



Surry County

Department of Planning & Community Development

P.O. Box 357
45 School Street
Surry, Virginia 23883
757-294-5210

AGENDA

Planning Commission

January 25, 2021

CALL TO ORDER AT 7:00 P.M.

I. ROLL CALL / DETERMINATION OF QUORUM

Eddie Brock, Chairperson	Theodore Lunsford
Thomas Hardy	Kevin Monahan
Stephen Berryman	Earl Newby, Sr.
William Seward, IV	Carmen D. Judkins
Judy S. Lyttle	Giron Wooden, Jr.
Dianne Cheek	

II. NEW BUSINESS

Comprehensive Plan Map Amendment No. 2020-03

1. Presentation – Cavalier Solar
2. Public Hearing – Open
3. Public Hearing – Closed
4. Planning Commission Comments
5. Staff Recommendation

Rezoning Application No. 2020-03

1. Presentation – Cavalier Solar
2. Public Hearing – Open
3. Public Hearing – Closed
4. Planning Commission Comments
5. Staff Recommendation

Conditional Use Permit No. 2020-04

1. Presentation – Cavalier Solar
2. Public Hearing – Open
3. Public Hearing – Closed
4. Planning Commission Comments
5. Staff Recommendation

Substantially in Accord Determination

1. Presentation – Cavalier Solar
2. Public Hearing – Open
3. Public Hearing – Closed
4. Planning Commission Comments
5. Staff Recommendation

III. COMMENTS BY COMMISSIONER

IV. ADJOURNMENT

**NOTICE IS HEREBY GIVEN THAT
THE SURRY COUNTY PLANNING COMMISSION
WILL HOLD A PUBLIC HEARING ON
MONDAY, JANUARY 25, 2021 AT 7:00 P.M.
IN AN ELECTRONIC ONLINE FORMAT (DIRECTIONS TO ACCESS THE MEETING AND
MAKE PUBLIC COMMENT CAN BE FOUND BELOW)
TO CONSIDER THE FOLLOWING:**

Notice is hereby given that the Surry County Planning Commission will hold a public hearing on Monday, January 25, 2021 at 7:00 p.m.

A copy of the Comprehensive Plan Map Amendment, Rezoning, Substantially in Accord and Conditional Use Permit Application along with supporting documentation are available on the County's website at www.surrycountyva.gov/AgendaCenter/. Instructions for attendance are also included in packet.

General Project Description: The Applicant proposes to construct a 240 megawatt (MW) solar energy facility to be located in southern Surry County, southeast of Dendron and northern Isle of Wight County. The portion of the Project proposed within Surry County would consist of approximately 193 MW of the solar energy facility within 24 parcels with an estimated total of 4,328 acres. Of the 4,328 acres in Surry County, approximately 3,314 acres would be purchased or leased for the Project (Project Area), and the Project facilities would cover approximately 1,341 acres of land (Project Site). The Project will utilize photovoltaic (PV) modules installed on single-axis trackers. Electricity will be delivered from electrical inverters adjacent to the PV modules, via transmission lines that will run from the Project to the nearby Septa Substation owned by Dominion Energy.

The Public Hearings will be to consider applications for the following:

Comprehensive Plan Map Amendment No. 2020-03

The Applicant, Cavalier Solar A, LLC, seeks a map amendment to the Development Plan Map of the Surry County Comprehensive Plan to reflect that the property is suitable for General Industrial use. The project consists of 24 parcels which are zoned A-R, Agricultural Rural District, and will be located in southern Surry County, southeast of Dendron and northern Isle of Wight.

Rezoning Application No. 2020-03

The Applicant, Cavalier Solar A, LLC, seeks to rezone \pm 4,328 acres from Agricultural Rural District (A-R) to General Industrial District (M-1) to permit a solar utility use. The project consists of 24 parcels which are zoned A-R, Agricultural Rural District, and will be located in southern Surry County, southeast of Dendron and northern Isle of Wight County.

Conditional Use Permit No. 2020-04

The Applicant, Cavalier Solar A, LLC, seeks a conditional use permit for a solar generation facility in Surry County. The project consists of 24 parcels which are zoned A-R, Agricultural Rural District, and will be located in southern Surry County, southeast of Dendron and northern Isle of Wight County.

The proposed CUP includes conditions to mitigate any adverse effects of the proposed facility to the affected parcels and immediately adjacent parcels as well as facility decommissioning.

Substantially in Accord Determination

Pursuant to Virginia Code Section 15.2-2232(A), Applicant Cavalier Solar A, LLC seeks a determination that the Project, as defined in Conditional Use Permit Application No. 2020-04, is substantially in accord with the Surry County Comprehensive Plan for the proposal to construct and operate a solar energy

facility. The project consists of 24 parcels which are zoned A-R, Agricultural Rural District, and will be located in southern Surry County, southeast of Dendron and northern Isle of Wight County.

Join our meeting from your computer, tablet or smartphone.
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You can also dial in using your phone.

United States (Toll Free): 1 877 568 4106 United States: +1 (571) 317-3129
Access Code: 447-043-917

If you have never used the application 'GoToMeeting', use the link below to download the application and be ready when the first meeting starts: <https://global.gotomeeting.com/install/447043917>

New to GoToMeeting? Get the app now and be ready when your first meeting starts:
<https://global.gotomeeting.com/install/279601685>

Public comments can be made online or by telephone during the public hearing.

If assistance or special accommodations are needed in order to participate in the hearing, please contact the Department of Planning at least seven days before the hearing; Monday through Friday at (757) 294-5210.

David A. Harrison,
Deputy County Administrator
Interim Director of Planning & Community Development

**STAFF REPORT TO THE
SURRY COUNTY PLANNING COMMISSION**

§ 15.2-2232 Substantial Accord Determination

January 25, 2021

Applicants / Owners Name & Address Cavalier Solar, A, LLC
4200 Innslake Drive, Suite 302
Glen Allen, VA 23060

Property Location and Description

24 parcels in Southern Surry County around adjacent parcel 60-10 southeast of Dendron and in northern Isle of Wight County.

Statistical Data

Current Zoning District	A-R, Agricultural-Rural
Current Use	Residential

Surrounding Zoning / Land Uses A-R, Agricultural-Rural; agricultural, residential

§ 15.2-2232 No. 2021-01

Cavalier Solar, the applicant/owner of the proposed project, has applied for an amendment to the Surry County Comprehensive Plan; specifically, to amend the plan’s Development Plan Map to designate the subject property as an Industrial future land use, as it is currently classified as Agricultural.

The Cavalier Solar project proposes to construct a 240 megawatt (MW) solar energy facility to be located in southern Surry County, southeast of Dendron and in northern Isle of Wight County. The portion of the Project proposed within Surry County would consist of approximately 193 MW of the solar energy facility within 24 parcels with an estimated total of 4,328 acres. Of the 4,328 acres in Surry County, approximately 3,314 acres would be purchased or leased for the Project (Project Area), and the Project facilities would cover approximately 1,341 acres of land (Project Site). The Project will utilize photovoltaic (PV) modules installed on single-axis trackers. Electricity will be delivered from electrical inverters adjacent to the PV modules, via transmission lines that will run from the Project to the nearby Septa Substation owned by Dominion Energy.

The Surry County Planning Commission approved Comprehensive Plan Text Amendment No. 2020-01 on May 18, 2020 to allow proposed Spring Grove Solar III to be rezoned to an M-1 Industrial lane use to allow for the development of a 672 acre parcel adjacent to the applicant/owner’s existing property to develop utility-scale solar electric generating facilities with a generating capacity up to 400 megawatts (MW).

The Surry County Solar Ordinance, adopted in December 2018 and after the aforementioned CUPs, disallows utility-scale solar projects in the A-R, Agricultural-Rural zoning district, only allowing such facilities to be located in M-1 (General Industrial) and M-2 (General Industrial) zoning districts with Conditional Use Permits.

As the subject parcel is not zoned M-1 or M-2, nor is it designated in the Development Plan Map of the Comprehensive Plan as Industrial, a Comprehensive Plan Amendment and rezoning of the property is required; in addition to a § 15.2-2232 review and the granting of a Conditional Use Permit.

Before you is the § 15.2-2232 Review to determine if the utility-scale solar project is in substantial conformity with the Comprehensive Plan. These votes are the purview of the Planning Commission and are not simply a recommendation to the Board of Supervisors.

Process:

In regard to the process for this application, and others like it under the new Solar Ordinance, the following actions will be required if final approval is to be achieved:

1. A review of the Comprehensive Plan amendment with a recommendation from the Planning Commission, and subsequent adoption by the Board of Supervisors.
2. A rezoning application to M-1 or M-2 zoning, reviewed by the Planning Commission, and adopted by the Board of Supervisors.
3. A Conditional Use Permit application, reviewed by the Planning Commission, and granted by the Board of Supervisors.
4. A § 15.2-2232 review by the Planning Commission that confirms the proposed project is in substantially in accord with the Comprehensive Plan.

Surry County Ordinances / State Code Summary:

Surry County Solar Energy Ordinance

Section 4.12 Allowable Zoning Districts, Applicable Codes and Inspections

A. Allowable Zoning Districts

- a. Solar farms shall be permitted by a Conditional Use Permit in the M-1 (General Industrial District) and M-2 (General Industrial District) zoning districts.

Surry County Subdivision Ordinance

Sec. 8.1.4. - Conformance.

In addition to the regulations found in this appendix, all land development activity within the county shall comply with the county's comprehensive plan...

Surry County Zoning Ordinance

Sec. 1-107. - Relationship to comprehensive plan.

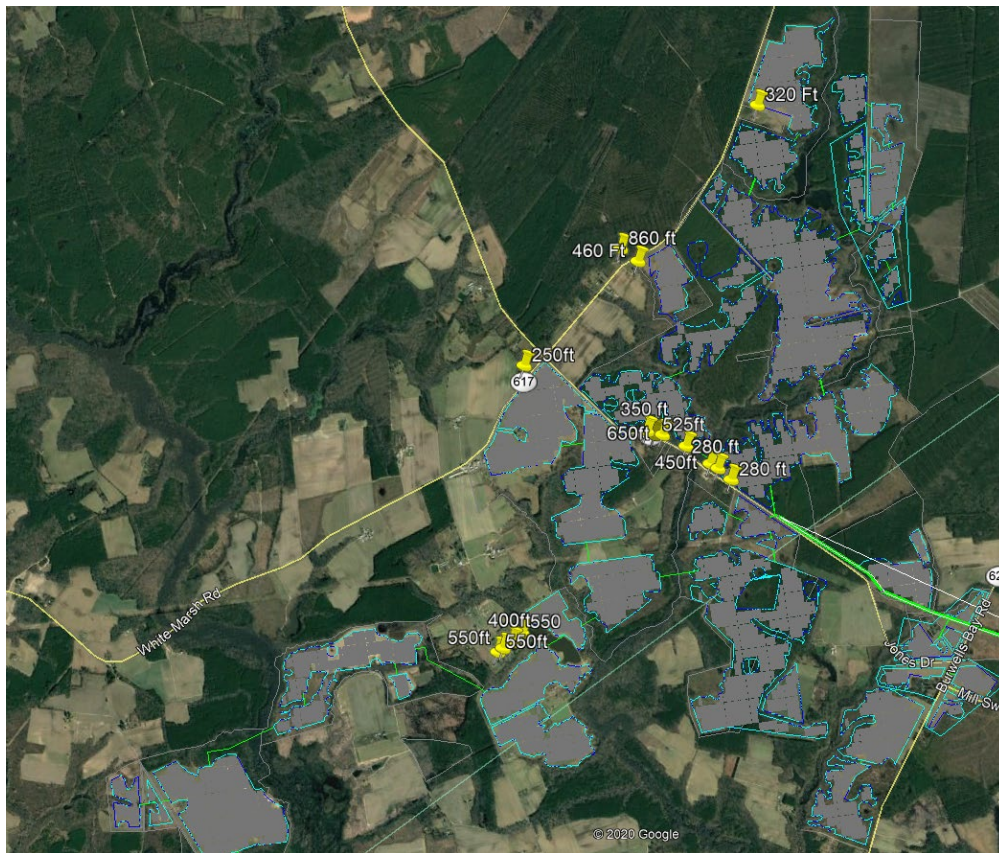
It is the intention of the board of supervisors that this ordinance implements the planning policies and objectives for the county as reflected in the comprehensive plan...

Virginia State Code

§ 15.2-2232. Legal status of plan.

H. A solar facility subject to subsection A shall be deemed to be substantially in accord with the comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar facilities by right or (ii) such proposed solar facility is designed to serve the electricity or thermal needs of the property upon which such facility is located, or will be owned or operated by an eligible customer-generator or eligible agricultural customer-generator under § 56-594 or by a small agricultural generator under § 56-594.2. All other solar facilities shall be reviewed for substantial accord with the comprehensive plan in accordance with this section. However, a locality may allow for a substantial accord review for such solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.

Vicinity Map



Staff Comments:

Virginia State Code section § 15.2-2232 provides protections for localities to ensure utility-scale solar projects are sited in a manner that is consistent with the community’s Comprehensive Plan.

- If the facility is proposed to be sited in a district where they are allowed by right, then the project shall be deemed substantially in accord with the Comprehensive Plan.
- If the facility is proposed to be sited in a district that does not allow them by right, then this review must be conducted based upon its conformity with the Comprehensive Plan.

In regard to being in substantial conformity with the Comprehensive Plan, planning staff identifies the following strengths and weaknesses:

Strengths:

- The project area is substantially in accord with the Comprehensive Plan. Additionally, there are no other solar facilities in the Bacon's Castle District.
- The project avoids visual impacts to schools, churches, scenic landscapes, scenic rivers, rural districts, scenic vistas, properties with documented historical significance and scenic corridors, as identified in the comprehensive plan within Surry County, by not siting the Project adjacent those features.
- Most of the proposed project is sited away from roads with large buffers to properly screen the facility and maintain the area's rural character.
- The Project is substantially in accord with the Comprehensive Plan's industrial and economic goals because it broadens the county's tax base and employment opportunities.

Weaknesses:

- The proposed project presents conflicts with the Comprehensive Plan's future land use that expresses the county's desire to preserve natural areas.
- The proposed project location presents significant traffic and roadway challenges as the secondary roads are narrow and not suitable for industrial development.

Contact David Harrison at (757) 294-5210 or dharrison@surrycountyva.gov with questions.

**STAFF REPORT TO THE
SURRY COUNTY PLANNING COMMISSION**

Comprehensive Plan Text Amendment No. 2021-01

January 25, 2021

Applicants / Owners Name & Address	Cavalier Solar, A, LLC 4200 Innslake Drive, Suite 302 Glen Allen, VA 2306
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Property Location and Description

24 parcels in southern Surry County around adjacent parcel 60-10 southeast of Dendron and in northern Isle of Wight County.

Current Zoning District	A-R, Agricultural-Rural
Current Use	Residential

Surrounding Zoning / Land Uses	A-R, Agricultural-Rural; agricultural, residential
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CPTA No. 2021-01:

Cavalier Solar, A, LLC the applicant for the proposed project, has applied for an amendment to the Surry County Comprehensive Plan; specifically, to amend the plan’s Development Plan Map to designate the subject property as an Industrial future land use, as it is currently classified as Agricultural.

The Cavalier Solar project proposes to construct a 240 megawatt (MW) solar energy facility to be located in southern Surry County, southeast of Dendron and in northern Isle of Wight County. The portion of the Project proposed within Surry County would consist of approximately 193 MW of the solar energy facility within 24 parcels with an estimated total of 4,328 acres. Of the 4,328 acres in Surry County, approximately 3,314 acres would be purchased or leased for the Project (Project Area), and the Project facilities would cover approximately 1,341 acres of land (Project Site). The Project will utilize photovoltaic (PV) modules installed on single-axis trackers. Electricity will be delivered from electrical inverters adjacent to the PV modules, via transmission lines that will run from the Project to the nearby Septa Substation owned by Dominion Energy.

The Surry County Planning Commission approved Comprehensive Plan Text Amendment No. 2020-01 on May 18, 2020 to allow proposed Spring Grove Solar III to be rezoned to an M-1 Industrial lane use to allow for the development of a 672 acre parcel adjacent to the

applicant/owner's existing property to develop utility-scale solar electric generating facilities with a generating capacity up to 400 megawatts (MW).

The Surry County Solar Ordinance, adopted in December 2018 and after the aforementioned CUPs, disallows utility-scale solar projects in the A-R, Agricultural-Rural zoning district, only allowing such facilities to be located in M-1 (General Industrial) and M-2 (General Industrial) zoning districts with Conditional Use Permits.

As the subject parcel is not zoned M-1 or M-2, nor is it designated in the Development Plan Map of the Comprehensive Plan as Industrial, a Comprehensive Plan Amendment and rezoning of the property is required; in addition to a § 15.2-2232 review and the granting of a Conditional Use Permit.

Before you is the proposed change to the Development Plan Map of the Comprehensive Plan, which adds a designation for Industrial in the area of the subject parcel, which would support the consideration for a rezoning suitable for a utility-scale solar project.

Process:

In regard to the process for this application, and others like it under the new Solar Ordinance, the following actions will be required if final approval is to be achieved:

1. A review of the Comprehensive Plan amendment with a recommendation from the Planning Commission, and subsequent adoption by the Board of Supervisors.
2. A rezoning application to M-1 or M-2 zoning, reviewed by the Planning Commission, and adopted by the Board of Supervisors.
3. A Conditional Use Permit application, reviewed by the Planning Commission, and granted by the Board of Supervisors.
4. A § 15.2-2232 review by the Planning Commission that confirms the proposed project is substantially in accord with the Comprehensive Plan.

Surry County Ordinances / State Code Summary:

Surry County Solar Energy Ordinance

Section 4.12 Allowable Zoning Districts, Applicable Codes and Inspections

A. Allowable Zoning Districts

- a. Solar farms shall be permitted by a Conditional Use Permit in the M-1 (General Industrial District) and M-2 (General Industrial District) zoning districts.

Surry County Subdivision Ordinance

Sec. 8.1.4. - Conformance.

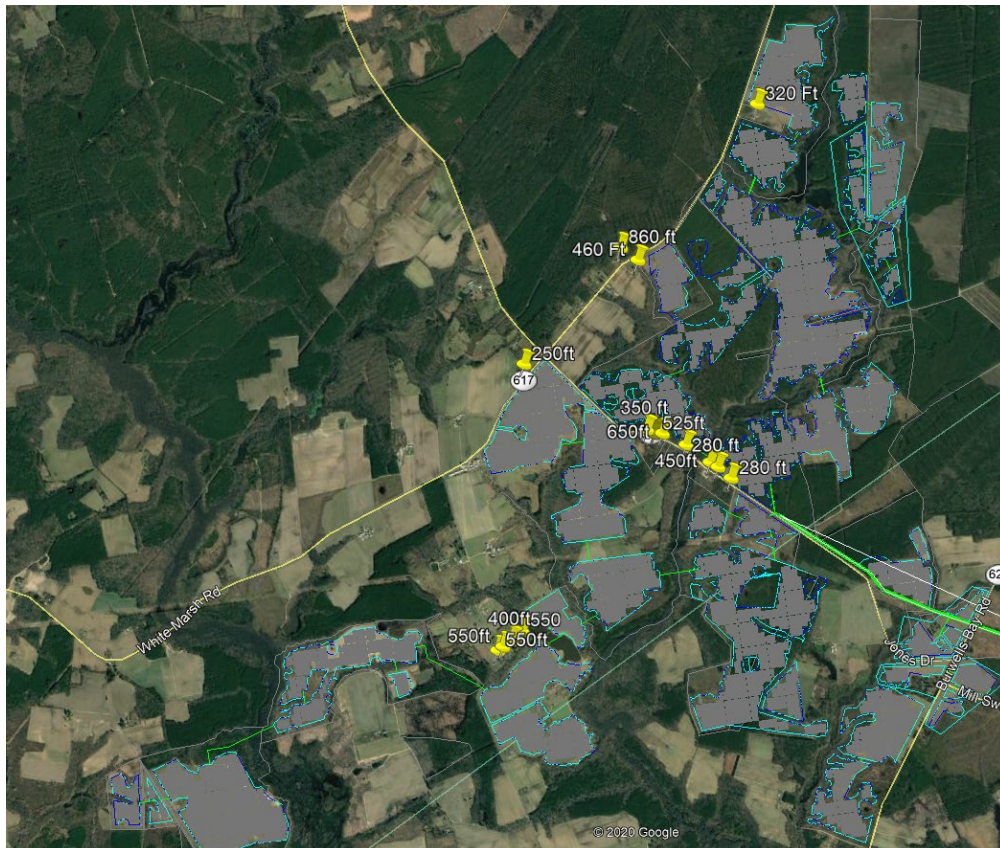
In addition to the regulations found in this appendix, all land development activity within the county shall comply with the county's comprehensive plan...

Surry County Zoning Ordinance

Sec. 1-107. - Relationship to comprehensive plan.

It is the intention of the board of supervisors that this ordinance implements the planning policies and objectives for the county as reflected in the comprehensive plan...

Vicinity Map



Staff Comments:

In regard to the classification of the subject parcel as Industrial in the Development Plan Map of the Comprehensive Plan, planning staff identifies the following strengths and weaknesses:

Strengths:

- The project avoids visual impacts to schools, churches, scenic landscapes, scenic rivers, rural districts, scenic vistas, properties with documented historical significance and scenic corridors, as identified in the comprehensive plan within Surry County, by not siting the Project adjacent those features.
- Most of the proposed project is sited away from roads with large buffers to properly screen the facility and maintain the area's rural character.

Weaknesses:

- The proposed project presents conflicts with the Comprehensive Plan's future land use that expresses the county's desire to preserve natural areas.
- The proposed project location presents significant traffic and roadway challenges as the secondary roads are narrow and not suitable for industrial development.

Contact David Harrison at (757) 294-5210 or dharrison@surrycountyva.gov with questions.

**STAFF REPORT TO THE
SURRY COUNTY PLANNING COMMISSION**

Conditional Use Permit – CUP No. 2021-01

January 25, 2021

Applicant Name & Address

Cavalier Solar, A, LLC
4200 Innslake Drive, Suite 302
Glen Allen, VA 2306

Property Location and Description

24 parcels in southern Surry County around adjacent parcel 60-10 southeast of Dendron and in northern Isle of Wight County.

Statistical Data

Current Zoning District
Current Use

A-R, Agricultural-Rural
Residential

Surrounding Zoning / Land Uses

A-R, Agricultural-Rural; agricultural,
residential

CUP No. 2021-01:

Cavalier Solar, A, LLC the applicant for the proposed project, has applied for an amendment to the Surry County Comprehensive Plan; specifically, to amend the plan's Development Plan Map to designate the subject property as an Industrial future land use, as it is currently classified as Agricultural.

The Cavalier Solar project proposes to construct a 240 megawatt (MW) solar energy facility to be located in southern Surry County, southeast of Dendron and in northern Isle of Wight County. The portion of the Project proposed within Surry County would consist of approximately 193 MW of the solar energy facility within 24 parcels with an estimated total of 4,328 acres. Of the 4,328 acres in Surry County, approximately 3,314 acres would be purchased or leased for the Project (Project Area), and the Project facilities would cover approximately 1,341 acres of land (Project Site). The Project will utilize photovoltaic (PV) modules installed on single-axis trackers. Electricity will be delivered from electrical inverters adjacent to the PV modules, via transmission lines that will run from the Project to the nearby Septa Substation owned by Dominion Energy.

The Surry County Planning Commission approved Comprehensive Plan Text Amendment No. 2020-01 on May 18, 2020 to allow proposed Spring Grove Solar III to be rezoned to an M-1

Industrial lane use to allow for the development of a 672 acre parcel adjacent to the applicant/owner's existing property to develop utility-scale solar electric generating facilities with a generating capacity up to 400 megawatts (MW).

The Surry County Solar Ordinance, adopted in December 2018 and after the aforementioned CUPs, disallows utility-scale solar projects in the A-R, Agricultural-Rural zoning district, only allowing such facilities to be located in M-1 (General Industrial) and M-2 (General Industrial) zoning districts with Conditional Use Permits.

As the subject parcel is not zoned M-1 or M-2, nor is it designated in the Development Plan Map of the Comprehensive Plan as Industrial, a Comprehensive Plan Amendment and rezoning of the property is required; in addition to a § 15.2-2232 review and the granting of a Conditional Use Permit.

Process:

In regard to the process for this application, and others like it under the new Solar Ordinance, the following actions will be required if final approval is to be achieved:

1. A review of the Comprehensive Plan amendment with a recommendation from the Planning Commission, and subsequent adoption by the Board of Supervisors.
2. A rezoning application to M-1 or M-2 zoning, reviewed by the Planning Commission, and adopted by the Board of Supervisors.
3. A Conditional Use Permit application, reviewed by the Planning Commission, and granted by the Board of Supervisors.
4. A § 15.2-2232 review by the Planning Commission that confirms the proposed project is substantially in accord with the Comprehensive Plan.

Conditions

The applicant has proposed the following Ten (10) conditions:

1. The Project Site shall be developed in general conformance with the submitted Preliminary site plan prepared by the Applicant and dated September 10, 2020.
2. The portion of the Project Site supporting solar panels shall be enclosed with security fencing not less than six (6) feet and no more than twelve (12) feet in height.
3. The portion of the Project Site supporting solar panels, including security fence(s), shall be screened from public rights-of-way and adjacent residential properties with existing or proposed vegetation. The Applicant will increase buffers and screening directly adjacent to residential structures (residential housing within 100 linear feet of the property line) to minimize viewshed impact.
4. The Applicant will maintain required setbacks and vegetative buffers applicable to the Project Site. No setbacks or vegetation screening will be applied to property boundaries or county

boundaries of participating properties zoned A-R or M-1, or to the Project Site's interior boundary within a participating property.

5. The Applicant shall (a) develop a Traffic Mitigation Plan (the "Plan") in consultation with County Planning Staff, the Virginia Department of Transportation, the County Sheriff's Office, and the Virginia State Police to identify and expeditiously resolve or mitigate traffic issues that arise during the construction or decommissioning of the facility and (b) repair public road damage in proximity to the facility, attributable to construction or decommissioning of the facility, such repair to be to conditions comparable to existing conditions prior to construction. As part of the Plan, during construction and decommissioning an onsite staging area of adequate depth shall be provided prior to any gate or badging locations such that traffic coming into the Project Site shall not back up on public roadways.
6. The Zoning Administrator may refer any of the Applicant's site plans for a Permitted Solar Project to a qualified consultant for review and comment, at the Applicant's expense (as the case may be), the terms and conditions of which shall be determined in advance of the referral with the Applicant.
7. The Applicant shall provide for reasonable construction phase third-party inspections and submittal of inspection reports to the County Building Official, at the Applicant's expense, for the Project.
8. The Applicant shall reimburse the County for all reasonable costs related to retaining third-party inspectors as deemed necessary for project inspections related to stormwater and erosion and sediment control.
9. The Applicant shall decommission the Project in accordance with Section 4.11 of the Solar Energy Ordinance. The Project shall be decommissioned and removed within 12 months after the facility ceases electricity generation for a continuous 12-month period. Decommissioning shall include removal of solar collectors, cabling, electrical components, and any other associated items to a depth of at least 36 inches. In coordination with landowners, improvements associated with the Project will be removed across parcel and county lines. The amount of the surety bond or other financial security instrument will reflect the net cost of decommissioning, which is the removal cost minus the market value of the materials that can be resold or recycled.
10. If any condition imposed by this Conditional Use Permit is determined to be invalid, void or unenforceable by any court or other governmental authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision or condition of this Conditional Use Permit.

Surry County Ordinances / State Code Summary:

Surry County Solar Energy Ordinance

Section 4.12 Allowable Zoning Districts, Applicable Codes and Inspections

A. Allowable Zoning Districts

- a. Solar farms shall be permitted by a Conditional Use Permit in the M-1 (General Industrial District) and M-2 (General Industrial District) zoning districts.

Surry County Subdivision Ordinance

Sec. 8.1.4. - Conformance.

In addition to the regulations found in this appendix, all land development activity within the county shall comply with the county's comprehensive plan...

Surry County Zoning Ordinance

Sec. 1-107. - Relationship to comprehensive plan.

It is the intention of the board of supervisors that this ordinance implements the planning policies and objectives for the county as reflected in the comprehensive plan...

Surry County Subdivision Ordinance

Sec. 1-502. - General standards.

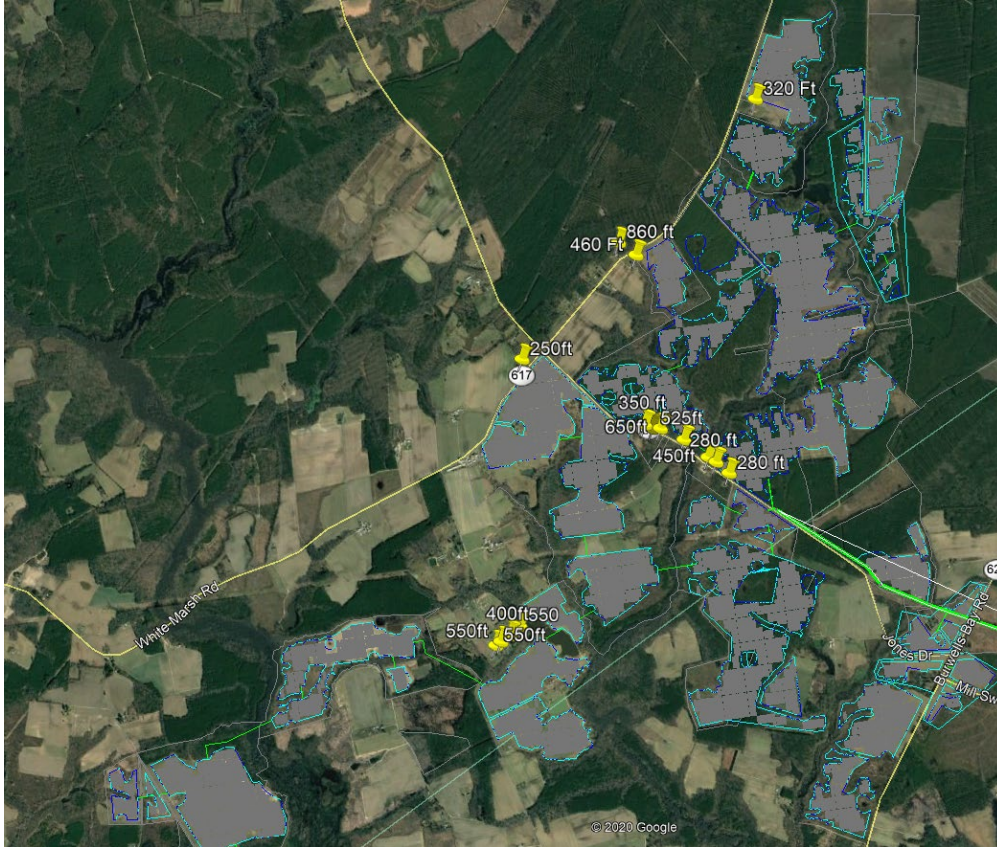
B. No conditional use permit shall be issued except upon a finding of the board that in addition to conformity with any standards set forth in article IV, Use and design standards, the proposed conditional use conforms with the following general standards. These standards shall be met either by the proposal made in the original conditional use permit application, or by the proposal as modified or amended as part of the review of the application by the commission and the board:

1. The proposal as submitted or modified shall conform to the comprehensive plan of the county and to the purposes of the zoning ordinance.
2. The proposal as submitted or modified shall have a minimum adverse impact on the surrounding neighborhood or community. Adverse impact shall be evaluated with consideration to items such as, but not limited to, traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations. In considering impacts, due regard shall be given to the timing of the operation, site design, access, screening, or other matters which might be regulated to mitigate adverse impact.

Considerations per Surry County Zoning Ordinance Section Sec. 1-502.	
Comprehensive Plan	The Comprehensive Plan Amendment should suffice for this consideration.
Zoning Ordinance	The proposal conforms with the Zoning Ordinance
Traffic Congestion	There will likely be traffic congestion during construction, a staging area for trucks during construction and decommissioning included in traffic plan.
Noise	There will be noise during construction, but the only noise generated after construction is noise generated by the tracking of the panels and minimal noise created by the inverters, which do not operate after dark.

Lights	There may be some work lights during construction, but only minimal lighting after construction.
Dust	There may be some dust during construction, but only minimal after construction.
Drainage	This concern will be covered by Surry County Planning and DEQ during site plan review.
Water Quality	This concern will be covered by Surry County Planning and DEQ during site plan review.
Air Quality	There may be some dust during construction, but only minimal after construction.
Odor, Fumes	There may be some odor and/or fumes during construction, but not after construction.
Vibrations	There may be vibrations during construction, but not after construction.
Timing of Operation	Subject to Board's consideration.
Site Design	Preliminary Site Plan seems reasonable; subject to site plan review.
Access	Secondary roads are narrow and do not allow for adequate access.
Screening	Screening is per ordinance, except where Condition #3 holds the project to a higher standard.
Other matters:	
Historic and Cultural Resources	Reports found no historical properties within the boundaries of the project.
Environmental	A Phase 1 Environmental Survey found no Recognized Environmental Conditions (RECs) on the subject property or adjacent properties.

Vicinity Map



Staff Comments:

Planning staff have identified the following strengths and weaknesses of the application:

Strengths:

- The project avoids visual impacts to schools, churches, scenic landscapes, scenic rivers, rural districts, scenic vistas, properties with documented historical significance and scenic corridors, as identified in the comprehensive plan within Surry County, by not siting the Project adjacent those features.
- Most of the proposed project is sited away from roads with large buffers to properly screen the facility and maintain the area’s rural character.

Weaknesses:

- The proposed project presents conflicts with the Comprehensive Plan's future land use that expresses the county's desire to preserve natural areas.
- The proposed project location presents significant traffic and roadway challenges as the secondary roads are narrow and not suitable for industrial development.

Contact David Harrison at (757) 294-5210 or dharrison@surrycountyva.gov with questions.

**STAFF REPORT TO THE
SURRY COUNTY PLANNING COMMISSION**

Conditional Rezoning – REZ No. 2021-01

January 25, 2021

Applicant Name & Address

Cavalier Solar, A, LLC
4200 Innslake Drive, Suite 302
Glen Allen, VA 2306

Property Location and Description

24 parcels in southern Surry County around adjacent parcel 60-10 southeast of Dendron and in northern Isle of Wight County.

Statistical Data

Current Zoning District
Current Use

A-R, Agricultural-Rural
Residential

Surrounding Zoning / Land Uses

A-R, Agricultural-Rural; agricultural,
residential

REZ No. 2021-01:

Cavalier Solar, A, LLC, the applicant for the proposed project, has applied for an amendment to the Surry County Zoning Map; specifically, to amend the zoning of the subject property to M-1, General Industrial district, from its current zoning of A-R, Agricultural-Rural district.

The Cavalier Solar project proposes to construct a 240 megawatt (MW) solar energy facility to be located in southern Surry County, southeast of Dendron and in northern Isle of Wight County. The portion of the Project proposed within Surry County would consist of approximately 193 MW of the solar energy facility within 24 parcels with an estimated total of 4,328 acres. Of the 4,328 acres in Surry County, approximately 3,314 acres would be purchased or leased for the Project (Project Area), and the Project facilities would cover approximately 1,341 acres of land (Project Site). The Project will utilize photovoltaic (PV) modules installed on single-axis trackers. Electricity will be delivered from electrical inverters adjacent to the PV modules, via transmission lines that will run from the Project to the nearby Septa Substation owned by Dominion Energy.

The Surry County Solar Ordinance, adopted in December 2018 and after the aforementioned CUPs, disallows utility-scale solar projects in the A-R, Agricultural-Rural zoning district, only allowing such facilities to be located in M-1 (General Industrial) and M-2 (General Industrial) zoning districts with Conditional Use Permits.

As the subject parcel is not zoned M-1 or M-2, nor is it designated in the Development Plan Map of the Comprehensive Plan as Industrial, a Comprehensive Plan Amendment and rezoning of the property is required; in addition to a § 15.2-2232 review and the granting of a Conditional Use Permit.

Conditional Rezoning

This application is for a conditional rezoning, rather than a straight rezoning. A straight rezoning would simply change the zoning designation of the property to the proposed district such that all ordinance regulations for the newly designated zoning district would apply to the land, but no additional conditions would. In a conditional rezoning, some, or all, of the regulations from the underlying zoning district can be removed and/or additional conditions can be voluntarily proffered by the applicant as part of their application. In this case, both elements apply; some of the ordinance regulations are proposed to be removed and additional conditions have been proposed. The applicants signed proffers are enclosed.

Proffers must be voluntarily submitted by the applicant; the locality cannot require or recommend any unreasonable proffer of the applicant. Applicants can amend their proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal.

M-1, General Industrial District (Conditional) Requested

The applicant has requested the subject property be rezoned from A-R, Agricultural-Rural to conditional M-1, General Industrial. The purpose of the district generally is to provide an environment suitable for light industrial activities that do not conflict with adjacent uses; the entirety of its purpose is found in the ordinance summary below.

Proposed Conditional M-1 Proffers

1. Setbacks. No building or structure shall be constructed on the Property within (a) Two Hundred (200) feet of Colonial Trail West, Route 10, or (b) Seventy-Five (75) feet of all other exterior boundary lines of the Property, except to the extent necessary for vehicular and pedestrian access ways, utility easements, gates and fencing, signage or other purposes specifically set forth in the Site Plan approval for the Property.
2. Buffer and Screening Standards. Buffers consisting of natural areas or landscaping, or combinations thereof, for the purposes of lessening the visual impact of the development of the Property on adjacent land, of a minimum width set forth in the Ordinance as supplemented by these conditions, will be provided and maintained, except to the extent necessary for vehicular and pedestrian access ways, utility easements, signage or other purposes specifically set forth in the Site Plan approval for the Property: Vegetation with a mature height exceeding twenty-five (25) feet

shall not be required. Under Section 5-403B where existing or supplemental vegetation within the buffers provides full screening, opaque fencing shall not be required. Oversized, fallen, diseased or dead plant growth may be removed from such buffer areas, and if so removed, additional plantings may be added to achieve the intent of this condition.

3. Uses. The following uses shall be prohibited:

COMMERCIAL USE TYPES

- Auction Establishment
- Motor Vehicle Outside Storage
- Motor Vehicle Repair Service Major
- Taxidermy
- Truck Stop

INDUSTRIAL USE TYPES (by Conditional Use Permit)

- Recycling Center
- Transfer Station

Proffers #1 and #2 are relatively straight-forward. Based upon the applicant’s Proffer #3, the uses conditionally allowed would be the following (Those proffered to be prohibited are struck-through):

Sec. 3-902. - Permitted uses.

A. The following uses are permitted by right subject to all other applicable requirements contained in this ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

<p><u>AGRICULTURAL USES</u> Agriculture Silvicultural activities</p> <p><u>CIVIC USE TYPES</u> Park and Ride Facility Parks and Recreation Post Office Public Maintenance Facility Utility Service/Minor</p> <p><u>COMMERCIAL USE TYPES</u> Auction Establishment Bank Business Support Service Business or Trade School Construction Office, Temporary Equipment Sales and Rental General Service and Repair</p>	<p>Mini Warehouse Motor Vehicle/Outdoor Storage Motor Vehicle Repair Service/Major Office, General Taxidermy Truck Stop</p> <p><u>INDUSTRIAL USE TYPES</u> Contractor's Yard Convenience Center Custom Manufacturing Industry, Type I Laboratory Warehousing and Distribution</p> <p><u>MISCELLANEOUS USE TYPES</u> Parking Facility Reconstructed Wetland Windmill*</p>
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B. The following uses are allowed only by special exception from the board of zoning appeals pursuant to [section 1-304](#). An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

<u>RESIDENTIAL USES</u> Accessory Apartment <u>CIVIC USE TYPES</u> Day Care Center	<u>MISCELLANEOUS USE TYPES</u> Communication Tower
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C. The following uses are allowed only by conditional use permit from the board of supervisors pursuant to section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

<u>CIVIC USE TYPES</u> Utility Service/Major <u>COMMERCIAL USE TYPES</u> Convenience Store Lumber Yard	<u>INDUSTRIAL USE TYPES</u> Industry, Type II Recycling Center Transfer Station <u>MISCELLANEOUS USE TYPES</u> Alternate Discharge Sewage System
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Surry County Ordinances / State Code Summary:

Surry County Solar Energy Ordinance

Section 4.12 Allowable Zoning Districts, Applicable Codes and Inspections

A. Allowable Zoning Districts

- a. Solar farms shall be permitted by a Conditional Use Permit in the M-1 (General Industrial District) and M-2 (General Industrial District) zoning districts.

Surry County Subdivision Ordinance

Sec. 8.1.4. - Conformance.

In addition to the regulations found in this appendix, all land development activity within the county shall comply with the county's comprehensive plan...

Surry County Zoning Ordinance

Sec. 1-107. - Relationship to comprehensive plan.

It is the intention of the board of supervisors that this ordinance implements the planning policies and objectives for the county as reflected in the comprehensive plan...

Virginia State Code

§ 15.2-2201. Definitions.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

Virginia State Code

§ 15.2-2298. Same; additional conditions as a part of rezoning or zoning map amendment in certain high-growth localities.

- A. ... In any such locality, notwithstanding any contrary provisions of § [15.2-2297](#), a zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map, provided that (i) the rezoning itself gives rise to the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all conditions are in conformity with the comprehensive plan as defined in § [15.2-2223](#)...

Surry County Subdivision Ordinance

Sec. 1-511. - Commission study and action.

- A. All proposed amendments to the zoning ordinance shall be referred by the board to the commission for study and recommendation. The commission shall study proposals to determine:
1. The need and justification for the change.
 2. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property, surrounding property, and on public services and facilities. In addition, the commission shall consider the appropriateness of the property for the proposed change as related to the purposes set forth at the beginning of each district classification.
 3. The relationship of the proposed amendment to the purposes of the general planning program of the county, with appropriate consideration as to whether the change will further the purposes of this ordinance and the general welfare of the entire community.
 4. Whether the proposed amendment conforms to the general guidelines and policies contained in the county comprehensive plan.

Surry County Subdivision Ordinance

Sec. 1-513. - Conditional zoning; generally.

- C. All conditions proffered by the owner shall meet the following standards:
1. The rezoning itself must give rise for the need for the conditions.
 2. The conditions shall have a reasonable relation to the rezoning.
 3. The conditions shall be in conformity with the comprehensive plan.
 4. The conditions must be clearly understood and enforceable.
 5. The conditions must not require or allow a design or standard that is less restrictive than the general provisions of this ordinance.
- E. The commission and the board shall not be obligated to accept any or all of the conditions made by the property owner.

Surry County Subdivision Ordinance

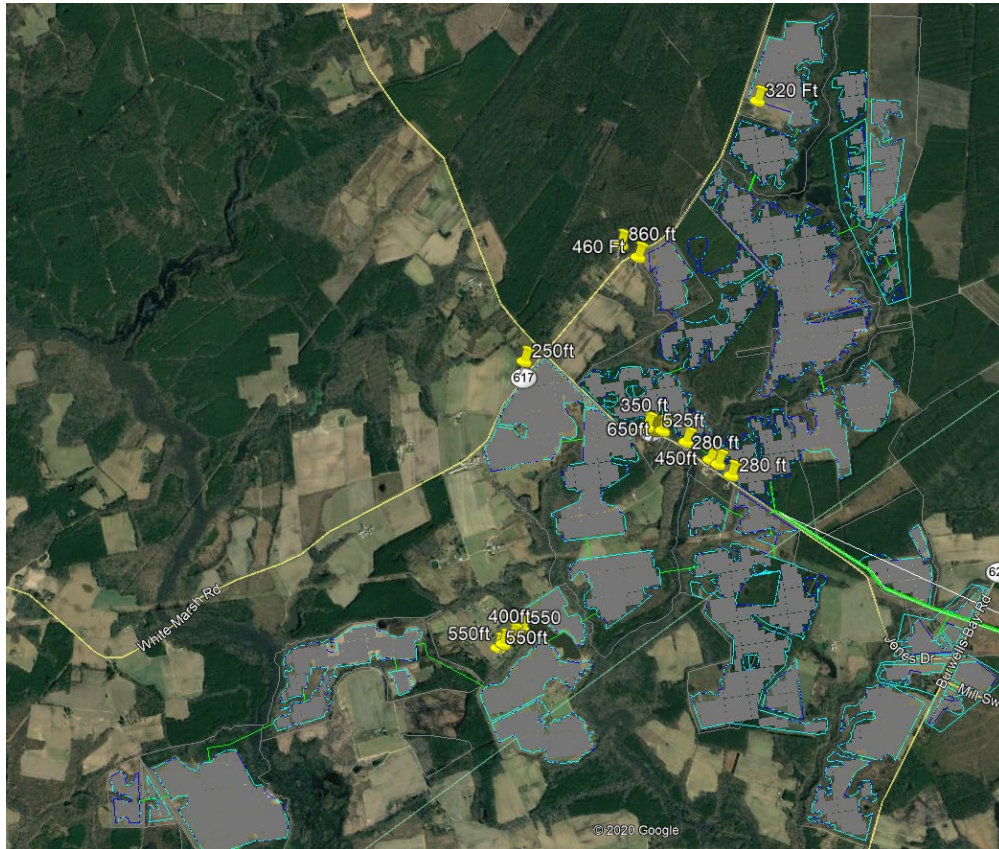
M-1 General Industrial District

Sec. 3-901. - Purpose of the district.

This district is intended to provide an environment suitable for industrial activities that do not create appreciable nuisances, hazards or threats to the natural environment or surrounding development. Uses that would typically be found in this district include a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses

appropriately located for access to highways and providing a controlled environment within which uses are to be conducted in completely enclosed buildings. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

Vicinity Map



Staff Comments:

Conditional zoning and proffers have been the subject of General Assembly action in recent years in efforts to protect the development community from unreasonable conditions of localities. Some of these efforts have had the unintended consequence of causing alarm on the part of localities concerned they would step into a legal trap by considering conditional rezoning;

with many localities not accepting conditional rezoning at all. With certain exceptions, proffered conditions are deemed reasonable if:

1. They are voluntary proffered in writing, by the owner, prior to a public hearing before the governing body,
2. the rezoning itself gives rise to the need for the conditions;
3. the conditions have a reasonable relation to the rezoning; and
4. all conditions are in conformity with the comprehensive plan.

Even though the applicants have a specific proposed use in mind with this request, they have left a large number of potential uses in the conditional M-1 zoning requested. While these other uses may benefit the county tax base if developed, the expectation from staff following conversations with the applicants, was that there would only be three uses requested: Agriculture, Silvicultural activities, and Utility Service/Major. The applicants contend that these additional uses would open up opportunity for other industrial uses to be developed on the property in case the Conditional Use Permit for the solar project is not approved. Whether this is seen as a strength or a weakness is up to the Planning Commission and Board of Supervisors to determine.

In regard to the rezoning of the subject parcel to M-1, General Industrial, planning staff identifies the following strengths and weaknesses:

Strengths:

- The project avoids visual impacts to schools, churches, scenic landscapes, scenic rivers, rural districts, scenic vistas, properties with documented historical significance and scenic corridors, as identified in the comprehensive plan within Surry County, by not siting the Project adjacent those features.
- Most of the proposed project is sited away from roads with large buffers to properly screen the facility and maintain the area's rural character.

Weaknesses:

- The proposed project presents conflicts with the Comprehensive Plan's future land use that expresses the county's desire to preserve natural areas.
- The proposed project location presents significant traffic and roadway challenges as the secondary roads are narrow and not suitable for industrial development.

Contact David Harrison at (757) 294-5210 or dharrison@surrycountyva.gov with questions.