



## **NEW KENT COUNTY BOARD OF SUPERVISORS**

April 11, 2022, 6:00 PM

Boardroom, County Administration Building, 12007 Courthouse Circle, New Kent, VA  
23124 - REGULAR MEETING

### **A G E N D A**

#### **CALL TO ORDER**

#### **INVOCATION and PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

#### **CONSENT AGENDA**

*(Matters included here under may be the subject of one motion to approve provided no Board member requests an item to be separated.)*

#### **1. Approval of Minutes**

- a. February 23, 2022 Work Session Minutes

#### **2. Miscellaneous**

- a. Approval of Resolution R-04-22 - Street Acceptance - Stone Acres Court

#### **3. Refunds**

- a. REFUND - Real Estate Tax - Spectrasite Communications - \$3,220.04
- b. REFUND - JCR Plumbing and More BP#12275-2022 - \$48.75

#### **4. Supplemental Appropriations**

- a. FY22 Supplemental Appropriations

#### **5. Interdepartmental Budget Transfers**

- a. FY22 Interdepartmental Budget Transfers

#### **6. Treasurer's Report**

- a. Treasurer's Report - February 2022

#### **SMALL BUSINESS CLOSE UP**

**Flower Forte'** - Jackie Beasley

#### **CITIZENS COMMENT PERIOD**

#### **RESIDENCY ADMINISTRATOR'S REPORT**

#### **Residency Administrator's Report for March 2022**

*Public Hearings to be held at 7:00 p.m. or as soon thereafter as possible. Speakers are limited to three minutes each, should come to the podium and state their name and address.*

## **PUBLIC HEARINGS**

- ITEM 1 PUBLIC HEARING - CUP-01-22, Borrego Solar - Resolution R-12-22** - *Planning Director Kelli Le Duc and Applicants*
- ITEM 2 PUBLIC HEARING - Equalized Tax Levy for Fiscal Year 2023** - *County Administrator Rodney Hathaway*
- ITEM 3 PUBLIC HEARING - Proposed Tax Levies for Fiscal Year 2023** - *County Administrator Rodney Hathaway*
- ITEM 4 PUBLIC HEARING - Proposed Amendments to Appendix A - Fees of the New Kent County Code** - *County Administrator Rodney Hathaway*

## **ELECTED OFFICIALS REPORTS**

### **STAFF REPORTS**

### **OTHER BUSINESS**

### **APPOINTMENTS**

- Appointments - Delegated by District
- Appointments - Not Delegated by District
- Appointments - Regional Boards and Commissions

### **ADJOURNMENT**

Adjournment

MEETING SCHEDULE: The next regularly scheduled meeting of the Board of Supervisors will be held at 6:00 p.m. on Monday, May 9, 2022 and the next work session at 9:00 a.m. on Wednesday, April 27, 2022, both in the Boardroom of the County Administration Building.

*If a meeting cannot be held because of the closing of State and/or County offices, the meeting will be held on the next business day that the County offices are open.*

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Approval of Minutes

<p>Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)</p>	<p>approve the Consent Agenda as presented and that it be made a part of the record.</p> <p>or</p> <p>I move to approve the Consent Agenda as presented and that it be made a part of the record, with the following changes:</p>
Subject	February 23, 2022 Work Session Minutes
Issue	
Recommendation	
Fiscal Implications	
Policy Implications	
Legislative History	
Discussion	

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
February 23, 2022 Meeting Minutes (PDF)	Cover Memo

**REVIEWERS:**

Department Clerk	Reviewer Watkins, Wanda	Action Approved	Date 4/5/2022 - 8:08 AM
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A JOINT WORK SESSION WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS AND THE NEW KENT COUNTY ECONOMIC DEVELOPMENT AUTHORITY ON THE 23RD DAY OF FEBRUARY IN THE YEAR TWO THOUSAND TWENTY-TWO IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 9:00 A.M.

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IN RE: CALL TO ORDER – BOARD OF SUPERVISORS (BOS)

BOS Chair Thomas W. Evelyn called the BOS meeting to order at 9:02 a.m.

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IN RE: ROLL CALL – BOS

Thomas W. Evelyn, Chair	Present
C. Thomas Tiller, Jr.	Present
Patricia A. Paige	Present
Ron Stiers	Present
John N. Lockwood	Present

All members were present. Mr. Evelyn welcomed Economic Development Authority (EDA) members and others to the meeting. He turned the floor over to the EDA to call their meeting to order.

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IN RE: CALL TO ORDER – ECONOMIC DEVELOPMENT AUTHORITY (EDA)

EDA Chair Mathew Starr called the meeting to order at 9:03 a.m.

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IN RE: ROLL CALL - EDA

Lawrence E. Haislip, Jr.	Present
Dr. Kevin Washington	Absent
Paul Robinson	Present
Charles M. Davis	Present
Mathew Starr, Chair	Present
Pat Bell	Present
W.O. Isgett, Sr.	Present

All members with the exception of Dr. Washington were present. Mr. Starr turned the floor back over to Mr. Evelyn.

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IN RE: CONSIDERATION OF ECONOMIC DEVELOPMENT INCENTIVES (AUTOZONE)

Economic Development Director Matthew Smolnik reported it had been a busy time for the County and he expressed appreciation to the Board of Supervisors, The EDA Board and County Administration for their collective efforts to bring the AutoZone distribution center to New Kent County. He reported this project as well as progress in general were directly tied to the leadership, attitude, willingness and understanding of both boards. He stated this was a "We" project which would be wonderful for New Kent County. In addition to job creation (352 full time positions), this project would significantly impact the commercial to residential tax base ratio. He reported receiving many calls from all over the country since Friday morning, his LinkedIn page indicated there had been 7,082 views since Friday and a Facebook posting had received over 11,000 views in the first few hours. He stated New Kent County was on the map, "we knew we had a good story to tell and we kept telling that story."



Mr. Smolnik reported three agreements requiring action from both the EDA and the BOS were in place for AutoZone. He stated he didn't know if separate motions would be needed for each agreement or if they could be acted upon collectively but he would review each one individually. Those agreements included:

- Development Agreement between SPF Investments, LLC, The County of New Kent, Virginia and the Economic Development Authority of The County of New Kent - The parties had been working with Timmons Group, Inc. for the construction of 42,000 linear feet of road. This road would not only serve the AutoZone property but would also open up access to approximately 300 acres of other Economic Opportunity zoned property. The agreement had been reviewed by County Attorney Brendan Hefty. Mr. Smolnik reported the agreement provided details on funding and although applications for grants were pending, he was confident a grant would be awarded. Actions needed included the EDA authorizing Mr. Starr to sign on behalf of the EDA and the BOS authorizing County Administrator Rodney Hathaway to sign on behalf of New Kent County.
- Commonwealth Opportunity Fund Performance Agreement – Mr. Smolnik had been working with the Virginia Economic Development Partnership (VEDP) and the Governor's Office in regard to performance based grant funding for this project. The agreement outlined funding to be paid to AutoZone at various points as the jobs were created. The agreement had been signed by two AutoZone executives. Actions needed included the EDA authorizing Mr. Starr to sign as Chair and the BOS authorizing County Administrator Rodney Hathaway to sign on behalf of New Kent County.
- Local Level Economic Development Incentives Performance Agreement – Mr. Smolnik reported it was necessary for the local agreement to at least match the Commonwealth Opportunity Fund. Mr. Evelyn, Mr. Hathaway, Assistant County Administrator Justin Stauder and he had worked to put this agreement together and he applauded Mr. Evelyn for thinking outside of the box. Staff had worked with Mike Mullis of J.M. Mullis, Inc. of Memphis, TN who was known as one of the toughest site selection consultants in North America. The local level agreement provided details on some items to be refunded such as permit fees and building permit fees based on job creation and a tax rebate refunding a portion of taxes for ten years. Mr. Smolnik stated if this company didn't come to New Kent, the County would not be getting any tax revenue from this company and it was better to get a portion of the tax revenue for a period of time than nothing at all. The return on investment would be 352 jobs close to home which by reducing commute times would improve the quality of life for those employees. Actions needed included the EDA authorizing Mr. Starr to sign as Chair and the BOS authorizing County Administrator Rodney Hathaway to sign on behalf of New Kent County.

Mr. Smolnik entertained questions.

Mr. Evelyn thanked Mr. Smolnik for the presentation. On behalf of the BOS, he also expressed appreciation for his efforts involving this project and stated it would not be here without him. He added that it had been very much a team effort involving Mr. Smolnik's leadership, the EDA and the BOS and he thanked Mr. Smolnik for his guidance.

Mr. Tiller reported he had received many inquiries about when the project would start and asked Mr. Smolnik if he could provide any information. Mr. Smolnik reported a ground-breaking ceremony was expected in late spring or early summer. The parties involved were currently working on closing the sale of the property which was 145 acres located in the south east quadrant of I-64, Exit 211. He reported the presence of a "stub road" located between the Pilot Travel Center and the I-64 eastbound onramp and noted this would be where the road extension would be located (referenced in the Development Agreement).

The facility would be located in the back of the property. Site development and building was expected to take two years. An additional three to four months would be needed to upfit the facility and the expected opening would occur in the first quarter of 2025.

Mr. Evelyn asked Mr. Hefty if three motions would be needed. Mr. Hefty indicated the EDA and BOS could each make three separate motions to approve the agreements individually or they could make one motion approving them collectively.

Mr. Davis moved to authorize Mathew Starr as the New Kent Economic Development Authority Chair to sign the Commonwealth's Development Opportunity Fund Performance Agreement, the Local Level Economic Development Incentives Performance Agreement, and the Development Agreement between SPF Investments, LLC, The County of New Kent, Virginia and the Economic Development Authority of The County of New Kent, Virginia all of which were associated with the AutoZone project. The motion was seconded by Mr. Robinson. The members were polled:

Pat Bell	Aye
Charles M. Davis	Aye
Lawrence E. Haislip, Jr.	Aye
W.O. Isgett, Sr.	Aye
Paul Robinson	Aye
Mathew Starr, Chair	Aye
Dr. Kevin Washington	Absent

The motion carried.

Mr. Tiller moved to authorize the County Administrator to sign the Commonwealth's Development Opportunity Fund Performance Agreement, the Local Level Economic Development Incentives Performance Agreement, and the Development Agreement between SPF Investments, LLC, The County of New Kent, Virginia and the Economic Development Authority of The County of New Kent, Virginia all of which were associated with the AutoZone project. The members were polled:

C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE:           ADJOURNMENT - EDA

Mr. Starr stated there was no further business for the EDA and entertained a motion. Ms. Bell made a motion to adjourn which was seconded by Mr. Davis and unanimously approved. The EDA meeting adjourned at 9:15 a.m. Mr. Evelyn thanked EDA members for their attendance. The BOS continued on with their remaining agenda items.

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IN RE:           BIKEPEDRVA 2045 – PLANRVA REGIONAL COMMISSION UPDATE

PlanRVA Transportation Planners Dan Motta and Philip Riggan presented information on the PlanRVA Regional Commission's BikePedRVA 2045 Richmond Regional Bicycle and

Pedestrian Plan. Mr. Riggan stated it was good to be following good news. They thanked the Board for the opportunity to come to New Kent and share information on plans for updating the region's bicycle and pedestrian plan. He turned the floor over to Mr. Motta who indicated the presentation would be a brief overview of BikePedRVA 2045 which would be an update to the previous 2004 plan. Topics covered included:

- Overview of BikePedRVA 2045
- Vision, Goals, Objectives
- Regional Big Ideas
- How Can You Be Involved?

Mr. Motta noted much had changed in New Kent and the Richmond region since 2004 and it was time to reevaluate bicycle and pedestrian needs. A Regional Steering Committee had been established in 2019 to guide the process and to be a representative voice for the community. Safety had been identified as the primary issue and more specifically safer streets for communities. Comments from the public after the ConnectRVA 2045 Long Range Transportation Plan had been adopted revealed the need for reevaluating priorities, where funding was being spent and how communities and families were being connected. As a result, PlanRVA was seeking additional input on the bicycle and pedestrian aspects.

The slide presentation indicated BikePedRVA 2045 was not:

- a ranking of priority projects,
- focused on any one jurisdiction, rather the connection among all nine (PlanRVA members) or
- a finite plan that stops growing upon adoption.

BikePedRVA was:

- a comprehensive regional framework for active transportation,
- a companion plan to ConnectRVA 2045,
- a collection of best management practices for improving travel options and
- a recognition of the need for all people to have viable means of travel for work, play, school and everyday life needs.

A list of guiding principles had been developed from working within the framework of ConnectRVA 2045 and had been approved by the BikePedRVA Steering Committee. Those guiding principles included equity, choice, completion of active networks, last-mile transit, context-sensitive design and safe multi-modalism. Mr. Motta noted last-mile transit in New Kent County would mean getting people to park and ride locations and building sidewalks and bike infrastructure where appropriate. Drawing attention to the guiding principle "Equity in Transportation," he noted the focus would be on seeking fairness in mobility and accessibility, impartial treatment and social and economic opportunity. The intention was to provide access for every person so they could participate in society.

The vision statement for BikePedRVA 2045 was, "The Richmond Region provides mobility for people of all ages and abilities through a safe, continuous, recognizable and intuitive pedestrian and bicycle network." The aim was to make biking and walking safe travel modes that were well-integrated into all regional and local plans.

A list of goals formed from the guiding principles and vision statement included:

- Environmental/Land Use/Health
- Mobility/Resiliency
- Equity/Accessibility
- Safety
- Economic Development

More details on each of these goals as well as more specific goals such as transportation access to jobs and community services, zero cyclists and pedestrian fatalities and increasing mode choices among users were included in the plan. Plan RVA staff and the steering committee had crafted Six Big Regional Ideas. He reported there was much more detail on these ideas in the plan and turned the floor back over to Mr. Riggan for a brief introduction.

Mr. Riggan reported the Six Big Regional Ideas were as follows:

1. Create a regional active transportation arterial network. He reviewed a map of the region and noted the Capital Trail was the beginning of what they were referring to as the "Spine Network." The map also included proposed trail extensions as well as new trails such as the Fall Line Trail between Ashland and Petersburg. Bikeways as well as the Spur Network were also noted. Proposed connections along Route 155 between New Kent Courthouse and Charles City Courthouse were also noted.
2. Prioritize equity and access for underserved populations in the completion of spur networks that tie into the regional arterials. Data analysis of the region indicated New Kent had fared well in the areas of environmental justice and equity for underserved. Mr. Riggan noted Charles City to the south was shaded as underserved for equity emphasis. The eastern portion of Henrico County and the southside of Richmond were both also shaded as areas of need.
3. Establish higher, well-recognized industry standards for active transportation infrastructure. He noted there were different ways to look at bike lanes or trails depending on whether they were serving urban, suburban or rural areas. He noted most of New Kent would qualify in the rural category and reported the Capital Trail which passed through Charles City County had been very successful. Plans also included industry standards to facilitate the smooth connecting of trails in the region.
4. Focus on a pedestrian sidewalk network that provides safe, accessible connections for all users from the neighborhoods to transit stops. This was about connecting neighborhoods to transit and he realized there was no bus service in New Kent. This would involve working with GRTC (Greater Richmond Transit Company) on getting riders to the stops. This included how to connect riders for the first mile from the front door to the stop and then to their final destination. This involved making better connections to transit stops and would primarily include walking or biking.
5. Utilize bike boulevards and safe neighborhood streets for local connections. Drawing attention to the map for Big Idea 5, Mr. Riggan noted the lavender and purple areas were neighborhood streets with those in purple being considered high stress routes and the lavender being lower stress routes. Routes 249 and 155 in New Kent were higher speed roads and some of the other neighborhood streets with lower speeds and traffic volumes could be utilized for more and safer connections.
6. Provide tools for localities to effectively guide private sector developers to incorporate high quality active transportation infrastructure into their projects to the benefit of the regional network. This would be a "ground up" effort incorporating infrastructure into neighborhoods which would provide access to area amenities.

The implementation process included a list of proposed projects, funding considerations, a policy framework and priorities, design guidance, regional partnerships and public safety and awareness programs. He noted the maps had been hard to read in the presentation but the information was on the website and he encouraged everyone to take a closer look. The public comment period on the plan had opened on February 9<sup>th</sup> and would remain open until March 23<sup>rd</sup>. He and other PlanRVA staff had been making these presentations at various locations in the region and encouraged everyone to provide input at BikePedRVA.org or to email comments to him at priggan@planrva.org. He entertained questions.

Mr. Lockwood asked if he could provide more information on the funding aspect. He understood this was in the planning stages but noted he would be curious to see an outline for funding. Mr. Riggan reported projects were nominated by the localities and then PlanRVA worked with the locality to find funding. The funding was usually federal funding used to supplement local funding. He reported the Capital Trail had been almost fully funded with state and federal moneys.

Ms. Paige thanked Mr. Riggan and Mr. Motta for the presentation. She urged citizens to provide input and noted decisions would be based on the desires of County residents. She was aware of a few projects in New Kent and reported sidewalks and bike paths providing connections between Pine Fork Park and neighboring communities could be considered. She also stated there was another community on Route 60 where a bike path to the grocery store and other retail stores could be considered. She indicated she would submit more input during the public comment period. She stressed the importance of conversations with GRTC on how to make transit connectivity available for New Kent and Charles City. She again urged citizens to take advantage of this opportunity to make their voices heard.

Mr. Evelyn thanked Mr. Riggan and Mr. Motta for their presentation. Mr. Riggan and Mr. Motta expressed appreciation for the Board's time.

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IN RE: REVIEW OF FINANCING PROPOSALS FOR FY23 CAPITAL PROJECTS

Davenport and Company, LLC Senior Vice President Ted Cole and Associate Vice President Ben Wilson distributed information on 2022 spring financing options. Sands Anderson PC Bond Counsel Daniel M. Siegel was also present to address any legal questions. Mr. Cole reported much information on the responses to the Bank RFP (Request For Proposals) was included in the handout. They had been asked to look into options for the potential financing of three construction projects with a total estimated cost of \$16 million. Those projects included the renovation of the Historic School at \$7 million, the construction of a new Animal Shelter at \$5 million and the construction of a new Fire Station #4 at \$4 million. They had also looked into funding for the Public Utilities Solids Stabilization Dewatering and Disposal Project (sludge) with an estimated cost of \$8.8 million. He noted this project was scheduled in the Public Utilities CIP (Capital Improvement Plan) for FY2024 and was not something that might be "nice to have" but was more of a "got to have" project.

Two RFPs had been distributed to over 100 local, regional and national banks. One of the RFPs had been for a water and sewer revenue bond in an amount of up to either \$4,600,000 or \$9,000,000 (sludge project). The other RFP had been for a lease revenue bond in the amount of \$16,150,000 (3 general fund County projects), \$20,550,000 (3 general fund County projects plus half of the sludge project) or \$24,950,000 (3 general fund County projects and all of the sludge project). All of these options would run through the EDA (Economic Development Authority) and the Historic School would be used as collateral. An application had also been submitted to the VRA (Virginia Resources Authority) for the 2022 Spring Pool. Mr. Cole noted that while VRA was an option, they would not be in a position to lock in interest rates until May 11<sup>th</sup>. VRA rates could move up or down between now and May 11<sup>th</sup> while the banks were offering known rates. The RFPs had also requested 15-year and 20-year payback options. Three proposals had been received for the Lease Revenue Bond and six proposals for the Water & Sewer Revenue Bond. Of the six revenue proposals, C&F (Citizens & Farmers) Bank had been the most attractive with a fixed 2.04% rate for 15 years and a fixed 2.27% rate for 20 years. These rates had been good for both a \$4,000,000 or \$9,000,000 borrowing. With the C&F proposal, a verbal acceptance would be needed by March 4<sup>th</sup> and the closing would be scheduled by March 31<sup>st</sup>. Prepayment

would be allowed in part or in full at any time but if the County were to refinance with a third party in the first three years, the prepayment would be subject to a 1% penalty.

Mr. Cole drew attention to a comparison of the C&F and VRA options and noted C&F was better than the estimates based on where the VRA was today and what their rates may do between now and May 11<sup>th</sup>. He suggested the VRA option be eliminated from discussions on the water and sewer revenue bond. If the Board wished to move forward with funding this project now, the recommendation would be to go with C&F. He noted a decision on either a 15-year or 20-year term would be needed but reported they believed the utility proforma could absorb the debt service with either option.

Drawing attention to the responses for the Lease Revenue Bond, Mr. Cole noted funding proposals for three amounts including \$16,150,000 (3 general fund County projects), \$20,550,000 (3 general fund County projects plus half of the sludge project) and \$24,950,000 (3 general fund County projects and all of the sludge project) had been requested. He noted the public utilities project did not have to be financed as a revenue bond and could be financed with the general fund projects. Three responses had been received and Webster Bank was the most attractive with a fixed 2.23% rate for 15 years and a fixed 2.65% rate for 20 years regardless of the amount financed. These rates were higher than what C&F had offered for a public utilities revenue bond but C&F had not submitted a proposal for the lease revenue bond option. Prepayment in whole on any date after April 1, 2029 would be without penalty. No provisions were in place for prepayment in part. This would be approximately seven years compared to VRA which would have a ten-year no prepayment period. With the Webster proposal, a verbal acceptance would be needed by February 25<sup>th</sup> and the closing would be scheduled by March 31<sup>st</sup>. Although the bank would require a title search, he did not expect any need for a title insurance policy and, as with the C&F loan, the Historic School would again be used as collateral.

Mr. Cole drew attention to a comparison of the Webster and VRA options and pointed out that as of today, the VRA option was approximately \$370,000 better than the Webster option. He again noted the VRA interest rates would not be locked in until May 11<sup>th</sup> and given the current market volatility, it would be a reasonable expectation that rates would go up between now and May. Based upon this comparison, Davenport was recommending bank financing be considered over VRA and by doing so, limit the County's exposure to rate movement. He noted this left the question of whether or not the County wanted to finance the utilities project with C&F and the general fund projects with Webster or fund them all with Webster. Mr. Cole shared information on the paybacks with both options and noted if all the funding was secured through one loan, the payback would be \$32.1 million. If Webster was chosen for just the general fund projects and C&F for the public utilities project, the payback would be \$31.9 million resulting in a savings of approximately \$200,000 with this option. Mr. Cole entertained questions and comments.

Mr. Lockwood expressed concern over a number of factors including market volatility, inflation, the lack of control over anything happening in international scenes and frequent discussions regarding increasing interest rates. He stated increasing interest rates were something the County could anticipate and rates in the twos were probably something that would not be seen again for a while if ever. He stated if the County was going to borrow, now was the opportunity to get low rates.

Referencing the utility project funding, Mr. Evelyn noted one of the options for funding had involved borrowing half of the total cost. He asked if the remaining funding would come from the utility fund. Mr. Cole confirmed the funding would come from utility fund reserves



and the modeling was assuming half of the cost would be funded with the loan and half with cash. Mr. Evelyn asked how this proposed borrowing would impact County financial policies. Mr. Cole reported all of these options worked within the policies.

Mr. Stiers asked Assistant Public Utilities Director Mike Lang for the projected date of the utility project. Mr. Lang reported plans were to begin construction in the middle of 2024. Mr. Stiers asked County Administrator Rodney Hathaway for the projected payoff date for New Kent High School. Mr. Hathaway reported he believed the high school would be paid off in 2027 or 2028. Mr. Wilson confirmed the payoff would be in 2028. Mr. Lockwood asked if the borrowing would be two years before the funding would actually be used. Mr. Hathaway confirmed and stated the project was currently in the engineering phase and would be put out to bid with construction to begin in two years. Mr. Evelyn asked if the public utility funding in reserves was earning interest. Mr. Cole indicated the funds were not earning much and reported some of the funding was with C&F and some was with state programs. Assistant Finance Director Larry Clark reported rates were not very high but stated County Treasurer Charles Evelyn had done a great job of locking in long-term rates some of which were over one percent. Mr. Cole noted if the Board moved forward with borrowing, the loan proceeds would be invested at a low rate until the projects were ready for construction to begin. The borrowing rate would be locked and there would be some potential for investment rates to go higher. Assuming the borrowing would be for the entire project and half of the funding would be in reserves, Mr. Evelyn asked if the County would have to wait to pay off half of the loan. Mr. Cole noted the C&F loan could be paid in part or full at any time and without penalty as long as the payment was not with funding from another lending institution. A payoff with Webster would not be an option until 2029. Mr. Evelyn stated that in his opinion they should go with C&F. Other Board members agreed.

Mr. Lockwood asked if there was any reason construction could not start sooner. Mr. Lang reported the project was currently in engineering and some of the funding could be used to pay for those services. Mr. Hathaway asked if the engineering could be expedited. Mr. Lang reported a request for expedited services would result in additional fees. He stated he didn't think it would be wise to rush the engineering and that he hoped current issues with the supply chain would be resolved by the project start date. Mr. Lockwood stated he felt the Board should borrow the full amount since it could be paid off or paid down at any time. He again noted the low interest rates and suggested they wouldn't be seen again.

Mr. Cole briefly reviewed the utility pro forma results relative to borrowing \$8.8 million from C&F for 20 years at 2.27%. He reported the utility modeling included an assumed system growth of 2% as a baseline. In order to meet financial policies, it would be necessary to see another 2.3% in 2024 and another 2.13% in 2025 in system growth either through flow or increased rates. He reminded the Board that previous projections had indicated there would be some drop off in non-operating revenues such as connection fees and availability fees in those years. He noted the Board generally engaged in discussions regarding rates and charges each year but further noted the pro forma results assumed there would be no changes in rates including the Bottoms Bridge Ad Valorem Tax in FY23. Mr. Stiers asked if he was saying there would be no reduction in water rates. Mr. Cole stated if reductions were made in FY23 the needed increases in 2024 and 2025 would be greater. He also suggested there was a possibility that higher than expected growth could offset a rate reduction. He noted revenue growth did not have to come from rates and that it could come from new customers and flow. Mr. Lockwood asked if the assumed 2% annual growth had been exceeded the previous year. Mr. Cole confirmed it had been exceeded and at a very healthy rate. Mr. Lockwood asked if that had been considered in the pro forma. Mr. Cole confirmed growth for 2021 and 2022 had been captured as well as preliminary 2023

projections. Mr. Evelyn asked if the Public Utilities reserve was strong. Mr. Cole confirmed and noted Public Utilities had a healthy CIP and was strong with its level of reserves. Questions for the Board to consider included did they want to move forward with any of the four projects and if so, with how much borrowing, was bank or VRA funding preferred and, if bank funding was preferred, which bank. If the Board chose to move forward, Davenport and Sands Anderson would come back with documents on March 14<sup>th</sup> for Board action and again on March 17<sup>th</sup> for EDA action with closing by the end of March.

Mr. Stiers raised concerns regarding some of the figures for the general fund projects. He noted the Historic School project was listed at \$7 million and asked when that appraisal had been given. Mr. Hathaway reported Hopke and Associates had been contracted in 2019 for some preliminary architectural work. The figures provided had come from that work and adjustments had been made for inflation. This figure also included the construction of a new school maintenance facility at another location. The current maintenance facility at the Historic School campus would be removed. Mr. Stiers stated he loved animals but questioned \$5 million for an animal shelter. Mr. Hathaway stated he had also questioned this cost but Sheriff Joe McLaughlin had recently arranged for staff and Board members to tour facilities in neighboring localities and this figure had been in line with what they had seen. He also reported preliminary architectural work for a new animal shelter had been done approximately two years ago. The estimated cost at that time had been a little over \$4 million and the price had been increased to address the rising cost of construction.

Mr. Lockwood suggested the discussion now should include if the Board wanted to move forward with all three general fund projects. Mr. Evelyn agreed but suggested they finish discussion on the public utility project funding first. Mr. Lockwood stated he felt the Board should move forward with borrowing the full amount from C&F because of the prepayment flexibility and excellent rates. Mr. Evelyn asked if a motion was needed. County Attorney Brendan Hefty indicated a consensus would be sufficient. The general consensus was to move forward with borrowing full funding for the public utilities project from C&F. A public hearing would be scheduled for March 14<sup>th</sup>.

Mr. Evelyn asked Board members for comments on the other three general fund projects. Mr. Lockwood stated he felt Station #4 was a necessity and noted the County had already moved forward with purchasing the property. Mr. Cole noted the documents for the funding could be written so that if projects came in under or over the estimated costs, the funding could be shifted around as needed. Mr. Siegel agreed and noted the lenders did not care on which projects the dollars were spent.

Ms. Paige noted agreement with Mr. Lockwood on the necessity of Station #4. She also expressed support for the Historic School project. She noted the County was running out of office and document storage space and this building could be utilized by the community. The County had already invested in replacing the roof and continuing on with the project would relieve some space management issues. She reported she had gone on the animal shelter tour Mr. Hathaway had mentioned but like Mr. Stiers questioned the \$5 million price. She noted her issue with all of the projects was the amount of money being requested. She asked could the funding be used on other capital projects if it was not all spent on the three mentioned projects. Mr. Cole indicated that language could be incorporated into the approval. Ms. Paige noted it would be important for everyone to be good stewards of the funds and to get what was needed rather than do a catalog wish book on the projects.

Mr. Lockwood noted he had also gone on the animal shelter tour and had similar concerns about the \$5 million price. He suggested seeking financial support from the community



would be important and reported Goochland had raised a large amount of funding for their shelter and had been able to include wish list items as a result. He would like to see some community involvement in fundraising. Mr. Evelyn noted Goochland had been fortunate to receive a healthy contribution from the family of a famous baseball player from that locality.

Mr. Tiller agreed that Station #4 was a necessity and suggested funding from Rosie's Gaming Emporium revenue could be used rather than borrowing. This would also free up funding for the animal shelter. Ms. Paige stated the only issue with this proposal was that the Board had said revenue from Rosie's would be set aside for the County's broadband project. Broadband had been a commitment the Board had made to citizens and was very much needed. She felt that given the current interest rates it would be best to borrow the funding for these projects and continue setting aside Rosie's revenue for broadband. Mr. Lockwood agreed that the Board had been stating for some time that the money from Rosie's would be dedicated to the broadband project. He stated that having this funding designated for broadband would give the County flexibility that some grant funding would not provide in how it moved forward. Mr. Evelyn agreed and noted that although New Kent had been looked over again in regard to grant funding for broadband, he felt there should be some funding available to the County. Mr. Lockwood agreed and noted having cash on hand to move forward would be no reason to stop pursuing grant funding. Mr. Hathaway reported that if current Rosie's revenue trends continued, all of the funding needed for broadband should be in place in FY23. That would open the Rosie's funding up to other capital projects beginning in FY24.

Mr. Evelyn stated everyone knew space was an issue and asked if a new building could be built for \$7 million. Mr. Hathaway suggested a new administration building would probably be in the \$30 million range and noted it would need to be large enough to address future growth. Mr. Evelyn noted almost every department director had reported the need for additional space at the Board's last retreat. Mr. Lockwood asked if much office space would be gained with this renovation. Mr. Hathaway reported the Extension and Parks and Recreation offices would be moved into the Historic School. Possible uses for their current office and classroom space had been discussed and he noted storage was a big need but no decisions had been made. Mr. Lockwood asked if the vacated office space would be used for storage or would some offices from the County Administration Building be moved to this location. Mr. Hathaway reported numerous options were being considered and noted a space survey had recently been conducted among all County departments and storage had been the number one issue. Ms. Paige also noted basement space in the Historic School building could be used for office or storage space. She stated that Assistant County Administrator Justin Stauder had been doing a great job with space planning and gathering information on department space needs. She also noted the importance of having space for the community and suggested the facility could be open for reunions, plays and banquets as well as for hosting regional meetings. She added that space could also be available for Senior Connections and the Senior Café. A building such as the Historic School could not be built for \$7 million and she noted the funding was not just for this school renovation but also for another facility. Mr. Hathaway confirmed some of the funding would be utilized for the removal of the existing maintenance facility and building a new facility at another location. One of the primary reasons this was being considered was to be able to expand parking to accommodate community uses of the Historic School.

Noting that more storage was a need, Mr. Stiers reported the Providence Forge Rescue Squad building was currently being used for storage. He suggested that facility would make a great location for an animal shelter and would have sufficient space for offices and cages. He also noted this would be a more central location than some of the other locations being

considered. Ms. Paige suggested this location may be too close to a neighborhood. Mr. Stiers indicated the dogs and animals would be inside the building. Ms. Paige noted an animal shelter would also need to have outside runs. Mr. Stiers noted animals were generally only in the outside runs while inside cages were being cleaned. Mr. Evelyn asked if there was anything in the property deed that would control how it was used. Mr. Hathaway confirmed New Kent could use the building for whatever purpose they saw fit. Mr. Evelyn stated this suggestion would be worth looking into.

Discussions continued on when the Board would need to make a firm commitment on the total amount to be borrowed. Mr. Cole suggested the Board could make a commitment to borrow up to \$16 million with Webster Bank now but would have the flexibility to change the amount by March 14<sup>th</sup>. Mr. Siegel agreed that with the documents prepared for an "up to" amount, the final decision on the total to be financed could be reduced before taking action on March 14<sup>th</sup>. Mr. Evelyn asked if a consensus was needed from the Board at this point to borrow up to \$16,150,000 from Webster Bank with the understanding the Board would have the flexibility to reduce the amount. Mr. Cole confirmed. Mr. Hathaway noted that with the 20-year option the annual debt service would be \$1,025,000. \$591,000 from the additional 2% in meals tax was currently set aside to cover a portion of this. An additional \$400,000 or so would be needed but he noted staff was trying to absorb this within the budget from increased revenue due to new growth. Mr. Evelyn asked if the estimated amount to be generated by the 2% was conservative. Mr. Hathaway confirmed and stated they expected the funds generated would continue to increase as more food facilities opened in the County. Mr. Stiers stated he thought the 2% was to be set aside for a new school. Mr. Hathaway reported the 2% was designated for capital projects and all funding needed for Quinton Elementary School was in place. Mr. Stiers indicated he was referring to the new middle school that would be needed in six to seven years. Mr. Hathaway indicated the 2% had been approved by the Board with the revenue being designated for capital projects.

Mr. Evelyn stated he believed there was a consensus of the Board to move forward with borrowing up to \$16,150,000 with Webster Bank for a twenty-year term. Board members agreed. Mr. Cole indicated they would be back on March 14<sup>th</sup> for approvals and to finalize the amounts on both loans. A public hearing would also be held on that date for the public utilities' revenue bond but no public hearing would be needed for the general fund lease financing. They would let the EDA know that if the Board approved this on March 14<sup>th</sup>, they would be coming to them for approval on March 17<sup>th</sup>.

Mr. Evelyn called for a brief recess at 10:37 a.m. The meeting reconvened at 10:49 a.m.

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IN RE: REQUEST FOR APPROPRIATION FOR CCTV SECURITY CAMERAS

Assistant Public Utilities Director Mike Lang presented information on a proposal for the installation of security cameras at various soft targets within the County's water and sewer system. Public Utilities had been made aware of a grant opportunity through the Virginia Department of Emergency Management (VDEM) for security upgrades for the protection of soft targets. Having funding already in place for a project was a grant disqualifier so a project that had not previously been proposed had been sought. This was the reason this project had not been included in the department's CIP (Capital Improvement Plan) for this year. New Kent had submitted an application and had been offered \$40,000 to partially fund security cameras at the Department of Public Utilities Operations Center, the wastewater treatment plant and four elevated water storage tanks. The total project was estimated to cost \$110,000 and the \$40,000 would be reimbursed by VDEM. Mr. Lang

asked the Board to consider appropriating \$110,000 from the Public Utilities Fund balance to the Public Utilities CIP and to authorize the County Administrator to sign the VDEM funding agreement. He noted any unspent funding would be returned to the Utility Fund.

Mr. Tiller asked if internet was available at the well sites. Mr. Lang reported internet was not available at the water tanks but the data could be stored on site and retrieved as needed. Internet was available at the office and they were working on an upgrade at the wastewater treatment plan which would allow for real time video at those locations.

Mr. Tiller moved to appropriate \$110,000 from the Public Utilities Fund balance to the Public Utilities Capital Improvement Plan for installation of CCTV cameras at the specified locations and to authorize the County Administrator to sign the VDEM funding agreement. The members were polled:

Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: NEW KENT SOCIAL SERVICES LOBBY REMODEL CONSTRUCTION AGREEMENT

County Administrator Rodney Hathaway reported he was asking for authorization to execute an agreement to remodel the lobby in the Health and Human Services Building. This project would involve creating a separate lobby area for Social Services and would also provide additional needed office space by enclosing an existing office into the Social Services Suite. The enclosure would also allow for the installation of two work stations within the new Social Services lobby where residents could complete applications and confidentially meet with staff. This project had been included in the FY22 CIP (Capital Improvement Plan). \$40,000 had been allocated with \$33,800 of that coming from the state and the remainder being local funding. Seven bids had been received and the prices had been very close which was an indication a good job had been done with the architectural work and with putting the request together. The low bid from Woodland Construction had exceeded the budgeted amount by \$5,900 which would result in a \$4,956 increase in the state's share of the cost. The expansion of the Social Services office space would also result in an increase in the state's share of the operating cost for the building.

Ms. Paige moved to authorize the County Administrator to execute the proposed agreement in a form approved by the County Attorney for construction services to remodel the Social Services lobby area in the New Kent Health and Human Services Building. The members were polled:

Ron Stiers	Aye
John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: AGREEMENT FOR COMPREHENSIVE PLAN REVIEW AND UPDATE CONSULTING SERVICES

County Administrator Rodney Hathaway reported an advertisement requesting proposals for Comprehensive Plan review and update consulting services had been published in December 2021. Two proposals had been received and Planning Commission representatives as well as staff had interviewed the two firms and had unanimously recommended the selection of EPR, PC. EPR, PC was based in Charlottesville and had submitted a \$195,762 proposal. Mr. Hathaway was requesting authorization to sign an agreement not to exceed this amount and reported he was currently working to determine if the total cost could be reduced. Some areas for cost savings had been identified but he did not expect to see much of a reduction. This would be a two-year project and although the price had come in higher than anticipated, New Kent would be getting one of the top firms providing these services. EPR, PC, with experience in rural communities as well as the Richmond and Peninsula regions, had come highly recommended and had provided similar services in James City, Chesterfield and Henrico Counties and were currently working with Hanover County.

Ms. Paige moved to authorize the County Administrator to execute an agreement for an amount not to exceed \$195,762 with EPR, PC in a form approved by the County Attorney for Comprehensive Plan review and update consulting services. The members were polled:

John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: DISCUSSION WITH PLANNING AND ZONING STAFF

Planning Director Kelli Le Duc and Zoning Administrator Kenneth Vaughan provided an update on recent and ongoing activities in their department. Ms. Le Duc distributed a handout providing information on where the Planning Department had been in the past and where they were now, a summary of the volume of documents that had been processed and reviewed as well as upcoming projects. She reported that with only three staff members they were currently short staffed and she expressed appreciation to her staff. She stated they had been working hard to keep up and she was thankful they had been able to stay on top of deadlines but noted they had not been able to work on some additional items that they understood they should be doing. She reported there had been eight employees when she had first started working in Planning and Zoning sixteen years ago and they now had four. When there had been more staff, the main responsibility of the Planning Director had been to attend meetings and to keep up with ordinance updates but keeping up with ordinance updates had been a struggle. She also noted there had been a Zoning Inspector position with the primary responsibility of inspecting and processing violations. These duties had been taken on by existing staff. She stated the County population had almost doubled, the workload had tripled and the staff had been cut in half. She reported some things that had helped to keep staff moral up were positive feedback from citizens and the development community. Some of the kind things they were hearing included:

- New Kent was so much easier to work with than other localities with much larger staffs.
- Even though they were short-staffed, they had not missed a beat when it came to getting plan reviews and comments out on time.

- The speed with which they were turning around violations, phone calls and emails was appreciated.
- The fact that staff was willing meet with developers on site was rare and appreciated.

On a typical day in the department, the first priority was to respond to emails, phone calls and walk-ins. She reported there were many requests for Certificates of Zoning which were needed in order for a business to receive a business license and it was their goal to process those immediately. Another of their goals was to process new plan reviews as soon as they came in. This process would start with entering the information into the EnerGov tracking system as well as creating a paper file in accordance with the Freedom of Information Act (FOIA). Because of the FOIA requirements, their file room was packed with paper files. A typical day would also include meetings with the public and developers as well as organizing and conducting preapplication meetings and Development Review Committee meetings. On less busy days, time would be spent in plan reviews including subdivision plats, development and construction plans and site plans. Public hearing applications for rezonings and Conditional Use Permits would also be reviewed.

Ms. Le Duc reviewed a list of items processed and reviewed over the past year including:

- Over 200 Certificates of Zoning
- 48 Subdivision plats (parent tract, family, minor, cluster, large lot, preliminary and final)
- 6 large development/construction plans (detailed infrastructure and road plans)
- 25 boundary line adjustments/extinguishments
- 15 site plans for projects of all sizes
- 6 cultural event permits – COVID had slowed down these requests but they were expected to be picking back up.
- 15 applications for rezonings, Conditional Use Permits, Planned Unit Development amendments and/or ordinance amendments all of which required preapplication meetings, public hearings, writing staff reports and legal documents
- Planner Sheri Adams had researched, processed, reviewed, written staff reports and presented 15 AFD (Agricultural Forestal District) applications before three boards (AFD Advisory Commission, Planning Commission and Board of Supervisors).
- Mr. Vaughan had processed 35 zoning violations, 15 zoning opinions, removed countless signs and reviewed hundreds of building permits. Every building permit coming into the office required a zoning permit issued by the department.
- Expedited/Economic Development projects and FOIA – All other work was pushed to the back of the line while staff was processing and reviewing these requests. Ms. Le Duc reported staff had just been informed that plans for the AutoZone distribution center would be coming in the following week and staff would be shifting priorities as a result.

Ms. Le Duc reviewed a list of other notable items as well as upcoming projects including:

- Assistant Public Utilities Director Mike Lang had been keeping her informed regarding inquiries Public Utilities was receiving from developers wanting to expand public water and sewer service. Continuing expansion of those services would result in more growth and increasing requests from developers, especially those seeking residential rezonings.
- Review and update of the future land use map and the utility service area maps would be critical during the Comprehensive Plan review/update.
- Utility scale solar projects and battery/energy storage projects – The Planning Commission had recently met to discuss renewable energy and solar sources and a number of Commissioners had a wealth of knowledge in this area. The Commission would continue working on developing solar farm performance standards.
- Commerce Corridor Overlay Districts

- Cluster Subdivision inquiries including Gooden estate (approximately 250 acres) off Route 249 and Topeka Road, Ware property (approximately 172 acres) off Airport Road, White Hall property (approximately 300 acres) off of Old Roxbury Road and Makenzie Farm property (approximately 177 acres) off Route 155. She noted none would require rezoning and reported staff was continuing to look at what could be done with the Cluster Subdivision ordinance. Mr. Evelyn questioned if one of the proposed cluster subdivision sites was actually eligible for this type of development because it was in multiple parcels. Ms. Le Duc reported lot line extinguishments could be used to combine the properties into one parcel which would make it eligible. Mr. Evelyn asked if a holding period would be required in that case. County Administrator Rodney Hathaway reported there was no holding period requirement and there was nothing in Code stating that a lot had to exist in a certain state for a certain time. Ms. Le Duc reported the family subdivision was the only property division which required a holding period.
- PUD's including Liberty Landing (in the process of scheduling community meetings in District 2 and would be presenting information to the Planning Commission in March – submission of an official application would be expected soon after that), Lloyd Poe property between the County Complex and Shooter Run Road (expressed interest in a PUD to include residential and commercial) and the Riley Lowe tracts at the I-64 Exit 214 interchange.
- AutoZone Site Plans

Ms. Le Duc noted this was not all inclusive but was some of the big things that would be coming. She hoped this information helped to answer questions about what the Planning Department had been doing and noted she would be happy to come back if there were any areas the Board felt had not been addressed. She asked Mr. Vaughan if he had anything he would like to add. Mr. Vaughan indicated his only comment would be that they were very busy.

Mr. Evelyn stated the Board would be looking at the cluster subdivision ordinance. Ms. Paige noted it would be important for Board members to review all subdivision ordinances at the same time to be able to see how changes in one may impact another. She thanked Mr. Vaughan for picking up signs and reported she had a number of signs she had picked up in the back of her truck. She appreciated the job they were doing and understood the impact of staff cuts. She noted there were some things coming up that would make the work more challenging and urged them to get ready and to be open for visionary projects. She added that they were the experts and the Board would be depending on them for vision. She stated everything didn't have to be a "yes" and they were okay with a "no." Her biggest thing was how do we want where we live to look and a conversation on this was needed. She also noted the AutoZone project would be a priority.

Mr. Evelyn asked Mr. Vaughan if he had been able to track down the owner of LBJ Power Washing. Mr. Vaughan reported he had and this company would owe the County \$2,100 in fines for placing signs in the VDOT right of way. Mr. Stiers asked if any additional staff had been requested by the Planning Department in next year's budget. He asked if anything was being done to address the need for more staff or were they just going to cope with it. Mr. Vaughan suggested they would need to cope with it. He reported he had been with New Kent 22 years and it seemed New Kent was often training planners who would leave for some other locality. He had moved to New Kent and loved this place. He stated everyone was excited about the number of building permits but noted he had to review every permit and determine if it was in compliance with zoning ordinance. Given the number of permits to be reviewed, he indicated he felt like he was going crazy some days. He noted the County was growing so fast and they definitely needed help. Mr. Stiers stated "so you do



need additional staff?" Mr. Vaughan confirmed. Mr. Stiers asked if additional staff was in the proposed budget. Mr. Hathaway reported the budget team would be meeting later in the week to review personnel requests and he believed Planning had submitted for an additional staff person. Ms. Le Duc reported they had requested an additional position in the previous budget and noted the challenge this year had been that a Planner had left. That position had been filled but had resulted in the Administrative Assistant position being open. They were now working to fill that position. They were also interviewing for a Transportation Planner which was why they had not asked for another position. Filling this position would take some of the load off her position and would free her up to address other things. They would recalibrate once the vacancies were filled to determine if another staff member was needed. She stated she had requested an additional staff member for the past four to five year and noted having a Zoning Inspector would be invaluable.

Mr. Lockwood expressed appreciation to Ms. Le Duc and Mr. Vaughan and noted he understood they were both carrying a heavy burden. He didn't want to add more things to their load but would like to get regular updates on what they were hearing about potential projects as well as updates on ongoing projects. He noted it was amazing how quickly information was spread through social media and indicated he didn't like learning of upcoming projects through this avenue. He would like to receive regular information so they could be better informed and prepared. Mr. Tiller reported Planning Commissioner John Moyer had requested something similar at a recent meeting. He noted agreement with Mr. Lockwood and Mr. Moyer that there was nothing like being asked what have you heard about this and the response being that you weren't aware of it and then being asked what do you mean, you didn't know about it. Ms. Le Duc reported the majority of plans reviewed never came to the Board because there was no action needed. She indicated hundreds of lots had been created in recent years with by right subdivisions. She asked the Board how frequently they would like to receive updates. Mr. Lockwood suggested bimonthly and if something attention catching came up, they should probably be notified sooner. Mr. Evelyn also noted some of the information received by Planning was to be kept confidential and specifically noted some of the work in preparation for the AutoZone project. Ms. Paige asked if the County had a system where the information was stored and from which reports could be generated. Ms. Le Duc reported the EnerGove system tracked applications but information on phone calls, emails and other inquiries were not included.

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IN RE:           CLOSED SESSION

Ms. Paige moved to go into closed session pursuant to section 2.2-3711A.1 of the Code of Virginia for discussion of assignment, appointment and promotion involving the Public Utilities Director position. The members were polled:

C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye

The motion carried.

Mr. Tiller moved to come out of closed session. The members were polled:

Patricia A. Paige	Aye
Ron Stiers	Aye

John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

Mr. Stiers moved to certify by roll call vote that to the best of each member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Freedom of Information Act and identified in the motion to go into closed session were heard, discussed or considered in the closed session. The members were polled:

Ron Stiers	Aye
John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: ANNOUNCEMENT OF UPCOMING MEETINGS/ADJOURNMENT

Mr. Evelyn announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, March 14, 2022 and the next work session at 9:00 a.m. on Wednesday, March 30, 2022, both in the Boardroom of the County Administration Building. The Board would also hold a Budget Retreat at 9:00 a.m. on March 18, 2022 at The Ordinary, 12000 New Kent Highway, New Kent, VA.

Mr. Tiller moved to adjourn. The members were polled:

John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye

The meeting was adjourned at 11:41 a.m.



**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Miscellaneous

<p>Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)</p>	<p>approve the Consent Agenda as presented and that it be made a part of the record.</p> <p>or</p> <p>I move to approve the Consent Agenda as presented and that it be made a part of the record, with the following changes:</p>
<p>Subject</p>	<p>Approval of Resolution R-04-22 - Street Acceptance - Stone Acres Court</p>
<p>Issue</p>	<p>VDOT is of the opinion that Stone Acres Court is ready to be brought into the secondary system of state highways and has requested a resolution from the Board requesting the State to accept this street.</p>
<p>Recommendation</p>	<p>Adoption of Resolution R-04-22</p>
<p>Fiscal Implications</p>	<p>None</p>
<p>Policy Implications</p>	<p>None</p>
<p>Legislative History</p>	<p>N/A</p>
<p>Discussion</p>	<p>N/A</p>

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Resolution R-04-22 - Stone Acres Court Street Acceptance (PDF)	Cover Memo
AM 4.3 - Stone Acres Court (PDF)	Cover Memo
Sketch - Stone Acres Court (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 11:40 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 1:57 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:50 AM

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**R-04-22**

At the meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 11<sup>th</sup> day of April 2022:

Present:

Vote:

Patricia A. Paige  
Ron Stiers  
John N. Lockwood  
C. Thomas Tiller, Jr.  
Thomas W. Evelyn

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Motion was made by \_\_\_\_\_, which carried \_\_\_\_:\_\_\_\_, to adopt the following resolution:

**A RESOLUTION TO REQUEST THE  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
TO ADD STONE ACRES COURT  
INTO THE STATE SYSTEM FOR MAINTENANCE**

**WHEREAS, Stone Acres Court** has been completed, and

**WHEREAS, the Stone Acres Court** meets the public service criteria of the Secondary Street Acceptance Requirements; and

**WHEREAS, the development sketch and VDOT Form AM 4.3, attached and incorporated herein as part of this resolution, define additions required in the Secondary System of State Highways as a result of construction; and**

**WHEREAS, certain segments identified on the incorporated Form AM 4.3 are ready to be accepted into the Secondary System of State Highways.**

**NOW THEREFORE, BE IT RESOLVED**, this Board requests the Virginia Department of Transportation to add the segments identified on the incorporated Form AM 4.3 to the Secondary System of State Highways, pursuant to §33.2-705 of the *Code of Virginia*, for which segments this Board hereby guarantees the right of way to be clear and unrestricted, including any necessary easements for cuts, fills, and drainage, and

**BE IT FINALLY RESOLVED THAT**, a certified copy of this resolution be forwarded to the Virginia Department of Transportation.

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Rodney A. Hathaway  
County Administrator

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Thomas W. Evelyn  
Board Chair

## In New Kent County

38190748

by Resolution of the governing body adopted April 11, 2022

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): \_\_\_\_\_

### Report of Changes in the Secondary System of State Highways

Project/Subdivision: Stone Acres Court

Addition - New subdivision street §33.2-705

Rte Numb er	Street Name	From Termini	To Termini	Length	Num ber Of Lan es	Recordation Reference	Row Widt h
1022	Stone Acres Court	Rt Cosby Mill Road	Cul de sac	0.15	2		60

# New Kent County , Virginia

## Legend

- Parcels
- Subdivisions
- Routes
- = Addition

Rt 1022 Stone Acres Court 0.15 miles



**Title: Stone Acres Court**

**Date: 3/8/2022**

*DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and New Kent County is not responsible for its accuracy or how current it may be.*

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Refunds

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

approve the Consent Agenda as presented and that it be made  
a part of the record.

or

I move to approve the Consent Agenda as presented and that  
it be made a part of the record, with the following changes:

Subject

REFUND - Real Estate Tax - Spectrasite Communications -  
\$3,220.04

Issue

Recommendation

Approval

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Request  
prepared by:

Copy provided  
to:

Shannon McLaughlin

Person Appearing:

Telephone:

804-966-9609

New Kent County Board of Supervisors  
P O Box 150, 12007 Courthouse Circle  
New Kent, VA 23124

**CONSENT AGENDA**  
**REFUND REQUEST**

(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Reason for refund	Cell Tower and Building Removal		
Refund Amount	\$3,220.04		
Name and complete mailing address for refund recipient	Spectrasite Communications c/o American Tower P.O. Box 723597 Atlanta, GA 31139		
Line item identification and breakdown	2021 - \$1,610.02 2020 - \$1,610.02		
Request prepared by:	Shannon McLaughlin	Telephone:	804-966-9609
Date of Request:	3/22/2022		

**REVIEWERS:**

Department	Reviewer	Action	Date
Commissioner of Revenue	McLaughlin, Shannon	Approved	3/22/2022 - 11:06 AM
Administration	Hathaway, Rodney	Approved	3/23/2022 - 7:37 AM
Attorney	Hefty, Brendan	Approved	3/23/2022 - 7:13 PM



**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Refunds

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

approve the Consent Agenda as presented and that it be made  
a part of the record.

or

I move to approve the Consent Agenda as presented and that  
it be made a part of the record, with the following changes:

Subject

REFUND - JCR Plumbing and More BP#12275-2022 - \$48.75

Issue

Recommendation

Approval

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Request  
prepared by:

Copy provided  
to:

W. Watkins, Deputy  
Clerk of the Board

Person Appearing:

Telephone:

804-966-9687

New Kent County Board of Supervisors  
P O Box 150, 12007 Courthouse Circle  
New Kent, VA 23124

## **CONSENT AGENDA** **REFUND REQUEST**

(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Reason for refund	Contractor canceled permit - BP#12275-2022		
Refund Amount	\$48.75		
Name and complete mailing address for refund recipient	JCR Plumbing and More P.O. Box 6895 Williamsburg, VA 23188		
Line item identification and breakdown	Plumb - \$65.00 (Minus 25% Administrative Fee) Surcharge - \$1.30 (non-refundable)		
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Date of Request:	3/14/2022		

### **ATTACHMENTS:**

Description	Type
REFUND - JCR Plumbing (PDF)	Cover Memo

### **REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 11:25 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 2:01 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:54 AM

## CONSENT AGENDA REFUND REQUEST

(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO THE MEETING)

Meeting Date

April 11, 2022

Reason for refund

Contractor canceled permit  
BP# 12275-2022

Refund Amount

\$48.75

Name and complete mailing  
address for refund recipient

JCR Plumbing and More  
P O Box 6895  
Williamsburg, VA 23188

Line item identification and  
breakdown

Plumb - \$65.00 (Minus 25% Administrative Fee)  
Surcharge - \$1.30 non-refundable

For Refunds Requested by the Commissioner of Revenue

I certify this to be a complete, full, true and exact request for refund. Certified this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Commissioner of Revenue, his deputy or other designated official

Request prepared by:

Tracee McLeod, Administrative Assistant Building Dev

Telephone

804-966-9680

Date of Request

March 14, 2022

For Clerk's Use:

Approval date by Board: \_\_\_\_\_

Admin: \_\_\_\_\_

Finance: \_\_\_\_\_

REVIEWS

Attorney \_\_\_\_\_



**JCR PLUMBING AND MORE**

P.O. Box 6895  
Williamsburg, VA 23188  
757-561-0347

NEW KENT COUNTY

Hi Tracey,

We were hired to install a gas line, and the job was cancel for address:

7868 W Lord Botetourt Loop

Please send a refund.

Thank you.



## County of New Kent

P.O. Box 150  
12007 Courthouse Circle  
New Kent, VA 23124

### PERMIT NUMBER

**PLUMB-012275-2022**

Issue Date: 03/09/2022

VUSBC: USBC 2015

Use: R-5

**Permit Type: Plumbing (Residential)**

**Work Class: Alteration**

GPIN	Site Address	District
K13-2306-0704	7868 W Lord Botetourt Loop , New Kent	3

Owner Information	Mechanics Lien Agent	Contractor Information
Name: PAUL GOEBEL Address: 7868 W Lord Botetourt Loop NEW KENT, VA 23124 Phone: (262) 745-2034	Name: Address: Phone:	Name: JCR PLUMBING AND MORE LLC Address: 109 Hempstead Rd WILLIAMSBURG, VA 23188 Phone: (757) 561-0347 Lic No: 2705173947 Issue Date: Lic Exp: 6/30/2022

Project Description
GASLINE FROM METER TO GENERATOR

Zone Code	Firm Zone
PUD	X

Nature of Work
GASLINE FROM METER TO GENERATOR

  
Signature of Approving Official

Date: 03/09/2022

PER SEC. 110.6 OF THE VUSBC, ANY PERMIT ISSUED EXPIRES SIX (6) MONTHS AFTER ISSUANCE IF NO INSPECTIONS HAVE BEEN MADE.

**TOTAL FEES:**

**\$ 66.30**

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Supplemental Appropriations

<p>Motion: "Mr.  Chairman, I move to  (not required for Consent  Agenda items)</p>	<p>approve the Consent Agenda as presented and that it be made a part of the record.</p> <p>or</p> <p>I move to approve the Consent Agenda as presented and that it be made a part of the record, with the following changes:</p>
<p>Subject</p>	<p>FY22 Supplemental Appropriations</p>
<p>Issue</p>	
<p>Recommendation</p>	
<p>Fiscal Implications</p>	<ol style="list-style-type: none"> <li>1. Animal Shelter Donations, \$1,444.33.</li> <li>2. Gifts and Donations to Sheriff: TRIAD (\$200) and to Fire/Rescue: Phillip Link (\$50), \$250.</li> <li>3. Additional DSS Funds - \$15,500.</li> <li>4. Sheriff/Fire-Rescue Extra Duty Private - Sheriff - Colonial Downs 1/21/22-2/5/22 (\$2,972.29), Colonial Downs 2/11/22-2/12/22 (\$999.09), Colonial Downs 2/18/22-3/5/22 (\$2,997.27), Colonial Downs 3/11/22-3/19/22 (\$1,748.41), NKHS Sports 2/7/22-2/11/22 (\$1,065.74) and NKHS Sports 1/19/22-2/4/22 (\$2,276.80), \$12,059.60.</li> <li>5. Restitution for Vet Fees, \$352.</li> <li>6. Farmers Market Registration Fees: Christie O'Neill (\$50), MD Clay (\$50), LuminArt, LLC (\$50), Farm Bureau (\$1,500) and Colonial Farm Credit (\$1,500), \$3,150.</li> </ol> <p style="margin-top: 20px;">\$32,755.93 - Total  (\$17,255.93) - Total In/Out - General Fund (1101)  (\$15,500.00) - Total In/Out - Social Services (1201)</p>
<p>Policy Implications</p>	
<p>Legislative History</p>	
<p>Discussion</p>	

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Supplemental Appropriations for 041122 (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 10:40 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 2:00 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:52 AM

Interoffice  
MEMORANDUM

To: Rodney A. Hathaway, County Administrator  
From: Rebecca F. Guthrie, Director of Financial Services  
Subject: FY22 Supplemental Appropriations For Munis (April 11, 2022 BOS Meeting)  
Date: March 30, 2022

**FY2021-2022**

This memo is to request the following supplemental appropriations:

	Revenue	Expenditure
<b><u>To Appropriate Animal Shelter Donations</u></b>		
<i>Donations totaling \$1,444.33 received by Sheriff Department</i>		
<b>REVENUE:</b>		
110918-318402	\$ (1,444.33)	
Animal Shelter Donations		
<b>EXPENDITURE:</b>		
11351000-403190		\$ 1,444.33
Veterinarian Services		
<b><u>To Appropriate Gifts &amp; Donations</u></b>		
<i>Sheriff: TRIAD (\$200); Fire/Rescue: Phillip Link (\$50)</i>		
<b>REVENUE:</b>		
110918-318401	\$ (250.00)	
Gifts & Donations		
<b>EXPENDITURE:</b>		
11312000-406036		\$ 200.00
TRIAD		
11321000-405894		\$ 50.00
Public Education Donations - Fire		
<b><u>To Appropriate Additional DSS funds</u></b>		
<b>REVENUE:</b>		
250933-333300-30500	\$ (13,844.80)	
Federal Reimbursement		
250924-324200-20609	\$ (1,655.20)	
State Reimbursement		
<b>EXPENDITURE:</b>		
25532100-400814		\$ 3,779.00
Fostering Futures		
25532100-400884		\$ 5,286.00
Independent Living COVID		
25532100-400868		\$ 6,435.00
Safe & Stable Families COVID		
<b><u>To Appropriate Sheriff and Fire/Rescue Extra Duty Private</u></b>		
<i>Sheriff: Colonial Downs 1/21-2/5/22 (\$2,972.29); Colonial Downs 2/11-2/12/22 (\$999.09); Colonial Downs 2/18-3/5/22 (\$2,997.27)</i>		
<i>Sheriff: Colonial Downs 3/11-3/19/22 (\$1,748.41); NKHS Sports 2/7-2/11/22 (\$1,065.74); NKHS Sports 1/19-2/4/22 (\$2,276.80)</i>		
<b>REVENUE:</b>		
110919-319204	\$ (12,059.60)	
Recovered Costs - Misc.		
<b>EXPENDITURE:</b>		
11312000-401304		\$ 8,717.06
Salaries-Supplemental Activities		
11312000-401320		\$ 3,342.54
Extra Security Detail - Schools		
<b><u>To Appropriate Restitution for Vet Fees</u></b>		
<b>REVENUE:</b>		
110918-318501	\$ (352.00)	
Restitution - Sheriff		
<b>EXPENDITURE:</b>		
11351000-403190		\$ 352.00
Veterinarian Services		



**Interoffice  
MEMORANDUM**

To: Rodney A. Hathaway, County Administrator  
 From: Rebecca F. Guthrie, Director of Financial Services  
 Subject: FY22 Supplemental Appropriations For Munis (April 11, 2022 BOS Meeting)  
 Date: March 30, 2022

**FY2021-2022**

This memo is to request the following supplemental appropriations:

	Revenue	Expenditure
<b><u>To Appropriate Farmers Market Registration Fees</u></b>		
<b>REVENUE:</b>		
<i>Christie O'Neill (\$50), MD Clay (\$50), LuminArt, LLC (\$50), Farm Bureau (\$1,500), Colonial Farm Credit (\$1,500)</i>		
110918-318305	\$	(3,150.00)
Farmers Market Registration Fee		
<b>EXPENDITURE:</b>		
11110200-405843		\$ 3,150.00
Special Events		
	\$ (32,755.93)	\$ 32,755.93
\$ 32,755.93	<b>Total</b>	
\$ (17,255.93)	<b>Total In/Out - General Fund (1101)</b>	
\$ (15,500.00)	<b>Total In/Out - Social Services (1201)</b>	
-	<b>Check</b>	

cc:

The Honorable J. Joseph McLaughlin, Jr., Sheriff  
 Lee Bailey, Chief Deputy - New Kent County Sheriff's Office  
 Nancy Lindsey, Finance Manager  
 Maria Davenport, Secretary to the Sheriff  
 Richard Opett, Fire Chief  
 Lisa Baber, Deputy Fire Chief  
 Ellen Browne, Administrative Assistant  
 Justin Stauder, Assistant County Administrator  
 Wanda Watkins, Deputy Clerk of the Board  
 Krista Eutsey, Public Relations Specialist  
 Amanda Stanger, Executive Assistant to the County Administrator  
 Suzanne Grable, Social Services Director  
 Dana Boothe, Administrative Office Manager

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Interdepartmental Budget Transfers

<p>Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)</p>	<p>approve the Consent Agenda as presented and that it be made a part of the record.</p> <p>or</p> <p>I move to approve the Consent Agenda as presented and that it be made a part of the record, with the following changes:</p>
Subject	FY22 Interdepartmental Budget Transfers
Issue	
Recommendation	
Fiscal Implications	<ol style="list-style-type: none"> <li>1. Administration/Schools - From Reserved for Contingency to Veh/Equip Parts Supp Veh Maint, \$12,135.08.</li> <li>2. Public Utilities - From Water Sys. Interconnect Ph 1A to Microwave Antenna, \$32,500.</li> <li>3. Sheriff's Department - From Sheriff Firearm Range to Taser-Sheriff Office, \$29,635.</li> <li>4. Sheriff's Department - From Sheriff Firearm Range to Police Supplies, \$51,559.</li> </ol>
Policy Implications	
Legislative History	
Discussion	

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Interdepartmental Budget Transfer for 04-11-22 (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 10:21 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 1:59 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:52 AM

## BUDGET TRANSFER FORM

ACCOUNTING PERIOD:

3/31/2022 FY22

BATCH #

REF #

[illegible]


Explanation for transfer: Repair of in-ground lift at the vehicle maintenance shop.

	RAH	3/31/2022
	INITIALS	DATE
CHECKED FOR FUNDS:	RG	3/31/22
ENTERED:		
POSTED:		

DEPARTMENT: New Kent Public Schools / New Kent Administration

DEPT HEAD: Rodney Hathaway, County Administrator

DATE: 3/31/2022

COUNTY ADMINISTRATOR APPROVAL: 

40

REF #

[illegible]

Funds needed for the Microwave Antenna-Parham to Admin project. This project was originally slated for FY23, but due to expected equipment prices increasing, the materials will be purchased immediately, in FY22.

3-28-22



## BUDGET TRANSFER FORM

ACCOUNTING PERIOD:

FY22

BATCH # \_\_\_\_\_

REF # \_\_\_\_\_

[illegible]

Explanation for transfer:

This money is to be transferred to cover the necessary expense for this department for fiscal year 22 for Firearms.

NLC	3/14/2022
PREPARE'S INITIALS	DATE


FOR FINANCE OFFICE USE ONLY

CHECKED FOR FUNDS: RG 3/28/22


ENTERED: \_\_\_\_\_

POSTED: \_\_\_\_\_

DEPARTMENT: New Kent Sheriff's Department

DEPT HEAD SIGNATURE:   
Joe McLaughlin, Sheriff

DATE: March 14, 2022

COUNTY ADMINISTRATOR APPROVAL:  3-28-22

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

Treasurer's Report

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	approve the Consent Agenda as presented and that it be made a part of the record.  or  I move to approve the Consent Agenda as presented and that it be made a part of the record, with the following changes:
Subject	Treasurer's Report - February 2022
Issue	
Recommendation	
Fiscal Implications	
Policy Implications	
Legislative History	
Discussion	Cash as of February 28, 2022, \$82,541,573.60 including escrow funds.

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Treasurer's Report - February 2022 (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/25/2022 - 12:28 PM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 2:01 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:54 AM





## Cash Report

As of February 28, 2022

<b>Cash Account Balance</b> (total per statements)	<b>64,823,323.81</b>
<b><u>Investments</u></b> (per statements)	
Certificates of Deposit	16,089,752.94 General Operations
Local Government Investment Pool	4,167.27
Virginia Investment Pool	\$ 1,005,131.33
<b>Total Investments</b>	<b>17,099,051.54</b>
<hr/>	
<b>Total Cash and Investments</b>	<b>81,922,375.35</b>
Escrow Accounts (Soil and Erosion)	619,198.25
<b>Total Cash in Bank</b>	<b>82,541,573.60</b> including escrow funds

New Kent County Board of Supervisors  
P O Box 150, 12007 Courthouse Circle  
New Kent, VA 23124

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

SMALL BUSINESS CLOSE UP

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

Subject

**Flower Forte' - Jackie Beasley**

Issue

Recommendation

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Request

prepared by:

Copy provided  
to:

Person Appearing:

Telephone:

Jackie Beasley

**REVIEWERS:**

Department  
Clerk

Reviewer  
Watkins, Wanda

Action  
Approved

Date  
4/4/2022 - 5:15 PM

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

RESIDENCY ADMINISTRATOR'S REPORT

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

Subject

**Residency Administrator's Report for March 2022**

Issue

Recommendation

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Request

prepared by:

Copy provided  
to:

Person Appearing:

Telephone:

**ATTACHMENTS:**

Description

Residency Administrator's Report for March 2022  
(PDF)

Type

Cover Memo

**REVIEWERS:**

Department

Clerk

Administration

Attorney

Reviewer

Watkins, Wanda

Hathaway, Rodney

Hefty, Brendan

Action

Approved

Approved

Approved

Date

3/31/2022 - 2:23 PM

3/31/2022 - 4:16 PM

4/1/2022 - 8:54 AM

**NEW KENT COUNTY**

**March 2022**

**MAINTENANCE:**

**Jeff Allgood**

**Pothole Repair:**

- 106 Vineyards Pkwy
- 611 Quaker Rd
- 632 Stage Rd
- 615 Mt Castle Rd
- 612 Airport Rd
- 33 Eltham Rd
- 632 Stage Rd
- 640 Old Roxbury Rd
- 249 New Kent Hwy
- 618 Olivet Church Rd
- 623 Cooks Mill Rd

**Asphalt Repair:**

- 665 Henpeck Rd; Driveway
- 249 New Kent Hwy

**Driveway Repair:**

- 632 Stage Rd

**Curb Repair:**

- 1379 S Franklins Way
- 1370 Patriots Landing Dr
- 1381 Flowering Magnolia Ln

**Sinkhole / Erosion Repair:**

- 621 Ropers Church Rd; 2 Drop Inlets
- 1266 Brandon Pines Dr
- 1260 Pine Needles Dr
- 273 Farmers Dr at 600 Holly Fork Rd
- 249 New Kent Hwy
- 632 Stage Rd
- 1108 Villa Green Ter

**Shoulder Repair:**

- 621 Ropers Church Rd
- 632 Stage Rd
- 705 Richardson Rd
- 601 Tabernacle Rd
- 600 Holly Fork Rd

**Pipe Replace:**

- 665 Henpeck Rd; Driveway pipe
- 632 Stage Rd; Driveway and Cross-Road pipe

**Pipe Cleaning:**

- 632 Stage Rd

**Ditching:**

- 621 Ropers Church Rd
- 632 Stage Rd
- 705 Richardson Rd
- 601 Tabernacle Rd
- 634 Polish Town Rd
- 600 Holly Fork Rd

**Ditching w Backhoe:**

- 665 Henpeck Rd
- 634 Polish Town Rd
- 621 Ropers Church Rd

**Tree Removal / Cleanup:**

- 640 Old Roxbury Rd; 2 trees
- 249 New Kent Hwy; 2 trees
- 33 Eltham Rd
- 632 Stage Rd
- 616 Peace Rd

**Mowing w/ Right-Arm Tractor:**

- 632 Stage Rd
- 600 Holly Fork Rd

**Sign Repair:**

- 1400 Moores Ln; Stop
- 621 Ropers Church Rd; Stop
- 649 Rockahock Rd; Yellow No RR Crossing Arms sign
- 609 Old Church Rd; Stop sign

**Debris:**

- 60 Pocahontas Trl; glass in road
- 627 N Waterside Dr; gravel in road

**Trash / Litter Pickup:**

- Park & Ride County wide
- Toe Ink Wayside
- 60 Pocahontas Trl

**Miscellaneous:**

- Deer and animal removal county wide
- Work on equipment
- Load Hired/State snow equipment prior to snow storm
- Training; Basic Equipment Operator Certification and Work Zone 2
- Sharpen Chainsaws

- 619 Hopewell Rd; structure fire
- Training Classes; Basic Equipment, Basic Work Zone, Intermediate Work Zones, SHRP-II

#### **Work Requests:**

- 59 Received
- 39 Completed

#### **Emergency Call Out After Hours (7):**

- 60 Pocahontas Trl; Glass in roadway
- 249 New Kent Hwy; Guardrail damage from vehicle accident
- 640 Old Roxbury Rd; Tree down on power line
- 33 Eltham Rd; Tree down in roadway
- 649 Rockahock Rd; RR Crossing sign down
- 616 Peace Rd; Tree down in roadway
- 609 Old Church Rd; Stop sign down

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### **PROJECT DEVELOPMENT**

**Brian Ramsey, P.E.**

- **UPC92652 Smart Scale Shoulder Widening Project;** 155 N Courthouse Rd, currently in Utility relocation, has been awarded, Contract executed, NTP April 2, 2022. Trench widening is under construction with daily flagging operations, ongoing.

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### **NON-ORDINARY MAINTENANCE**

**Phillip Frazer, P.E.**

#### **Pending Study**

- **Corridor Study;** 60 Pocahontas Trl; Bottoms Bridge Area, large scale study that will require special funding, study will be tasked out to VDOT's on-call engineer, process will likely take more than the standard 90 days to complete.
- **Corridor Study;** 30/33 Eltham Rd; large scale study that will require special funding, study will be tasked out to VDOT's on-call engineer, process will likely take more than the standard 90 days to complete.

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

PUBLIC HEARINGS

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

\_\_\_\_\_ Resolution R-12-22

Subject

**PUBLIC HEARING - CUP-01-22, Borrego Solar - Resolution R-12-22 - Planning Director Kelli Le Duc and Applicants**

Issue

Representatives from Borrego Solar have applied for a Conditional Use Permit to construct a 3 MW solar facility on approximately 23 acres of land located within Tax Parcel 27-6, in eastern New Kent County. The parcel is zoned Industrial and is generally located east of State Route 30 and north of Henrico County's Regional Jail East on the north side of Polish Town Road.

Recommendation

The Planning Commission considered this application at their meeting on March 21, 2022 and voted 8:1:1 to forward a favorable recommendation to the Board.

Fiscal Implications

n/a

Policy Implications

n/a

Legislative History

n/a

Discussion

Representatives from Borrego Solar have applied for a Conditional Use Permit to construct a 3 MW solar facility on approximately 23 acres of land located within Tax Parcel 27-6, in eastern New Kent County. The parcel is zoned Industrial and is generally located east of State Route 30 and north of Henrico County's Regional Jail East on the north side of Polish Town Road.

Time Needed:

20 minutes

Person Appearing:

Kelli Le Duc and Applicants

Request prepared by:

Kelli Le Duc

Telephone:

966-9690

Copy provided to:

**ATTACHMENTS:**

Description  
BOS Memo

Type  
Cover Memo

BOS Resolution R-12-22  
PC Resolution  
Application  
Additional Information  
Additional Information  
APO list, ad, affidavit

Backup Material  
Backup Material  
Backup Material  
Backup Material  
Backup Material  
Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning & Zoning	LeDuc, Kelli	Approved	3/29/2022 - 8:55 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 1:59 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:51 AM





## MEMORANDUM

DATE: April 11, 2022

TO: New Kent County Board of Supervisors

SUBJECT: Application Number CUP-01-22, Borrego Solar/Polish Town Solar 1 Facility

---

### REQUEST

Quintin J. Wood and representatives from Borrego Solar have applied for a Conditional Use Permit to construct a 3 MW solar system (facility) on approximately 23 acres located east of State Route 30 and north of Henrico County's Regional Jail East, on the north side of Polish Town Road (SR 634).

### PUBLIC HEARINGS

Planning Commission: March 21, 2022, 6:30 p.m., County Boardroom  
Board of Supervisors: April 11, 2022, 7:00 p.m., County Boardroom

### GENERAL INFORMATION

**Tax Parcel:** 27-6J (portion)

**GPIN:** I28-3826-5374

**Size:** Parcel is approximately 150 acres in size, project is proposed to use approximately 23 acres

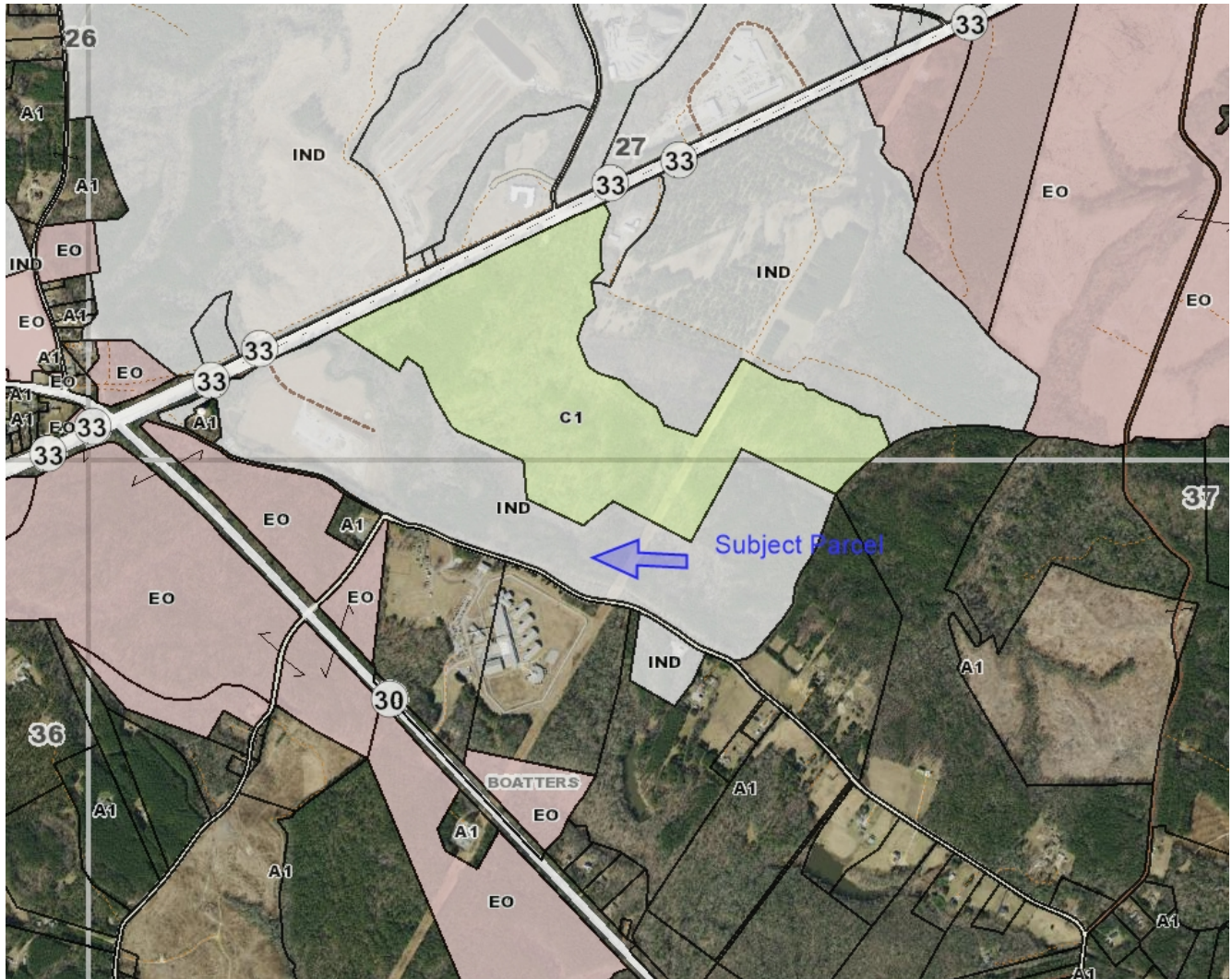
**Owner:** Weir Creek LLC C/O Jonathan Kinney

**Applicant:** Polish Town Solar, LLC/Borrego Solar

**Zoning:** Industrial

**Adjacent Zoning:** North: Wahrani Park (Conservation)  
East: A-1  
South: Henrico County Jail East

## West: Eltham Road and Industrial



## CONSIDERATIONS

- The New Kent County Zoning Ordinance (Section 98-62) requires a Conditional Use Permit in the Industrial Zoning District for an “Energy Generation Facility”.
- The application states “Borrego is seeking conditional approval for the construction of a 3 MW Solar System (Facility) located within Tax Parcel 27-6 on the lands now or formerly of Weir Creek LLC. The proposed facility is geospatially located to abut the existing utility electric easements along the north side of Polish Town Road and west of the transmission electric line that traverses the property in a general north/south direction.”
- The property is designated as Industrial in the Comprehensive Plan. The project meets the desired goals of the Comprehensive Plan listed below:

- Preserve the County's existing rural character (Overarching goal)
- Protect the natural environment (Overarching goal)
- Support and promote sustainable alternative energy sources and production.
  - Consider developing policies and regulations that allow for small-scale wind and solar energy projects as a matter of right subject to meeting reasonable performance standards.
- Prior to submission of the CUP application, the applicant held several neighborhood outreach meetings to notify the local property owners of the interest to construct the solar facility, receive any feedback/comments regarding the project, and provide an overview of the proposed solar site. Appendix F in the application contains information regarding these community outreach efforts.
- The facility is proposed to be accessed off of Polish Town Road, and, after construction, the anticipated vehicle traffic generated from the project will be 1-2 vehicles per day. VDOT comments indicated some concerns about utilizing Polish Town Road during construction. The applicant will be required to mark access points with identifying signage. The applicant will also be required to repair any damage to local roads caused by the project construction. In addition, it will be required that a Construction Traffic Management Plan and mitigation measures shall be developed by Borrego Solar and submitted to VDOT and New Kent County Emergency Services for review. The plan shall address traffic control measures, a pre- and post-construction road evaluation, and any necessary repairs to the public roads that are required as a result of damage from the project. If a traffic issue arises during the construction of the project, the applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.
- This project will not cause any increased impacts to County services. Whenever possible, construction and related workers will be hired locally. Their employment will not result in an increased impact on schools, police, EMS, or other County resources. There will be no need for new or expanded county public infrastructure as a result of this project.
- There will not be any negative impacts on historic sites or structures or rare, endangered, or irreplaceable species or natural areas. There are preliminary environmental and cultural resource reports in the application (Appendices D and E).
- In order to promote the safety and welfare of first responders, the Applicant offers to facilitate training for the appropriate fire department(s) and other first responders with training relating to the specific hazards of the project. The Deputy Fire Chief and Chief Deputy Sheriff have indicated that New Kent Fire Rescue and Sheriff's personnel are very much interested in this training.
- The applicants are proposing a security fence and a 50' minimum setback for the solar equipment from the property lines and existing rights of way.
- Noise issues associated with the project will be limited to construction noise. Construction noise will be temporary and consist of increased noise levels associated with construction activities and increased traffic on area roadways. Construction work generally will occur

during daylight hours. All pile driving activity (which creates the most noise) shall be required to be limited to the hours from the earlier of sunrise or 8:00 a.m. to the later of 6:00 p.m. or sunset, Monday through Saturday. All other construction activity on site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.

- Decommissioning of the site to remove the project components and return the land to an authorized land use will be done by the Applicant at the end of the project life. Please see decommissioning plan and cost estimate in the application.

### **COMMENTS FROM REVIEWING AGENCIES**

Staff sent the conditional use permit application and information to all reviewing agencies and received comments which are included within and attached to this staff report. Reviewing agencies' concerns are addressed in the proposed conditions.

### **STANDARDS FOR REVIEW**

The standards for review of Conditional Use Permits are set forth in Section 98-744 of the New Kent County Zoning Ordinance:

1. *The proposed use shall not be prejudicial to the character of the neighborhood.*
2. *The proposed use shall not adversely affect the general plans for the physical development of the county as embodied in the comprehensive plan.*
3. *The proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood nor impair the value of buildings or property in surrounding areas.*
4. *The proposed use shall not unreasonably restrict an adequate supply of light, water, or air to adjacent property nor produce undue congestion in the street.*
5. *The proposed use shall adequately provide for access facilities for the estimated traffic.*
6. *The proposed use shall be subject to any applicable site planning or performance standards enumerated in article XXII of this chapter.*
7. *The proposed use shall be reasonable in terms of the logical, efficient, and economical extension of public services and facilities serving the county, such as water, sewer, streets, police and fire protection, transportation, recreation, and public schools.*

The Zoning Ordinance also lists specific restrictions for conditional use permits. Restrictions on any conditional use may include, but are not limited to the following:

1. Hours of operation
2. Access to and from the subject property

3. Protection of surface and groundwater
4. Lighting of the site, including the intensity and shielding so as to not adversely affect adjacent or nearby property owners
5. Adequate sewer and water supply
6. Sound limitation as needed to ensure peaceful enjoyment of neighboring property
7. Location, size, height, design of buildings, walls, fences, landscaping, and buffer yards
8. Covenants and/or homeowners associations for maintenance of applicable restrictions
9. Timing or phasing of development
10. Type and placement of utilities including underground placements
11. Controls for smoke, dust, and odors
12. Requirements for performance guarantees ensuring that all conditions are met and plans are implemented
13. Any other conditions deemed necessary to protect the health, safety, and general welfare of the public.

**OVERALL ANALYSIS AND RECOMMENDED DRAFT CONDITIONS (please be advised that the Conditions are subject to change prior to Board of Supervisors approval of the permit)**

Staff has reviewed this conditional use permit application in the same manner as other zoning change applications and has found that the following proposed conditions will assist in addressing, protecting, and promoting health, safety, and the general welfare of New Kent County citizens.

1. The following conditions shall apply to the property identified on the “Conditional Use Permit Plan Set” dated 12/28/21 prepared by Borrego Solar Systems and submitted with the application and shall be binding on Polish Town Solar 1, LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy facility (the “Solar Facility”).
2. Polish Town Solar 1, LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy facility (the “Applicant”) shall consent to administrative inspections by New Kent County staff for compliance with the requirements of this Conditional Use Permit.
3. Per Virginia Code § 15.2-2288.8, the Applicant shall pay the County \$50,000 (the “Trail Upgrade Payment”) for future upgrades and maintenance to the Wahrani hiking and biking trails, adjacent to the project site and which the County has determined are reasonably related

to the Solar Facility. The Trail Upgrade Payment shall be paid to the County within ninety (90) days of building permit approval, and shall be in lieu of any other payments (excluding taxes) to the County.

4. 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 all requirements of the latest editions 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 a county building inspector throughout the building permit process. If there are any conflicts between standards, the Uniform Statewide Building Code (USBC) shall control.
  - b. An Erosion and Sediment Control plan and a Stormwater Management Plan must be submitted and approved prior to any land disturbance.
5. The Solar Facility shall consist of one integrated power generation facility and shall be limited to no more than the 23 acres of the property identified on the "Conditional Use Permit Plan Set" dated 12/28/21 prepared by Polish Town Solar 1, LLC and submitted with the application, excluding additional acreage deemed necessary during the site plan review process for proper stormwater and erosion management, and a temporary laydown area during construction of the Facility.
6. All site activity required for the construction and operation of the Solar Facility shall be limited to the following:
  - a. All pile driving activity shall be limited to the hours from the earlier of sunrise or 8:00 a.m. to the later of 6:00 p.m. or sunset, Monday through Saturday.
  - b. All other construction activity on site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
7. A security fence around the perimeter of the solar equipment/panels will be installed that is a minimum of six (6) feet in height.
8. All solar panels will use anti-reflective coatings to help prevent glare.
9. If it is reasonably suspected that the Solar Facility is materially disrupting other utility transmissions (emergency radio system, SCADA system, telephones, televisions, etc.), the Applicant shall conduct an EMI study or equivalent to confirm whether the Solar Facility is causing such disruption. If the study confirms that the Solar Facility is materially disrupting other utility transmissions, the Applicant shall install corrective measures as soon as is reasonably practicable but in no event in more than 60 days.
10. No aspect of the Solar Facility may exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restrictions shall not apply to electrical lines and poles required to interconnect the solar facility with the existing electrical distribution or transmission lines.

11. In areas where there is an existing timber buffer remaining on the parcel, then the existing timber buffer shall be retained as part of the perimeter landscaping, as per the "Tree Clearing Plan" submitted with the application. 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 or his/her designee. The use of existing timber and natural screening is preferable. Buffer clearing is permitted to an access road to serve the Project and the view is not required to be obscured within the access road's right of way.
12. All landscaping will be reviewed by the Zoning Administrator or his/her designee following installation and as necessary thereafter to ensure the landscape is being maintained. The applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit.
13. The solar equipment shall be set back a minimum of 50 feet from adjacent property lines except where the adjacent property is owned by the property owner at the time of the CUP approval by the Board of Supervisors.
14. The solar structure(s) shall be set back a minimum of 50 feet from adjacent public rights of way.
15. The security fence may be located within the setback, and during construction the setback may be used for staging of materials and parking.
16. Construction lighting shall be minimized and shall be directed downward. Post-construction lighting will conform to the County's lighting requirements.
17. The Applicant shall coordinate with the County's emergency services staff to provide materials, education, and/or training to the departments serving the solar energy facility in regard to how to safely respond to on-site emergencies.
18. Access roads shall be marked by the Applicant with identifying signage.
19. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the County and Virginia Department of Transportation (VDOT) for review. The Plan shall address traffic control measures, a pre- and post-construction road evaluation, and any necessary repairs to the public road that are required as a result of damage from the Project. If a traffic issue arises during the construction of the Project, the Applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.
20. Concurrent with the submittal of the site plan, the applicant shall submit to the County an updated estimate of the decommissioning costs of the solar facility. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The applicant shall provide



the County with proof of a decommissioning surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or proof of status as an investment-grade entity, and will be posted within 30 days of the project receiving its final inspection permit or equivalent form from the County. If the project is sold to any entity that is a public utility, then no surety is required. If the project is sold to an entity that is not a public utility, the CUP will not transfer to the purchaser until such time as adequate surety is provided. If a surety is required, the cost estimates of the decommissioning will be updated every five (5) years and provided to the County. At its option, the County may require the surety amount to be increased based on any increases in the cost estimate. The County may also require an adjustment for inflation based on the CPI. The surety shall remain in force for the duration of the life span of the project and until all decommissioning is completed.

21. If the solar facility is inactive, completely or substantially discontinuing the delivery of electricity for a continuous twenty-four (24) month period, it shall be considered abandoned. The facility owner shall provide notice to the County within seven calendar days of the site becoming inactive and/or shutting down operations. This excludes maintenance/replacement of panels or other ancillary equipment associated with the facility. Inactivity due to events outside the Facility owner's control shall not be counted towards the 24-month period. The facility owner will remove the facilities ("decommissioning") within six (6) months from the County acknowledging receipt of the notice. The facility owner may submit a written request to the County requesting an extension beyond the allotted six (6) months. The request will include, at a minimum, the remaining work to decommission and restore the site and a proposed schedule. The County may grant the request on a case-by-case basis and the proposed schedule may be adjusted as mutually agreed. If the facility is not removed within six (6) months and a time extension is not granted by the County, the county may declare the facility owner to be in default. The County is under no obligation to give notice of its intent to draw on the surety, unless otherwise required by the surety instrument. The facility owner shall be fully responsible for acquiring any property rights on behalf of the County necessary for the completion of decommissioning the facility. The facility owner shall also be fully and completely responsible and liable for the entire cost of decommissioning the facility. Such costs may include, but are not limited to, all functions, goods and services, design and engineering work, administrative fees, attorney's fees, and other professional service fees, plus interest for carrying these charges, even when such cost exceeds the amount of surety.
22. This Conditional Use Permit shall expire on the 3<sup>rd</sup> anniversary of its issuance if the applicant has not obtained a building permit and commenced construction, unless an extension of the Conditional Use Permit is approved by the New Kent County Board of Supervisors.

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this application at their meeting on March 21, 2022 and voted 8:1:1 to forward a favorable recommendation to the Board of Supervisors.

Attachments:

- Application CUP-01-22
- Advertisement and APO list
- Resolution, BOS R-12-22

Copies to:

Applicant  
File



**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**R-12-22**

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 11<sup>th</sup> day of April, 2022:

**Present:**

Thomas W. Evelyn  
C. Thomas Tiller, Jr.  
Patricia A. Paige  
Ron Stiers  
John N. Lockwood

**Vote:**

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Motion was made by \_\_\_\_\_, which carried \_\_\_\_\_, to adopt the following resolution:

**A RESOLUTION TO APPROVE  
CONDITIONAL USE PERMIT APPLICATION CUP-01-22,  
BORREGO SOLAR/POLISH TOWN SOLAR 1, LLC  
TO AUTHORIZE THE CONSTRUCTION OF A SOLAR ENERGY FACILITY  
LOCATED ON A PORTION OF TAX MAP 27-6J (GPIN #I28-3826-5374)**

WHEREAS, Weir Creek LLC C/O John Kinney (property owner) and representatives from Borrego Solar/Polish Town Solar 1, LLC (applicant), have submitted a "Conditional Use Permit Application" dated December 30, 2021; and

WHEREAS, said application requests a conditional use permit to construct a 3 MW solar system/facility (defined as a "public or private electrical generation facility" in the New Kent County Zoning Ordinance) on a portion of a parcel identified on the New Kent County Digital map as GPIN #I28-3826-5374 (Tax Map and parcel 27-6J); and

WHEREAS, said application was considered by the New Kent County Planning Commission (the "Planning Commission") in accordance with applicable procedures at a formal and duly advertised public hearing on March 21, 2022, where they carefully considered the public comment received and voted 8:1:1 to forward a recommendation of approval to the Board of Supervisors; and

WHEREAS, within the timeframes established by the Code of Virginia and New Kent County Code, the Board of Supervisors scheduled and conducted a formal and duly advertised public hearing on April 11, 2022, and carefully considered the comments received, the application and conditions; and

WHEREAS, the Board of Supervisors has evaluated the application based on the current zoning of the parcel, which is Industrial, the standards set forth in the Conditional Use Permit

Provisions of the Zoning Ordinance (Article XIX, § 98-741 et seq.), and the proposed conditions in the staff memo; and

WHEREAS, the Board of Supervisors finds that CUP-01-22 is substantially in accord with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors finds that the standards for granting a Conditional Use Permit have been satisfied; and

WHEREAS, the Board of Supervisors finds that approval of this application would address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that on this, the 11<sup>th</sup> day of April, 2022, by the New Kent County Board of Supervisors, that Conditional Use Permit Application CUP-01-22 submitted by Weir Creek LLC C/O John Kinney (property owner) and representatives from Borrego Solar/Polish Town Solar 1, LLC (applicant), be, and it hereby is, approved, subject to the following conditions:

1. The following conditions shall apply to the property identified on the “Conditional Use Permit Plan Set” dated 12/28/21 prepared by Borrego Solar Systems and submitted with the application and shall be binding on Polish Town Solar 1, LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy facility (the “Solar Facility”).
2. Polish Town Solar 1, LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy facility (the “Applicant”) shall consent to administrative inspections by New Kent County staff for compliance with the requirements of this Conditional Use Permit.
3. Per Virginia Code § 15.2-2288.8, the Applicant shall pay the County \$50,000 (the “Trail Upgrade Payment”) for future upgrades and maintenance to the Wahrani hiking and biking trails, adjacent to the project site and which the County has determined are reasonably related to the Solar Facility. The Trail Upgrade Payment shall be paid to the County within ninety (90) days of building permit approval, and shall be in lieu of any other payments (excluding taxes) to the County.
4. 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 all requirements of the latest editions 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 a county building inspector throughout the building permit process. If there are any conflicts between standards, the Uniform Statewide Building Code (USBC) shall control.
  - b. An Erosion and Sediment Control plan and a Stormwater Management Plan must be submitted and approved prior to any land disturbance.

5. The Solar Facility shall consist of one integrated power generation facility and shall be limited to no more than the 23 acres of the property identified on the "Conditional Use Permit Plan Set" dated 12/28/21 prepared by Polish Town Solar 1, LLC and submitted with the application, excluding additional acreage deemed necessary during the site plan review process for proper stormwater and erosion management, and a temporary laydown area during construction of the Facility.
6. All site activity required for the construction and operation of the Solar Facility shall be limited to the following:
  - a. All pile driving activity shall be limited to the hours from the earlier of sunrise or 8:00 a.m. to the later of 6:00 p.m. or sunset, Monday through Saturday.
  - b. All other construction activity on site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
7. A security fence around the perimeter of the solar equipment/panels will be installed that is a minimum of six (6) feet in height.
8. All solar panels will use anti-reflective coatings to help prevent glare.
9. If it is reasonably suspected that the Solar Facility is materially disrupting other utility transmissions (emergency radio system, SCADA system, telephones, televisions, etc.), the Applicant shall conduct an EMI study or equivalent to confirm whether the Solar Facility is causing such disruption. If the study confirms that the Solar Facility is materially disrupting other utility transmissions, the Applicant shall install corrective measures as soon as is reasonably practicable but in no event in more than 60 days.
10. No aspect of the Solar Facility may exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restrictions shall not apply to electrical lines and poles required to interconnect the solar facility with the existing electrical distribution or transmission lines.
11. In areas where there is an existing timber buffer remaining on the parcel, then the existing timber buffer shall be retained as part of the perimeter landscaping, as per the "Tree Clearing Plan" submitted with the application. 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 or his/her designee. The use of existing timber and natural screening is preferable. Buffer clearing is permitted to an access road to serve the Project and the view is not required to be obscured within the access road's right of way.
12. All landscaping will be reviewed by the Zoning Administrator or his/her designee following installation and as necessary thereafter to ensure the landscape is being maintained. The applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit.

13. The solar equipment shall be set back a minimum of 50 feet from adjacent property lines except where the adjacent property is owned by the property owner at the time of the CUP approval by the Board of Supervisors.
14. The solar structure(s) shall be set back a minimum of 50 feet from adjacent public rights of way.
15. The security fence may be located within the setback, and during construction the setback may be used for staging of materials and parking.
16. Construction lighting shall be minimized and shall be directed downward. Post-construction lighting will conform to the County's lighting requirements.
17. The Applicant shall coordinate with the County's emergency services staff to provide materials, education, and/or training to the departments serving the solar energy facility in regard to how to safely respond to on-site emergencies.
18. Access roads shall be marked by the Applicant with identifying signage.
19. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the County and Virginia Department of Transportation (VDOT) for review. The Plan shall address traffic control measures, a pre- and post-construction road evaluation, and any necessary repairs to the public road that are required as a result of damage from the Project. If a traffic issue arises during the construction of the Project, the Applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.
20. Concurrent with the submittal of the site plan, the applicant shall submit to the County an updated estimate of the decommissioning costs of the solar facility. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The applicant shall provide the County with proof of a decommissioning surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or proof of status as an investment-grade entity, and will be posted within 30 days of the project receiving its final inspection permit or equivalent form from the County. If the project is sold to any entity that is a public utility, then no surety is required. If the project is sold to an entity that is not a public utility, the CUP will not transfer to the purchaser until such time as adequate surety is provided. If a surety is required, the cost estimates of the decommissioning will be updated every five (5) years and provided to the County. At its option, the County may require the surety amount to be increased based on any increases in the cost estimate. The County may also require an adjustment for inflation based on the CPI. The surety shall remain in force for the duration of the life span of the project and until all decommissioning is completed.
21. If the solar facility is inactive, completely or substantially discontinuing the delivery of electricity for a continuous twenty-four (24) month period, it shall be considered abandoned. The facility owner shall provide notice to the County within seven calendar days of the site becoming inactive and/or shutting down operations. This excludes maintenance/replacement of panels or other ancillary equipment associated with the facility.

Inactivity due to events outside the Facility owner's control shall not be counted towards the 24-month period. The facility owner will remove the facilities ("decommissioning") within six (6) months from the County acknowledging receipt of the notice. The facility owner may submit a written request to the County requesting an extension beyond the allotted six (6) months. The request will include, at a minimum, the remaining work to decommission and restore the site and a proposed schedule. The County may grant the request on a case-by-case basis and the proposed schedule may be adjusted as mutually agreed. If the facility is not removed within six (6) months and a time extension is not granted by the County, the county may declare the facility owner to be in default. The County is under no obligation to give notice of its intent to draw on the surety, unless otherwise required by the surety instrument. The facility owner shall be fully responsible for acquiring any property rights on behalf of the County necessary for the completion of decommissioning the facility. The facility owner shall also be fully and completely responsible and liable for the entire cost of decommissioning the facility. Such costs may include, but are not limited to, all functions, goods and services, design and engineering work, administrative fees, attorney's fees, and other professional service fees, plus interest for carrying these charges, even when such cost exceeds the amount of surety.

22. This Conditional Use Permit shall expire on the 3<sup>rd</sup> anniversary of its issuance if the applicant has not obtained a building permit and commenced construction, unless an extension of the Conditional Use Permit is approved by the New Kent County Board of Supervisors.

BE IT FURTHER RESOLVED, that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Resolution recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

Attest:

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Rodney A. Hathaway  
County Administrator

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Thomas W. Evelyn  
Chair

**PLANNING COMMISSION  
COUNTY OF NEW KENT  
VIRGINIA**

**PC-04-22**

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 21<sup>st</sup> day of March, 2022:

<u>Present:</u>	<u>Vote:</u>
Katherine Butler	Aye
Marc Bennett	Aye
Joanne Schmit	Absent
Gary Larochelle	Aye
Laura Rose	Aye
Amy Pearson	Aye
Joseph Davis	Aye
John Moyer	Aye
Curtisa Thomas	Nay
Tommy Tiller	Abstain
Patricia Townsend	Aye

---

Motion was made by John Moyer, which carried 8:1:1, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF  
CONDITIONAL USE PERMIT APPLICATION CUP-01-22,  
BORREGO SOLAR/POLISH TOWN SOLAR 1, LLC  
TO AUTHORIZE THE CONSTRUCTION OF A SOLAR ENERGY FACILITY  
LOCATED ON A PORTION OF TAX MAP 27-6J (GPIN #I28-3826-5374)**

WHEREAS, Weir Creek LLC C/O John Kinney (property owner) and representatives from Borrego Solar/Polish Town Solar 1, LLC (applicant), have submitted a "Conditional Use Permit Application" dated December 30, 2021; and

WHEREAS, said application requests a conditional use permit to construct a 3 MW solar system/facility (defined as a "public or private electrical generation facility" in the New Kent County Zoning Ordinance) on a portion of a parcel identified on the New Kent County digital map as GPIN #I28-3826-5374 (Tax Map and parcel 27-6J); and

WHEREAS, subsequent to receiving a complete application and within the timeframes established by Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, the Planning Commission has evaluated the application based on the current zoning of the parcel, which is Industrial, the standards set forth in the Conditional Use Permit

Provisions of the Zoning Ordinance (Article XIX, § 98-741 et seq.), and the proposed conditions in the staff memo; and

WHEREAS, the Commission finds that CUP-01-22 is substantially in accord with the Comprehensive Plan; and

WHEREAS, the Commission finds that approval of CUP-01-22 with the conditions stated herein is appropriate to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that on this, the 21<sup>st</sup> day of March, 2022, by the New Kent County Planning Commission, that Conditional Use Permit Application CUP-01-22 submitted by Weir Creek LLC C/O John Kinney (property owner) and representatives from Borrego Solar/Polish Town Solar 1, LLC (applicant), be forwarded to the New Kent County Board of Supervisors with a recommendation of approval with the following conditions:

1. The following conditions shall apply to the property identified on the “Conditional Use Permit Plan Set” dated 12/28/21 prepared by Borrego Solar Systems and submitted with the application and shall be binding on Polish Town Solar 1, LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy facility (the “Solar Facility”).
2. Polish Town Solar 1, LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy facility (the “Applicant”) shall consent to administrative inspections by New Kent County staff for compliance with the requirements of this Conditional Use Permit.
3. Per Virginia Code § 15.2-2288.8, the Applicant shall pay the County \$50,000 (the “Trail Upgrade Payment”) for future upgrades and maintenance to the Wahrani hiking and biking trails, adjacent to the project site and which the County has determined are reasonably related to the Solar Facility. The Trail Upgrade Payment shall be paid to the County within ninety (90) days of building permit approval, and shall be in lieu of any other payments (excluding taxes) to the County.
4. 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 all requirements of the latest editions 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 a county building inspector throughout the building permit process. If there are any conflicts between standards, the Uniform Statewide Building Code (USBC) shall control.
  - b. An Erosion and Sediment Control plan and a Stormwater Management Plan must be submitted and approved prior to any land disturbance.

5. The Solar Facility shall consist of one integrated power generation facility and shall be limited to no more than the 23 acres of the property identified on the "Conditional Use Permit Plan Set" dated 12/28/21 prepared by Polish Town Solar 1, LLC and submitted with the application, excluding additional acreage deemed necessary during the site plan review process for proper stormwater and erosion management, and a temporary laydown area during construction of the Facility.
6. All site activity required for the construction and operation of the Solar Facility shall be limited to the following:
  - a. All pile driving activity shall be limited to the hours from the earlier of sunrise or 8:00 a.m. to the later of 6:00 p.m. or sunset, Monday through Saturday.
  - b. All other construction activity on site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
7. A security fence around the perimeter of the solar equipment/panels will be installed that is a minimum of six (6) feet in height.
8. All solar panels will use anti-reflective coatings to help prevent glare.
9. If it is reasonably suspected that the Solar Facility is materially disrupting other utility transmissions (emergency radio system, SCADA system, telephones, televisions, etc.), the Applicant shall conduct an EMI study or equivalent to confirm whether the Solar Facility is causing such disruption. If the study confirms that the Solar Facility is materially disrupting other utility transmissions, the Applicant shall install corrective measures as soon as is reasonably practicable but in no event in more than 60 days.
10. No aspect of the Solar Facility may exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restrictions shall not apply to electrical lines and poles required to interconnect the solar facility with the existing electrical distribution or transmission lines.
11. In areas where there is an existing timber buffer remaining on the parcel, then the existing timber buffer shall be retained as part of the perimeter landscaping, as per the "Tree Clearing Plan" submitted with the application. 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 or his/her designee. The use of existing timber and natural screening is preferable. Buffer clearing is permitted to an access road to serve the Project and the view is not required to be obscured within the access road's right of way.
12. All landscaping will be reviewed by the Zoning Administrator or his/her designee following installation and as necessary thereafter to ensure the landscape is being maintained. The applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit.



13. The solar equipment shall be set back a minimum of 50 feet from adjacent property lines except where the adjacent property is owned by the property owner at the time of the CUP approval by the Board of Supervisors.
14. The solar structure(s) shall be set back a minimum of 50 feet from adjacent public rights of way.
15. The security fence may be located within the setback, and during construction the setback may be used for staging of materials and parking.
16. Construction lighting shall be minimized and shall be directed downward. Post-construction lighting will conform to the County's lighting requirements.
17. The Applicant shall coordinate with the County's emergency services staff to provide materials, education, and/or training to the departments serving the solar energy facility in regard to how to safely respond to on-site emergencies.
18. Access roads shall be marked by the Applicant with identifying signage.
19. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the County and Virginia Department of Transportation (VDOT) for review. The Plan shall address traffic control measures, a pre- and post-construction road evaluation, and any necessary repairs to the public road that are required as a result of damage from the Project. If a traffic issue arises during the construction of the Project, the Applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.
20. Concurrent with the submittal of the site plan, the applicant shall submit to the County an updated estimate of the decommissioning costs of the solar facility. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The applicant shall provide the County with proof of a decommissioning surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or proof of status as an investment-grade entity, and will be posted within 30 days of the project receiving its final inspection permit or equivalent form from the County. If the project is sold to any entity that is a public utility, then no surety is required. If the project is sold to an entity that is not a public utility, the CUP will not transfer to the purchaser until such time as adequate surety is provided. If a surety is required, the cost estimates of the decommissioning will be updated every five (5) years and provided to the County. At its option, the County may require the surety amount to be increased based on any increases in the cost estimate. The County may also require an adjustment for inflation based on the CPI. The surety shall remain in force for the duration of the life span of the project and until all decommissioning is completed.
21. If the solar facility is inactive, completely or substantially discontinuing the delivery of electricity for a continuous twenty-four (24) month period, it shall be considered abandoned. The facility owner shall provide notice to the County within seven calendar days of the site becoming inactive and/or shutting down operations. This excludes maintenance/replacement of panels or other ancillary equipment associated with the facility.

Inactivity due to events outside the Facility owner's control shall not be counted towards the 24-month period. The facility owner will remove the facilities ("decommissioning") within six (6) months from the County acknowledging receipt of the notice. The facility owner may submit a written request to the County requesting an extension beyond the allotted six (6) months. The request will include, at a minimum, the remaining work to decommission and restore the site and a proposed schedule. The County may grant the request on a case-by-case basis and the proposed schedule may be adjusted as mutually agreed. If the facility is not removed within six (6) months and a time extension is not granted by the County, the county may declare the facility owner to be in default. The County is under no obligation to give notice of its intent to draw on the surety, unless otherwise required by the surety instrument. The facility owner shall be fully responsible for acquiring any property rights on behalf of the County necessary for the completion of decommissioning the facility. The facility owner shall also be fully and completely responsible and liable for the entire cost of decommissioning the facility. Such costs may include, but are not limited to, all functions, goods and services, design and engineering work, administrative fees, attorney's fees, and other professional service fees, plus interest for carrying these charges, even when such cost exceeds the amount of surety.

22. This Conditional Use Permit shall expire on the 3<sup>rd</sup> anniversary of its issuance if the applicant has not obtained a building permit and commenced construction, unless an extension of the Conditional Use Permit is approved by the New Kent County Board of Supervisors.

Attested:



---

Laura Rose, Chairwoman  
New Kent County Planning Commission



Borrego Solar Systems, Inc.  
55 Technology Drive, Suite 102  
Lowell, MA 01851  
804-904-7068

December 30, 2021

Attn: Kelli Le Duc, Planning Director  
Planning Commission  
New Kent County  
12007 Courthouse Circle  
New Kent, VA 23124  
Phone: (804) 966-9690

**RE: Conditional Use Permit Application**  
**Project: Polish Town Solar 1 Facility**  
**New Kent County, Virginia**

Dear Commission Members:

On behalf of Polish Town Solar 1, LLC. Borrego Solar Systems, Inc. (Borrego) is seeking Conditional Use Approval for the construction of a 3-MW Solar System (Facility) located within Tax Parcel 27-6 on the lands now or formerly of Weir Creek LLC. The parcel is currently zone Industrial and is generally located East of State Route 30 and north of Henrico County's Regional Jail East on the north side of Route 634 (Polish Town Road). The proposed facility is geospatially located to abut the existing utility electric easements along the north side of Polish Town Road and west of the transmission electric line that traverses the property in a general North/South direction.

Enclosed for the Planning Commission and Board of Supervisor's review is the Conditional Use Zoning Application Package.

Thank you for considering our application, we look forward to meeting with everyone, and please do not hesitate to contact me at (757) 377-2405 or via email at [qwood@borregosolar.com](mailto:qwood@borregosolar.com).

Sincerely,

BORREGO SOLAR SYSTEMS, INC.  
Quentin J. Wood  
Project Engineer (Civil Engineer)

# CONDITIONAL USE PERMIT ZONING APPLICATION

## POLISH TOWN SOLAR 1, LLC. 3-MW SOLAR FACILITY

- LOCATED IN -  
BRAHAMSVILLE, VIRGINIA

- PREPARED BY -



**Borrego Solar Systems, Inc.**

55 TECHNOLOGY DRIVE, SUITE 102  
LOWELL, MA 01851  
(804) 904-7068

- DECEMBER 2021 -

## TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	1
CONDITIONAL USE PERMIT APPLICATION .....	2
CONDITIONAL USE PERMIT APPLICATION RESPONSES .....	5
PROFFER OF CONDITIONS .....	8
STANDARDS FOR REVIEW .....	10
Signature Authority .....	Appendix A
Adjacent Property Owners List.....	Appendix B
Preliminary Jurisdictional Determination (NAO-2021-01450) .....	Appendix C
Preliminary Cultural Resource Assessment.....	Appendix D
Threaten & Endangered Species Database Review Summary Letter .....	Appendix E
Community Outreach Summary .....	Appendix F
Engineers Estimate to Decommission the Solar Facility .....	Appendix G
Conditional Use Permit Plans .....	Appendix H

## **EXECUTIVE SUMMARY**

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Polish Town Solar 1, LLC. (Polish Town Solar) selected a Tax Parcel 27-6J on the lands now or formerly of Weir Creek LLC. within New Kent County's Industrial District as the ideal location for a 3-MW Solar System. The parcel consisting of ±149 acres and was timbered in the mid-2000s. The western portion was then partially developed in the late 2000s along Route 33 Eltham Road to promote industrial development. Since those civil improvements, the property has remained vacant and under-utilized primarily as a staging/storage area for local construction/utility projects.

Polish Town Solar retained a professional archaeological firm and an engineering firm to perform a due diligence review of the site and surrounding area for cultural resources, threatened and endangered species, as well as streams/wetlands. The project area is not located within any mapped cultural resource areas and the project's scope will not impact any threatened and endangered species. A stream and wetland delineation was performed within the project area. A stream and wetland complex were identified and mapped. A pre jurisdictional determination from the United States Army Corps of Engineers was obtained, and the project will not impact the identified streams/wetland, and Section 401/404 permits are not required. All land-disturbing activities will occur outside of the delineated Resource Protection Area.

Polish Town Solar is proposing to site the 3-MW Solar Facility within the center of the parcel, generally North of the Henrico County's Regional Jail East Facility, East of the County's water/sewer utilities that dissect the property in a general North/South direction, West of the existing electric transmission line that generally runs North/South. The site encompasses approximately ±32 acres. Ingress/Egress to the facility is proposed along Polish Town Road, and the anticipated vehicle traffic generated from the project will be 1-2 vehicles per day, which is like a single-family home. A perimeter fence containing approximately ±22 acres will encompass the solar panels and ancillary equipment. The height of the mounted solar panels are about 12-14 feet high and utilizes anti-glare coating to minimize any reflection by the sun. The surrounding residential properties are visually impaired from the site through the use of natural screening/landscaping and existing topography. The site is also set back from the main roads through the County will not impair the existing visual aesthetics. The electricity generated within the facility will interconnect to an existing 3-phase electric line within the project area that is parallel to the northern side of Polish Town Road. The remaining acreage outside of the perimeter fence will be utilized to provide natural screening and proposed landscaping in accordance with County's Land Development Code.

The proposed Solar Facility will provide both direct/indirect benefits to the county by utilizing this underdeveloped property to promote green energy as part of the Virginia Clean Economy Act, increase local tax revenue through local spending/support during construction and by further developing the property as an industrial use while minimizing environmental impacts and preserving native vegetation to support and promote habitat. The project will provide additional job opportunities to the local community during construction and operation upon completion, without bearing additional strain on the existing infrastructure and public utilities.

## **CONDITIONAL USE PERMIT APPLICATION**

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The following pages contain the completed Conditional Use Permit Application (CUP) and permit fee (Check No. 49634) in the amount of **\$2,785.00**. Refer to **Appendix A** for Borrego Solar Systems, Inc signature authority on behalf of the property owner. **Appendix B** contains the Adjacent Property Owners List. Below each property listed is the current land use and zoning district, and the anticipated future land use based on the County's Comprehensive Plan, which coincides with the County's future land use plan to further expand and designate and promote industrial development surrounding the project's parcel.



Borrego Solar Systems, Inc.

49634

Payee: Treasurer of New Kent  
County

Date: 12/14/2021

Amount:  
\$2,785.00

Second Vendor:

Memo:

Invoice Number	Date	Type	Description	Amount	Discount	Net Amount
REQ47500	12/13/2021	Invoice	Polish Town Rd (Site 1) - New Kent - VA DG - CUP Application Fee	2,785.00	0.00	2,785.00

49634

**Borrego Solar Systems, Inc.**  
5005 Texas Street, Suite 400  
San Diego, CA 92108  
(888)-898-6273

**BANK OF THE WEST**  
San Diego REID Office  
90-4284/1222


DATE  
12/14/2021


AMOUNT  
\$2,785.00

Two Thousand Seven Hundred Eighty Five and 00/100 Dollars

PAY  
Treasurer of New Kent County  
12007 Courthouse Cir  
New Kent, Virginia 23124

TO THE ORDER OF:



  
AUTHORIZED SIGNATURE

Security features. Details on back.

⑈049634⑈ ⑆122242843⑆ 058441817⑈

Borrego Solar Systems, Inc.

49634

Please detach and retain this portion of the check for your records.

Check: 49634

Payee: Treasurer of New Kent  
County

Date: 12/14/2021

Amount:  
\$2,785.00

Second Vendor:

Memo:

Invoice Number	Date	Type	Description	Amount	Discount	Net Amount
REQ47500	12/13/2021	Invoice	Polish Town Rd (Site 1) - New Kent - VA DG - CUP Application Fee	2,785.00	0.00	2,785.00







## CONDITIONAL USE PERMIT (CUP) APPLICATION

County of New Kent, Virginia  
Planning Department

Web site: [www.co.new-kent.va.us/209/Planning](http://www.co.new-kent.va.us/209/Planning)

New Kent County ♦ Planning Department ♦ P O Box 150 ♦ New Kent, VA 23124 ♦ Phone 804-966-9690 ♦ Fax 804-966-8531

\*\*Use P O Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY\*\*

### DESCRIPTION OF PROPERTY

Tax Map Parcel Number(s): 27-6J Total Lot Area (Acres): 149.55  
GPIN: I28-3826-5374  
Property street address: RT 33 Eltham Road  
Current Zoning: Industrial Proposed Zoning: Industrial  
Current Use: Vacant Proposed Use: Solar Facility  
Does proposed zoning/use include entire property? [ ] YES [ X ] NO  
If no, how much will be used for proposed use? 23 Acres

### OFFICE USE ONLY

**\*DO NOT WRITE IN THIS BOX\***

Application No: -  
AFD Status: -  
Date Received: -  
Tax Receipts: Yes No  
Fee Amount: \$ -  
Staff Initials: -

### PROPERTY OWNERS INFORMATION

Name: Weir Creek LLC. C/O Jonathan Kinney  
Address: 2311 Wilson BLVD STE 500  
City: Arlington State: VA Zip: 22201  
Telephone: Work: - Home: -  
Cellular/Pager: - Fax: -  
E-mail Address: -

### APPLICANT'S INFORMATION

Name: Polish Town Solar 1, LLC.  
Address: 55 Technology Drive, Suite 102  
City: Lowell State: MA Zip: 01851  
Telephone: Work: (978) 513-2608 Ext. 2608 Home: -  
Cellular/Pager: (757) 377-2405 Fax: -  
E-mail Address: qwood@borregosolar.com

### AGENTS INFORMATION

Name: Borrego Solar Systems, Inc.  
Address: 55 Technology Dr. STE 102  
City: Lowell State: MA Zip: 01851  
Telephone: Work: (978) 513-2608 Ext. 2608 Home: -  
Cellular/Pager: (757) 377-2405 Fax: -  
E-mail Address: qwood@borregosolar.com

### WATER/SEWER SUPPLY

☒ Public Water ☒ Public Sewer ☐ Well ☐ Septic

☐ Other:

**NOTE:** Public water/sewer is installed across property.

The proposed Facility is does not support human habitation,  
and the Facility does not require any water or sewer services.

As part of the submission, the following questions must be answered in detail in narrative form. Answers of "Yes" or "No" are **NOT ACCEPTABLE** and the application is not complete until 25 copies of this narrative have been submitted.

1. Describe in detail, the proposed use(s) of the property.
2. Describe in detail, how the proposed use may impact surrounding properties. Please relate your response to the existing zoning and land uses in the area, plus the characteristics of the proposed use—hours of operation, activity levels, appearance, etc.
3. Describe the proposed water and wastewater utility infrastructure including sources, discharges, permits, construction, ownership, and maintenance responsibilities.
4. Describe the environmental impact of the proposed development and the efforts to be undertaken to abate air, water, noise, stormwater, and other environmental impacts during and after construction.
5. Describe what techniques will be used to control traffic flow and what impacts the proposed use will have on existing roadways and provide a professionally prepared traffic impact analysis for any development expected to generate 1,000 vehicle trips per day or more.
6. Describe the impact of the proposed use on New Kent County's Schools.
7. Describe the impact of the proposed use on New Kent County public services—water service, wastewater disposal, solid waste disposal, fire, rescue, law enforcement, libraries, etc.
8. Describe the impact the proposed use(s) will have on any historic sites or structures on the property or in the vicinity.
9. Describe the impact the proposed use(s) will have on any rare, endangered, or irreplaceable species or natural areas.
10. Describe the impact the proposed use(s) will have on the scenic or natural beauty of the County.

For those plans requiring review by the Planning Commission, the applicant shall, in addition to the plan sheets required above, submit an overall plan on one (1) or more eleven-inch by seventeen inch (11" x 17") reproducible sheets and shall provide sufficient copies of larger plan sheets as required for the Planning Commission distribution list of twelve (12). In addition, the applicant shall provide electronic copies of all applicable documents.

I/We as the property owner/applicant/agent give permission for County personnel to enter subject properties in relation to the administration of this application and to any applicable New Kent County, State of Virginia or U.S. Federal Government regulations. Additionally, if the County Planning Department deems it necessary for an outside agency or organizations review any technical part of this application, I/we agree to reimburse the County for all costs associated with such outside reviews and consultation within 15 business days of being billed by the County.

Property Owner Signature:



Date: 12/30/2021

Property Owner Signature:

See Appendix A for Signature Authority.

Property Owner Signature:



Applicant/Agent Signature:

Date: 12/30/2021

Applicant/Agent Signature:

Date:

**All property owners must sign the application**

## FEES

The fees for this application consist of an application fee and a Map Maintenance fee (*see below for calculations*). The fee for this application is **\$1600.00 plus \$40.00 per disturbed use acre**. Make checks payable to *Treasurer of New Kent County*. **Fees must be submitted at time of application.**

Fee:	\$	1600.00
+ \$40.00 per acre(fraction),		
Number of acre(fraction): 23	x \$40=	\$ 920.00
Map Maintenance Fee:	\$	35.00
+ \$10.00 per acre(fraction),		
Number of acres(fraction): 23	x \$10=	\$ 230.00
<b>Total Due:</b>	<b>\$</b>	<b>2,785.00</b>



## CONDITIONAL USE PERMIT APPLICATION RESPONSES

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Conditional Use Permit questions 1-10 on page 2 of the application are presented below in *ITALICS* with the project specific responses provided below. Any supporting documents/plans referenced within the responses are appropriately referenced/provided as an **Appendix** within the package.

*1. Describe in detail, the proposed use(s) of the property.*

The property is comprised of ±149.55 acres and is zoned for Industrial Use. The property is currently considered vacant with minimal civil improvements to the western portion of the property, adjacent to State Route 33, with no structural improvements to the entire property per New Kent County's recent property assessment information. The proposed project is a 3MW Solar Facility, considered an "Energy Generation Facility" under Chapter 98, Article II Section 98-62 Table of Land Uses, and is a Conditional Use within an Industrial District. The project will be generally located within the center of the property (Tax Map 27-6J) and will be accessed from Polish Town Road (State Route 634), north of Henrico County's Regional Jail East. The proposed facility's location is within the narrowest portion of the property, with generally south-facing slopes, where it abuts two New Kent County properties, Tax Map 37-12 to the north and Tax Map 37-9A to the South, which is zoned Conservation and A-1, respectively.

The facility will capture and convert UV rays to electricity and convey the renewable electricity into the local utility system. The interconnection between the facility and the local electric grid is within the property and project area where the existing electric line parallels along the northern side of Polish Town Road. Refer to **Appendix H** for CUP Plans.

*2. Describe in detail, how the proposed use may impact surrounding properties. Please relate your response to the existing zoning and land uses in the area, plus the characteristics of the proposed use-hours of operation, activity levels, appearance, etc.*

The proposed solar facility location will not have a significant impact on surrounding properties. The property is currently zoned Industrial, and the proposed use is also considered industrial. The adjoining properties are Conservation to the north, Agricultural to the east and south, Industrial to the south, Economic to the southwest, and Industrial to the west. A list of adjacent parcels is enclosed in **Appendix B**. The list includes the following information: Tax Map & Parcel Number, Name, Address, and the property's current land use and zoning district and future land use based on the County Comprehensive Plan. Several studies performed by third parties, including Solar Energy Industries Association, have been conducted regarding the property value of properties within the vicinity of a solar facility. The studies have concluded that the facility did not affect the sale, purchase, or development of the surrounding properties.

Prior to submission of the CUP, the applicant held several Neighborhood Outreach Meetings to notify the local property owners of our interest to construct a solar facility, receive any feedback/comments regarding the project, and provide an overview of the proposed solar site. The applicant then held a Solar Workshop for the Planning Commission that provided an overview of solar generation and introduction to this project. A letter outlining our community outreach efforts is provided in **Appendix F**.

To safeguard the County and surrounding properties should the solar facility become abandoned. A decommissioning plan was prepared and included within the SUP plans, refer to **Appendix H**, and an engineer's estimate, provided in **Appendix G**, to aid in determining a performance guarantee to decommission the facility and restore the site.

3. *Describe the proposed water and wastewater utility infrastructure including sources, discharges, permits, construction ownership, and maintenance responsibilities.*

The proposed facility does not support human habitation and will not require public/private water or sewer services. The facility's location within the property does not encroach on the existing public utility installed across the property, east of the facility. Refer to **Appendix H** for CUP Plans.

4. *Describe the environmental impact of the proposed development and the efforts to be undertaken to abate air, water, noise, stormwater, and other environmental impacts during and after construction.*

The proposed project will not create significant impacts as a result of construction and operation of the facility. The environmental impacts listed within the County's question above are broken out and discussed in detail below.

Air Pollution: The proposed project will not significantly impact the air quality surrounding the property. Aside from air pollution from typical construction equipment utilized to construct the site. Dust control measures during the construction of the project will be in place and addressed through the land disturbance permitting process. Post-Construction, the site does not require an air permit to operate. Vehicle traffic to service/maintain/inspect the facility will emit air pollution and is regulated by the State. Vehicle traffic to the site is similar to that of a single-family residence.

Noise Pollution: Noise pollution generated from construction vehicles is expected but should not interfere or be a nuisance to the adjoining properties. Post-Construction the ambient noise will increase during the day. Noise associated with the ground-mounted solar PV comes from inverters and transformers. This equipment makes a humming noise during the daytime and evening, when the array is generating electricity, and when the energy storage system is discharging. This equipment is generally positioned within the center of the site and is typically inaudible at the property lines to not be viewed as a nuisance to the adjoining property owners outside their residence. No noise is generated at night, as the system is not producing energy during those hours. Overall, the proposed site will not have an adverse impact on current residential properties, with the closest being located approximately 950 ft. generally southeast of the property.

Water Pollution: Water pollution associated with the development of the site will be mitigated through several avenues. Unlike most industrial sites, the site's impervious area is reduced to what is needed for the equipment and driveway to service the equipment. The solar panels are installed on racks anchored into the ground using helical piles, or similar devices. During the construction of the site, the site will be designed in accordance with 9VAC25-840 and the County's Erosion and Sediment Control within Part II Article IV. All land disturbance will be minimized, and perimeter erosion and sedimentation control devices will be designed,

installed, and maintained downgradient to minimize the risk of sediment from leaving the site and entering water/wetlands identified outside of the project area. Refer to **Appendix C** for the Preliminary Jurisdictional Determination encompassing the project and surrounding area.

Upon completing construction, the stormwater controls, designed and approved by the County VSMP Authority under 9VAC25-870 and Part II Article III will be constructed. All previously disturbed areas will be permanently stabilized and planted with native seed mix, including a native pollinator mix, that will require minimal maintenance. Revegetation of the disturbed area with native seed mixes will improve water quality and minimize thermal impacts to offsite resources by reducing pollutant loading through filtration and to facilitating suspended nutrient removal by transpiration and promoting water quality by naturally filtering runoff through infiltration. Refer to **Appendix C** for the Preliminary Jurisdictional Determination encompassing the project and surrounding area, and **Appendix H** for the general location of the E&S controls.

Stormwater Pollution: The site will be designed to comply with 9VAC25-870 and Part II Article III of the County's Ordinance for stormwater control. The proposed impervious surface associated with the project is reduced to the main equipment and driveway. All previously disturbed areas will be permanently stabilized and planted with native seed mix, including a native pollinator mix, that will require minimal maintenance. The UV panels are mounted and native vegetation will continue to grow underneath. Stormwater controls will be proposed downgradient of the facility and revegetation of the disturbed area with native seed mixes will improve water quality and minimize thermal impacts to offsite resources and downstream properties by reducing pollutant loading through filtration and facilitating suspended nutrient removal by transpiration and promoting water quality by naturally filtering runoff through infiltration. Refer to **Appendix C** for the Preliminary Jurisdictional Determination encompassing the project and surrounding area, and **Appendix H** for the general location of the stormwater controls.

Hazardous Material: No hazards form of radioactive emissions or hazardous material will be used for this project. During construction, the most hazardous substance on site will be gasoline and diesel fuel for construction vehicles. All fuel will be stored in appropriate containers based on the type of fuel, respectively. Containers will be clearly labeled and stored in a responsible manner.

5. *Describe what techniques will be used to control traffic flow and what impacts the proposed use will have on existing roadways and provide a professionally prepared traffic impact analysis for any development expected to generate 1,000 vehicle trips per day or more.*

The proposed site will not significantly impact traffic. The site's access is off Polish Town Road (Route 634). Virginia Department of Transportation Traffic Volume ADT data lists the Average Daily Traffic (ADT) as 230. The local area will experience a higher volume of vehicles trips during the initial construction of the facility, but once construction is complete and the facility is operating, the vehicle trips will be significantly reduced to one or two vehicles per day, similar frequency as a single-family home, a 1% increase.

The applicant will obtain a single lot permit from the Virginia Department of Transportation and will provide any additional temporary traffic control devices/signage to advise motorists

of construction vehicles ingress and egress from the site during construction. Refer to the CUP plans, **Appendix H**, for the general location of the proposed driveway along Polish Town Road.

6. *Describe the impact of the proposed use on New Kent County's School.*

The proposed project should not have any impact on the New Kent County School(s). The facility is not located within proximity where it would have the potential to be a hindrance to bussing the students to/from school while the site is under construction. Post-construction the site will not affect New Kent County's School(s).

7. *Describe the impact of the proposed use on New Kent County public services – water service, wastewater disposal, solid waste disposal, fire, rescue, law enforcement, libraries, etc.*

The proposed project's impact on police, fire, and ambulance services is insignificant and would only be needed for emergency sites visits, in case of an accident. The applicant will coordinate with the County's Emergency Services regarding the operation of the facility and emergency plans associated with the site. The proposed project will be surrounded by a perimeter fence (seven feet high) and gates will be installed and locked to discourage unauthorized entry. Refer to CUP Plans **Appendix H**.

The site does not require water or sewer services and would not affect the County's available capacity or require an extension of their existing infrastructure to service the project. The site will require limited solid waste during the construction of the facility. Any solid waste generated during construction will be disposed of at an approved facility. Post-construction, the project by nature does not generate refuse or by-products that would require the disposal of solid waste. The facility will not affect the County's recreational areas.

8. *Describe the impact the proposed use(s) will have on any historic sites or structures on the property or in the vicinity.*

As part of the site selection process, a preliminary cultural resource assessment was conducted for the property. The Virginia Cultural Resource Information System (V-CRIS) did not indicate any Phase 1 studies were performed on the site and that no archaeological sites have been recorded on the property. A copy of the Preliminary Cultural Resource Assessment is provided within **Appendix D**.

9. *Describe the impact the proposed use(s) will have on any rare, endangered, or irreplaceable species or natural areas.*

A Threaten and Endangered Species Database Review was conducted for the project. The review placed the project within the buffer zone of two species, Atlantic Sturgeon and the Northern Long Ear Bat. Upon further review, it was determined that the site did not support either species and no impacts are anticipated. A copy of the Threaten & Endangered Species Database Review Summary Letter, by ECS Mid-Atlantic, LLC. is provided within **Appendix E**.

10. *Describe the impact the proposed use(s) will have on the scenic or natural beauty of the County.*

The proposed project is generally located "off the beaten paths" within the County and does not affect the scenic or natural beauty of the New Kent County. The project will utilize the

surrounding topography and mature vegetation to provide a natural landscape buffer and supplement additional landscaping as needed along the front of the site where it parallels Polish Town Road. Refer to CUP Plans **Appendix H** for existing/proposed tree lines and landscaping plan.

## PROFFER OF CONDITIONS

### NEW KENT COUNTY PART II CHAPTER 98 ARTICLE XX SECTION 98-782

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Polish Town Solar offers the following conditions upon granting this Conditional Use Application (CUP). These conditions are based on similar conditions for a solar project that utilized similar equipment and was previously approved on June 13, 2016 and recorded in Deed Book 0655 and Page 0298. The significant difference between the two solar facilities is the proposed facility's location and size. The proposed project is located within an Industrial District and is only use marked for this use. The proposed project does not directly abut existing residential single-family homes, and the project area is approximately ±32 acres. The previously approved solar project was proposed within the A-1 zoning district, use was not listed as approved or conditional, abutted existing residential single-family homes, and the approved site was limited to a maximum developable area of 250 acres.

1. A security fence around the perimeter of the solar equipment/panels will be installed that is a minimum of six (6) feet in height.
2. All solar panels will use anti-reflective coatings to help prevent glare.
3. No aspect of the solar facility will exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restrictions shall not apply to electrical lines and poles required to interconnect the Solar Facility with the existing electrical distribution or transmission lines.
4. The Solar equipment will be a minimum 50' foot setback from the property line and shall be provided around the perimeter of the Project where it is adjacent to property not owned by the same property owner identified within the CUP at the time of the approval by the Board of Supervisors.
5. The Solar structure(s) will be a minimum 50' foot setback from the public rights-of-way where the Project is adjacent to a public right-of-way. A break between the proposed landscaping/existing vegetation will be provided to construct an access road to serve the Project and obscuring the view is exempt within the access road's right-of-way.
6. The security fence may be located within the setback, and during construction the setback may be used for staging of materials and parking.
7. Construction lighting shall be minimized and shall be directed downward. Post-construction lighting will conform to the County's lighting requirements.
8. The applicant will provide the County with a surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or a guarantee by an investment-grade entity, and will be posted within 30 days of the project receiving its occupancy permit or equivalent form from the County. If the Project is sold to any entity that is not a public utility, the CUP will not transfer to the purchaser until such time as adequate

surety is provided. If a surety is required, the cost estimates of the decommissioning will be updated every five (5) years and provided to the County. At its option, the County may require the surety amount to be increased based on the net costs of decommissioning and Cost-of-Living Adjustments.

9. If the solar facility is inactive, completely or substantially discontinuing the delivery of electricity for a continuous twenty-four (24) month period, it shall be considered abandoned. The facility owner will provide notice (County Notice) to the County Staff within seven calendar days of the site becoming inactive and/or shutting down operations. This excludes maintenance/replacement of panels or other ancillary equipment associated with the facility. The facility owner will remove the facilities ("decommissioning") within six (6) months from the County acknowledging receipt of the County Notice. The facility owner may submit a written request to the County requesting an extension beyond the allotted six (6) months. The request will include, at a minimum, the remaining work to decommission and restore the site and a proposed schedule. The County may grant the request on a case-by-case basis and the proposed schedule may be adjusted as mutually agreed. If the facility is not removed within six (6) months and a time extension is not granted by the County. The County may declare the facility owner to be in default. The county is under no obligation to give notice of its intent to draw on the surety. The facility owner shall be fully responsible for acquiring any property rights on behalf of the County necessary for the completion of decommissioning the facility. The facility owner shall also be fully and completely responsible and liable for the entire cost of decommissioning the facility. Such costs may include but are not limited to, all functions, goods and services, design and engineering work, administrative fees, attorneys' fees, and other professional services fees, plus interest for carrying these charges, even when such cost exceeds the amount of surety.
10. The applicant will coordinate with the County's emergency services on how to safely respond to on-site emergencies.
11. The applicant will commence construction of the project within three years of receiving the CUP Authorization unless an extension is requested in writing by the applicant. The County may grant the extension request with substantiating evidence that construction of the project could not be commenced within the allotted timeframe.

## Standards For Review

### New Kent County Part II Chapter 98 Article XIX Section 98-744

---

Below in *ITALICS* are the seven guidelines, listed within New Kent County's Ordinance Part II Chapter 98 Article XIX Section 98-744 in determining the propriety of granting a conditional use permit and in requiring any conditions. The project's applicability/justification to the guidelines are listed below. Any supporting documents/plans referenced within the responses are provided as attachments within the package.

1. *The proposed use shall not be prejudicial to the character of the neighborhood.*

The proposed project is a 3MW Solar Facility is considered an "Energy Generation Facility". An Energy Generation Facility under Chapter 98, Article II Section 98-62 Table of Land Uses is



listed as a Conditional Use within an Industrial District, which is a use permitted in a particular zone only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified and as established by the Board of Supervisors.

The project is situated on a parcel that has had civil improvements to promote the development of industrial use on the western end of the property. The civil improvements were completed approximately 8 years ago. The property still remains vacant although access from Route 33 and public utilities are available and accessible onsite, but currently, this developable area is only being sought after as a staging/storage area.

The center of the parcel is the narrowest portion of the parcel surrounded by either Resource Protection Areas or utility easements, restricting the development of the property within the easement areas and ultimately reducing the ability to freely develop that section of the property typically associated with Industrial uses without incurring substantial financial costs. This section of the parcel was identified as an ideal location for the proposed solar facility.

The enclosed CUP application and accompanying documents and plans depict the proposed location, associated improvements, proximity to adjacent residences, the adjacent properties current and future land use, and discusses the de-minimis impacts to the surrounding environment and neighboring properties, while still allowing the property to continue to market future industrial development on the remaining  $\pm$  100 acres.

2. *The proposed use shall not adversely affect the general plans for the physical development of the county as embodied in the comprehensive plan.*

The proposed Solar facility will not adversely affect the County's ability to promote further development of the property and surrounding area. As discussed above the enclosed CUP application and accompanying documents and plans depict the proposed location, associated improvements, proximity to adjacent residences, the adjacent properties current and future land use, and discusses the de-minimis impacts to the surrounding environment and neighboring properties, while still allowing the property to continue to market future industrial development on the remaining  $\pm$  100 acres.

3. *The proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood nor impair the value of buildings or property in surrounding areas.*

Please refer to the Conditional Use Permit Application Question 2 for a detailed response. The applicant has provided the County with a list of the adjacent properties and their current and future land use based on the County's Comprehensive Plan. The applicant held Neighborhood Outreach meetings to discuss the project and provided a workshop to the County Planning Commission with an overview of distributed generation and an introduction to the proposed solar facility prior to preparing and submitting the CUP to gauge if the community was in opposition to the proposed project. The proposed project should not affect the value of the surrounding properties based on published third-party studies. In addition, the applicant has provided a decommissioning plan, Engineer's Estimate associated

with the decommission costs, and proffer a condition of the SUP approval to obtain and maintain a performance guarantee to safeguard the county, and neighbors should the facility need to be removed and the site restored.

4. *The proposed use shall not unreasonably restrict an adequate supply of light, water or air to adjacent property nor produce undue congestion in the street.*

Please refer to the Conditional Use Permit Application Questions 4 and 5 for a detailed discussion regarding environmental impacts and anticipated traffic volume. In general, the proposed solar facility is less than one story high and will be constructed on the property with minor grading for the installation of a road and pad for the equipment. The solar panels are installed on helical piers and native vegetation only mowed once-twice a year. The solar facility does not emit air pollution, and the solar panels have an anti-glare coating to minimize any reflection from the sun. The anticipated traffic to the facility will be minimal and consist of one to two vehicles per day.

5. *The proposed use shall adequately provide for access facilities for the estimated traffic.*

Please refer to the Conditional Use Permit Application Questions 5 for a detailed discussion regarding the estimated traffic. The anticipated traffic to the facility is one to two vehicles per day and will only increase the traffic by 1% based on the roads 230 ADT

6. *The proposed use shall be subject to any applicable site planning or performance standards enumerated in article XXII of this chapter.*

The proposed solar facility CUP plans reflect the County's requirements and performance standards, and the applicant proffers additional conditions regarding the layout of the facility and performance standards to ensure the project incorporates similarly performance standards for a previously approved solar project within a different zoning district that also required Conditional Use approval.

7. *The proposed use shall be reasonable in terms of the logical, efficient, and economical extension of public services and facilities serving the county, such as water, sewer, streets, police and fire protection, transportation, recreation, and public schools.*

Please refer to the Conditional Use Permit Application Questions 3 and 7 for a detailed discussion. In general, the project will not require public utilities and will not have a significant impact on the County's public services. The applicant has proffered a condition of approval to coordinate with the County's emergency services regarding onsite emergencies.

## Appendix A

### SIGNATURE AUTHORITY

**EXHIBIT F**

4/8/2021

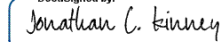
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To Whom It May Concern

Borrego Solar Systems, Inc. and its employees and affiliates are hereby authorized to act as our agent for submission of applications and related plans and documents, and to appear before boards and other officials, with respect to obtaining approvals for solar installations to be constructed on my property located at Polish Town Road, Westpoint, VA (Parcel 27-6J).

Sincerely,

**Weir Creek, LLC**

DocuSigned by:  
  
1CB06ED9C4674E7...

Jonathan C. Kinney,  
Manager of Tranz Dominion, LLC

## **Appendix B**

### **ADJACENT PROPERTY OWNER LIST**



# **ADJACENT PROPERTY OWNERS LIST** County of New Kent, Virginia Planning Department

Web site: [www.co.new-kent.va.us/209/Planning](http://www.co.new-kent.va.us/209/Planning)

New Kent County ♦ Planning Department ♦ P. O. Box 150 ♦ New Kent, VA 23124 ♦ Phone 804-966-9690 ♦ Fax 804-966-8531

**\*\*Use P O Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY\*\***

## **DESCRIPTION OF PROPERTY**

Tax Map Parcel  
 Number(s): \_\_\_\_\_  
 GPIN: \_\_\_\_\_  
 Property  
 Address: \_\_\_\_\_

## **OFFICE USE ONLY** **\*DO NOT WRITE IN THIS BOX\***

Application No: \_\_\_\_\_  
 Date Received: \_\_\_\_\_  
 Staff Initials: \_\_\_\_\_

I hereby certify that the names and addresses below are those of the adjacent property owners listed in the current tax records of the Commissioner of Revenue of New Kent County and surrounding municipalities. Adjacent property includes all property across roadways (public and private), watercourses, railroads, and/or municipal boundaries.

\_\_\_\_\_  
**APPLICANT'S SIGNATURE**

	<u>Tax Map &amp; Parcel Number</u>	<u>Name</u>	<u>Address (include City, State &amp; Zip</u>
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Attach additional sheets if needed

## **Appendix C**

### **Preliminary Jurisdictional Determination (NAO-2021-01450)**





DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NORFOLK DISTRICT  
FORT NORFOLK  
803 FRONT STREET  
NORFOLK VA 23510-1011

October 15, 2021

## **PRELIMINARY JURISDICTIONAL DETERMINATION**

Southern Virginia Regulatory Section  
NAO-2021-01450 (Pamunkey River)

Borrego Solar Systems, Inc.  
Ms. Jessie Robinson  
1 N State Street  
Chicago, Illinois 60602

Dear Ms. Robinson:

This letter is in regard to your request for a preliminary jurisdictional determination of the aquatic resources (e.g., wetlands, streams, and ponds), on approximately 54-acres located on the north side of Polish Town Road across the street from the Henrico County's Regional Jail East facility on a portion of Parcel ID 27-6J hereinafter referred to as project area.

The map entitled "Waters of the U.S. Delineation Map BSSI Polish Town Road Solar Site", by ECS Mid-Atlantic, stamped received by the U.S. Army Corps of Engineers (Corps) on September 23, 2021 (copy enclosed) provides the locations of the aquatic resources within the project area referenced above. This letter is not confirming the Cowardin classifications of these aquatic resources.

These aquatic resources exhibit wetland criteria as defined in the 1987 Corps of Engineers Wetland Delineation Manual, and the Atlantic and Gulf Coastal Plain Regional Supplement. This site also contains aquatic resources with an ordinary high-water mark.

This preliminary jurisdictional determination and associated aquatic resource delineation map may be submitted with a permit application.

Please be aware that you may be required to obtain a Corps permit for any discharge of dredged and/or fill material, either temporary or permanent, into a water of the U.S. In addition, you may be required to obtain a Corps permit for certain activities occurring within, under, or over a navigable water of the U.S. subject to the Section 10 of the Rivers and Harbors Act. Furthermore, you may be required to obtain state and local authorizations, including a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ), a permit from the Virginia Marine Resources Commission (VMRC), and/or a permit from your local wetlands board.

This delineation and preliminary jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. Therefore, if you or your tenant are US Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

The Norfolk District has relied on the information and data provided by the requestor or agent to make this preliminary determination. If it is determined such information and data are materially false or materially incomplete, a new preliminary determination would be necessary.

This is a preliminary jurisdictional determination and is not a legally binding determination regarding whether Corps jurisdiction applies to the aquatic resources in question. To determine Corps' jurisdiction, you may request and obtain an approved jurisdictional determination.

This delineation of aquatic resources can be relied upon for no more than five years from the date of this letter. New information may warrant revision. Enclosed is a copy of the "Preliminary Jurisdictional Determination Form". Please review the document, sign, and return one copy to the Corps, either by email [randy.l.steffey@usace.army.mil](mailto:randy.l.steffey@usace.army.mil) or by standard mail to Attn: Mr. Steffey, U.S. Army Corps of Engineers, Norfolk District, CENAO-WR-R, 803 Front Street, Norfolk, VA 23510-1011.

If you have any questions, please contact the office either by telephone at (757) 201-7579 or by email at [randy.l.steffey@usace.army.mil](mailto:randy.l.steffey@usace.army.mil).

Sincerely,

Randy Steffey  
Project Manager, Southern Virginia  
Regulatory Section

Enclosure(s):

cc: ECS Mid-Atlantic, LLC; Camille VanSkiver



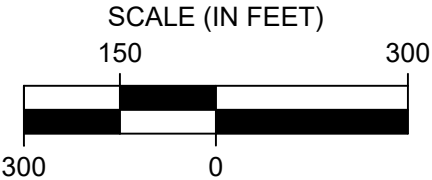
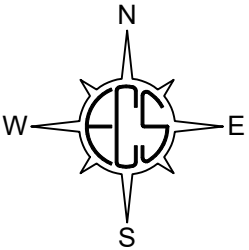
LEGEND

- INTERMITTENT STREAM CHANNEL (R4)
- EPHEMERAL STREAM CHANNEL (R6)
- PALUSTRINE FORESTED (PFO) WETLAND
- APPROXIMATE WETLAND DATAPPOINT LOCATION
- STUDY AREA (SHOWN IN WHITE FOR CLARITY)

\*WATER FEATURES WERE DELINEATED BY ECS ON MAY 11 AND 27, 2021 AND LOCATED USING A SUB-METER ACCURACY GPS UNIT.

\*\*WATER FEATURES DEPICTED HEREIN SHOULD BE CONSIDERED PRELIMINARY UNTIL CONFIRMED BY THE U.S. ARMY CORPS OF ENGINEERS.

US Army Corps of  
Engineers  
Norfolk District  
Regulatory Office  
Received by: RLS  
Date: Sept 23, 2021



BSSI POLISH TOWN ROAD SOLAR SITE

POLISH TOWN ROAD

NEW KENT, VIRGINIA



WATERS OF THE U.S.

DELINEATION MAP

Borrego Solar Systems, Inc.

ECS REVISIONS	
ENGINEER	DRAFTING
AMM	CNV
SCALE	
AS SHOWN	
PROJECT NO.	
47:12076-A	
SHEET	
1 OF 1	
DATE	
5-11-2021	

## Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

### BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD:

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: County/parish/borough: City:

Center coordinates of site (lat/long in degree decimal format):

Lat.: xx.xxx° Long.: yy.yyy°

Universal Transverse Mercator:

Name of nearest waterbody:

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☐ Office (Desk) Determination. Date:

☐ Field Determination. Date(s):

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA. Data reviewed for PJD (check all that apply)**

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- ☐ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:  
Map: \_\_\_\_\_.
- ☐ Data sheets prepared/submitted by or on behalf of the PJD requestor.  
☐ Office concurs with data sheets/delineation report.  
☐ Office does not concur with data sheets/delineation report. Rationale: \_\_\_\_\_.
- ☐ Data sheets prepared by the Corps: \_\_\_\_\_.
- ☐ Corps navigable waters' study: \_\_\_\_\_.
- ☐ U.S. Geological Survey Hydrologic Atlas: \_\_\_\_\_.  
☐ USGS NHD data.  
☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: \_\_\_\_\_.
- ☐ Natural Resources Conservation Service Soil Survey. Citation: \_\_\_\_\_.
- ☐ National wetlands inventory map(s). Cite name: \_\_\_\_\_.
- ☐ State/local wetland inventory map(s): \_\_\_\_\_.
- ☐ FEMA/FIRM maps: \_\_\_\_\_.
- ☐ 100-year Floodplain Elevation is: \_\_\_\_\_. (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): \_\_\_\_\_.  
or ☐ Other (Name & Date): \_\_\_\_\_.
- ☐ Previous determination(s). File no. and date of response letter: \_\_\_\_\_.
- ☐ Other information (please specify): \_\_\_\_\_.

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

\_\_\_\_\_  
Signature and date of  
Regulatory staff member  
completing PJD

\_\_\_\_\_  
Signature and date of  
person requesting PJD  
(REQUIRED, unless obtaining  
the signature is impracticable)<sup>1</sup>

<sup>1</sup> Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Borrego Solar Systems, Inc.; Attn: Ms. Jessie Robinson		File Number: NAO-2021-01450	Date: Oct 15, 2021
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

## SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

### POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Mr. Randy Steffey  
Regulatory Project Manager (CENAO-WRR-S)  
U.S. Army Corps of Engineers; Norfolk District  
803 Front Street  
Norfolk, Virginia 23510  
Telephone number: 757-201-7579  
Randy.l.steffey@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Ms. Naomi J. Handell  
Regulatory Program Manager (CENAD-PD-OR)  
U.S. Army Corps of Engineers  
Fort Hamilton Military Community  
301 General Lee Avenue  
Brooklyn, New York 11252-6700  
Telephone number: (917) 789-4841  
Naomi.J.Handell@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
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DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NORFOLK DISTRICT  
FORT NORFOLK  
803 FRONT STREET  
NORFOLK VA 23510-1011

October 15, 2021

**Supplemental Pre-application Information**

Project Number: NAO-2021-01450

Applicant: Borrego Solar Systems, Inc.; Attn: Ms. Jessie Robinson

Project Location: The review area includes approximately 54-acres located on the north side of Polish Town Road across the street from the Henrico County's Regional Jail East facility on a portion of Parcel ID 27-6J.

1. A search of the Virginia Department of Historic Resources data conducted via VCRIS and/or CorpsMap revealed the following:
  - ☐ No known historic properties are located on the subject property.
  - ☒ The following known architectural resources are located on the subject property:
    - 063-5009; Barhamsville Battlefield, Eltham's Landing Battlefield, West Point Battlefield
  - ☐ The following known archaeological resources are located on the subject property:
  - ☐ The following known architectural and archaeological resources are located in the vicinity of the subject property:
  - ☒ American Battlefield Protection Program (ABPP) consultation may be required.
  - ☒ Tribal consultation may be required.
  - ☐ Section 408 coordination may be required.

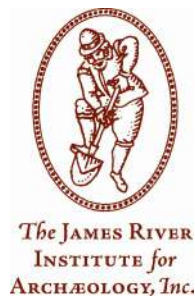
**NOTE:**

- 1) *The information above is for planning purposes only. In most cases, the property has not been surveyed for historic resources. Undiscovered historic resources may be located on the subject property or adjacent properties and this supplemental information is not intended to satisfy the Corps' requirements under Section 106 of the National Historic Preservation Act (NHPA).*
  - 2) *Prospective permittees should be aware that Section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.*
2. A search of U.S. Fish and Wildlife Service's IPaC system revealed the following:
    - ☐ No known populations of federally listed species are located on the subject property.
    - ☒ The following federally listed species may be present on the subject property:
      - Northern Long-eared Bat

***Please note this information is being provided to you based on the preliminary data you submitted to the Corps relative to project boundaries and project plans. Consequently, these findings and recommendations are subject to change if the project scope changes or new information becomes available and the accuracy of the data.***

## **Appendix D**

### **Preliminary Cultural Resource Assessment**



**James River Institute for Archaeology, Inc.**  
***Registered Professional Archaeologists***

www.jriarchaeology.com  
p: 757-229-9485  
f: 757-229-8277

223 McLaws Circle, Suite 1  
Williamsburg, VA 23185

1221 Parcell Street  
Fredericksburg, VA 22401

---

Nicholas M. Luccketti, M.A.  
President, Principal Investigator  
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Garrett R. Fesler, Ph.D.  
Senior Archaeologist  
gfesler@jriarchaeology.com

Matthew R. Laird, Ph.D.  
Senior Researcher  
mlaird@jriarchaeology.com

---

3 May 2020

TO: Jessie Robinson, Project Director, Borrego Solar Systems, Inc.

RE: Preliminary cultural resource assessment for the Polish Town Road – New Kent Project, New Kent County, Virginia.

Dear Ms. Robinson:

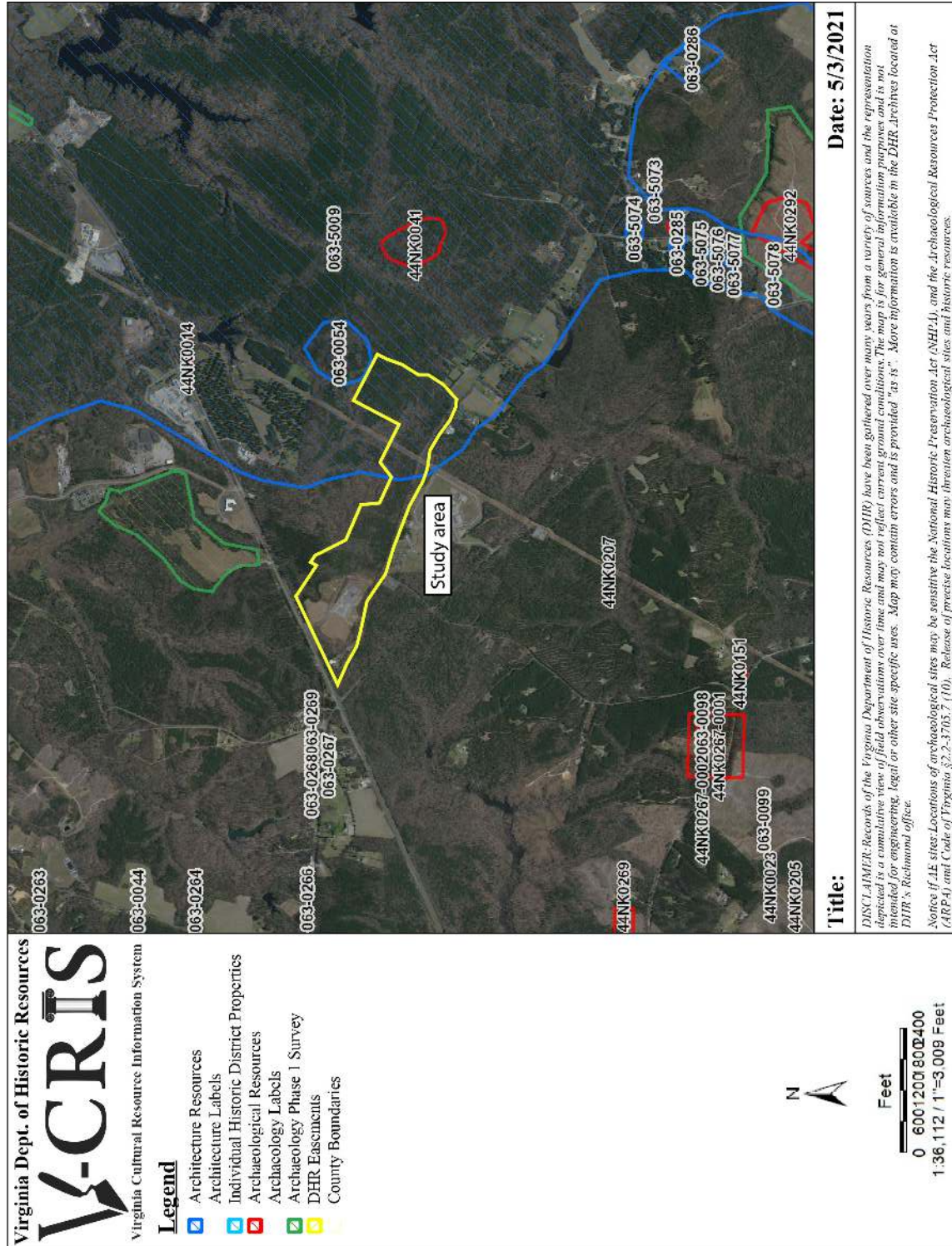
The proposed Polish Town Road solar project area is bounded to the west by Eltham Road (State Route [SR] 33) and to the south by Polish Town Road (SR 634). It currently consists of a combination of open areas and woodland.

A review of the Virginia Department of Historic Resources' (DHR) Virginia Cultural Resource Information System (V-CRIS) indicates that no Phase I archaeological survey of the study property has been conducted to date, and that no archaeological sites have been recorded on the property (Figure 1).

The eastern portion of the study area coincides with the ca. 1862 Eltham's Landing (Barhamsville, West Point) Battlefield (DHR ID #063-5009), which has been determined to be potentially eligible for listing in the National Register of Historic Places (National Register).

The study area is also directly adjacent to the site of the former Upper Blisland Parish Church, which was built in 1703 (DHR ID #063-0054). This resource has also been recorded as Site 44NK0041, although the archaeological site is mapped in a slightly different location. The eligibility of this historic property for listing in the National Register has not been evaluated.

As summarized in Table 1, three additional twentieth-century architectural resources have been previously recorded within a half-mile radius of the study property.



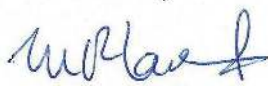
**Figure 1.** Location of previously recorded historic resources in the study area vicinity (DHR V-CRIS).

**Table 1.** Previously recorded historic properties in the study area vicinity.

DHR ID #	Name	Date	National Register Eligibility
063-0267	House, Route 249	Ca. 1920	Not evaluated
063-0268	Service Station, Route 249	Ca. 1920	Not evaluated
063-0269	Sledge House	Ca. 1930	Not evaluated

Thank you very much for the opportunity to provide this preliminary cultural resources assessment, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Laird".

Matthew R. Laird, Ph.D., RPA  
Partner & Senior Researcher

## **Appendix E**

### **Threaten & Endangered Species Database Review Summary Letter, by ECS Mid-Atlantic, LLC.**



May 19, 2021  
Revised June 8, 2021

Ms. Jessie Robinson  
Borrego  
1 N. State Street  
Suite 1500  
Chicago, Illinois 60602  
Via E-Mail: jrobinson@borregosolar.com

ECS Project No. 47:12076

Reference: Threatened & Endangered Species Database Review Summary Letter, Polish Town Road Solar Site, Polish Town Road, Barhamsville, Virginia

Dear Ms. Robinson:

ECS Mid-Atlantic, LLC (ECS) is pleased to provide Borrego with the results of the Threatened & Endangered (T&E) Species database reviews for the above-referenced project site. Our services were provided in general accordance with ECS Proposal No. 47:18572-EP, dated April 29, 2021.

### **PROPERTY DESCRIPTION**

The subject site is located to the north of Polish Town Road in Barhamsville, Virginia. The site is approximately 54-acres in size and is identified by New Kent County as Parcel No. 27-6J. The site consists of undeveloped forest and was previously harvested for timber. The subject site is bordered by powerline easements to the south and east.

### **DATABASE REVIEW FINDINGS**

#### **Virginia Department of Wildlife Resources (VDWR):**

ECS conducted a search of the VDWR Fish and Wildlife Information Service (FWIS) threatened and endangered species database to evaluate documented occurrences of federally and/or state listed species within a two-mile radius of the project site (see Appendix I). According to the FWIS, one species is listed as having potential habitat within this radius:

- Federal and state-endangered: Atlantic Sturgeon (*Acipenser oxyrinchus*) – confirmed records within 2 miles. The Atlantic Sturgeon has been reported within the Pamunkey River, which is located approximately 1.5-miles north of the subject site. They inhabit the shallow waters of the continental shelf as well as coastal brackish waters. They enter large river systems to spawn.

The property was not observed to contain surface water features and/or suitable habitat for this species during the site reconnaissance conducted by ECS in May 2021. The site primarily consists of undeveloped forest and is adjoined by powerline easements along the southern and eastern site boundaries. In addition, no streams were observed to be present which, if impacted, may effect downstream water quality. Given the lack of suitable habitat, lack of a confirmed observation of this species within close proximity to the site, and



the absence of any stream features which would have the potential to impact downstream water quality, adverse effects to these species or their habitats are not anticipated.

U.S. Fish and Wildlife Service (USFWS):

ECS conducted a review of the USFWS Information for Planning and Consultation (IPaC) database to evaluate the documented occurrences or potential habitat for federally-listed species within the project boundaries (see Appendix II). According to the IPaC database, one species is listed as having potential to occur at the project site:

- Federally-threatened Northern long-eared bat (NLEB, *Myotis septentrionalis*) - According to the USFWS' Species Fact Sheet, the male bat prefers large caves and abandoned mines during the winter and summer. Female bats prefer caves and mines during the winter and maternity colonies are located in riparian forests along streams. It is also known that this bat species generally roosts in trees greater than 3 inches dbh that are found on south-facing slopes and have exfoliating bark or snags during the summer months.

The USFWS issued a Final 4(d) rule under the Endangered Species Act (ESA) effective February 16, 2016. The rule specified that for areas of the country impacted by white-nose syndrome (WNS), incidental take is prohibited under the following circumstances:

1. If it occurs within a hibernacula,
2. If it results from tree removal activities and,
  - The activity occurs within ¼-mile of a known, occupied hibernacula; or,
  - The activity cuts or destroys a known, occupied maternity roost tree or other trees within a 150 foot radius from the maternity roost tree during the pup season from June 1 through July 31.

Since there are no documented occurrences within close proximity to the subject site (see attached NLEB roost tree map), ECS believes time of year restrictions or habitat surveys will not be required by USFWS for *M. septentrionalis*. It should also be noted that if tree clearing occurs between October 1<sup>st</sup> and April 1<sup>st</sup>, this is outside the species' active season and no impact would be expected.

Virginia Department of Conservation and Recreation (DCR):

ECS conducted a review of the DCR Natural Heritage Data Explorer database to evaluate for documented natural heritage resources within or near the project site limits (see Appendix III).

- The DCR database indicates that a conservation site runs through the majority of the site and is associated with the Warreneye Nature Trail, but it is now referred to as the Wahrani Nature Trail. According to DCR, this site is approximately 72-acres in size and is listed as not being legally protected. However, online information indicates that the County owned trail is largely maintained by dedicated volunteers and that the area contains multiple grave sites and the remains of the Warreneye Church, originally constructed in the 1700s. As a result, there may be significant cultural resources associated with the site and ECS recommends additional investigation into potential concerns associated with development of the property from this perspective. Grave sites especially are protected by federal law and would require various reviews and approvals prior to disturbance. Moreover, given the local volunteer presence that maintains the trails, public opposition to future development may be encountered.

It should be noted that these recommendations are based on our review of available online information and have not been confirmed by a site evaluation of onsite conditions. If you have any questions or comments



concerning the contents of the enclosed documents or other related topics, please feel free to contact the undersigned. We appreciate the opportunity to be of service on this project.

Respectfully submitted,

**ECS MID-ATLANTIC, LLC**



Camille VanSkiver, WPIT  
Environmental Staff Project Manager  
[cvanskiver@ecslimited.com](mailto:cvanskiver@ecslimited.com)



Adam M. Meurer, CHMM, PWS  
Vice President, Principal  
[AMeurer@ecslimited.com](mailto:AMeurer@ecslimited.com)

## **APPENDIX I**

VIRGINIA DEPARTMENT OF WILDLIFE RESOURCES

Home » By Coordinates » VaFWIS GeographicSelect Options

Fish and Wildlife Information Service

Options

Species Information

By Name

By Land Management

References

Geographic Search

By Map

By Coordinates

By Place Name

Database Search

Help

Logout

Show This Page as  
Printer Friendly

VaFWIS Search Report

Compiled on 5/14/2021, 10:19:36 AM

Known or likely to occur within a 2 mile radius around point 37.4982254 -76.8598053

in 101 King William County, 127 New Kent County, VA

View Map of Site Location

Hel

516 Known or Likely Species ordered by Status Concern for Conservation  
(displaying first 23) (23 species with Status\* or Tier I\*\* or Tier II\*\* )

BOVA Code	Status*	Tier**	Common Name	Scientific Name	Confirmed	Database(s)
060003	FESE	Ia	Wedgemussel, dwarf	Alasmidonta heterodon		BOVA
010032	FESE	Ib	Sturgeon, Atlantic	Acipenser oxyrinchus	Yes	BOVA,TEWaters,Habitat,HU6
040110	FTSE	Ia	Rail, eastern black	Laterallus jamaicensis jamaicensis		BOVA
050022	FTST	Ia	Bat, northern long-eared	Myotis septentrionalis		BOVA
050020	SE	Ia	Bat, little brown	Myotis lucifugus		BOVA
050034	SE	Ia	Bat, Rafinesque's eastern big-eared	Corynorhinus rafinesquii macrotis		BOVA,HU6
050027	SE	Ia	Bat, tri-colored	Perimyotis subflavus		BOVA
040379	ST	Ia	Sparrow, Henslow's	Centronyx henslowii		BOVA
030067	CC	Ila	Terrapin, northern diamond-backed	Malaclemys terrapin terrapin		BOVA,HU6
030063	CC	IIla	Turtle, spotted	Clemmys guttata		BOVA,HU6
030031	CC	IIlc	Kingsnake, scarlet	Lampropeltis elapsoides		BOVA
010174		Ia	Bass, Roanoke	Ambloplites cavifrons		BOVA
040052		Ila	Duck, American black	Anas rubripes		BOVA,HU6
040029		Ila	Heron, little blue	Egretta caerulea caerulea		BOVA
040036		Ila	Night-heron, yellow-crowned	Nyctanassa violacea violacea		BOVA
040181		Ila	Tern, common	Sterna hirundo		HU6
040320		Ila	Warbler, cerulean	Setophaga cerulea		BOVA,HU6
040140		Ila	Woodcock, American	Scolopax minor		BOVA,HU6
060071		Ila	Lampmussel, yellow	Lampsilis cariosa		BOVA
040203		IIb	Cuckoo, black-billed	Coccyzus erythrophthalmus		BOVA
040105		IIb	Rail, king	Rallus elegans	Potential	BOVA,Habitat,HU6
080336		IIc	Beetle, Gammon's stenelmis riffle	Stenelmis gammoni		BOVA
100003		IIc	Skipper, rare	Problema bulenta		BOVA,HU6

To view All 516 species View 516

\*FE=Federal Endangered; FT=Federal Threatened; SE=State Endangered; ST=State Threatened; FP=Federal Proposed; FC=Federal Candidate; CC=Collection Concern

\*\*I=VA Wildlife Action Plan - Tier I - Critical Conservation Need; II=VA Wildlife Action Plan - Tier II - Very High Conservation Need; III=VA Wildlife Action Plan - Tier III - High Conservation Need; IV=VA Wildlife Action Plan - Tier IV - Moderate Conservation Need

Virginia Wildlife Action Plan Conservation Opportunity Ranking:

a - On the ground management strategies/actions exist and can be feasibly implemented.; b - On the ground actions or research needs have been identified but cannot feasibly be implemented at this time.; c - No on the ground actions or research needs have been identified or all identified conservation opportunities have been exhausted.

View Map of All Query Results from All Observation Tables



Bat Colonies or Hibernacula: **Not Known**

Anadromous Fish Use Streams ( 3 records )

[View Map of All Anadromous Fish Use Streams](#)

Stream ID	Stream Name	Reach Status	Anadromous Fish Species			View Map
			Different Species	Highest TE <sup>*</sup>	Highest Tier <sup>**</sup>	
C58	<a href="#">Pamunkey river</a>	Confirmed	6		IV	<a href="#">Yes</a>
C81	<a href="#">York River</a>	Confirmed	6		IV	<a href="#">Yes</a>
P156	<a href="#">Unnamed Tr. 1 of Pamunkey</a>	Potential	0			<a href="#">Yes</a>

Impediments to Fish Passage ( 1 records )

[View Map of All Fish Impediments](#)

ID	Name	River	View Map
641	<a href="#">TAYLORS DAM</a>	TR-MILL CREEK	<a href="#">Yes</a>

Colonial Water Bird Survey ( 1 records )

[View Map of All Query Results Colonial Water Bird Survey](#)

Colony_Name	N Obs	Latest Date	N Species			View Map
			Different Species	Highest TE <sup>*</sup>	Highest Tier <sup>**</sup>	
<a href="#">Upper Beaverdam Crk</a>	1	May 1 2003	1			<a href="#">Yes</a>

Displayed 1 Colonial Water Bird Survey

Threatened and Endangered Waters ( 5 Reaches )

[View Map of All Threatened and Endangered Waters](#)

Stream Name	T&E Waters Species						View Map
	Highest TE *	BOVA Code, Status *, Tier **, Common & Scientific Name					
<a href="#">Pamunkey River (0107944)</a>	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>
<a href="#">Pamunkey River (0110310)</a>	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>
<a href="#">Pamunkey River (0116775)</a>	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>
<a href="#">Pamunkey River (0116845)</a>	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>
<a href="#">Pamunkey River (0122677)</a>	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>

Managed Trout Streams

N/A

Bald Eagle Concentration Areas and Roosts

N/A

Bald Eagle Nests ( 4 records )

[View Map of All Query Results Bald Eagle Nests](#)

Nest	N Obs	Latest Date	DGIF Nest Status	View Map
<a href="#">NK0101</a>	12	Apr 26 2008	UNKNOWN	<a href="#">Yes</a>
<a href="#">NK0401</a>	7	Apr 26 2007	HISTORIC	<a href="#">Yes</a>
<a href="#">NK0703</a>	4	Apr 26 2008	Unknown	<a href="#">Yes</a>
<a href="#">NK9703</a>	15	Apr 21 2006	HISTORIC	<a href="#">Yes</a>

Displayed 4 Bald Eagle Nests

Species Observations ( 9 records )

[View Map of All Query Results Species Observations](#)

obsID	class	Date Observed	Observer	N Species		
				Different Species	Highest TE <sup>*</sup>	Highest Tier <sup>**</sup>
<a href="#">86308</a>	SppObs	Jul 14 1997	Karen & Wiley Reay	1		III
<a href="#">331981</a>	SppObs	Jan 1 1954	ECR-RANEY	2		III

5/14/2021VaFWIS GeographicSelect Options

426716	SppObs	Nov 1 2005	VCU - INSTAR	6			
426715	SppObs	Oct 6 2003	VCU - INSTAR	9			
65154	SppObs	May 30 2000	JOSEPH C. MITCHELL (PRINCIPLE PERMITTEE), DEPT. BIOLOGY UNIV. RICHMOND	5			
339904	SppObs	Sep 16 1996	ADAMS, GONZALES	2			
366905	SppObs	Jan 1 1900		1			
28660	SppObs	Jan 1 1900	Mitchell, J. C.	1			
28978	SppObs	Jan 1 1900	Mitchell, J. C.	1			

Displayed 9 Species Observations

Habitat Predicted for Aquatic WAP Tier I & II Species ( 1 Reach )[View Map Combined Reaches from Below of Habitat Predicted for WAP Tier I & II Aquatic Species](#)

Stream Name	Tier Species						View Map
	Highest TE*	BOVA Code, Status*, Tier**, Common & Scientific Name					
Pamunkey River (20801061)	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>
Pamunkey River (20801061)	FESE	010032	FESE	Ib	<a href="#">Sturgeon, Atlantic</a>	Acipenser oxyrinchus	<a href="#">Yes</a>

Habitat Predicted for Terrestrial WAP Tier I & II Species

BOVA Code	Status*	Tier**	Common Name	Scientific Name	View Map
040105		IIb	<a href="#">Rail, king</a>	Rallus elegans	<a href="#">Yes</a>

Virginia Breeding Bird Atlas Blocks

N/A

Public Holdings:

N/A

Summary of BOVA Species Associated with Cities and Counties of the Commonwealth of Virginia:

FIPS Code	City and County Name	Different Species	Highest TE	Highest Tier
101	<a href="#">King William</a>	406	FESE	I
127	<a href="#">New Kent</a>	413	FESE	I

USGS 7.5' Quadrangles:

Walkers  
New Kent  
Toano  
West Point

USGS NRCS Watersheds in Virginia:

N/A

USGS National 6th Order Watersheds Summary of Wildlife Action Plan Tier I, II, III, and IV Species:

HU6 Code	USGS 6th Order Hydrologic Unit	Different Species	Highest TE	Highest Tier
JL26	<a href="#">Diascund Creek-Diascund Creek Reservoir</a>	63	SE	I
YO37	<a href="#">Pamunkey River-Mill Creek</a>	63	FESE	I

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PixelSize=64, Anadromous=0.020516, BBA=0.025099, BECAR=0.017289, Bats=0.01716, Buffer=0.059733, County=0.056451, HU6=0.056841, Impediments=0.01588, Init=0.08739, PublicLands=0.023304, Quad=0.031084, SppObs=0.256197, TEWaters=0.026445, TierReaches=0.039611, TierTerrestrial=0.03466, Total=0.981572, Tracking\_BOVA=0.218757, Trout=0.020145, Tuxes=0.028633

5/14/2021, 10:19:36 AM | [DGIF](#) | [Credits](#) | [Disclaimer](#) | Please view our [privacy policy](#) |  
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11094619

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## Threatened and Endangered Waters where Sturgeon, Atlantic (010032) observed

37,29,52.3 -76,51,35.7  
is the Search Point

### Show Position Rings

☒ Yes ☐ No

1 mile and 1/4 mile at the  
Search Point

### Show Search Area

☒ Yes ☐ No

2 Search distance miles  
radius

Search Point is at  
map center

### Base Map [Choices](#)

Topography

### Map Overlay [Choices](#)

Current List: Position, Search,  
TEWaters

### Map Overlay Legend

#### T & E Waters

Federal

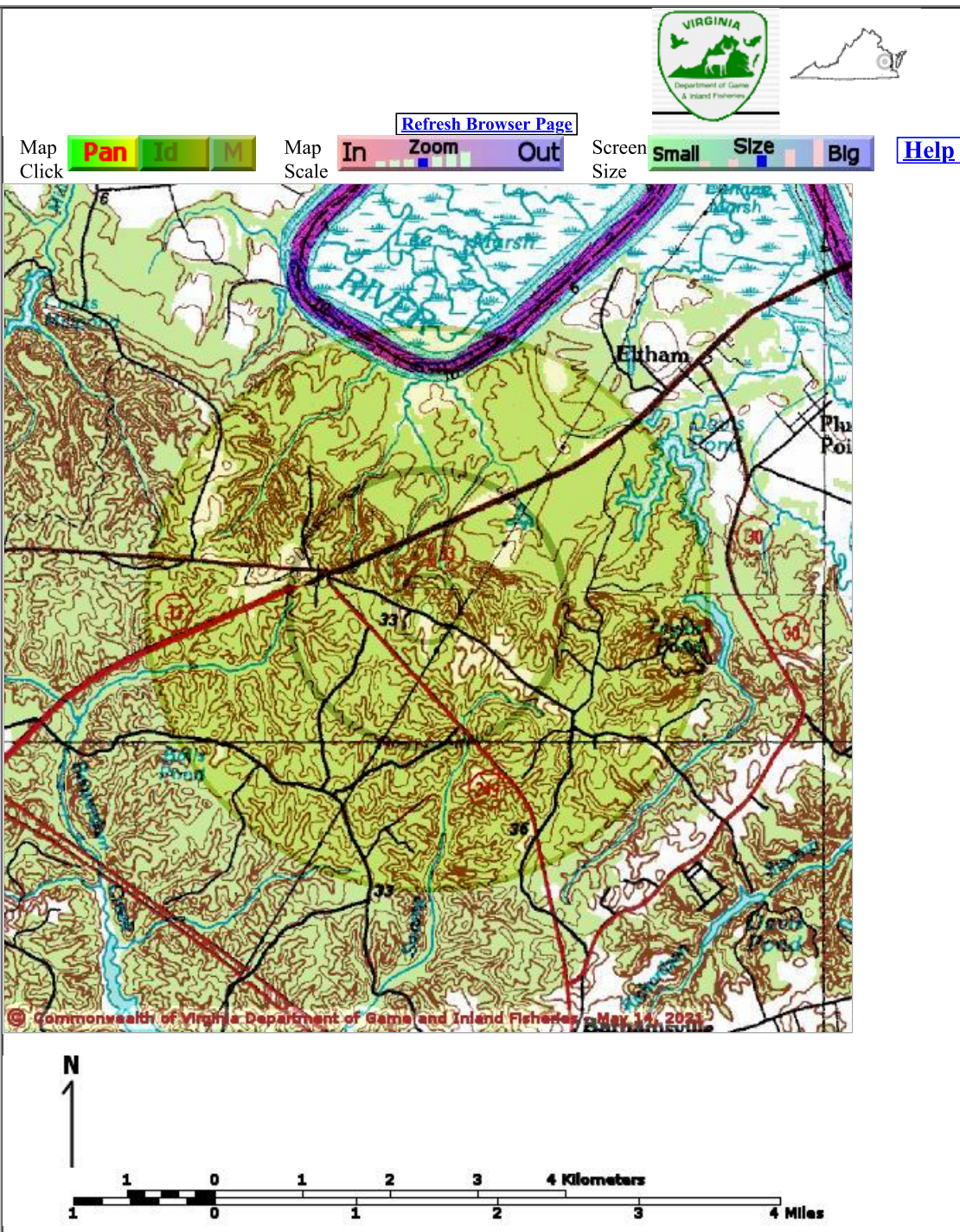
State



Position Rings  
1 mile and 1/4  
mile at the  
Search Point



2 mile radius  
Search Area



Point of Search 37,29,52.3 -76,51,35.7

Map Location 37,29,52.3 -76,51,35.7

Select **Coordinate System**: ☒ Degrees, Minutes, Seconds Latitude - Longitude  
☐ Decimal Degrees Latitude - Longitude  
☐ Meters UTM NAD83 East North Zone  
☐ Meters UTM NAD27 East North Zone

Base Map source: USGS 1:100,000 topographic maps (see [Microsoft terrasserver-usa.com](https://microsoft.terrasserver-usa.com) for details)

Map projection is UTM Zone 18 NAD 1983 with left 330790 and top 4156529. Pixel size is 16 meters. Coordinates displayed are Degrees, Minutes, Seconds North and West. Map is currently displayed as 600 columns by 600 rows for a total of 360000 pixels. The map display represents 9600 meters east to west by 9600 meters north to south for a total of 92.1 square kilometers. The map display represents 31501 feet east to west by 31501 feet north to south for a total of 35.5

square miles.

Topographic maps and Black and white aerial photography for year 1990+- are from the United States Department of the Interior, United States Geological Survey. Color aerial photography aquired 2002 is from Virginia Base Mapping Program, Virginia Geographic Information Network.

Shaded topographic maps are from TOPO! ©2006 National Geographic

<http://www.national.geographic.com/topo>

All other map products are from the Commonwealth of Virginia Department of Game and Inland Fisheries.

map assembled 2021-05-14 10:32:26 (qa/qc March 21, 2016 12:20 - tn=1094624.1 dist=3218 I )

\$poi=37.4978610 -76.8599329

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**Site Location**

37,29,53.6 -76,51,35.3  
is the Search Point

**Show Position Rings**

☒ Yes ☐ No

1 mile and 1/4 mile at the  
Search Point

**Show Search Area**

☒ Yes ☐ No

2 Search distance miles  
radius

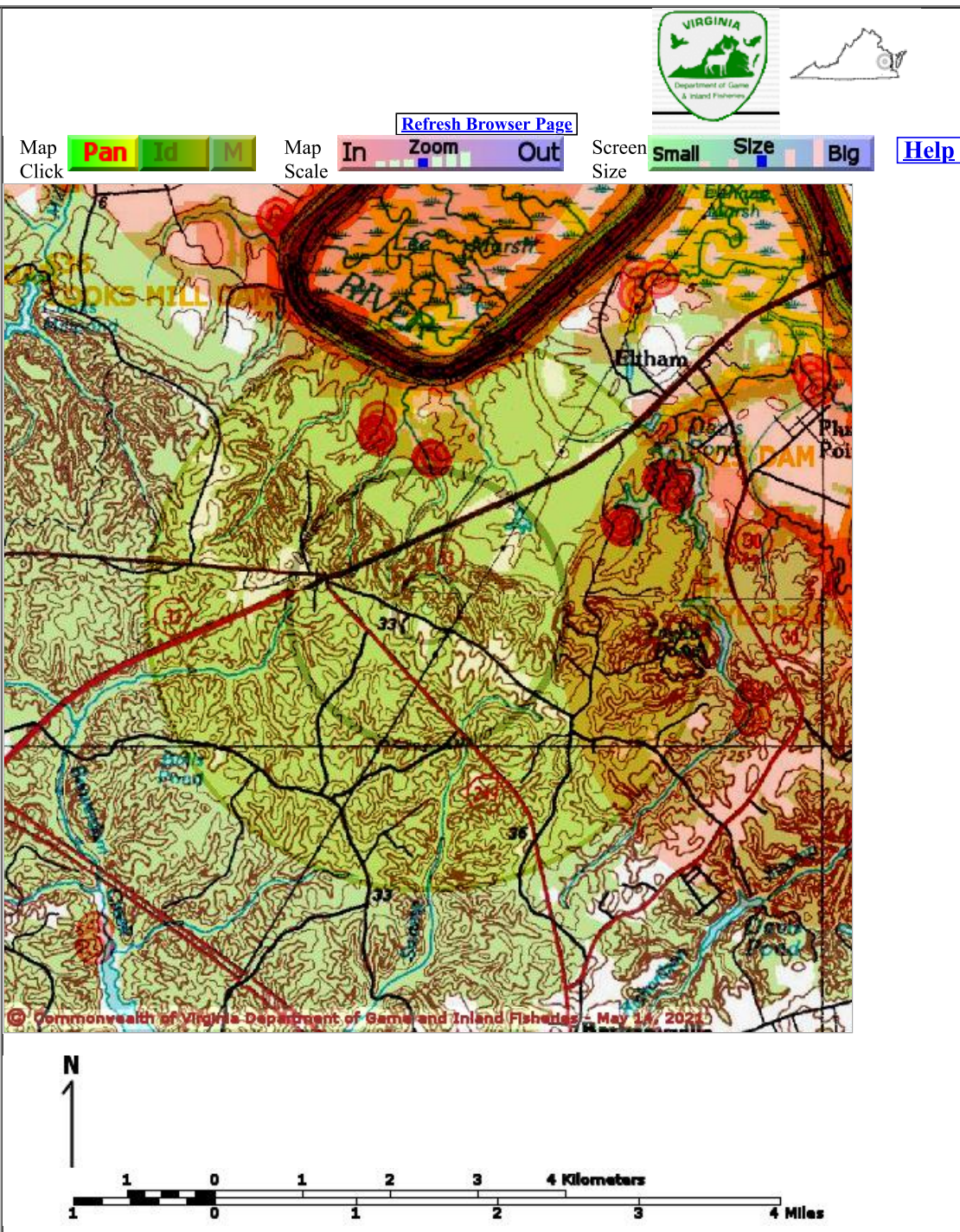
Search Point is at  
map center

**Base Map [Choices](#)**

Topography ▼

**Map Overlay [Choices](#)**

Current List: Position, Search,  
BECAR, BAEANests,  
TEWaters, TierII, Habitat,  
Trout, Anadromous

**Map Overlay Legend**

Point of Search 37,29,53.6 -76,51,35.3

Map Location 37,29,53.6 -76,51,35.3

Select **Coordinate System**: ☒ Degrees, Minutes, Seconds Latitude - Longitude  
☐ Decimal Degrees Latitude - Longitude  
☐ Meters UTM NAD83 East North Zone  
☐ Meters UTM NAD27 East North Zone

Base Map source: USGS 1:100,000 topographic maps (see [Microsoft terraserver-usa.com](https://microsoft.terraserver-usa.com) for details)

Map projection is UTM Zone 18 NAD 1983 with left 330802 and top 4156569. Pixel size is 16 meters. Coordinates displayed are Degrees, Minutes, Seconds North and West. Map is currently displayed as 600 columns by 600 rows for a total of 360000 pixels. The map display represents 9600 meters east to west by 9600 meters north to south for a total of 92.1 square kilometers. The map display represents 31501 feet east to west by 31501 feet north to south for a total of 35.5



T & E Waters

Federal

State

Predicted Habitat WAP Tier I & II

Aquatic

Terrestrial

Trout Waters

Class I - IV

Class V - VI

Anadromous Fish Reach

Confirmed

Potential

Impediment

Position Rings

1 mile and 1/4 mile at the Search Point

2 mile radius Search Area

Bald Eagle Concentration Areas and Roosts

square miles.

Topographic maps and Black and white aerial photography for year 1990+- are from the United States Department of the Interior, United States Geological Survey. Color aerial photography aquired 2002 is from Virginia Base Mapping Program, Virginia Geographic Information Network.

Shaded topographic maps are from TOPO! ©2006 National Geographic  
http://www.national.geographic.com/topo

All other map products are from the Commonwealth of Virginia Department of Game and Inland Fisheries.

map assembled 2021-05-14 10:20:07 (qa/qc March 21, 2016 12:20 - tn=1094619.0 dist=3218 I )  
\$poi=37.4982254 -76.8598053

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117

https://vafwis.dgif.virginia.gov/maps/zMapFormJava.asp?autoscale=14&coord=LL&display\_only=1&dist=3218&dp=&gap=&ln=ecs&opoi=&overlay\_list... 2/2

## **APPENDIX II**

U.S. FISH AND WILDLIFE SERVICE



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Virginia Ecological Services Field Office  
6669 Short Lane  
Gloucester, VA 23061-4410  
Phone: (804) 693-6694 Fax: (804) 693-9032  
<http://www.fws.gov/northeast/virginiafield/>



In Reply Refer To:

June 08, 2021

Consultation Code: 05E2VA00-2021-SLI-4098

Event Code: 05E2VA00-2021-E-11871

Project Name: BSSI Polish Town Road Solar Site

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

### To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Any activity proposed on National Wildlife Refuge lands must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered

species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>;

<http://www.towerkill.com>; and

[http://](http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html)

[www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html](http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html).

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Virginia Ecological Services Field Office**

6669 Short Lane

Gloucester, VA 23061-4410

(804) 693-6694

## Project Summary

Consultation Code: 05E2VA00-2021-SLI-4098

Event Code: 05E2VA00-2021-E-11871

Project Name: BSSI Polish Town Road Solar Site

Project Type: DEVELOPMENT

Project Description: Property in New Kent County, VA

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@37.4996783,-76.86251344970105,14z>



Counties: New Kent County, Virginia

## Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

## USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

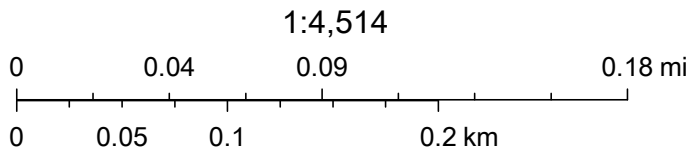
THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.



NLEB Locations and Roost Trees



5/19/2021, 3:19:25 PM



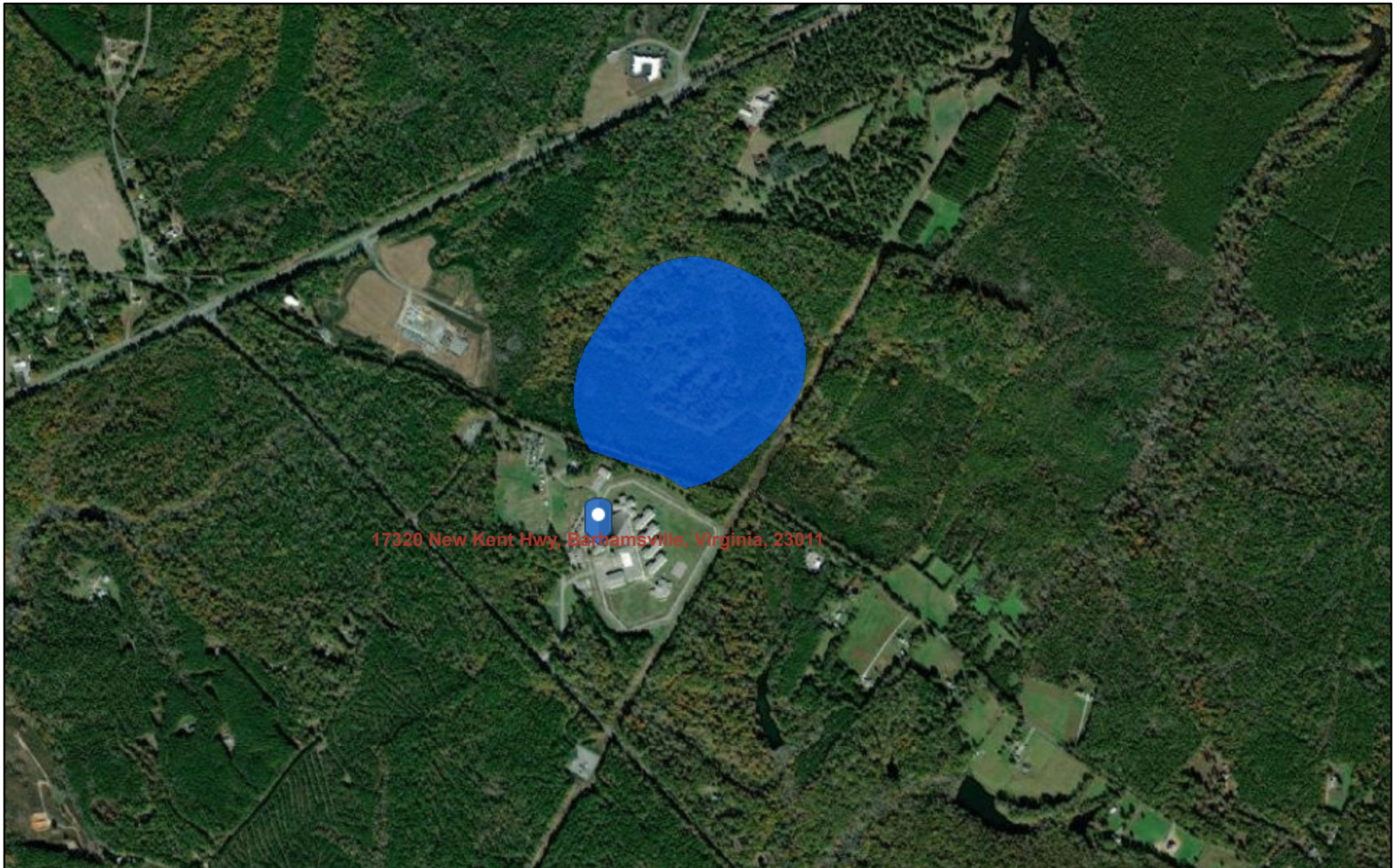
VITA, Esri, HERE, Garmin, iPC, Maxar



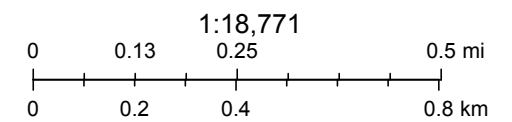
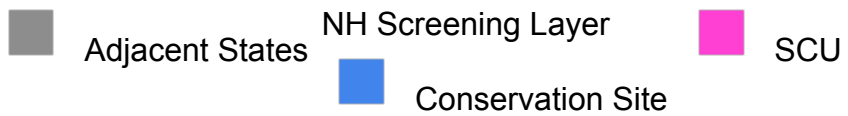
## **APPENDIX III**

VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION

# DCR Map



May 14, 2021



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Conservation Site ID	Conservation Site Name	Biodiversity Rank	Legal Status	Acres	Description	Type	Essential Conservation Site?
45	WARRENEYE NATURE TRAIL	B4	NL	72	It is increasingly important to protect small populations, ecological communities, and natural processes. This site supports a rare ecological community and contributes to long-term ecosystem health. Conservation efforts should be continued. 02/04	Conservation Site	NO

## **Appendix F**

### **Community Outreach Summary**



Polish Town Solar 1, LLC  
a subsidiary of **Borrego Solar  
Systems, Inc.**  
[www.borregoenergy.com](http://www.borregoenergy.com)

December 10, 2021

Ms. Kelli Le Duc,  
Planning Director  
New Kent County  
12007 Courthouse Circle  
New Kent, VA 23124

**Re: Neighborhood Outreach for Conditional Use Permit – Polish Town Solar 1, LLC**

Dear Ms. Le Duc,

This letter outlines our community outreach for the proposed solar farm on Polish Town Road, Barhamsville, VA (Parcel Number 27-6J).

DATE	ACTION	SUMMARY
10/6/21	Neighborhood Outreach (Round 1)	Borrego Solar Systems Inc. (BSSI) conducted the first round of neighborhood outreach sending mailers describing the projects and providing contact information should neighbors have any questions. Mailers were sent to adjacent property owners.
10/20/21	Neighborhood Outreach (Round 2)	BSSI sent the second round of mailers to the neighbors providing details for the upcoming virtual community meeting for both proposed systems.
10/29/21	Discussion with Neighbor Warren & Judy B	The neighbors called Project Developer Jessie after receiving a mailer to ask clarification questions on the project location.
11/8/21	Virtual Community Meeting	BSSI held a virtual community meeting with prepared slides providing an overview of the proposed solar system at Polish Town Rd. There were two attendees – the landowner Jon Kinney and his business partner Justin Miller.
11/15/21	Solar Workshop with Planning Commission	BSSI attended the Planning Commission on November 15 to provide an overview of distributed generation solar and an introduction to the proposed 3 MW ac project.

Thank you,

Jessie Robinson, Project Developer  
Borrego Solar Systems, Inc  
(804) 767-3770 | [jrobinson@borregosolar.com](mailto:jrobinson@borregosolar.com)

## **Appendix G**

### **Engineers Estimate to Decommission the Solar Facility**





## Decommissioning Estimate/Plan

Date: 12/27/2021

POLISH TOWN SOLAR 1, LLC  
RT 33 ELTHAM ROAD  
BRAHAMSVILLE, VA 23011

This Decommissioning Estimate has been prepared by Borrego Solar in an attempt to predict the cost associated with the removal of the proposed solar facility. The primary cost of decommissioning is the labor to dismantle and load as well as the cost of trucking and equipment. All material will be removed from the site, including the concrete equipment pads, which will be broken up at the site and hauled to the nearest transfer station.

No salvage values have been assumed in this calculation.

The following values were used in this Decommissioning Estimate:

System Specifications		Equipment & Material Removal Rates	
Number of Modules	6,870	Module Removal Rate (min/module)	0.5
Number of Racks	287	Rack Wiring Rem. Rate (min/mod)	0.25
Number of Inverters	1	Racking Dismantling Rate (min/rack)	20
Number of Transformers	1	Inverter Removal Rate (hr/unit)	0.5
Electrical Wiring Length (ft)	3,485	Transformer Removal Rate (hr/unit)	1
Number of Foundation Screws	1,148	Rack Loading Rate (min/Rack)	10
Length of Perimeter Fence (ft)	5,405	Elect. Wiring Removal Rate (min/LF)	0.5
Number of Power Poles	8	Screw Rem. Rate (screws/day)	600
Access Rd Material Volume (YD)	554	Fence Removal Rate (min/LF)	1
Total Disturbed Area (SF)	14,674	Days req. to break up concrete pads	1
Total Fence Weight (lbs)	3,838	Days req. with Rough Grader	1
Total Racking Weight (lbs)	243,950	Days req. with Fine Grader	1
Total Foundation Screw Weight (lbs)	45,920	Total Truckloads Required	13
		Round-Trip Dist. to Trans. Sta.(miles)	2.6
		Round-Trip Time to Trans. Sta. (hr)	0.4
Labor and Equipment Costs			
Labor Rate (\$/hr)	\$ 20.81		
Operator Rate (\$/hr)	\$ 21.22		
Bobcat Cost (\$/hr)	\$ 104.10		
Front End Loader Cost (\$/Day)	\$ 864.03		
Excavator Cost (\$/Day)	\$ 1,394.94		
Trucking Cost (\$/hr)	\$ 130.13		
Backhoe Cost (\$/hr)	\$ 104.10		
Power Pole Removal Cost (\$/pole)	\$ 1,500.00		
Grader Cost (\$/day)	\$ 1,353.30		
Gravel Export Cost (\$/YD)	\$ 8.00		
Loam Import Cost (\$/YD)	\$ 20.00		
Seeding Cost (\$/SF)	\$ 0.10		
Fuel Cost (\$/mile)	\$ 0.50		



## Labor, Material, and Equipment Costs

### 1. Remove Modules

The solar modules are fastened to racking with clamps. They slide in a track. A laborer needs only unclamp the module and reach over and slide the module out of the track.

$$\text{Module Removal Rate} \cdot \text{Total Number of Solar Modules} \cdot \text{Labor Rate} = \text{Module Removal Cost}$$

$$\text{Total} = \$ 1,191.37$$

### 2. Remove Rack Wiring

The modules are plugged together in the same manner as an electrical cord from a light is plugged into a wall socket. The string wires are in a tray. A laborer needs only unplug the module, reach into the tray and remove the strands of wire.

$$\text{Wire Removal Rate} \cdot \text{Total Number of Solar Modules} \cdot \text{Labor Rate} = \text{Rack Wiring Removal Cost}$$

$$\text{Total} = \$ 595.69$$

### 3. Dismantle Racks

The racking is supported by screw foundations. The racking will be disconnected from the foundation and removed separately.

$$\text{Number of Racks} \cdot \text{Rack Dismantling Rate} \cdot \text{Labor Rate} = \text{Rack Dismantling Cost}$$

$$\text{Total} = \$ 1,990.82$$

### 4. Remove and Load Electrical Equipment

Electrical equipment includes transformers and inverters.

$$(\text{Number of Inverters} \cdot \text{Inverter Removal Rate} + \text{Number of Transformers} \cdot \text{Transformer Removal Rate}) \cdot (\text{Operator Rate} + \text{Bobcat Cost}) = \text{Electrical Equipment Removal Cost}$$

$$\text{Total} = \$ 187.98$$

### 5. Break Up Concrete Pads

Concrete pads are broken up using an excavator and jackhammer.

$$\text{Number of Demolition Days} \cdot (\text{Excavator Cost} + \text{Operator Cost}) = \text{Total Concrete Pad Removal}$$



**Total = \$ 1,033.79**

## 6. Load Racks

Once the racks have been dismantled, they will be loaded onto trucks for removal from the site. The trucking cost associated with this line item represents the additional time a truck will be needed during loading. Please see item # 13 for additional trucking costs.

$$\text{Number of Racks} \cdot \text{Rack Loading Rate} \cdot (\text{Operator Cost} + \text{Front End Loader Cost} + \text{Trucking Cost}) = \text{Total Rack Removal Cost}$$

**Total = \$ 12,218.79**

## 7. Remove Electrical Wiring

Electrical wiring will be removed from all underground conduits.

$$\text{Cable Length} \cdot \text{Cable Removal Rate} \cdot (\text{Operator Cost} + \text{Backhoe Cost}) = \text{Total Cable Removal Cost}$$

**Total = \$ 3,639.50**

## 8. Remove Foundation Screws

Foundation screws will be backed out of the ground and loaded onto a truck to be removed from site.

$$(\text{Total Number of Screws} / \text{Daily Screw Removal Rate}) \cdot (\text{Operator Rate} + \text{Excavator Cost}) = \text{Total Screw Removal Cost}$$

**Total = \$ 2,993.79**

## 9. Remove Fencing

Fencing posts, mesh, and foundations will be loaded onto a truck and removed from site. Trucking costs included in this line item are for the removal process. Trucking to a recycling facility are included in item #13.

$$(\text{Total Length of Fence} \cdot \text{Fence Removal Rate}) \cdot (\text{Operator Rate} + \text{Bobcat Cost} + \text{Trucking Cost}) =$$

**Total = \$ 23,011.34**

## 10. Remove Power Poles

Power poles will be removed and shipped off site.

$$\text{Number of Power Poles} \cdot \text{Pole Removal cost} = \text{Total Power Pole Removal Cost}$$

**Total = \$ 12,000.00**

### 11. Gravel Road Reclamation

Reclamation of the gravel access road will entail removing the gravel material and exporting it off site. The area will then be backfilled with loam and graded.

$$(Days\ with\ Rough\ Grader + Days\ with\ Fine\ Grader) \cdot (Grader\ Cost\ per\ Day + Operator\ Cost\ per\ Day) + [Roadway\ Material\ Volume \cdot (Gravel\ Export\ Cost + Loam\ Import\ Cost)] = \\ Gravel\ Road\ Reclamation\ Cost$$

**Total = \$ 18,549.82**

### 12. Seed Disturbed Areas

Seeding cost includes labor and materials for reseeding all disturbed areas including the reclaimed gravel road area, former electrical areas, and areas disturbed by racking foundation removal.

$$Seeding\ Cost \cdot Disturbed\ Area = \\ Total\ Seeding\ Cost$$

**Total = \$ 1,467.35**

### 13. Truck to Transfer Station

All material will be trucked to the nearest Transfer station that accepts construction material. The nearest transfer station is COUNTY WASTE OF VIRGINIA

$$(Total\ Truckloads \cdot Roundtrip\ Distance \cdot Fuel\ Cost) + (Total\ Truckloads \cdot Round\ Trip\ Time \cdot \\ Trucking\ Cost) = \\ Total\ Trucking\ Cost\ to\ Transfer\ Station$$

**Total = \$ 693.55**



POLISH TOWN SOLAR 1, LLC  
RT 33 ELTHAM ROAD  
BRAHAMSVILLE, VA 23011

Salvage Values

Salvage Value Not Included

**Summary of Decommissioning Costs and Salvage Values**

Line Item	Task	Cost
1	Module Removal	\$ 1,191.37
2	Rack Wiring Removal	\$ 595.69
3	Rack Dismantling	\$ 1,990.82
4	Electrical Equipment Loading and Removal	\$ 187.98
5	Break Up Concrete Pads	\$ 1,033.79
6	Load Racks	\$ 12,218.79
7	Electrical Wiring Removal	\$ 3,639.50
8	Foundation Screw Removal	\$ 2,993.79
9	Fence Removal	\$ 23,011.34
10	Power Pole Removal	\$ 12,000.00
11	Gravel Road Reclamation	\$ 18,549.82
12	Seed Disturbed Areas	\$ 1,467.35
13	Trucking to Transfer Station	\$ 693.55
Sub Total =		\$ 79,573.79

**Total = \$ 84,241.10**

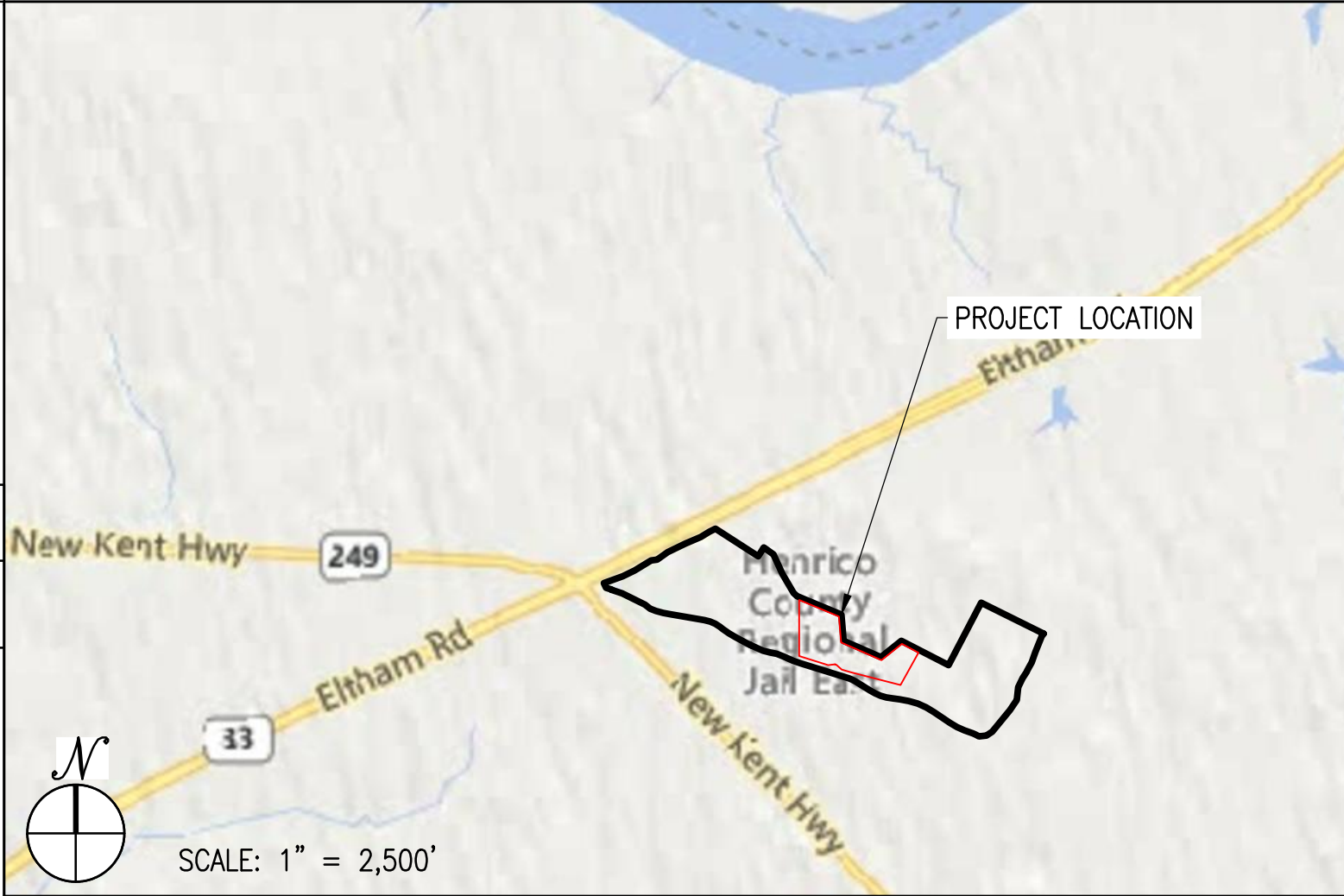
## **Appendix H**

### **Conditional Use Permit Plans**



# CONDITIONAL USE PERMIT SET

## POLISH TOWN SOLAR 1, BARHAMSVILLE, VA 23011 4,499.850 KWDC STC RATED SOLAR ELECTRIC SYSTEM

GENERAL NOTES		PROJECT SCOPE		LOCATION MAP		DRAWING LIST		NOT CONSTRUCTED																		
<div>1. THE CONDITIONAL USE PLAN DEPICTS THE PROPOSED SOLAR FACILITY LOCATION, PROPOSED IMPROVEMENTS WITHIN THE PROPERTY, IDENTIFY AND DEPICT ANY ENVIRONMENTAL RESOURCES THAT ARE AFFECTED OR ADJACENT TO THE FACILITY, AND DEPICT THE DIMENSIONAL REQUIREMENTS/SETBACKS/STANDARDS APPLICABLE TO THE ZONING DISTRICT IN RELATION TO THE PROPOSED IMPROVEMENTS. UPON RECEIVING CONDITIONAL USE APPROVAL A FORMAL DESIGN OF THE PROJECT WILL BE PREPARED AND SUBMITTED TO COMPLY WITH THE APPLICABLE REQUIREMENTS AND ANY CONDITIONS IMPOSED BY THE COUNTY AS PART OF THE CONDITIONAL USE AUTHORIZATION.</div> <div>2. THE EXISTING FEATURES, TOPOGRAPHY, PROPERTY LINES OR BOUNDARIES IS FOR INFORMATIONAL PURPOSES, UNLESS INDICATED OTHERWISE.</div> <div>3. THE EXISTING FEATURES SHOWN ON THIS PLAN ARE BASED AERIAL PHOTOGRAPHY OBTAINED FROM VIRGINIA GEOGRAPHIC INFORMATION NETWORK (VGIN) AND SUPPLEMENTED BY FIELD SURVEYS PERFORMED BY ECS MID-ATLANTIC LLC, MAY 2021.</div> <div>4. THE PROPERTY LINES SHOWN ON THIS PLAN ARE BASED UPON NEW KENT COUNTY'S TAX PARCEL DATA AND SUPPLEMENTED WITH DEED AND PLATS THAT AFFECT THE PROPERTY. THE EASEMENTS/RIGHT-OF-WAYS WERE OBTAINED FROM A TITLE SEARCH, PLOTTED AND REFERENCED BASED ON THE EASEMENT DESCRIPTION. A FORMAL BOUNDARY SURVEY HAS NOT BEEN PERFORMED AT THIS TIME.</div> <div>5. THE CONTOURS ARE SHOWN AT 2 FOOT INTERVALS AND WERE GENERATED FROM LIDAR DATA PREPARED BY DEWBERRY FOR USGS &amp; FEMA VA LIDAR.</div> <div>6. A WETLAND AND STREAM INVESTIGATION WAS PERFORMED ECS MID-ATLANTIC LLC, MAY 2021. A PREJURISDICTIONAL DETERMINATION (NAO-2021-01450) WAS OBTAINED ON OCTOBER 15, 2021. WETLANDS, STREAM AND THEIR ASSOCIATED BUFFERS SHOWN BEYOND THE PROPERTY IS BASED ON GIS DATA OBTAINED FROM VIRGINIA GEOGRAPHIC INFORMATION NETWORK, WHICH INCORPORATE NATIONAL WETLAND INVENTORY AND FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DATA.</div> <div>7. THE HORIZONTAL AND VERTICAL DATUMS ARE AS FOLLOWS: HORIZONTAL: VIRGINIA STATE PLAN NAD 83 SOUTH ZONE US SURVEY FOOT VERTICAL: NAD83</div> <div>8. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE ACCURACY OF SUCH INFORMATION AND SUPPLEMENT WITH ANY ADDITIONAL REQUIRED INFORMATION.</div> <div>9. AS CONTAINED HEREIN, "CONTRACTOR" IS ASSUMED TO BE THE EPC PROVIDER HIRED BY THE SYSTEM/PROJECT OWNER.</div> <div>10. WHEN THERE IS A CONFLICT BETWEEN THESE GENERAL NOTES AND THE DRAWINGS, THE DRAWINGS SHALL GOVERN.</div> <div>11. ALL WORK SHALL CONFORM TO THE MINIMUM STANDARDS OF THE FOLLOWING: LOCAL BUILDING CODE, LOCAL ELECTRICAL CODE, ANY OTHER REGULATING AGENCIES WHICH HAVE AUTHORITY OVER ANY PORTION OF THE WORK AND THOSE CODES AND STANDARDS LISTED IN THESE DRAWINGS.</div> <div>12. THESE DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEVELOPING A CONSTRUCTION LEVEL DESIGN AND ASSOCIATED DRAWINGS AND DETAILS.</div> <div>13. COORDINATE THESE DRAWINGS WITH SPECIFICATIONS AND MANUFACTURER INSTALLATION AND OPERATION MANUALS.</div> <div>14. UNLESS INDICATED AS EXISTING (E), ALL PROPOSED MATERIALS AND EQUIPMENT SHALL BE CONSIDERED TO BE NEW.</div> <div>15. ALL EQUIPMENT AND COMPONENTS SHALL BE MOUNTED IN COMPLIANCE WITH THE MANUFACTURER'S REQUIREMENTS, CONSTRUCTION DETAILS, AND/OR PRUDENT INDUSTRY STANDARDS.</div> <div>16. TO THE EXTENT THAT TRESS AND OTHER FEATURES AFFECT THE SYSTEM'S PRODUCTION, SUCH PRODUCTION MODELING IS BASED ON THE EXISTING APPROXIMATE HEIGHTS AND LOCATIONS RELATIVE TO THE SYSTEM AND MAY BE IMPACTED AS TREES GROW AND OTHER FEATURES CHANGE.</div>		<div>THIS PROJECT CONSISTS OF THE INSTALLATION OF SOLAR MODULES PER THE SYSTEM DESCRIPTION, BELOW. THE MODULES WILL BE INSTALLED ON A GROUND MOUNTED RACKING SYSTEM. THE MODULES WILL BE WIRED IN SERIES STRINGS AND CONNECTED IN PARALLEL TO THE INVERTER(S), WHICH CONVERT THE PHOTOVOLTAIC OUTPUT POWER FROM DC TO AC. THE SOLAR ELECTRIC SYSTEM WILL BE INTERCONNECTED WITH THE EXISTING SITE ELECTRICAL SYSTEM IN ACCORDANCE WITH THE APPLICABLE ELECTRICAL CODE AND DOMINION REQUIREMENTS.</div> <div>THIS PROJECT CONSISTS OF THE INSTALLATION OF ENERGY STORAGE EQUIPMENT, PER THE SYSTEM DESCRIPTION, BELOW. THE ENERGY STORAGE MODULES WILL BE INSTALLED IN A PURPOSE BUILT UNIT(S), AND FIRE SUPPRESSION SYSTEMS. THE ENERGY STORAGE MODULES WILL BE WIRED IN SERIES STRINGS AND CONNECTED THROUGH DC/DC CONVERTERS, WHICH WILL CONVERT DC TO AC WHILE THE BATTERIES ARE DISCHARGING.</div>				<table><tr><th>Sheet Number</th><th>Sheet Title</th></tr><tr><td>T-1</td><td>TITLE PAGE</td></tr><tr><td colspan="2">CIVIL</td></tr><tr><td>C-1.0</td><td>EXISTING CONDITIONS PLAN</td></tr><tr><td>C-2.0</td><td>TREE CLEARING PLAN</td></tr><tr><td>C-3.0</td><td>LAYOUT AND MATERIALS PLAN</td></tr><tr><td>C-4.0</td><td>GRADING AND EROSION CONTROL PLAN</td></tr><tr><td>C-5.0</td><td>CIVIL DETAILS</td></tr><tr><td>C-6.0</td><td>DECOMMISSIONING PLAN</td></tr></table>			Sheet Number	Sheet Title	T-1	TITLE PAGE	CIVIL		C-1.0	EXISTING CONDITIONS PLAN	C-2.0	TREE CLEARING PLAN	C-3.0	LAYOUT AND MATERIALS PLAN	C-4.0	GRADING AND EROSION CONTROL PLAN	C-5.0	CIVIL DETAILS	C-6.0	DECOMMISSIONING PLAN
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C-6.0	DECOMMISSIONING PLAN																									
SYSTEM DESCRIPTION		AERIAL VIEW		<div>IT IS A VIOLATION OF LAW FOR ANY PERSON TO ALTER ANY DOCUMENT WHICH BEARS THE SEAL OF A PROFESSIONAL ENGINEER, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER.</div> <div>POLISH TOWN ROAD RT 33 ELTHAM RD BRAHAMSVILLE, VA 23011</div> <div>PROJECT NUMBER: N/A</div> <table><tr><td>DRAWN</td><td>CHECKED</td><td>RELEASE</td><td>LEVEL</td><td>CONDITIONAL USE PERMIT SET</td></tr><tr><td>DATE</td><td>12/26/21</td><td>ATK</td><td>OW</td><td></td></tr><tr><td>REV</td><td>1</td><td></td><td></td><td></td></tr></table> <div>SCALES STATED ON DRAWINGS ARE VALID ONLY WHEN PLOTTED ARCH D 24" X 36"</div> <div>T-1 TITLE PAGE</div>		DRAWN	CHECKED	RELEASE	LEVEL	CONDITIONAL USE PERMIT SET	DATE	12/26/21	ATK	OW		REV	1									
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REV	1																									
APPLICABLE CODES AND STANDARDS		PROJECT DIRECTORY		GENERAL ABBREVIATIONS		REV 1.0																				
<div>2017 NATIONAL ELECTRICAL CODE 2015 INTERNATIONAL BUILDING CODE 2015 VIRGINIA CONSTRUCTION CODE UL-1703 – SOLAR MODULES UL-1741 – INVERTERS, COMBINER BOXES UL-2703 – RACKING MOUNTING SYSTEMS AND CLAMPING DEVICES FOR PV MODULES</div>		<div><u>PROPERTY OWNER</u> WIER CREEK, LLC C/O JONATHAN KINNEY 2311 WILSON BLVD. STE 500 ARLINGTON, VA 22201</div> <div><u>PROPERTY ADDRESS</u> RT 33 ELTHAM RD BARHAMSVILLE, VA 23011</div> <div><u>SYSTEM / PROJECT OWNER</u> POLISH TOWN SOLAR 1, LLC. 55 TECHNOLOGY DRIVE, SUITE 102 LOWELL, MA 01851</div> <div><u>AUTHORITY HAVING JURISDICTION</u> NEW KENT COUNTY 12007 COURTHOUSE CIRCLE NEW KENT, VA 23124</div> <div><u>UTILITY</u> DOMINION</div>		<div><u>CIVIL ENGINEER</u> FIRM: BORREGO SOLAR SYSTEMS, INC CONTACT: QUENTIN WOOD, P.E. PHONE: 978-513-2608 (EXT 2608)</div> <div><u>ELECTRICAL ENGINEER</u> FIRM: BORREGO SOLAR SYSTEMS, INC CONTACT: AHARON WRIGHT, P.E. PHONE: 978-221-3081</div> <div><u>DESIGN ENGINEER</u> FIRM: BORREGO SOLAR SYSTEMS, INC CONTACT: TIM LEE, E.I.T. PHONE: 978-973-5022</div>				<div>(E) EXISTING AHJ AUTHORITY HAVING JURISDICTION AL ALUMINUM APPROX APPROXIMATE ARY ARRAY BLDG BUILDING BSS BORREGO SOLAR SYSTEM CL CENTERLINE DAS DATA ACQUISITION SYSTEM DIA DIAMETER DO DITTO EW EAST-WEST FBO FURNISHED BY OTHERS FF FORWARD FACING GALV GALVANIZED HDG HOT DIP GALVANIZED HVAC HEATING VENTILATION AND AIR CONDITIONING ID INSIDE DIAMETER MFR MANUFACTURER MOD SOLAR MODULE</div> <div>NS NORTH-SOUTH NTS NOT TO SCALE OAE OR APPROVED EQUAL OC ON CENTER OD OUTSIDE DIAMETER OFCI OWNER FURNISHED CONTRACTOR INSTALLED PV PHOTOVOLTAIC PVC POLY VINYL CHLORIDE SCH SCHEDULE SS STAINLESS STEEL SSS SOLAR SUPPORT STRUCTURE STC STANDARD TEST CONDITIONS TBD TO BE DETERMINED TP TAMPER PROOF TYP TYPICAL UON UNLESS OTHERWISE NOTED VIF VERIFY IN FIELD WP WEATHER PROOF</div>																		



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BRAHAMSVILLE, VA 23011

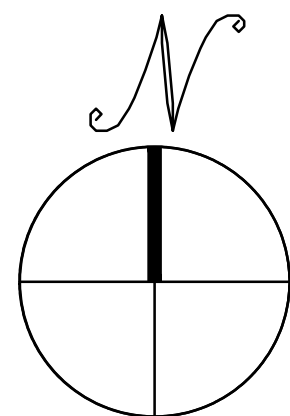
PROJECT NUMBER:  
N/A

REV	DATE	DRAWN	CHECKED	RELEASE LEVEL	CONDITIONAL USE PERMIT SET
1	12/28/21	ATK	OW		

SCALES STATED ON DRAWINGS  
ARE VALID ONLY WHEN PLOTTED  
ARCH D 24" X 36"

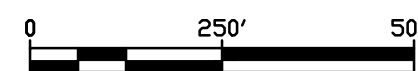
C-1.0

## EXISTING CONDITIONS PLAN



# EXISTING CONDITIONS PLAN

SCALE: 1" = 250'

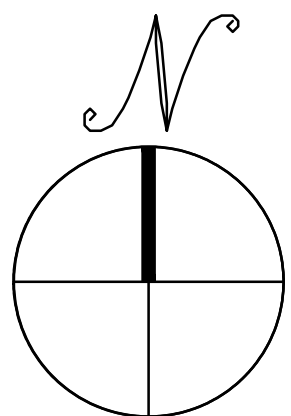
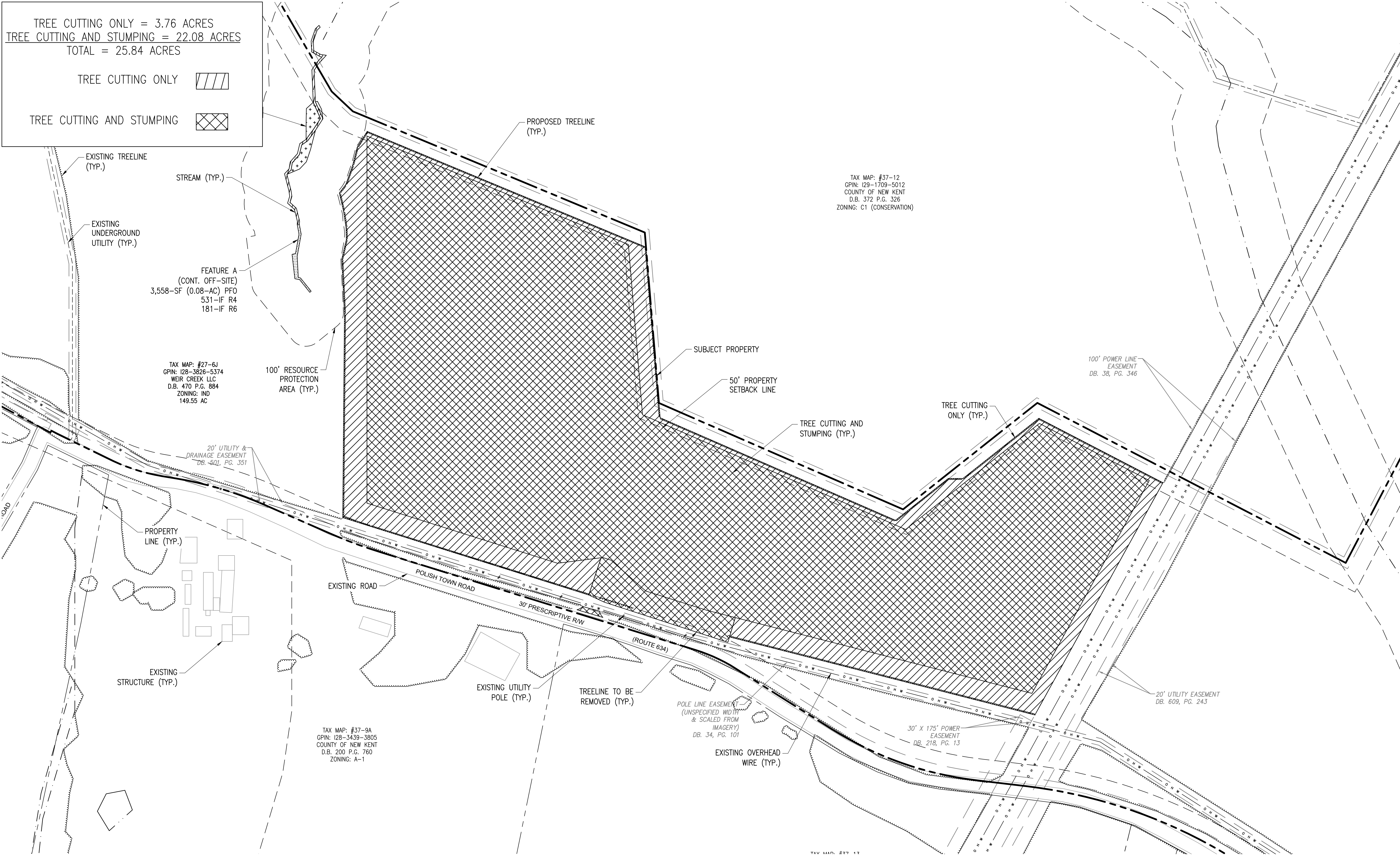




TREE CUTTING ONLY = 3.76 ACRES  
TREE CUTTING AND STUMPING = 22.08 ACRES  
TOTAL = 25.84 ACRES

TREE CUTTING ONLY

TREE CUTTING AND STUMPING



TREE CLEARING PLAN

SCALE: #'' = ###'

0 100' 200'

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PROJECT NUMBER:  
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1	12/26/21	ATK	OW	CONDITIONAL USE PERMIT SET

SCALES STATED ON DRAWINGS ARE VALID ONLY WHEN PLOTTED ARCH D 24" X 36"

**C-2.0**  
TREE CLEARING PLAN



## BORREGO

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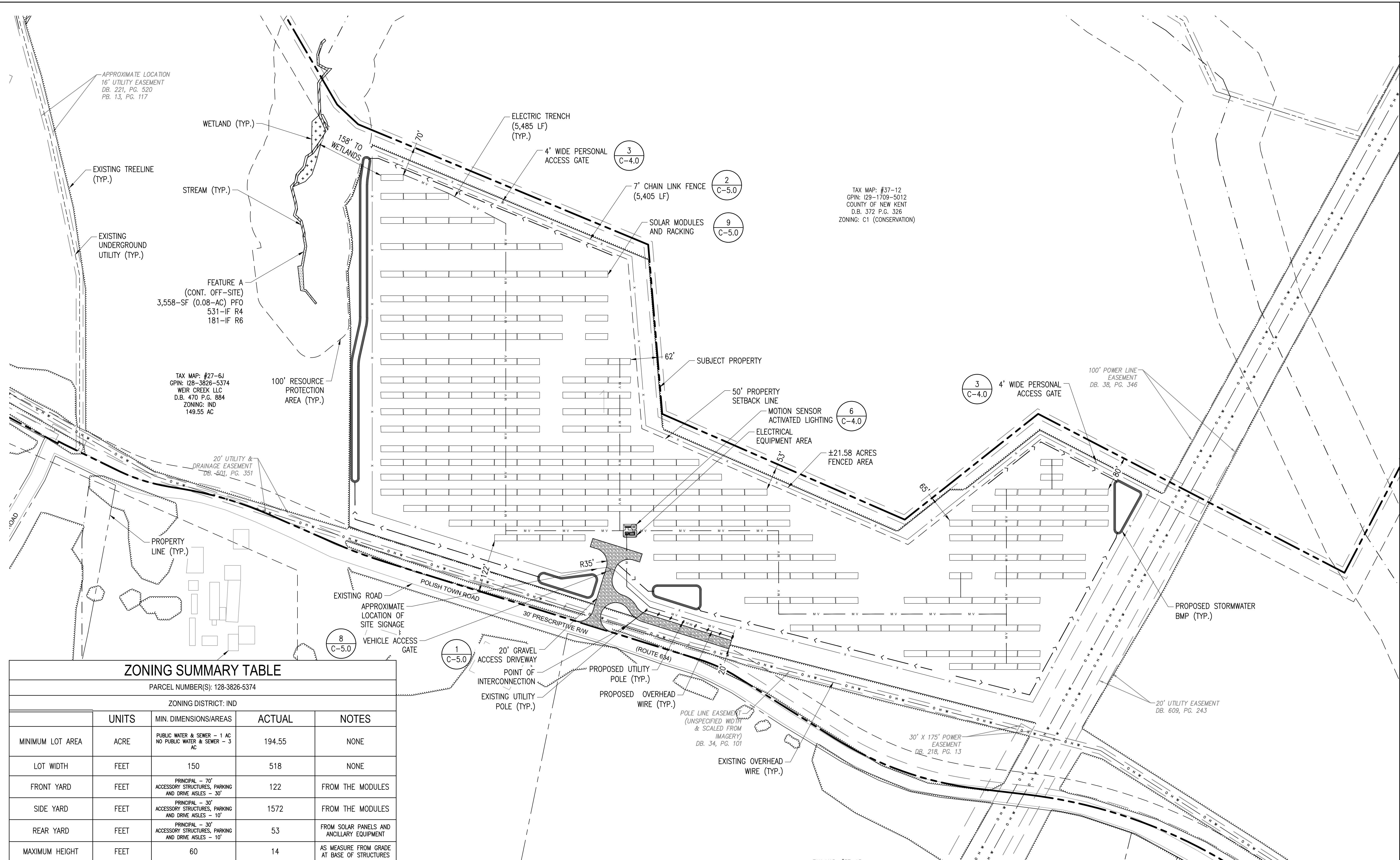
PROJECT NUMBER:  
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ARE VALID ONLY WHEN PLOTTED  
ARCH D 24" X 36"

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### LAYOUT AND MATERIALS PLAN



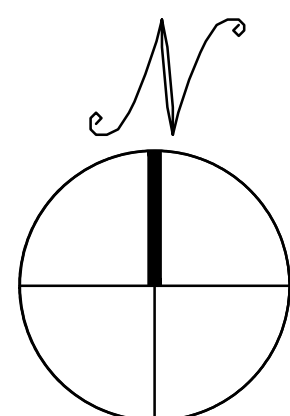
## ZONING SUMMARY TABLE

PARCEL NUMBER(S): 128-3826-5374

ZONING DISTRICT: IND

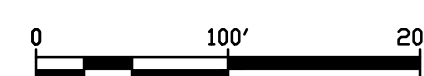
	UNITS	MIN. DIMENSIONS/AREAS	ACTUAL	NOTES
MINIMUM LOT AREA	ACRE	PUBLIC WATER & SEWER – 1 AC NO PUBLIC WATER & SEWER – 3 AC	194.55	NONE
LOT WIDTH	FEET	150	518	NONE
FRONT YARD	FEET	PRINCIPAL – 70' ACCESSORY STRUCTURES, PARKING AND DRIVE AISLES – 30'	122	FROM THE MODULES
SIDE YARD	FEET	PRINCIPAL – 30' ACCESSORY STRUCTURES, PARKING AND DRIVE AISLES – 10'	1572	FROM THE MODULES
REAR YARD	FEET	PRINCIPAL – 30' ACCESSORY STRUCTURES, PARKING AND DRIVE AISLES – 10'	53	FROM SOLAR PANELS AND ANCILLARY EQUIPMENT
MAXIMUM HEIGHT	FEET	60	14	AS MEASURE FROM GRAD AT BASE OF STRUCTURES

\*From Solar Bylaw

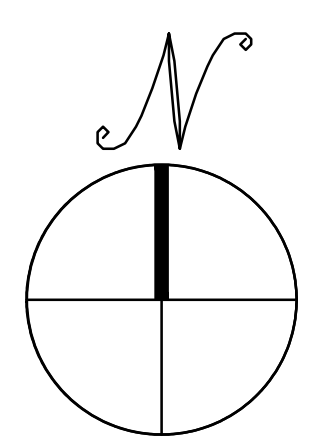
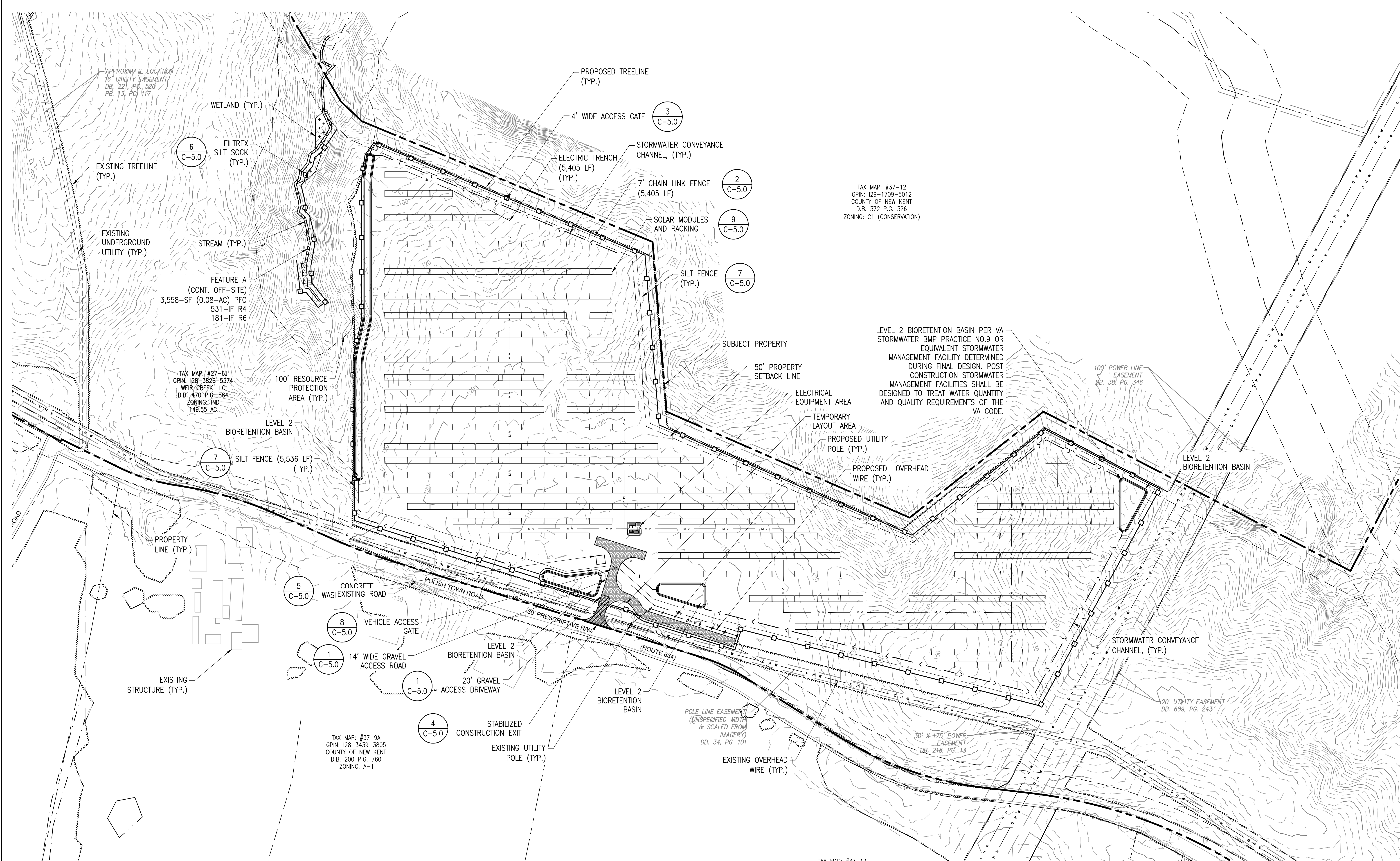


## LAYOUT AND MATERIALS PLAN

SCALE: 1" = 100'







# GRADING AND EROSION CONTROL PLAN

SCALE: 1" = 100'

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1	12/28/21	ATK	OW	CONDITIONAL USE PERMIT SET

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**C-4.0**  
GRADING AND EROSION CONTROL PLAN



MAX ALLOWABLE SLOPE LENGTH	
STEEPNESS	MAX LENGTH (FT.)
2:1	25
3:1	50
4:1	75
5+:1	100

1-1/2" SQUARE WOOD POST 4' ON CENTER

FINISH GRADE

5'-10'

18" MAX.

UPLAND

STAPLE OR WIRE FILTER FABRIC TO POSTS ON THE UPSLOPE SIDE

PROTECTED AREA

6"

4"

DRIVEN POST A MIN. OF 30" INTO THE GROUND

NOTES:

1. MAX DRAINAGE AREA FOR OVERLAND FLOW SHALL NOT EXCEED 1/4 ACRE-FOOT PER 100 FEET OF FENCE.

2. FILTER FABRIC TO BE FASTENED SECURELY TO FENCE POST WITH WIRE TIES OR STAPLES. POST SHALL BE STEEL EITHER "I" OR "U" SHAPED OR HARDWOOD.

3. FILTER CLOTH SHALL BE FASTENED SECURELY WITH TIES SPACED EVERY 24" AT TOP AND MID-SECTION.

4. WHEN TWO SECTIONS OF FILTER CLOTH ADJOIN EACH OTHER THEY SHALL BE OVERLAPPED BY 6 INCHES AND FOLDED. FILTER CLOTH SHALL BE FILTER X, MIRAFI 100X, STABILENKA T140N, OR APPROVED EQUAL.

5. PREFABRICATED UNITS SHALL BE GEOFAB, ENVIROFENCE, OR APPROVED EQUAL.

6. MAINTENANCE SHALL BE PERFORMED AS NEEDED AND MATERIAL REMOVED WHEN "BULGES" DEVELOP IN THE SEDIMENT FENCE.

7

SILT FENCE

SCALE: NTS  
XD\_CIVIL\_EROSION\_SILT\_FENCE\_P 2014-10-17

50' (MIN.)

10' (MIN.)

10'

10'

EXISTING PAVEMENT

PLAN VIEW

50' (MIN.)

3' 5:1

EXISTING PAVEMENT

6" (MIN.)

MOUNTABLE BERM

CROSS SECTION

2 - 3" CRUSHED STONE

12' (MIN.)

SITE

12' (MIN.)

SITE

NOTE:

1. ENTRANCE WIDTH SHALL BE A TWENTY-FOUR (24) FOOT MINIMUM, BUT NOT LESS THAN THE FULL WIDTH AT POINTS WHERE INGRESS OR EGRESS OCCURS.

2. THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION WHICH SHALL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING WITH ADDITIONAL STONE AS CONDITIONS DEMAND AND REPAIR OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT. ALL SEDIMENT SPILLED, DROPPED, WASHED OR TRACKED ONTO PUBLIC RIGHTS-OF-WAY MUST BE REMOVED IMMEDIATELY. BERM SHALL BE PERMITTED. PERIODIC INSPECTION AND MAINTENANCE SHALL BE PROVIDED AS NEEDED.

4

STABILIZED CONSTRUCTION EXIT

SCALE: NTS  
XD\_CIVIL\_TEMPORARY\_CONSTRUCTION\_STABILIZED\_CONSTRUCTION\_EXIT 06-10-2016

LOCATION OF TYPICAL CONDUITS TRENCH (WHERE APPLICABLE)

ACCESS AISLE WIDTH REFER TO PLANS

3" MINUS STONE

COMPACTED SUBGRADE (95%)

8" MIN.

NON-WOVEN GEOTEXTILE STABILIZATION FABRIC (AASHTO M-288) SEE NOTES 3,4 AND 5

NOTES:

1. SUBCONTRACTOR SHALL EXCAVATE TO SUITABLE MATERIAL FOR SUBGRADE.

2. SUBCONTRACTOR SHALL COMPACT SUBGRADE TO PROVIDE SUITABLE SURFACE TO PLACE ROAD.

3. GEOTEXTILE FABRIC SHALL MEET THE FOLLOWING REQUIREMENTS:

- TENSILE STRENGTH: 150 LB MIN.

- ELONGATION: 50%

- CBR PUNCTURE: 400 LB MIN.

- MINIMUM WATER FLOW RATE: 120 GPM / FT²

4. SUBCONTRACTOR SHALL FOLLOW GEOTEXTILE FABRIC MANUFACTURER INSTALLATION PROCEDURES.

5. WHERE OVERLAPPING OF GEOTEXTILE FABRIC IS REQUIRED, SUBCONTRACTOR SHALL OVERLAP A MINIMUM OF 24".

6. SUBCONTRACTOR SHALL REMOVE TEMPORARY CONSTRUCTION ACCESS ROADS, AND RESTORE TO PRE-CONSTRUCTION CONDITIONS TO THE SATISFACTION OF THE CEOR AND THE GOVERNING AGENCIES.

1

GRAVEL ACCESS ROAD

SCALE: NTS  
XD\_CIVIL\_GRAVEL\_ROAD 07-24-2017

DOUBLE GATE PANEL - 16'-0"

9 GAUGE/2" MESH

FULLY WELD TOP RAIL TO GATE POSTS

DIAMOND FABRIC, KNUCKLED TOP AND BOTTOM

TENSION BAND

CHAIN LINK FENCE PER CLFMI GUIDELINES (SEE DETAIL)

BOULEVARD CLIPS

STRETCHER BAR WHEREVER FABRIC ENDS

FINISH GRADE

CONCRETE FOOTING AT TERMINAL POST PER CHAINLINK MANUFACTURER INSTITUTE (CLFMI) GUIDELINES

HORIZONTAL BRACE

OFFSET HINGE

GATE LATCH WITH PROVISION FOR PADLOCK

7'-0" TYP.

NOTE: FABRIC SHALL BE GALVANIZED UNLESS OTHERWISE NOTED, REFER TO PLANS.

8

VEHICLE GATE

SCALE: NTS  
XD\_CIVIL\_FENCE\_VEHICLE\_GATE\_T OR 8' 07-25-2017

4 MIL PLASTIC SHEETING

BALED STRAW (BALED WITH TWINE)

8' TO 10' SQUARE

WRAP PLASTIC SHEETING UNDER 1/2 WIDE OF STRAW BALE

EMBED BALES 4" INTO GRADE STOCKPILE REMOVED SOIL

NOTE: PLASTIC SHEETING SHALL BE FREE OF TEARS OR HOLES. AFTER BASIN IS USED, WASHWATER FROM WASHOUT BASIN SHALL EVAPORATE OR BE VACUUMED OUT. REMOVE REMAINING HARDENED SOLIDS. REPLACE PLASTIC SHEETING AND STRAWBALES AS REQUIRED.

5

CONCRETE WASHOUT BASINS

SCALE: NTS  
XD\_CIVIL\_CONCRETE\_WASHOUT\_BASINS 07-24-2017

FABRIC TIE, TYP.

WIRE MESH (9 GAUGE/2" WIRE MESH)

HORIZONTAL RAIL

POST CAP

CORNER OR END POST

BRACE RAIL (SEE NOTE 4)

TRUSS ROD (SEE NOTE 4)

TENSION WIRE

DRIVEN POST OR CONCRETE FOUNDATION PER CLFMI GUIDELINES

7'-0"

NOTES:

1. THE FENCE SHALL MEET OR EXCEED THE CHAIN LINK FENCE MANUFACTURER INSTITUTE (CLFMI) GUIDELINES AND RELATED FEDERAL SPECIFICATIONS FOR SECURITY CHAIN LINK FENCE MATERIALS AND INSTALLATION.

2. ALL FENCE MATERIAL AND COMPONENTS SHALL BE GALVANIZED, UNLESS OTHERWISE NOTED.

3. THIS DETAIL NOT APPLICABLE FOR PRIVACY FENCE OR FENCE WITH SLATS.

4. ADJUSTABLE TRUSS ROD AND BRACE RAIL AT CORNER OR END POSTS ONLY, IF REQUIRED BY CLFMI GUIDELINES.

2

CHAIN LINK FENCE

SCALE: NTS  
XD\_CIVIL\_FENCE\_T\_CHAIN\_LINK 06-10-2016

REAR EDGE HEIGHT (SEE "S-0.0")

PV MODULE

LONGITUDINAL BEAM

MODULE RAIL (Z-PURLIN)

TILT ANGLE (SEE "S-0.0")

NORTH LEG

TELESCOPING LATERAL BRACE

GRADE

DEPTH OF GROUND SCREW FOUNDATION PER TERRASMA

NORTH GROUND SCREW

GROUND SCREW FOUNDATION (TYP.), DESIGN BY TERRASMA

SOUTH GROUND SCREW

REFER TO PLANS & TERRASMA DRAWINGS

SECTION

NOTE: The "TerraFarm" racking and ground screw foundations are designed by Terrasmart and will be a submittal to Borrego. The information shown here is for general reference only. 4x6 racking configuration shown in this detail as reference. Actual rack size for this project may vary.

MODULE RAIL (Z-PURLIN)

PV MODULE

LONGITUDINAL BEAM

LEADING EDGE HEIGHT (SEE "S-0.0")

WIRE ROPE SEISMIC BRACING BETWEEN NORTH LEGS

NORTH LEG

GROUND SCREW (TYP.)

REFER TO PLANS & TERRASMA DRAWINGS

REAR ELEVATION

9

TYPICAL RACK SECTION & REAR ELEVATION

SCALE: NTS  
XD\_STRUCT\_TERRASMA\_TF3L\_RACK\_SECT & REAR\_ELEV 2016-12-03

STAKE ON 10' LINEAL SPACING

AREA TO BE PROTECTED

COMPOST MULCH TUBE

2" X 2" WOODEN STAKE

COMPOST MULCH TUBE (12" MIN.)

WORK AREA

AREA TO BE PROTECTED

12"±

NOTE: MAY BE USED WHEREVER EROSION CONTROL IS SPECIFIED AT THE DISCRETION OF THE CONTRACTOR.

6

MULCH TUBE

SCALE: NTS  
XD\_CIVIL\_FILTEREX\_FILTER\_SOCK 03-29-2016

SINGLE GATE PANEL - 4'-0"

FULLY WELD TOP RAIL TO GATE POSTS

TENSION BAND

9 GAUGE/2" WIRE MESH

GATE LATCH WITH PROVISION FOR PADLOCK

BOULEVARD CLIPS

STRETCHER BAR WHEREVER FABRIC ENDS

HORIZONTAL BRACE

OFFSET HINGE

FINISH GRADE

CONCRETE FOOTING AT TERMINAL POST PER CHAIN LINK FENCE MANUFACTURER INSTITUTE (CLFMI) GUIDELINES

7'-0" TYP.

2"

NOTE: FABRIC SHALL BE GALVANIZED

3

4' MAN GATE

SCALE: NTS  
XD\_CIVIL\_SITE\_CONSTRUCTION\_4' WALK THROUGH GATE 07-25-2017

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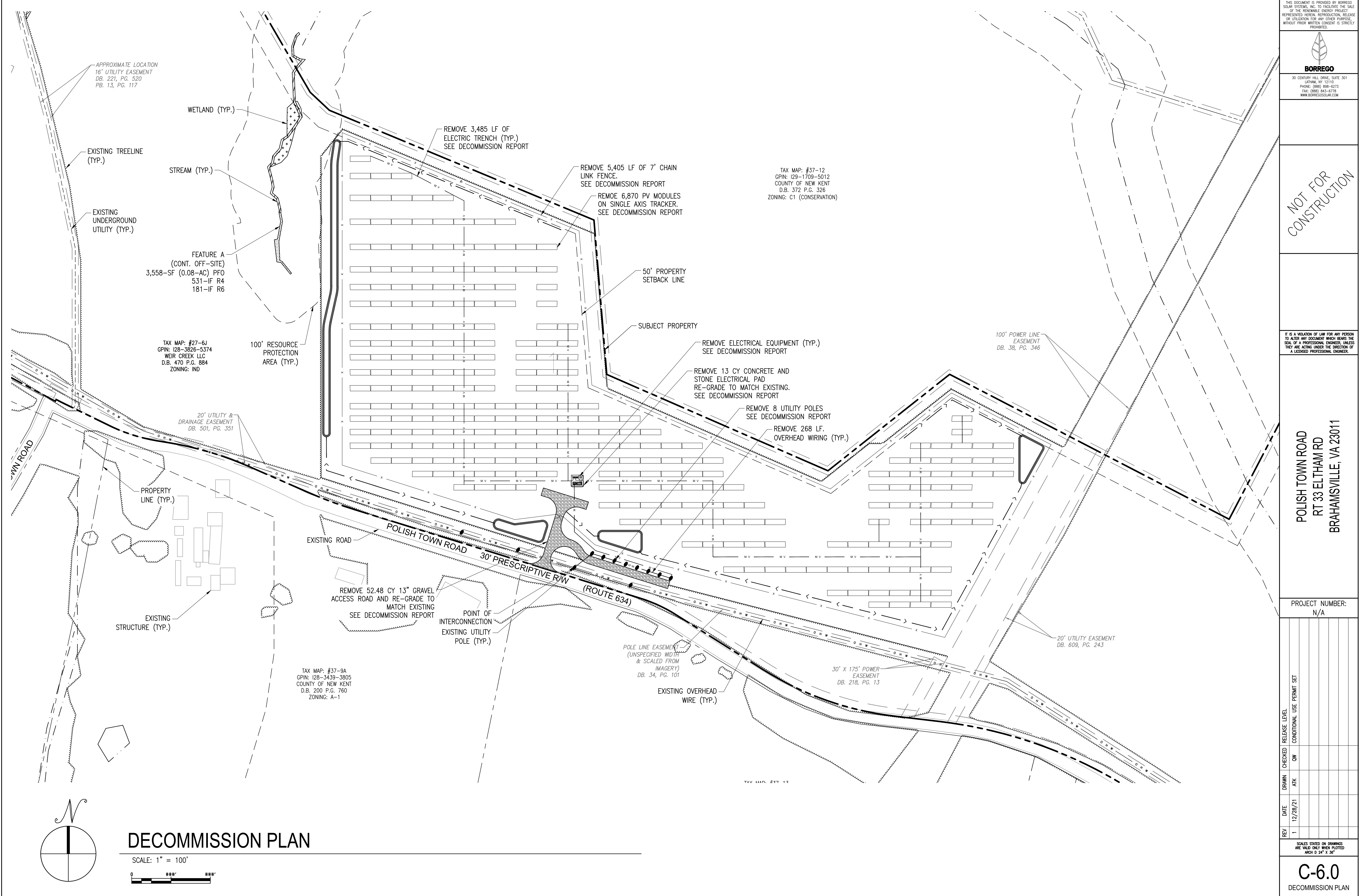
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C-5.0

CIVIL DETAILS

144



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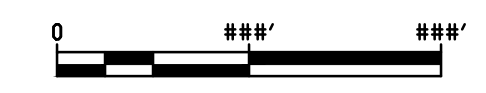
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**C-6.0**  
DECOMMISSION PLAN

DECOMMISSION PLAN

SCALE: 1" = 100'



Kelli,

Good morning! As the county continues to move forward with the draft solar ordinance, we wanted to assist in providing information regarding solar as a whole. The Planning Commission Members stated they had concerns with harmful materials and potential issues associated with solar panels that could lead to groundwater contamination, pollution, etc. I have compiled a few documents for you and all PC & Board Members to review in regards to this matter. Provided is a Statement and Toxicity and Leaching Protocol Report (inorganic/organic matter lab test) from Canadian Solar, which will most likely be the panels used in our 2021 projects, including Polish Town Road. I hope this helps ease any concerns and if any additional questions arise, we would be happy to assist in providing more information. Have a great day, Kelli!

Best,

Andy



**Andrew Kavanaugh**

Civil Engineer I

E: [akavanaugh@borregosolar.com](mailto:akavanaugh@borregosolar.com) | T: [\(978\) 735-1506](tel:(978)735-1506) | C: [\(302\) 229-8150](tel:(302)229-8150)



**Borrego | Powering your growth.**





Canadian Solar Inc.  
2430 Camino Ramon, Suite 240  
San Ramon, CA 94583  
Phone (888) 998 7739  
Fax (925) 866 2704

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March 23, 2017  
Aaron Hall  
President  
Borrego Solar Systems, Inc  
5005 Texas Street, Suite 400 San Diego, CA 92108

**Subject: CanadianSolar modules have no risk of contaminating ground water**

Dear Borrego Solar Systems, Inc,

Thank you for your continued interest in our products. Our goal is to provide high quality and high performance solar modules to enable sustainable growth of your PV business.

CanadianSolar hereby confirms the CanadianSolar modules intended for the Cotuit Water District project, in Cape Cod Ma, have no risk of contaminating the local ground water with any heavy metals. Canadian Solar modules have successfully passed the Leaching Testing put forth by KTR a 3<sup>rd</sup> party testing facility and CPTL our internal test lab. Our rigorous testing and successful results give use the confidence and assurance there will be no issue with regards to ground water contamination due to CanadianSolar Modules. Canadian Solar modules have also been certified in accordance to UL 1703 standards through the CSA certification body.

Canadian Solar is committed to providing high quality products to its valued customers. If you have any further questions, please do not hesitate to contact us at [service.ca@canadiansolar.com](mailto:service.ca@canadiansolar.com), our customer service department is at your disposal.

Sincerely,

Daniel Richardson

Technical Product Support And Product Management

A handwritten signature in black ink, appearing to read "Daniel Richardson", with a stylized flourish at the end.

**NEW KENT COUNTY  
Notice of Mailing**

Applicant Name: Borrego Solar/John Kinney (property owner)  
Application Number: CUP-01-22  
Public Hearing Date: Monday, April 11, 2022

**STATE OF VIRGINIA  
COUNTY OF NEW KENT, to wit**

I, Kelli L Z Le Duc, of the New Kent County Planning Department, do make oath that notices as required by Section 15.1-431 of the Code of Virginia, 1950, as amended, were mailed on the 29<sup>th</sup> day of March, 2022, by first class mail, postage prepaid, to the persons whose names and addresses are attached.

Kelli L Z Le Duc  
Signed

Subscribed and sworn to before me this 29<sup>th</sup> day of March, 2022.

I was originally commissioned as  
Sheri Lynn Wood, Notary Public

Sheri Lynn Adams

Notary Public



My commission expires: December 31, 2023.

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000



feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ [15.2-2240](#) et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.



F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § [15.2-2311](#) or [15.2-2314](#), is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

(Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. [774](#); 1995, c. [178](#); 1996, cc. [613](#), [667](#); 1997, c. [587](#); 2001, c. [406](#); 2002, c. [634](#); 2004, cc. [539](#), [799](#); 2005, c. [514](#); 2007, cc. [761](#), [813](#); 2011, c. [457](#); 2012, c. [548](#); 2013, cc. [149](#), [213](#).)

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**NOTICE OF PUBLIC HEARING  
NEW KENT COUNTY BOARD OF SUPERVISORS**

Notice is hereby given that the New Kent County Board of Supervisors will hold a public hearing, and may or may not take action, on Monday, April 11, 2022 at 7:00 p.m. or as soon thereafter as possible, in the Boardroom of the County Administration Building located at 12007 Courthouse Circle, New Kent, VA 23124, to consider the following:

**Application CUP-01-22, Borrego Solar – Resolution R-12-22:** Quintin J. Wood and representatives from Borrego Solar have applied for a Conditional Use Permit to construct a 3 MW solar system (facility) on approximately 23 acres located within Tax Parcel 27-6J (GPIN #I28-3826-5374) in eastern New Kent County. The parcel is currently zoned Industrial and is generally located east of State Route 30 and north of Henrico County's Regional Jail East on the north side of Route 634 (Polish Town Road). The Planning Commission considered this application at their meeting on March 21, 2022 and voted 8:1:1 to forward a favorable recommendation to the Board of Supervisors.

All interested persons may appear and present their views at the above time and place. If a member of the public cannot attend, comments may be submitted by mail to P. O. Box 150, New Kent, VA 23124; by fax to (804) 966-9370; or by email to [bos@newkent-va.us](mailto:bos@newkent-va.us). Comments received by 12:00 noon on the day of the hearings will be distributed to Board members and made a part of the public record. Copies of any proposed ordinances, resolutions, applications and staff reports may be viewed approximately one week prior to the hearing in the Office of the County Administrator at 12007 Courthouse Circle, New Kent, VA 23124, during regular business hours or at <http://www.co.new-kent.va.us>. Anyone needing assistance or accommodation under the provisions of the Americans with Disabilities Act should call the County Administrator's Office at (804) 966-9687. If the meeting cannot be held because of the closing of State and/or County offices, it will be held on the next business day that the County offices are open.

By authority of  
Rodney A. Hathaway  
Clerk of the Board

WEIR CREEK LLC  
ATTN: JOHN KINNEY  
2311 WILSON BLVD, STE 500  
ARLINGTON, VA 22201

CUP-01-22

SHIRLEY GRYMULSKI  
C/O KATHY GRYMULSKI  
17800 POLISH TOWN RD  
BARHAMSVILLE, VA 23011

CUP-01-22

KUBAS LLC  
PO BOX 305  
MIDLOTHIAN, VA 23113

COUNTY OF NEW KENT  
PO BOX 150  
NEW KENT, VA 23124

CUP-01-22

ANATOLIO FERNANDEZ  
PLANCARTE  
17701 POLISH TOWN RD  
BARHAMSVILLE, VA 23011

CUP-01-22

REBECCA PHILBATES  
PO BOX 28  
NEW KENT, VA 23124

VIRGINIA LC AND C/O VA  
PROPERTIES MGMT. LLC  
4600 N FAIRFAX DR. STE 1002  
ARLINGTON, VA 22203

CUP-01-22

PEBBLE BEACH PROPERTIES LLC  
9805 POCAHONTAS TR  
PROVIDENCE FORGE, VA 23140

CUP-01-22

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

PUBLIC HEARINGS

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

Subject

**PUBLIC HEARING - Equalized Tax Levy for Fiscal Year  
2023 - County Administrator Rodney Hathaway**

Issue

Recommendation

No action is needed.

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Person Appearing:

Rodney A.  
Hathaway, County  
Administrator

Request  
prepared by:

W. Watkins, Deputy  
Clerk of the Board

Telephone:

804-966-9687

Copy provided  
to:

**ATTACHMENTS:**

Description  
Equalized Tax Levy for FY23 (PDF)

Type  
Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 11:16 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 2:00 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:53 AM

**New Kent County Board of Supervisors  
Notice of Public Hearing  
Proposed Equalized Tax Levies for Fiscal Year 2023 Budget**

Pursuant to Section 58.1-3321 and 15.2-1427, Code of Virginia, 1950, as amended, the Board of Supervisors of New Kent County, Virginia (New Kent County) will hold a Public Hearing on April 11, 2022, beginning at 7:00 p.m., or as soon thereafter as possible, in the Boardroom of the County Administration Building, 12007 Courthouse Circle, New Kent, Virginia for the purpose of considering the equalized tax rate and the proposed tax levies to support the Fiscal Year 2023 Budget of New Kent County.

Equalized Tax Rate Public Hearing Overview:

1. In calendar year 2021, the Commissioner of Revenue's Office reassessed real estate property located in the County of New Kent in accordance with the Code of Virginia and County of New Kent County code. Reassessed values are effective January 1, 2022 and will be reflected in the County's Fiscal Year 2023 Budget.
2. The total assessed value of real property, excluding additional assessments due to new construction or improvements to property, exceeds last year's total assessed value of real property by an **average** of 19.27 percent.
3. As a result of this reassessment, the equalized tax rate totals \$0.66 per \$100 of assessed value, on average.
4. In a reassessment year, the equalized rate is the tax rate which would generate the same amount of real estate tax levy as the previous year, given the higher average assessment. The tax rate which would levy the same amount of real estate tax as last year, when multiplied by the new total assessed value of real estate with the exclusions mentioned above, would be \$0.66 per \$100 of assessed value. This rate will be known as the "equalized tax rate." The \$0.66 rate represents a \$0.13 reduction to the County's current real estate tax rate of \$0.79 per \$100 of assessed value.
5. Equalized Tax Rate Example:

Assessed Value Prior to Reassessment: \$250,000

Tax Levy Prior to Reassessment at the current \$0.79 per \$100 of assessed value: \$1,975

Assessed Value After Reassessment: \$299,243

Tax Levy After Reassessment at \$0.79 rate: \$2,364.02

Tax Levy After Reassessment at the Equalized Rate of \$0.66: \$1,975

All interested persons may appear and present their views at the above time and place. If a member of the public cannot attend, comments may be submitted by mail to P. O. Box 150, New Kent, VA 23124; by fax to (804) 966-9370, or by email to [bos@newkent-va.us](mailto:bos@newkent-va.us). Comments received by 12:00 noon on the day of the hearing will be distributed to Board members and made a part of the public record. Anyone needing assistance or accommodation under the provisions of the Americans with Disabilities Act should call the County Administrator's Office at (804) 966-9687.

By the authority of  
Rodney A. Hathaway  
Clerk of the Board

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

PUBLIC HEARINGS

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

Subject

**PUBLIC HEARING - Proposed Tax Levies for Fiscal Year  
2023 - County Administrator Rodney Hathaway**

Issue

Recommendation

No action is requested at this time.

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Person Appearing:

Rodney A.  
Hathaway, County  
Administrator

Request  
prepared by:

W. Watkins, Deputy  
Clerk of the Board

Telephone:

804-966-9687

Copy provided  
to:

**ATTACHMENTS:**

Description  
Proposed FY23 Tax Levies (PDF)

Type  
Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 11:10 AM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 2:01 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:53 AM



**New Kent County Board of Supervisors  
Notice of Public Hearing  
Proposed Tax Levies for Fiscal Year 2023**

Pursuant to Section 58.1-3007, Section 58.1-3321 and 15.2-1427, Code of Virginia, 1950, as amended, the Board of Supervisors of New Kent County, Virginia (New Kent County) will hold a Public Hearing on April 11, 2022, beginning at 7:00 p.m., or as soon thereafter as possible, in the Boardroom of the County Administration Building, 12007 Courthouse Circle, New Kent, Virginia for the purpose of considering the following proposed tax levies to support the proposed Fiscal Year 2023 Budget of New Kent County.

The County of New Kent proposes to increase real estate property tax levies for the fiscal year beginning July 1, 2022 and ending June 30, 2023 by \$0.03 over the equalized rate of \$0.66. The FY22 real estate tax rate totals \$0.79 per \$100 of assessed value.

1. **Assessment Increase:** Total assessed value of real property, excluding additional assessments due to new construction or improvements to property, exceeds last year's total assessed value of real property by 19.27 percent.
2. **Lowered Rate Necessary to Offset Increased Assessment:** The average tax rate which would levy the same amount of real estate tax as last year, when multiplied by the new total assessed value of real estate with the exclusions mentioned above, totals \$0.66 per \$100 of assessed value. This rate will be known as the "lowered tax rate" or the "equalized tax rate".
3. **Effective Rate Increase:** The County of New Kent proposes to adopt a tax rate of \$0.69 per \$100 of assessed value. The difference between the lowered tax rate of \$0.66 and the proposed rate of \$0.69 would be \$0.03 per \$100, or 4.5 percent. This difference will be known as the "effective tax rate increase."

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. **Proposed Total General Fund Budget Increase:** Based on the proposed real property tax rate and changes in other revenues, the total General Fund budget of the County of New Kent will exceed last year's by approximately 7.9 percent.

**TAX LEVIES**

**AN ORDINANCE TO IMPOSE TAX LEVIES UPON REAL ESTATE AND  
TANGIBLE PERSONAL PROPERTY FOR THE FISCAL YEAR 2022-23**

**The following levies are proposed to become effective July 1, 2022 (FY23 Budget):**

Class of Property	Rate Per \$100 of Assessed Valuation	Change
1. Real Estate (Change Over the Equalized Rate of \$0.66)	0.69	+ 0.03
2. Vehicles without motive power, used or designed to be used as manufactured homes as defined in Section 36-85.3 of the Code of Virginia. (Change over the Equalized Rate of \$0.66)	0.69	+ 0.03
3. Public Service Corporation Real Property (Change Over the Equalized Rate of \$0.66)	0.69	+ 0.03
4. Tangible Personal Property not otherwise exempt or set out	3.75	None
5. Public Service Corporation Tangible Personal Property	3.75	None
6. Special rate for Tangible Personal Property not otherwise exempt or set out for one vehicle per qualified Fire-Rescue Volunteer or Auxiliary Volunteer	1.875	None
7. Airplanes	0.75	None
8. Machinery and Tools	0.75	None
9. Bottoms Bridge Sewer/Water District <i>Ad Valorem</i> tax (The current rate is \$0.10)	0.05	- 0.05

All interested persons may appear and present their views at the above time and place. If a member of the public cannot attend, comments may be submitted by mail to P. O. Box 150, New Kent, VA 23124; by fax to (804) 966-9370, or by email to [bos@newkent-va.us](mailto:bos@newkent-va.us). Comments received by 12:00 noon on the day of the hearing will be distributed to Board members and made a part of the public record. A complete copy of the proposed ordinance may be viewed approximately one week prior to the hearing in the Office of the County Administrator at 12007 Courthouse Circle, New Kent, VA 23124, during regular business hours or at <http://www.co.new-kent.va.us>. Anyone needing assistance or accommodation under the provisions of the Americans with Disabilities Act should call the County Administrator's Office at (804) 966-9687.

By the authority of  
Rodney A. Hathaway  
Clerk of the Board



**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

PUBLIC HEARINGS

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

Subject

**PUBLIC HEARING - Proposed Amendments to Appendix A - Fees of the New Kent County Code - County Administrator Rodney Hathaway**

Issue

Recommendation

No action is requested at this time.

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Person Appearing:

Rodney A.  
Hathaway, County  
Administrator

Request  
prepared by:

W. Watkins, Deputy  
Clerk of the Board

Telephone:

804-966-9687

Copy provided  
to:

**ATTACHMENTS:**

Description

Proposed Fee Amendments for FY23 (PDF)

Type

Cover Memo

**REVIEWERS:**

Department

Reviewer

Action

Date

Clerk

Watkins, Wanda

Approved

3/31/2022 - 11:07  
AM

Administration  
Attorney

Hathaway, Rodney  
Hefty, Brendan

Approved  
Approved

3/31/2022 - 2:00 PM  
4/1/2022 - 8:53 AM

**NEW KENT COUNTY  
PROPOSED FY23 BUDGET  
FEE CHANGES**

Notice is hereby given that the New Kent County Board of Supervisors will hold a public hearing on Monday, April 11, 2022, at 7:00 p.m., or as soon thereafter as possible, in the Boardroom of the Historic Courthouse Building located at 12003 New Kent Highway, New Kent, Virginia, to consider the following fee changes.

Under the authority granted in §§ 15.2-2286 and 36-105 of the Code of Virginia, an Ordinance to amend Appendix A of the New Kent County Code to increase or amend fees as follows:

<b>Item</b>	<b>Current FY22 Base Fee</b>	<b>Proposed FY 23 Base Fee</b>	<b>Comment</b>
<b>AIRPORT</b>			
Apron tie-downs, per month	\$50.00	\$75.00	Fee Change
Daily Aircraft Staging Fee	\$35.00	\$50.00	Fee Change
<b>BUILDING DEVELOPMENT</b>			
Re-inspection fee	\$55.00	\$75.00	Fee Change
New: Proposed Second Offense Re-inspection fee	N/A	\$125.00	New Fee
<b>LAND DEVELOPMENT / ENVIRONMENTAL</b>			
Erosion and sediment control plan review and inspection fee; Single Family for one acre or less	\$75.00 Base Fee & \$10.00/acre	\$85.00 Base Fee & \$10.00/acre	Fee Change
Erosion and sediment control plan review and inspection fee; Commercial, Mixed Use, or Industrial	\$100.00 Base Fee & \$50.00/acre	\$250.00 Base Fee & \$60.00/acre	Fee Change
Land Disturbance Permit – Single Family	\$210.00 Base Fee & \$20.00/acre	\$250.00 Base Fee & \$20.00/acre	Fee Change
Land Disturbance Permit – Commercial, Mixed Use, or Industrial	\$465.00 Base Fee & \$50.00/acre	\$550.00 Base Fee & \$60.00/acre	Fee Change
New: Proposed Plan Amendment – Single Family	N/A	\$40.00	New Fee
New: Proposed Plan Amendment – Commercial, Mixed Use, or Industrial	N/A	\$60.00 Base Fee & \$20.00/acre	New Fee

<b>PUBLIC SAFETY – FIRE DEPARTMENT</b>			
<b><i>Cost Recovery for Emergency Medical Services:</i></b>			
Basic Life Support	\$497.00	\$550.00	Fee Change
Advanced Life Support 2	\$800.00	\$1,000.00	Fee Change
Per mile charge for transport to hospital	\$10.00/mile	\$12.00/mile	Fee Change
<b><i>Mobile Food Preparation Vehicles:</i></b>			
New: Proposed Permit Fee	N/A	\$25.00 Annually	New Fee

All interested persons may appear and present their views at the above time and place. If a member of the public cannot attend, comments may be submitted by mail to P. O. Box 150, New Kent, VA 23124; by fax to (804) 966-9370, or by email to [bos@co.newkent-va.us](mailto:bos@co.newkent-va.us). Comments received by 12:00 noon on the day of the hearing will be distributed to Board members and made a part of the public record. A complete copy of the proposed ordinance may be viewed approximately one week prior to the hearing in the Office of the County Administrator at 11825 New Kent Highway, New Kent, VA 23124, during regular business hours or at <http://www.co.new-kent.va.us>. Anyone needing assistance or accommodation under the provisions of the Americans with Disabilities Act should call the County Administrator's Office at (804) 966-9687.

By the authority of  
Rodney A. Hathaway  
Clerk of the Board

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

APPOINTMENTS

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	
Subject	Appointments - Delegated by District
Issue	
Recommendation	
Fiscal Implications	
Policy Implications	
Legislative History	
Discussion	

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Appointments Delegated by District (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 1:20 PM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 1:57 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:50 AM

**PROPOSED MOTIONS:**

**DISTRICT ONE APPOINTMENTS**

NONE

**PROPOSED MOTIONS:**

**DISTRICT TWO APPOINTMENTS**

I move to appoint \_\_\_\_\_ as District Two representative to the Purchase of Development Rights Committee to complete a term ending June 30, 2024. (*The term of Joanne Panek expired June 30, 2018.*)

I move to appoint \_\_\_\_\_ as a District Two representative to the Transportation Safety Commission to complete a term ending December 31, 2023. (*The term of Thomas Richart expired December 31, 2015.*)



**PROPOSED MOTIONS:**

**DISTRICT THREE APPOINTMENTS**

I move to appoint \_\_\_\_\_ as District Three representative to the Historic Commission to serve a four-year term beginning January 1, 2022 and ending December 31, 2025. *(The term of Lloyd A. Young expired on December 31, 2021.)*

**PROPOSED MOTIONS:**

**DISTRICT FOUR APPOINTMENTS**

NONE

**PROPOSED MOTIONS:**

**DISTRICT FIVE APPOINTMENTS**

I move to appoint \_\_\_\_\_ as District Five representative to the Purchase of Development Rights Committee to complete a three-year term ending June 30, 2024. *(The term of Julian Ward expired on June 30, 2021.)*

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

APPOINTMENTS

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)			
Subject	Appointments - Not Delegated by District		
Issue			
Recommendation			
Fiscal Implications			
Policy Implications			
Legislative History			
Discussion			

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Appointments NOT Delegated by District (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 1:21 PM
Administration	Hathaway, Rodney	Approved	3/31/2022 - 1:58 PM
Attorney	Hefty, Brendan	Approved	4/1/2022 - 8:50 AM

**PROPOSED MOTIONS:**

**Boards and Commissions not Delegated by District**

I move to appoint \_\_\_\_\_ as an at large member of the Board of Building Code Appeals/Board of Fire Prevention Code Appeals to complete a four-year term beginning January 1, 2022 and ending December 31, 2025. *(The term of David Sontos expired on December 31, 2021. This appointment should be made by the District 1 BOS Member.)*

I move to appoint \_\_\_\_\_ as an at large member of the Board of Building Code Appeals/Board of Fire Prevention Code Appeals to complete a four-year term ending December 31, 2023. *(The term of Donald Seeterlin expired December 31, 2019. This appointment should be made by the District 2 BOS Member.)*

I move to appoint \_\_\_\_\_ as an alternate member of the Board of Building Code Appeals/Board of Fire Prevention Code Appeals to serve a term ending December 31, 2025. *(This position has been vacant since 2013.)*

I move to appoint **Laura Clark** as an at large representative to the Clean County Committee to serve a four-year term beginning January 1, 2022 and ending December 31, 2025. *(The term of Laura Clark expired on December 31, 2021. Ms. Clark was previously appointed by Mr. Stiers. She has requested reappointment.)*

I move to appoint \_\_\_\_\_ as a Planning Commission representative to the Comprehensive Plan Steering Committee. *(This appointment is pending a recommendation from the Planning Commission.)*

I move to appoint \_\_\_\_\_ as a Planning Commission representative to the Comprehensive Plan Steering Committee. *(This appointment is pending a recommendation from the Planning Commission.)*

I move to appoint \_\_\_\_\_ as a representative to the Farms of New Kent Community Development Authority Board to serve a four-year term beginning January 1, 2022 and ending December 31, 2025. *(The term of L. Steven Miles expired on December 31, 2021. This appointment should be made by the District 4 BOS Member.)*

I move to appoint \_\_\_\_\_ as a representative to the Farms of New Kent Community Development Authority Board to serve a four-year

term beginning January 1, 2022 and ending December 31, 2025. *(The term of R. Ronald Jordan expired on December 31, 2021. This appointment should be made by the District 5 BOS Member.)*

I move to appoint \_\_\_\_\_ as an alternate representative to the Board of Zoning Appeals to serve a five-year term beginning January 1, 2022 and ending December 31, 2026. *(The term of Lee Tyson expired on December 31, 2021.)*

**PLEASE NOTE** – The following 5 appointments are for the Youth Community Service Committee. The term is one year and **your appointees DO NOT have to reside within your district.** New Kent High School has provided a list of additional students who want to serve but have not been appointed.

Aiden Hutchinson	District 4	<b><u>These students want to be appointed!</u></b> 😊
Carrington Vines	District 4	

I can provide contact information for these students should you wish to speak with them prior to making an appointment.

I move to appoint \_\_\_\_\_ as a youth member of the New Kent County Youth Community Service Committee to serve a one-year term ending December 31, 2022. *(This appointment should be made by the District 3 BOS Member.)*

I move to appoint \_\_\_\_\_ as a youth member of the New Kent County Youth Community Service Committee to serve a one-year term ending December 31, 2022. *(This appointment should be made by the District 3 BOS Member.)*

I move to appoint \_\_\_\_\_ as a youth member of the New Kent County Youth Community Service Committee to serve a one-year term ending December 31, 2022. *(This appointment should be made by the District 4 BOS Member.)*

I move to appoint \_\_\_\_\_ as a youth member of the New Kent County Youth Community Service Committee to serve a one-year term ending December 31, 2022. *(This appointment should be made by the District 4 BOS Member.)*

I move to appoint \_\_\_\_\_ as a youth member of the New Kent County Youth Community Service Committee to serve a one-year term ending December 31, 2022. *(This appointment should be made by the District 4 BOS Member.)*



**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

**APPOINTMENTS**

Motion: "Mr.  
Chairman, I move to  
(not required for Consent  
Agenda items)

Subject

Appointments - Regional Boards and Commissions

Issue

Recommendation

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

Person Appearing:

Request  
prepared by:

W. Watkins, Deputy  
Clerk of the Board

Telephone:

804-966-9687

Copy provided  
to:

**ATTACHMENTS:**

Description

Type

Appointments - Regional Boards and Commissions  
(PDF)

Cover Memo

**REVIEWERS:**

Department

Reviewer

Action

Date

Clerk

Watkins, Wanda

Approved

3/31/2022 - 1:22 PM

Administration

Hathaway, Rodney

Approved

3/31/2022 - 1:58 PM

Attorney

Hefty, Brendan

Approved

4/1/2022 - 8:51 AM

**Regional Boards and Commissions**

I move to appoint \_\_\_\_\_ as New Kent's alternate representative to the TPO Citizen Transportation Advisory Committee to serve a four-year term beginning January 1, 2022 and ending December 31, 2025. *(The term of John P. Moyer expired on December 31, 2021.)*

**AGENDA ITEM REQUEST**  
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO  
THE MEETING)

Meeting Date: 4/11/2022

ADJOURNMENT

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	adjourn.
Subject	Adjournment
Issue	
Recommendation	Approval
Fiscal Implications	
Policy Implications	
Legislative History	
Discussion	The next regularly scheduled meeting of the Board of Supervisors will be held at 6:00 p.m. on Monday, May 9, 2022 and the next work session at 9:00 a.m. on Wednesday, April 27, 2022, both in the Boardroom of the County Administration Building.

Time Needed:		Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

**ATTACHMENTS:**

Description	Type
Closed Session Motions (PDF)	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	3/31/2022 - 2:24 PM

## **MOTIONS FOR CONVENING A CLOSED SESSION**

- 1 I move to go into closed session pursuant to §2.2-3711A.1 of the Code of Virginia for *(discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or County employees)* involving \_\_\_\_\_.
- 3 I move to go into closed session pursuant to §2.2-3711A.3 of the Code of Virginia for *discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County)* involving \_\_\_\_\_.
- 4 I move to go into closed session pursuant to §2.2-3711A.4 of the Code of Virginia for *(the protection of the privacy of individuals in personal matters not related to public business)* involving \_\_\_\_\_.
- 5 I move to go into closed session pursuant to §2.2-3711A.5 of the Code of Virginia for *(discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community)* involving \_\_\_\_\_.
- 6 I move to go into closed session pursuant to §2.2-3711A.6 of the Code of Virginia for *(discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the County would be adversely affected)* involving \_\_\_\_\_.
- 7 I move to go into closed session pursuant to §2.2-3711A.7 of the Code of Virginia for *(consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel)* involving \_\_\_\_\_.
- 19 I move to go into closed session pursuant to §2.2-3711A.19 of the Code of Virginia for *(discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure)* involving \_\_\_\_\_.
- 28 I move to go into closed session pursuant to §2.2-3711A.28 of the Code of Virginia for *(discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records)* involving \_\_\_\_\_.

- 29 I move to go into closed session pursuant to §2.2-3711A.29 of the Code of Virginia for *(discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the Board)* involving \_\_\_\_\_.
- 33 I move to go into closed session pursuant to §2.2-3711A.32 of the Code of Virginia for *(discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.)* involving \_\_\_\_\_.

### **CERTIFICATION OF CLOSED SESSION**

#### **A. Motion**

I move that the Board certify by roll call vote that to the best of each member's knowledge only public business matters lawfully exempted from open session requirements of the Freedom of Information Act and identified in the motion to go into closed session were heard, discussed or considered in the closed session.

#### **B. Vote taken on certification.**

Present:

Vote:

Thomas W. Evelyn  
C. Thomas Tiller, Jr.  
Patricia A. Paige  
Ron Stiers  
John N. Lockwood