

# COUNTY OF YORK

## MEMORANDUM

**DATE:** April 25, 2025 (BOS Mtg. 5/20/25)  
**TO:** York County Board of Supervisors  
**FROM:** Mark L. Bellamy Jr., County Administrator   
**SUBJECT:** Application No. UP-1049-25, Dominion Energy Virginia

### 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. The proposed solar facility contains 71,300 solar panels on eight- to ten-foot high fixed-rack ground-mounted arrays located throughout the site. The arrays will cover approximately 79 acres. On July 20, 2021, the Board approved Application No. UP-970-21 to approve a two-year extension of the previously approved Special Use Permit.

While the Code of Virginia was amended by the Virginia General Assembly in 2023 to require that use permits for solar energy facilities provide an applicant at least three years to commence the use, this state code provision only applies to the *initial* approval of a use permit for a solar farm, and does not apply to extensions granted by the Board. Since this particular Special Use Permit was initially approved in 2019 and then extended in 2021, it is subject to Section 24.1-115(c)(1) of the Zoning Ordinance, which provides that Special 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 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 General Assembly later amended the code to extend use permits valid and outstanding as of July 1 2020, until July 1, 2025.

While a site plan was submitted to the County in January with comments returned to the engineer in February, the applicant does not feel that they will be able to resubmit the site plan and obtain the building permits in time to gain approval and establish the use by July 1, 2025 as required by the Zoning Ordinance.

The applicant has requested a two-year extension of their Special Use Permit to July 1, 2027, which they believe will give them enough time to obtain site plan approval and begin construction of the solar facility.

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 a 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**

While it is true that the subject Special Use Permit was already extended by the Board once in 2021, the applicant has made a good faith effort to progress towards establishing the solar facility with the submittal of a site plan for approval. The applicant is currently working with the County to address road access to the site, and this issue must be resolved before the County can approve the site plan. If the two-year extension of the current Special Use Permit is denied, the applicant would then be required to apply for a new Special Use Permit, including public hearings and Planning Commission review, to construct the solar facility. 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 R25-87.

Sgroi/6689

#### Attachments:

- Zoning Map
- Applicant Letter
- Concept Plan
- Approving Resolution R19-149, adopted December 17, 2019
- Extending Resolution R21-98, adopted July 20, 2021
- Proposed Resolution R25-87