4) Approval of Minutes**
- 5) Public Hearing Items**
 - A) Conditional Use Permit #2019-01
First Solar LLC on behalf of Waverly Solar LLC
- 6) Return to Regular Session**
- 7) Commission's Action on Public Hearing Items**
- 8) Old Business-** No old business
- 9) New Business-** No new business
- 10) Adjournment**

STAFF REPORT - Conditional Use Permit Application #2019-01

This staff report is prepared by the Sussex County Planning Department to provide information to the Planning Commission and the Board of Supervisors to assist both bodies in making a recommendation on this application. It may also be useful to the members of the general public interested in this application.

SUMMARY FACTS

APPLICANT:	First Solar LLC (on behalf of Waverly Solar LLC)
REQUEST:	Pursuant to Section 16-22 (17.2) of the Zoning Ordinance a Conditional Use Permit is requested to operate a 118 megawatt solar (MW) solar energy facility
PROPERTY LOCATION:	Between the Town of Waverly to the northeast and the unincorporated community of Newville to the southwest. The site is bound to the east by Coppahaunk Road (SR 654) and to the north by the Town of Waverly. Beef Steak Road (SR 626) traverses the western part of the project site and Oakdale Road (SR 655) traverses the southern part of the site. Sussex Drive (Route 40) extends north to south through the eastern part of the site (see attached preliminary site plan)
PROPERTY IDENTIFICATION:	27-A-2, 27-A-3, 27-A-4, 27-A-5, 27-A-12, 27-1-A, 27-1-B, 28-A-17A, 28-A-20, 28-A-21, 28-A-22, 28-A-24, 28-A-25, 28A10-A-20, 28A11-A-3, 42-A-6 and 42-A-33
PARCEL SIZE:	17 parcels totaling approximately 2,000 +/- acres
PARCEL CHARACTERISTICS:	The site is predominately timberland with some areas of wetlands
SURROUNDING LAND USES:	Surrounding land uses include farmland, woodlands, single-family residences, a manufactured home park and overhead electrical transmission lines

EXISTING ZONING:	A-1, General Agricultural
PROJECT BENEFITS:	<p>The production of clean energy to serve the needs of approximately 19,000 homes per year, displacing approximately 94,000 metric tons of carbon dioxide (CO₂) annually – the equivalent of taking 18,000 cars off the road</p> <p>The creation of approximately 300 jobs during construction</p> <p>The generation of local tax revenue. It is estimated that over a ten year period the project could generate approximately \$2.6 million in local tax revenue (see Pearson’s Appraisals Services Report)</p> <p>The project will not increase demands on the school system, law enforcement or other public services and will not place any burdens on the County’s infrastructure (i.e. water, sewer)</p>
Project Timing:	<p>Construction Commencement – Late 2019</p> <p>Construction Completion/Operations Commencement – Late 2020</p>
Permitting/Regulatory Agencies:	<p>Virginia Department of Environmental Quality (VDEQ) – A Small Renewable Energy Project (Solar) Permit By Rule is required</p> <p>US Army Corps of Engineers (USACE) - A wetlands permit is required</p> <p>Virginia Department of Transportation (VDOT) – Approval of the Traffic Management Plan and issuance of a land use permit</p> <p>Sussex County – Approval of the final site plan, the erosion and sediment control plan and the decommissioning plan; issuance of the building permit and land disturbance permit</p>

Executive Summary

The applicant, First Solar LLC (for Waverly Solar LLC), is requesting issuance of a Conditional Use Permit to construct and operate a 118 megawatt (MW) solar energy facility on approximately 2,000 +/- acres. The affected properties are zoned A-1, General Agricultural. Pursuant to Section 16-22 (17.2) of the Zoning Ordinance, private utility generation facilities and their associated accessory uses are allowed with a conditional use permit. The proposed facility will interconnect with a new Dominion Virginia substation located near the Town of Waverly.

First Solar LLC conducted a public meeting at the Empowerment Temple Church (Waverly, VA) on August 6, 2018 to discuss the project with interested citizens. Approximately 30 residents attended the meeting (including neighbors whose property adjoins the project) and representatives from the Town of Waverly and Sussex County. A workshop with the Planning Commission was conducted on October 1, 2018.

After receiving local zoning approval for the proposed facility, the applicant will have to receive permits from several state and federal regulatory agencies prior to construction of the solar generation facility (VDEQ, VDOT and USACE). Thus, concerns with environmental (wetlands, endangered species, water quality, etc) and traffic are entrusted to those agencies trained and equipped to analyze and enforce standards imposed on a project of this nature and scale (2,000 +/- acres).

Attached for the Commission's review is the applicant's detailed application and supporting documentation.

EVALUATION

There are several criteria by which an application for a conditional use permit may be evaluated. The criteria state that a proposed conditional use should be:

- In accordance with adopted plans and policies;
- Compatible with the neighborhood;
- Compatible with existing land uses; and
- Compatible with development by right in the area.

The applicant and staff believe that the proposed solar facility complies with the four criteria stated above given the following:

- 1) The proposed solar generation facility is passive in nature. As such, the proposed use will be designed and sited in a manner as not to impair the character and integrity of the surrounding community. Currently, the A-1, General Agricultural, District permits intensive livestock, dairy and poultry operations by right. These uses are associated with

foul odor and other related nuisances which are not associated with solar generation facilities.

- 2) The proposed use will not be cause a nuisance to adjacent properties or the surrounding community. The solar facility will emit no emissions to the air, will not cause any glare, will not produce foul odor and will not generate any loud noise. Any significant impacts (increase in traffic and noise) will only be minor and temporary during construction of the facility.

- 3) The proposed use is consistent with the County's adopted Comprehensive Plan. Chapter X – Plan for the Future- Growth Management.
Goal- Promote environmentally friendly development that is sustainable, aesthetically pleasing to and consistent with the County's rural image and character. Solar generation facilities are in line with this goal as stated in the Comprehensive Plan.

- 4) Visual impacts will be minimized utilizing setbacks and requiring some trees to remain onsite as a natural buffer.

RECOMMEDATION

Staff recommends the approval of Conditional Use Permit #2019-01, as proposed, as it complies with the requirements of the Zoning Ordinance and is consistent with the Comprehensive Plan, subject to the conditions proposed by staff and accepted by the applicant (see attached conditions).

To date, the Office of Community Development has not received any public opposition to the proposed facility.

Conditional Use Permit Application #2019-01 (First Solar on behalf of Waverly Solar, LLC)

Proposed Conditions

1. The solar energy facility shall consist of an integrated power generation facility and shall be limited to approximately 2,000 acres, more or less, which shall consist of the following tax parcels: 28A10-A-20, 28-A-22, 28A11-A-3, 28-A-25, 42-A-33, 27-1-A, 27-1-B, 28-A-20, 21-A-21, 28-A-24, 27-A-2, 27-A-3, 27-A-4, 27-A-5, 27-A-12, 28-A-17A and 42-A-6.
2. The solar energy facility will have a maximum of 118 MW of generated power, and is identified as “Waverly Solar LLC,” as shown on the preliminary site plan dated July, 20, 2018, which is incorporated by reference herein.
3. The solar energy facility shall consist of PV panels, racking systems, inverters, breakers, switches, cabling, power transformers, electrical substation and generator tie-line and associated materials and equipment.
4. All requirements and obligations of this Conditional Use Permit (“CUP”) shall become a part of the zoning regulations and shall therefore be binding on the Applicant, and any future owner or operators (which shall include, but not be limited to, any successors, assignees, current or future lessee, or sub-lessees).
5. Waverly Solar LLC (the “Applicant”), or any future owner or operator, shall consent to annual administrative inspections of the solar energy facility by the Community Development Department staff for compliance with the requirements of this CUP.
6. The Applicant shall sign the list of the adopted conditions for this CUP signifying acceptance and intent to comply with these conditions.
7. All federal, state and local laws, regulations, permit requirements and ordinances will be adhered to including but not limited to:
 - a. US Army Corps of Engineers
 - b. Virginia Department of Environmental Quality - Small Renewable Energy Projects (Solar) Permit by Rule
 - c. All active solar systems shall meet the large-scale solar 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.
 - d. The Applicant is required to obtain a County Land Disturbance permit and a DEQ Virginia Stormwater Management Program (VSMP) Erosion and Sediment Control Plan [§62.1-44.15:55] prior to any land disturbance.
 - e. 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.
8. A building permit must be obtained within 3 years of obtaining the CUP and the generation of

solar electricity to the solar energy facility substation shall begin within eighteen months after the building permit is obtained or this CUP shall be null and void.

9. Site activity shall be limited to the following:
 - a. Driving of posts shall be limited to 8:00 am to 6:00 pm, Monday through Saturday. The Applicant may request permission from the County Administrator to conduct post driving activity on Sunday, but such permission will be granted or denied at the sole discretion of the County Administrator; and
 - b. Other construction activity on-site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
10. A minimum one hundred and fifty (150) foot setback shall be maintained from the solar equipment to any adjacent residential dwellings that exist at the time of the approval of the Board of Supervisors, unless it is across a public right-of-way from the solar equipment. A wooded buffer of trees at least 25 feet in width shall be maintained from the solar energy facility to any existing residential dwelling. 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. For purposes of this CUP, project roads shall mean internal roads used to access the solar energy facility during construction.
11. A minimum 50' foot setback from the solar equipment to the property line shall be provided around the perimeter of the solar energy facility 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. A 25-foot-wide wooded buffer shall be maintained around the perimeter of the project where it is adjacent to property not owned by the same property owner as covered in the CUP. During construction the setback area may be used for the staging of materials or parking. The security fence and project roads may be located within the setbacks.
12. A minimum 100-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, a 25-foot-wide wooded buffer shall be maintained. The security fence and project roads may be located within the setbacks. During construction the setback area may be used for the staging of materials and parking.
13. The Applicant shall install a standard galvanized security fence around the solar energy facility that is a minimum of seven (7) feet in height.
14. Construction lighting shall be minimized and shall be directed downward.
15. Post-construction lighting shall be limited to security lighting only and shall be directed downward.
16. The Applicant is required to obtain approval of a decommissioning plan by the Director of Community Development Department prior to approval of any building permits for the solar energy facility. The solar energy facility shall be decommissioned and removed within eighteen (18) months after the facility ceases electricity generation for a continuous twelve (12) month period.

The costs of decommissioning shall be secured by adequate surety in a form agreed to by the County Attorney, including but not limited to a surety or performance bond, certified check, or letter of credit, which shall be provided to the Director of Community Development prior to the issuance of the land disturbance permit and building permit from the County. The performance bond, certified check or letter of credit shall be in an amount of no less than One Hundred Thousand Dollars (\$100,000) while the solar energy facility remains on the Property. If the solar energy facility is sold, the CUP shall not transfer to the purchaser until such time as the adequate surety is provided.

The cost estimates of the decommissioning shall be updated every five (5) years by an independent consultant ("consultant") retained at the expense of the Applicant, or any future owner or operator, and provided to the County. The consultant shall be a professional engineer licensed in Virginia with expertise in the subject of decommissioning solar projects. The Applicant, or future owner or operator, is required to obtain approval of the independent consultant by the Director of Community Development prior to being engaged by the Applicant, or future owner or operator, which approval shall not be unreasonably withheld. The consultant's reports will identify the cost of decommissioning, taking into account any salvage value of the installed equipment. The surety amount will be increased or decreased based on such updated cost of decommissioning, but the surety shall not be below the minimum amount required by this condition. The Applicant, or future owner or operator, shall be liable to the County for any deficiency if the bond amount does not fully fund the costs of decommissioning.

Decommissioning shall include, but not be limited to, the removal of all fencing, posts, foundations, racking systems, solar panels, underground cables and conduits, combiner boxes, switch gears, transformers, other electrical components, and other accessory equipment/structures from the Property and properly disposed of as part of the decommissioning.

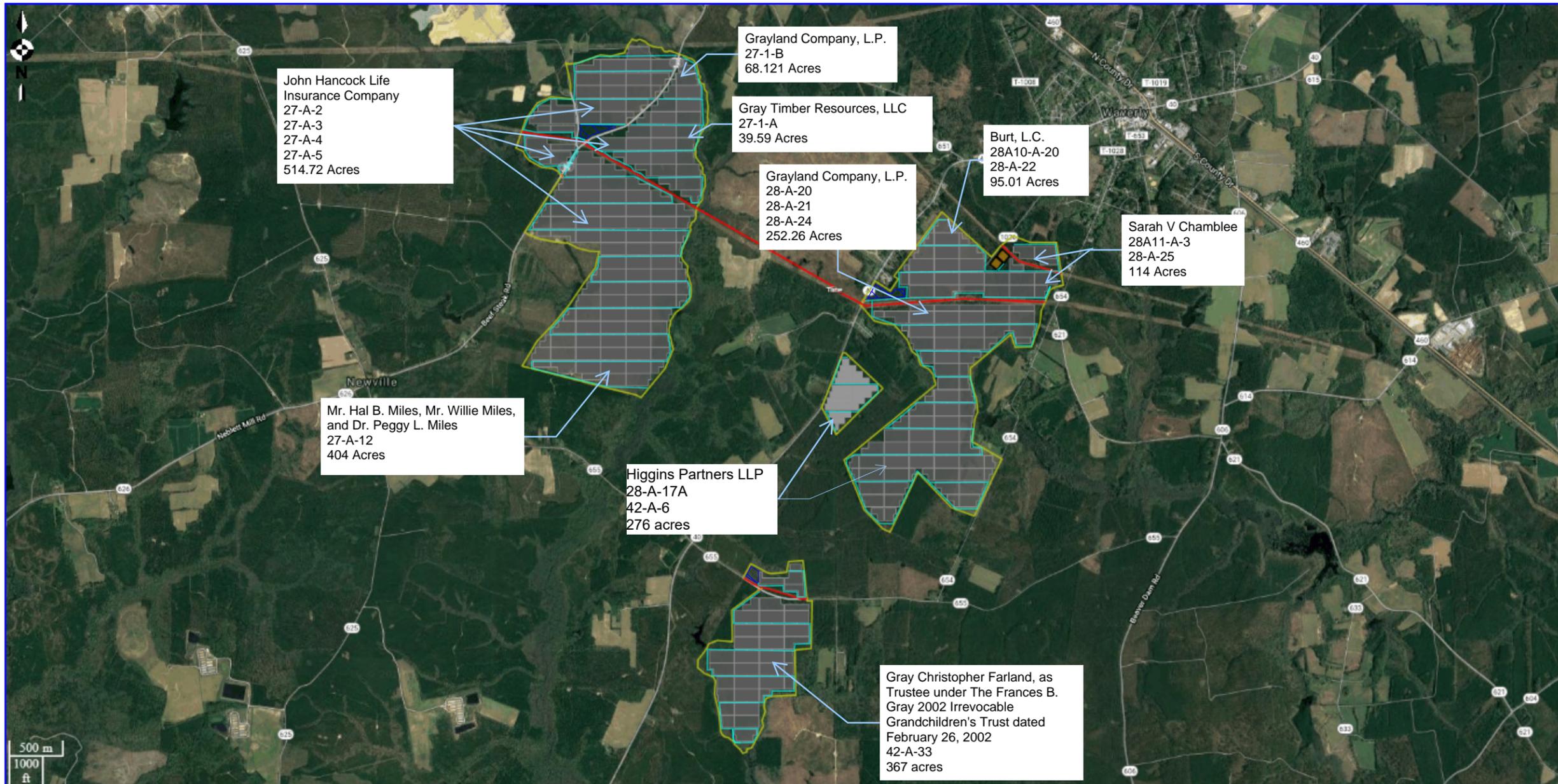
If the Applicant, or future owner or operator, intends to cease operations, or to shut down the solar energy facility, it shall send the Director of the Community Development Department written notice at least ninety (90) days prior to such action and will provide, with such notice, a revised consultant's report. The Applicant, or future owner or operator, shall remove the facilities ("decommissioning") within six (6) months of receipt of notice from the County. If the solar energy facility is not removed within the time provided in the notice to the County, the County may cause the removal of the solar energy facility with costs being borne by the Applicant, future owner or operator.

17. Prior to the end of construction of the solar energy facility, the Applicant, shall hold a series of training classes with the County's first responders (Fire and Rescue) to provide materials, education and training to the departments serving the solar energy facility in regard to how to safely respond to on-site emergencies. The training classes shall be scheduled with the assistance of the County Public Safety Coordinator. The Applicant, future owner or operator, shall provide on-going training as deemed necessary by the Public Safety Coordinator.
18. Access roads are to be marked by the Applicant with identifying signage.
19. Any electrical wiring used in the system shall be underground (trenched) except were wiring is brought together for interconnection to system components and/or the local utility power grid.

20. The Applicant, at Applicant's expense, is required to obtain approval of a Construction Traffic Management Plan and mitigation measures by the Virginia Department of Transportation and the County of Sussex. The Plan shall address traffic control measures, pre-and post- construction road evaluation and any necessary repairs to the public road that are required as a result of damage from the solar energy facility. If traffic issues arise during the construction of the solar energy facility, the Applicant will develop and implement, at Applicant's expense, with input from the County and VDOT appropriate measures to mitigate the issues.
21. All panels will use anti-reflective coatings.
22. No aspect of the solar energy facility shall exceed 25 feet in height when orientated at maximum tilt, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to the lightning protection, and electrical distribution or transmission lines.

Applicant's Consent to CUP conditions

 _____	<u>12/26/2018</u> _____
Signature	Date
<u>Omar Aboudaher</u> _____	
Name	
<u>Authorized Representative</u> _____	
Title	
<u>Waverly Solar, LLC</u> _____	
Company	



John Hancock Life Insurance Company
27-A-2
27-A-3
27-A-4
27-A-5
514.72 Acres

Grayland Company, L.P.
27-1-B
68.121 Acres

Gray Timber Resources, LLC
27-1-A
39.59 Acres

Burt, L.C.
28A10-A-20
28-A-22
95.01 Acres

Sarah V Chamblee
28A11-A-3
28-A-25
114 Acres

Mr. Hal B. Miles, Mr. Willie Miles,
and Dr. Peggy L. Miles
27-A-12
404 Acres

Higgins Partners LLP
28-A-17A
42-A-6
276 acres

Gray Christopher Farland, as
Trustee under The Frances B.
Gray 2002 Irrevocable
Grandchildren's Trust dated
February 26, 2002
42-A-33
367 acres

First Solar.
FIRST SOLAR, LLC
350 W WASHINGTON ST #600
TEMPE, AZ 85281
PHONE: (602) 414-9300
WWW.FIRSTSOLAR.COM

Waverly Solar LLC
CUP Preliminary Site Plan
Sussex County
VA
North America
118 MWac Net Capacity



Location Map Scale NTS

Project Developer

First Solar Development, LLC

Project Site Description

1919.94 +/- Acre Site
1563.82 +/- Acre Array
Latitude 37.012
Longitude -77.131
Elevation 34.13 meters

Legend

- Internal Road
- External Public Road
- Transmission Line
- Site Access
- PV Modules
- Proposed Laydown Yard
- Proposed Project Substation
- Interconnection Substation
- Site Boundary

REV_10022018 - corrected Higgins Partners
LLP parcel number

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