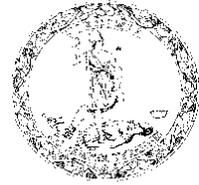




COUNTY OF AUGUSTA
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMUNITY DEVELOPMENT
P.O. BOX 590
COUNTY GOVERNMENT CENTER
VERONA, VA 24482-0590



21-1005

August 11, 2021

Pat Hastings
Dynamic Energy
1550 Liberty Ridge Drive, #310
Wayne, PA 19087

Dear Mr. Hastings:

The Augusta County Board of Zoning Appeals approved your Special Use Permit at their regular meeting on August 5, 2021, with the following pre-conditions and operating conditions; however, **your permit CANNOT BE ISSUED nor can you obtain a business license or operate the business UNTIL YOU COMPLETE THE PRE-CONDITIONS listed below and notify our office to inspect the site.**

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents," Section 25-70.4.C "Standards applicable to small solar energy systems," and Section 25-70.5 "Applications and Procedures for Small Energy Systems" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. The Facility shall not commence commercial operations until final site plan approval is first obtained from the Zoning Administrator or his/her designee, and all pre-conditions of approval have been met.
3. In consultation with site plan review, wetlands shall be inventoried and delineated, and no construction of panels or access roads shall be permitted within 35 ft. of the delineated wetland. All operations and infrastructure of the Facility shall additionally maintain a 35 ft. buffer from all streams.
4. The Facility shall not obtain final site plan approval until evidence has been given to the County that an electric utility company has signed an interconnection agreement with the permittee.

5. Landscaping Plan. The Applicant shall submit a proposed landscaping plan for each perimeter of the Facility (outside all fenced areas) to the Zoning Administrator and/or his/her designee for review and approval as part of the full site plan, which shall be in general conformance with the landscaping plan submitted with the Concept Site Plan. The following conditions shall govern the installation of landscaping in accordance with the landscaping plan:
- a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.
 - b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights.
 - c. In areas where there is an existing timber buffer remaining on the Facility parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning Administrator and/or his/her designee. The use of existing timber and natural screening is preferable.
 - d. In areas where sufficient existing timber does not remain, the landscaping requirements shall conform to the Concept Site Plan. The trees shall be planted during the appropriate time of year, subsequent to the completion of construction.
 - e. A surety agreement for landscape maintenance in a form acceptable to the County Attorney shall be submitted and approved prior to the issuance of any building permits. The amount of the surety shall be determined by an independent landscape architect selected and reasonably compensated by the Applicant but approved by the Zoning Administrator and/or his/her designee. The amount of the surety shall be equal to a

reasonable estimate of the amount needed to establish, and following establishment, to maintain the landscaping required by the approved landscaping plan for two (2) years after initial installation. Once the landscaping has been successfully established, the surety amount will be reduced to that amount required for two (2) years of maintenance thereafter. The surety will be released only after decommissioning is complete.

- f. All landscaping will be reviewed by the Zoning Administrator and/or his/her designee following installation, at one-year following installation, and as necessary thereafter to ensure the landscaping is being maintained.
 - g. The Applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit, while also considering market availability.
 - h. The use of herbicides for perimeter landscaping shall be minimized to the greatest extent reasonably practicable.
6. Decommissioning Plan. Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County a Decommissioning Plan as outlined in the Augusta County Code Section 25-70.10, as amended. Any structure or equipment associated with the Facility that is not operating for a continuous period of 12 consecutive months shall be subject to decommissioning, per Augusta County Code Section 25-70.8 and 25-70.9, as amended. Within 6 months of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Zoning Appeals. Periods during which the Site is not operational for maintenance, repair, or due to catastrophic events beyond the control of the Applicant, during which the Applicant works diligently to return the Site to full operating status, shall not trigger the Decommissioning requirements herein. The Applicant must provide written notice and evidence of the above to the Zoning Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Site was fully operational. Regardless of the efforts of the Applicant to return the Solar Facility to full operational capacity, if the Solar Facility does not operate as a solar energy facility collecting and storing energy and transferring and distributing it to the Grid after the catastrophic event, for a period of two (2) years the Special Use Permit shall be rendered void and the Applicant shall commence

Decommissioning no later than the 730th day after the last day the Site was fully operational.

7. Decommissioning Estimate. Concurrent with the submittal of the final site plan, the owner of the Facility shall produce to the County an estimate of the decommissioning costs as outlined in the Augusta County Code Section 25-70.10, as amended, and/or detailed below (the more stringent shall apply), by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The decommissioning cost estimate shall include, at least, the following delineated by line item:
 - a. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
 - b. Costs related to creating, maintaining, and re-stabilizing any construction entrances identified on the Property, with a separate line item for each such construction entrance, unless written waiver to the Board of Zoning Appeals is requested by the landowner.
 - c. Costs for mobilization.
 - d. Costs for removal and disposal of all materials, line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure," cost to remove inverters," etc.
 - e. Costs to de-compact soils and reestablish topsoil.
 - f. Costs to stabilize land disturbed by the decommissioning work.
 - g. Costs of trucking, hauling and equipment use.
 - h. Costs for removal of any landscaping in buffer zones, setback areas, or under panels
 - i. Costs of landfill fees associated with the disposal of commercial and industrial waste
 - j. Costs of all labor and estimated man hours to perform the decommissioning work.
 - k. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year thirty-five (35) of operation.

five most recent complete tax years. The remainder of the property not included in the Facility shall continue to meet current requirements for the County's Land Use Assessment program in order to remain included in the program, as determined by the Commissioner of the Revenue upon approval of the Special Use Permit.

11. The applicant shall disclose to the Augusta County Service Authority if corrosion control systems are part of the Facility.

12. ACSA Infrastructure.

- a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of the Augusta County Service Authority.
- b. No panels and/or appurtenances, including fences and landscaping shall be installed within 20 feet each way of the centerline of any existing water or sewer main to ensure adequate space for future operations and maintenance.
- c. Where public water/sewer utilities are located on the same property as the Facility, the Service Authority shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.

13. The Applicant must obtain site plan approval within 12 months of the issuance of the Special Use Permit and shall substantially complete construction within 12 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.

14. Local Subscribers – Prior to beginning commercial operation of the utility-scale solar facility, the Applicant shall work in good faith and use its best efforts to identify residents of Augusta County, Virginia and its incorporated towns to voluntarily subscribe to its community solar program ("Local Subscribers"). Outreach efforts to Local Subscribers may include, among others, advertising in a local newspaper of record and hosting informational community meetings. The Applicant will give notice of such informational community meetings to the County Administrator.

Operating Conditions:

1. This Special Use Permit ("Permit") is granted solely for the subject property for operation of a small-scale solar energy system (the "Facility"). This Permit shall

be binding on Waynesboro Bridge Solar, LLC and any successor-in-interest, including but not limited to any current or future owner, lessee, sub-lessee, and permitted assignee (“Applicant”).

2. The Permit shall not be assignable by Waynesboro Bridge Solar, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.
3. Any document memorializing or relating to the establishment of any successor-in-interest, e.g., lessee, sub-lessee, future owner, permitted assignee, etc., between Waynesboro Bridge Solar, LLC and any such individual or business entity, shall include a recital as to the existence of the Permit, and the duties and obligations of the third party and now successor-in-interest thereunder the Permit, to ensure that successors-in-interest are on written notice of the Permit and its terms and conditions. A copy of these conditions shall be recorded in the clerk’s office of the Circuit Court for the County of Augusta, Virginia.
4. The Facility, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), buffering type and details, and setbacks (unless otherwise determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Concept Site Plan prepared by Dynamic Energy, dated 4/16/2021.
5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the Facility and its successors and assigns.
6. All non-operational, non-electrical site features along the perimeter of the Facility, such as landscaping and fencing, shall be properly maintained throughout the life of the Permit. Fencing shall be maintained in good repair and landscaping shall be maintained so as to provide the desired buffer benefits. Maintenance of such features shall be guaranteed by the surety agreement and surety as provided below. If the Zoning Administrator and/or his/her designee determines that site features identified are not being properly maintained, as described herein, then the Applicant shall be given a notice to remedy as is the standard zoning violation policy of Augusta County.
7. Setbacks, either as shown on the Concept Site Plan, or set by the Board of Zoning Appeals during their review, shall be measured from the property line and/or VDOT Right of Way to the fence line of the Facility.

8. The Applicant shall not add additional photovoltaic panel areas, change the entrance locations of access roads (unless otherwise required by VDOT in a written statement), or revise the height, placement, or design of landscaping buffer elements without prior approval by the Augusta County Board of Zoning Appeals.
9. The Zoning Administrator or any other parties designated by the Zoning Administrator shall be allowed to enter the property at any reasonable time to check for compliance with the provisions of this Permit, with at least 24 hours of advance notice and subject to the security, health and safety standards and regulations that apply to the Facility.
10. The Applicant shall preserve and maintain existing forest/vegetation where it serves to meet buffer standards or standards for alternative compliance as required by ordinance from adjacent property and public right of ways, and is not in conflict with the solar panels, as indicated on the Concept Site Plan. See 5.C and 5.D in the pre-conditions of this Special Use Permit.
11. All construction and decommissioning activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m., Monday through Saturday, and will be prohibited on Sundays. These conditions shall apply to noise generated during the construction of the Facility and to any construction needed during replacement, repair, or maintenance activities during the ongoing operation of the Facility. Replacement, repair, and maintenance activities conducted at nighttime and not involving construction shall comply with all applicable noise standards.
12. The Facility shall not be lit during ongoing operations, unless as required by the Uniform Statewide Building Code. Lighting used during construction shall be downward facing and shall be located at least 500 feet from any adjacent residential property.
13. In the event that there is damage to adjoining properties as a result of ingress/egress of construction vehicles, the Applicant shall repair all damage in full prior to the commencement of commercial operations.
14. All solar panels shall use anti-reflective coatings.
15. All topsoil shall not be removed from the site.

16. The Applicant shall implement the following additional measures during construction:

- a. Maintain all construction-related vehicles in good working order.
- b. Designate a specific individual and provide that individual's name and contact information to the Zoning Administrator and/or his /her designee, to which questions, complaints, or concerns during construction may be directed.
- c. Prior to the initiation of construction, mail a notice of construction activity to all property owners whose properties are adjacent to areas on which the Facility will be constructed. The notice shall summarize upcoming construction activities, describe the areas in which construction will occur, including the main routes of delivery, and provide the name and contact information of the Facility representative to whom any complaints, concerns, or comments may be addressed.
- d. Provide adequate portable sanitation facilities that are located in a manner that facilitates ease of disposal but that are not within one hundred and fifty (150) feet of any property boundary of a parcel on which a home is located and whose owner is not participating in the Facility.
- e. Prohibit any personnel associated with the construction of the Facility from overnight lodging at the site.

17. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.

18. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.

19. The Applicant shall fund, for the period of construction and until the site has been revegetated, a certified third-party erosion and sediment control and stormwater inspector, to be selected and directed by the County Administrator and/or his designee. Such erosion and sediment control and stormwater inspection shall provide e-reporting to a central File Transfer Protocol (FTP) site to which the County's Program Administrator shall be granted access. Reports will be submitted no later than next day following any inspection and shall include the inspection report for each disturbed area of development. Site inspection and reports shall be conducted and reported at a minimum as required by the Virginia Stormwater Management Program ("VSMP") permit. Any corrective actions done in the field shall be e-mailed to the County's Program Administrator within 24 hours of completion.
20. This Permit shall be valid from the time of issuance and thereafter for a period of 30 years from the start of commercial operations of the Facility, which shall be the date on which the Facility first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the 30 year period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant to the conditions herein, the Facility shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.
21. Solar Panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control.
22. Corporate Structure, Associations, and Information. Applicant and all successors-in-interest, including current and future owners, lessees, sub-lessees, and permitted assignees shall provide the Zoning Administrator, with a copy to the County Attorney, written notice of changes of ownership within thirty (30) days thereof.
23. Any substantial upgrades or changes made to the design or operation of the Facility that are planned shall be disclosed to the Zoning Administrator and/or his/ her designee at least ninety (90) days before the intended implementation of the upgrades or changes – except as provided herein. Any substantial upgrades

and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.

24. Upon completion of the installation of the Facility, Waynesboro Bridge Solar, LLC shall establish contacts with Augusta County Fire Rescue and Augusta County Sheriff's Office and provide both with an emergency management plan.

25. Any infraction of the above-mentioned conditions, or any Zoning Ordinance regulations, may lead to a stop work order and revocation of the Special Use Permit by the Board of Zoning Appeals.

BE IT FINALLY RESOLVED that the Augusta County Board of Zoning Appeals' decision to approve this Permit is predicated on the Augusta County Board of Zoning Appeals' understanding that the above conditions the Augusta County Board of Zoning Appeals hereby imposes upon this Permit are valid, lawful, and shall apply to the approved use for the life of the use, provided, however, that if any provision of these conditions is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of these conditions and this Permit shall nonetheless remain in full force.

All Special Use Permits that are approved fall under Section 25-584 "Requirements of Special Use Permit" which states:

1. Commencement of a Special Use Permit prior to the issuance of the Permit shall be a violation of this chapter. If in the opinion of the Zoning Administrator, compliance with the pre-conditions is not diligently pursued within one year or other time as specified by the Board of Zoning Appeals, the approval of such Special Use Permit shall automatically expire without notice and the Special Use Permit shall not be issued.
2. Any BZA review plan submitted to and approved by the Board of Zoning Appeals shall be followed.

Section 25-584 D. Requirements states "D. All Special Use Permits are subject to and conditioned upon compliance with any applicable federal, state, or local licensing or regulatory requirements, and may be revoked upon failure to so comply."

Unless otherwise provided by the Board of Zoning Appeals, when the Zoning Administrator has determined that the use authorized by a Special Use Permit has ceased for two (2) years or more, or if the holder of the Permit has been unwilling or unable to comply with the operating conditions, if any, imposed by the Board of Zoning Appeals, the Zoning Administrator shall seek revocation of the permit by the Board of Zoning Appeals.

We can issue your Special Use Permit once you have completed the pre-conditions listed above. If you have any comments or questions regarding this matter, please contact our office.

Sincerely,

Sandra K. Bunch
Zoning Administrator

SKB/bcw