


COUNTY OF YORK

MEMORANDUM

DATE: July 2, 2021 (BOS Mtg. 7/20/21)

TO: York County Board of Supervisors

FROM: Neil A. Morgan, County Administrator 

SUBJECT: Application No. UP-970-21, KDC Solar Kings Creek, LLC

ISSUE

This application requests a minor modification of a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize a two-year extension of the deadline for establishing a solar energy facility on an approximately 380-acre portion of a 430-acre parcel located at 1801 Penniman Road (Route 641) and further identified as GPIN I14b-4290-3622. The property is zoned EO (Economic Opportunity) and RC (Resource Conservation) and is designated Economic Opportunity in the Comprehensive Plan.

BACKGROUND

On December 17, 2019, the Board approved Application No. UP-942-19 to authorize the establishment of a solar farm on an approximately 380-acre portion of a 430-acre parcel located at 1801 Penniman Road (Route 641). The solar farm proposed to install approximately 71,300 solar panels on approximately eight- to ten-foot high fixed-rack ground-mounted arrays throughout the site. The arrays would cover approximately 79 acres of the proposed portion of the parcel.

Pursuant to Section 24.1-115(c)(1) of the Zoning Ordinance, use permits automatically expire two years after adoption if the special use has not been established. A use is considered to be *established* if all necessary foundation work has been completed and construction work is continuously and diligently pursued under a valid building permit, none of which can occur without prior site plan approval. In 2020, in response to the COVID-19 pandemic, the Virginia General Assembly amended the Code of Virginia by extending all use permits that were valid and outstanding as of July 1, 2020, until July 1, 2022.

The applicants stated in their letter that “it has taken us much longer than anticipated to position the property for development of the solar facility due to a variety of factors including acquisition of the property, resolving matters of title, completing the requisite pre-closing analyses, performing necessary environmental reviews, and coordination with PJM and Dominion Energy”. The applicants do not feel that they will be able to establish the use by the current December 17, 2021 deadline or the extended deadline from the Virginia General Assembly of July 1, 2022. They have requested a two-year extension to July 1, 2024, which they believe will give enough time to obtain site plan approval and begin construction of the solar farm.

Section 24.1-115(d)(2) of the Zoning Ordinance states that the Board can approve minor modifications to the conditions of an approved and currently valid special use without a public hearing provided that the following four criteria are met:

- There will be less than a 25% increase in either total lot coverage or floor area;
- There will be no detrimental impact on any adjacent property caused by significant change in the appearance or the use of the property or any other contributing factor;
- Nothing in the currently valid special use permit precludes or limits such expansion or enlargement;
- The proposal is consistent with the Zoning Ordinance and the Comprehensive Plan.

This request meets these criteria and therefore is being processed as a minor amendment. Such amendments do not require prior review by the Planning Commission.

RECOMMENDATION

If this time extension is denied, the applicant will be required to apply for a new Special Use Permit, including public hearings and Planning Commission review, in order to construct the solar farm. Since the factors contributing to the approval of the original use permit application (positioning an important clean energy power supply for Dominion Energy near two military installations and the absence of adverse impacts on surrounding development or on County services or infrastructure) have not changed, I do not believe this would accomplish anything other than place an unnecessary burden on the applicant. Therefore, I recommend that this application be approved through the adoption of proposed Resolution No. R21-98.

Anderson/3497

Attachments:

- Zoning Map
- Applicant Letter
- Concept Plan
- Approving Resolution No. R19-149, adopted December 17, 2019
- Proposed Resolution R21-98