BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA

R-14-16

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 13th day of June, 2016:

Present:	Vote:
W.R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia Paige	Aye
Ron Stiers	Aye

Motion was made by Mr. Davis, which carried 5:0, to adopt the following resolution:

A RESOLUTION TO APPROVE CONDITIONAL USE PERMIT APPLICATION CUP-02-16, CORRECTIONAL SOLAR, LLC TO AUTHORIZE THE CONSTRUCTION OF A SOLAR FARM FACILITY LOCATED ON TAX MAP 37-50 (GPIN #G29-2578-3576) AND TAX MAP 37-57 (GPIN #G30-0217-4336)

WHEREAS, Gilman Land & Timber LLC and Hunt Walker Properties LLC (property owners) and Matthew Meares from Correctional Solar, LLC (applicant), have submitted a "Conditional Use Permit Application" dated April 18, 2016; and

WHEREAS, said application requests a conditional use permit to construct, own, and operate a solar farm site (defined as a "public or private electrical generation facility" in the New Kent County Zoning Ordinance) on two parcels identified on the New Kent County digital map as GPIN #G29-2578-3576 (Tax Map and parcel 37-50) and GPIN #G30-0217-4336 (Tax Map and parcel 37-57); 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 on May 16, 2016 where they carefully considered the public comment received and voted 10:0:1 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 June 13, 2016, and carefully considered the comments received; and

WHEREAS, the Board of Supervisors has evaluated the application based on the current zoning of the parcels, which is A-1 Agricultural, 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-02-16 is substantially in accord with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors finds that approval of CUP-02-16 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 13th day of June, 2016, by the New Kent County Board of Supervisors, that Conditional Use Permit Application CUP-02-16 submitted by Gilman Land & Timber LLC and Hunt Walker Properties LLC (property owners) and Matthew Meares from Correctional Solar, LLC (applicant), be approved with the following conditions:

1. The following conditions shall apply to Tax Map & Parcel number 37-50 (GPIN G29-2578-3576) and Tax Map & Parcel number 37-57 (GPIN G30-0217-4336).

2. This Conditional Use Permit shall be binding on Virginia Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy farm.

3. Virginia Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy farm (the "Applicant") shall consent to annual administrative inspections by Community Development Department staff for compliance with the requirements of this Conditional Use Permit.

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 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.
    b. An Erosion and Sediment Control plan must be submitted and approved prior to any land disturbance.
    c. The site shall fully comply with all applicable provisions of Section 98-213 of the New Kent County Zoning Ordinance, to the extent not modified herein, throughout the life of this CUP.

5. The solar energy farm shall consist of one integrated power generation facility and shall be limited to no more than the 250 acres of the property identified as "Correctional – Virginia Solar," as shown on the Maximum Extents Plan prepared by Timmons Group dated April 18th, 2016.

6. All site activity required for the construction and operation of the solar energy farm shall be limited to the following:
   a. All piling driving activity shall be limited to the hours of no earlier than 7:00 a.m. to no later than 7:00 p.m., 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 minimum one hundred and fifty (150) foot setback shall be maintained from solar equipment to any adjacent residential dwellings that exist at of the time of the CUP application approval by the Board of Supervisors. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.

8. In order to comply with Section 98-875 (5), a minimum 50' foot setback from solar equipment to the property line shall be provided around the perimeter of the Project where it is adjacent to property not owned by the same property owner as covered in the CUP at the time of the approval by the Board of Supervisors. Within the buffer, in areas where there is not at least 15' of native timber remaining on the project parcel, a single row of evergreens will be planted within the 50 foot setback where there is an adjacent property with an existing residence. Such evergreens shall be planted on fifteen (15) foot centers and shall be a Meyers Spruce tree or other similar tree (which alternative tree shall be subject to the prior written approval of the Planning Department), and the evergreen installed shall have an anticipated five year height of six (6) to eight (8) feet after planting and an anticipated mature height of thirty (30) to forty (40) feet. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.

9. In order to comply with Section 98-875 (5), a minimum 50' setback from any solar structure to any public right of way where the Project is adjacent to a public right of way shall be provided. Along public right of ways low growing evergreen vegetation with an anticipated five year height of three (3) to five (5) feet after planting and a mature height of no more than seven (7) to ten (10) feet shall be planted and/or/or in combination with a berm of sufficient height to block the view of the solar equipment, when standing at the edge of the public right of way at a height of 5', in accordance with a landscape plan approved by the zoning administrator per the requirement of Sec 98-875 (a)(12). This requirement may be reduced or waived if agreed to, in writing, by the zoning administrator. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.

10. The Applicant shall install a security fence around the solar energy farm that is a minimum six (6) feet in height.

11. All solar panels will use anti-reflective coatings to help prevent glare.

12. No aspect of the solar farm shall exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to electrical distribution or transmission lines.

13. Construction lighting shall be minimized and shall be directed downward. Post- construction lighting shall be limited to security lighting only.

14. If the solar energy farm is inactive, completely or substantially discontinuing the delivery of electricity to an electrical grid for a continuous twenty-four (24) month period it shall be considered abandoned. The Applicant shall provide notice to County Staff immediately upon the site becoming inactive and/or shutting down operation. The current owner of the Project ("Project Owner") shall remove the facilities ("decommissioning") within six (6) months of receipt of notice from the County ("County Notice"). If the facility is not removed within the specified time after the County Notice, the County may cause the removal of the solar energy farm with costs being borne by the Project Owner. Unless the solar energy farm is owned by a public utility in the Commonwealth of Virginia, the net costs of decommissioning shall be secured by an adequate surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or a guarantee by an investment grade entity, posted within 30 days of the project receiving its occupancy permit or equivalent from the County. If the solar energy farm is sold to any entity that is not a public utility, the CUP shall not transfer to the purchaser until such time as the adequate surety is provided. If a surety is required, the cost estimates of the decommissioning shall be updated every five (5) years and provided to the County. At its option, the County may require the surety amount be increased based on the net cost of decommissioning.

15. 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 farm in regard to how to safely respond to on-site emergencies.

16. Access roads are to be marked by the Applicant with identifying signage.

17. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the Virginia Department of Transportation (VDOT) and the County of New Kent 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 issues arises during the construction of the Project, the Applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.

18. A building permit shall be obtained within three years of CUP approval or this CUP shall be null and void.

Attest:

Rodney A. Hathaway
County Administrator

Ron Stiers
Chairman

COUNTY OF NEW KENT
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 14th day of June, 2016 by Rodney A. Hathaway, County Administrator and Clerk of the New Kent Board of Supervisors.

My commission expires: 12-31-18
My Commission Number: 315272

Wanda Faye Watkins
Notary

WANDA FAYE WATKINS NOTARY PUBLIC MY COMMISSION NUMBER 315272 COMMONWEALTH OF VIRGINIA

COUNTY OF NEW KENT
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 11th day of ~~June~~ July, 2016 by Ron Stiers, Chairman of the New Kent Board of Supervisors.

My commission expires: 12-31-18
My Commission Number: 315272

Wanda Faye Watkins
Notary

WANDA FAYE WATKINS NOTARY PUBLIC MY COMMISSION NUMBER 315272 COMMONWEALTH OF VIRGINIA

INSTRUMENT #160001951
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY ON
JULY 13, 2016 AT 12:01PM

AMY P. CRUMP, CLERK
RECORDED BY: KSM