

## RESOLUTION

### CASE NO. SUP-0028-2016. SOLAR ELECTRICAL GENERATION FACILITY AT NORGE

WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Whisper Ridge, LLC (the "Owner") owns properties located at 320, 339, 341 and 345 Farmville Lane, further identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055 respectively, and other areas legally described and identified as: All those pieces or parcels of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E. E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24" (collectively, the "Properties"). The Properties are zoned A-1, General Agricultural and R-2, General Residential; and

WHEREAS, Mr. Drew Gibbons of SunPower Devco, LLC, on behalf of the Owner, has applied for an SUP to allow for the construction of a solar electrical generation facility on the Properties as shown on a plan titled "Norge Solar Master Plan" dated October 4, 2017; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0028-2016; and

WHEREAS, following a public hearing on December 6, 2017, the Planning Commission recommended approval of this application by a vote of 5-1 and found the proposal consistent with the Comprehensive Plan by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-0028-2016, as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the construction and operation of a photovoltaic solar electrical generation facility with a capacity of up to 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more (the "Facility"). The Facility shall be located at 320, 339, 341 and 345 Farmville Lane, which are identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055, respectively, and parcels described as "All those pieces or parcel of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E. E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of

James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24" (together, the "Properties"). The Facility shall be in accordance with the "Norge Solar Master Plan" prepared by Kimley-Horn and dated October 4, 2017, (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.

2. Boundary Line Extinguishment. Prior to final approval of any site plan, a subdivision plat that extinguishes the lot lines separating properties located at 339, 341 and 345 Farmville Lane shall be recorded.
3. Nutrient Management Plan. A Nutrient Management Plan (NMP) shall be prepared by a certified nutrient management planner for all of the area within the defined limits of disturbance for the Properties. The purpose of the NMP is to provide for long-term establishment and maintenance of turf grass, pasture, rangeland or other similar type vegetative cover which preserve the long-term soil health for potential future farming purposes. The NMP shall include measures necessary to manage and limit yearly nutrient application rates in order to best protect the surrounding Resource Protection Areas (RPA) and ravines. The NMP shall have a component which specifically identifies, maintains and protects designated Prime Farmland soil mapping units consistent with the Soil Survey of James City County and the City of Williamsburg, Virginia, (April 1985) and the County's Comprehensive Plan. The NMP shall be approved by the County's Director of Stormwater and Resource Protection prior to issuance of any Certificate of Completion or Certificate of Occupancy for the Facility. Upon approval of the NMP, the Facility operator shall be responsible for ensuring that any nutrient applied in the area within the defined limits of work is in strict accordance with the NMP.
4. Construction Traffic Mitigation Plan. A Construction Traffic Mitigation Plan (CTMP), shall be approved by the Virginia Department of Transportation (VDOT) and the County Director of Planning, or his designee prior to the issuance of a land disturbing permit for the Facility. The CTMP shall identify all existing conditions and provide a plan to address all necessary repairs to public roads internal to the Norvalia subdivision required as a result of damage from construction traffic and provide a timeline for completion of repairs. All road repairs as identified by the approved CTMP as determined by VDOT shall be completed within six (6) months of the Facility commencing operations.
5. Vehicular Access. Vehicular access to and from the Facility and the Properties, which includes traffic associated with the construction, operation, maintenance and decommissioning period of the Facility shall only be through Old Church Road which connects with Norge Farm Lane through properties currently owned by the Owner and designated as "Parcel 1" and "Parcel 2" on the above-referenced plat of survey and a parcel identified as James City County Real Estate Tax Map Parcel No. 2320100052A.
6. Archaeology. A Phase I Archaeological Study for the Properties shall be approved by the Director of Planning prior to issuance of a land disturbing permit for the Facility. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning

and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the Properties and the clearing, grading or construction activities thereon. This condition shall be interpreted in accordance with the County's Archaeological Policy adopted by the County on September 22, 1998.

7. Natural Heritage Resource. A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2 or G3 resources in the project areas shall be approved by the Director of Planning prior to issuance of a land disturbing permit. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the Properties where the Facility is located, a Conservation Management Plan (CMP) shall be approved by the Director of Planning for the affected area prior to issuance of a land disturbing permit. All inventories and CMPs shall meet the standards of the Virginia Department of Conservation and Recreation's Division of Natural Heritage ("DCR/DNH") for preparing such plans, and shall be conducted under the supervision of a qualified biologist as determined by DCR/DNH or the United States Fish and Wildlife Service. All approved CMPs shall be incorporated into the plan of development for the Properties, and the clearing, grading, or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may be submitted for the incorporation of the CMP into the plan of development for the Properties.
8. Vegetated Buffer. Prior to final approval of any site plan, the Director of Planning or his designee shall review and approve a landscape plan for the Facility. The landscape plan shall provide a 50-foot-vegetated buffer along the perimeter of the Properties. The perimeter buffer shall be provided by one of the three treatment options listed below:
  - In areas of the 50-foot perimeter buffer that are currently comprised of mature forest, as determined by the Director of Planning or his designee, the buffer shall be left undisturbed in its natural state.
  - In areas of the 50-foot-perimeter buffer that are not completely comprised of mature forest, as determined by the Director of Planning or his designee, supplementation with evergreen shrubs and trees shall be required.
  - In areas of the 50-foot-perimeter buffer where little or no vegetation exists, as determined by the Director of Planning or his designee, the buffer shall be landscaped to the provisions of Section 24-96 of the Zoning Ordinance for

General Landscape Areas except that the required evergreen tree and shrub mixture shall be increased from 35% to at least 50%.

9. Lighting. Prior to final approval of any site plan, the Director of Planning, or his designee, shall review and approve a lighting plan for the Facility. Any exterior site or building lighting shall be shielded and directed downward. No glare, defined as 0.1 foot-candle or higher, shall extend outside the boundaries of the Properties. Lights shall be operated by a motion detector or be able to be turned on as needed by the Facility operator and shall not be routinely illuminated at night. All light poles shall not exceed 16 feet in height from finished grade unless otherwise approved by the Director of Planning prior to final site plan approval.
10. Signage. Unless otherwise exempt by Section 24-74 of the Zoning Ordinance, no outdoor signage related to the Facility shall be permitted on the Properties.
11. Fencing. Prior to final approval of any site plan, the Director of Planning or his designee shall review and approve a detail of any proposed fencing for the Facility. The fence shall be black, or other neutral color, and shall not exceed a height of eight feet above finished grade. The fence shall not contain barbed wire unless it is required by federal or state regulations.
12. Emergency Management Plan. The Facility operator shall prepare and maintain an Emergency Management Plan (EMP) to address situations that may require response from James City County public safety personnel, including, without limitation, fire safety and emergency response personnel. The EMP shall:
  - Be developed in conjunction with and approved by the County Fire Chief and County Police Chief or their designees prior to final approval of any site plan.
  - Provide a mutually agreed upon schedule for the Facility operator to provide information sessions and training for James City County public safety personnel relative to possible emergency response situations at the Facility.
  - Provide pertinent contact numbers for the Facility operator emergency personnel.
  - Provide that all emergency contact information will be posted on access gates.
13. Construction Management and Mitigation Plan. Prior to final approval of any site plan, the Director of Planning or his designee shall approve a Construction Management and Mitigation Plan (CMMP). The CMMP shall include those items listed below:
  - a. Construction Management:
    - Designated parking areas.
    - All piling driving activity on the Properties be limited to the hours of 8 a.m. to 6 p.m., Monday through Friday.

- Other construction activities, including clearing and grading of the Properties shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Friday.
- Construction delivery traffic to the Properties shall not be allowed during pick-up/drop-off times for surrounding schools.
- Storage, transportation and disposal of any waste and/or hazardous materials.

b. Construction Mitigation:

- Dust mitigation, such as water trucks, mulch or similar methods.
- Smoke and burn mitigation, such as containments or similar methods.
- Visual and noise mitigation, such as fences, landscaping or similar methods.

14. Spill Prevention Control and Countermeasure Plan. Prior to issuance of a land disturbing permit, the Director of Stormwater and Resource Protection, or his designee, shall approve a Spill Prevention Control and Countermeasure (SPCC) Plan for the Facility. The SPCC shall outline measures and procedures necessary for the operation of the Facility until decommission.

15. Decommissioning and Restoration Plan. Prior to final approval of any site plan, the Director of Planning, or his designee, shall approve a Decommissioning and Restoration Plan (DRP). The DRP shall outline the required steps for removal of above- and below-ground Facility components, disposal of and/or recycling of wastes and materials and the restoration of the Properties to pre-construction conditions. The DRP shall address abandonment of operations and the possible failure of the Facility operator to comply with the decommissioning process and provide an estimated cost associated with the decommissioning and restoration activities. To ensure sufficient funds are available to the County to conduct the DRP should the owner fail to perform its obligation under this condition, a surety shall be posted with James City County in a form acceptable to the County Attorney, in an amount sufficient for the removal and disposal of all the power generating equipment, inverters, fencing, wiring and any other ancillary materials and equipment associated with the Facility.

16. Off-Site Parking. Prior to final approval of a site plan, the Director of Planning, or his designee, shall approve an Off-Site Parking Plan (OPP). The off-site parking area shall be used by construction workers who shall be transported to the Properties via a shuttle van and/or bus. The OPP shall conform to all Zoning Ordinance requirements and shall identify elements such as, but not limited to, the number of off-site parking spaces provided and the location of the off-site parking area. In order to reduce the amount of construction related traffic during the construction period at Norvalia neighborhood and to ensure that construction workers are parking their vehicles at the off-site parking area, no more than 20 vehicles may be parked on the Properties at any time, except for trucks, as defined by the Zoning Ordinance and delivery vehicles. No on-street parking shall be allowed.

- 17. Commencement. The Facility shall be operational within 48 months from the issuance of this SUP or this SUP shall become void. The Facility operator shall submit a certified letter to the Director of Planning to confirm the operational status of the Facility.
- 18. Height Limitation. With the exception of distribution poles and overhead wiring, as permitted by the Zoning Ordinance, the maximum height of all structures in the Facility, including the photovoltaic solar panel mounts shall not exceed 16 feet above finished grade.
- 19. Underground Wires. All electrical wiring used in the Facility shall be located underground, except where wiring is necessary to connect the Facility to the exiting overhead utility line.
- 20. Glare. All photovoltaic solar panels shall be made of or coated with anti-reflective materials to prevent glare.
- 21. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

*Ruth M. Larson*

Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

*Teresa J. Fellows*  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	✓	—	—
ICENHOUR	✓	—	—
SADLER	✓	—	—
HIPPLE	✓	—	—
LARSON	✓	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

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