

**To: Planning Commission**

**Bill Fritz**

**Cc: Bobby Jocz for Sun Tribe and Liz Palmer for Albemarle County BOS, Samuel Miller District**

**From: Phil and Jane Fellows**

**Date: April 17, 2021**

**Re: Special Use Permit for Midway Solar/ SunTribe**

**To Whom It May Concern:**

**We would like to take this opportunity to share our thoughts and concerns regarding this project.**

**Our primary concern is that views of the commercial solar operation from our property or from the entire length of Thunder Ridge Road will have a negative impact on our property values.**

**At this point in the process, we would like the SunTribe company to mark and flag the perimeters of where the clear cutting of trees will occur and the perimeter of where the solar panels will be installed.**

**Before approval for this project is granted, or before it is advanced to the BOS, we would like to be certain that our view shed is not impacted. If marking and flagging will not provide this information, we request other accommodations be made.**

**Thank you very much,**

**Phil and Jane Fellows**

**From:** Kevin Winstead <klw13517@gmail.com>  
**Sent:** Wednesday, April 14, 2021 11:01 AM  
**To:** Bill Fritz <BFRITZ@albemarle.org>  
**Cc:** eurowinstead@gmail.com  
**Subject:** Re: SP 2021-01 Midway Solar

**CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on links or open attachments unless you are sure the content is safe.**

Bill,

Thank you for the updates. We had intended to send our comments for the packet inclusion, but better late than never.

Our home is located at 1905 Craigs Store Rd., directly across the proposed site. While, we are generally supportive of the project and proponents of renewable energy sources, we do have two major concerns regarding the project –lighting and noise.

We believe our concerns about the lighting have been adequately addressed in the conditions of approval noted in the staff report.

However, we remain gravely concerned about the potential for construction noise on weekends. This was not fully addressed by Sun Tribe development representatives during the virtual meeting on February 23, 2021. As we recall, Sun Tribe's only comment regarding weekend construction activities was to advise they would seek county approval if needed, or something to that effect.

We are adamantly opposed to any weekend construction activity. This would have a severe financial impact on our now thriving homestay business which, as mentioned above, is located directly across the street from the site. Consequently, this would also mean less tax revenue for the county. We worked diligently to obtain all the proper county permits and approvals to get our homestay rental up and running, along with all of the related expenses and sweat equity needed to prepare the accommodation. Our guests now thoroughly enjoy the tranquility this area offers during their weekend getaways and often comment how peaceful it is in their online reviews. Construction on this project during weekends will undoubtedly result in negative reviews, impacting our occupancy rate and bottom line. Weekend construction will directly impact our quality of life (which will already be greatly impacted by the noise and increased vehicle traffic Monday through Friday). Who wants to have coffee on their front porch or a family bbq with the clatter of construction echoing directly across the road?

We appreciate the consideration by all parties involved of our concerns and hope that you will limit construction on this project to weekdays only.

Sincerely,

Kevin and Debi Winstead  
1905 Craigs Store Rd.  
Afton, VA 22920

Albemarle County Planning Commission  
Albemarle County Community Development Department  
% Bill Fritz, Planning Manager  
401 McIntire Road, North Wing  
Charlottesville, VA 22902  
(Transmitted via email)

April 16, 2021

Re: Midway Solar, LLC (SP202100001)

Dear Planning Commission,

The Piedmont Environmental Council (PEC) respectfully submits these comments, regarding the Midway Solar, LLC request for special use permit (SP202100001) to establish an 8-megawatt (MW) solar facility and 4-MW battery energy storage system (BESS) on approximately 80-acres of Rural Area zoned land in Batesville (Tax Map Parcel 08500-00-00-017B0, total of 136-acres).

**PEC recommends that SP202100001 be denied if the following impacts cannot be appropriately mitigated.**

### **Conserve Virginia Resources**

A large portion of the proposed site contains land that is included within Conserve Virginia, which classifies onsite characteristics within the Agriculture and Forestry category (**Attachment A**).<sup>1,2,3</sup> Due to the quality of onsite soils, PEC recommends:

- Lands classified within the Conserve Virginia Agriculture and Forestry category be avoided.

### **Onsite Soil Composition**

Given the onsite soil composition, consisting of a majority of Prime Farmland and Soils of Statewide Importance (**Attachment B**),<sup>4</sup> PEC recommends:

- Construction, panel installation, and grading should be avoided in areas classified as Prime Farmland;
- Grading should be minimized in areas classified as Soils of Statewide Importance;
  - If any grading is required, it should not result in the loss of agricultural soils (topsoil) and should be completed in phases to reduce erosion and sediment from the site;

<sup>1</sup> **Conserve Virginia.** "Virginia's agriculture and forestry industries contribute a combined \$91 billion annually to Virginia's economy and generate more than 450,000 jobs throughout the Commonwealth. Whether it is beer, wine, equine, aquaculture, timber or livestock – Virginia's agricultural and forestry products are enjoyed locally, used throughout the country and exported around the world. To support this important industry, it's important that Virginia conserve high value agricultural and forest lands that face potential development."

<sup>2</sup> **Conserve Virginia.** "ConserveVirginia represents a data driven approach to land conservation that builds upon work already underway here and in other states. Virginia's first in the nation strategy takes the next step in identifying how and where to achieve the best conservation outcomes, and meets the Governor's directive to prioritize the most important lands from a statewide perspective, target limited resources toward those areas, and measure the progress we make toward achieving multiple conservation goals. ConserveVirginia creates a roadmap for land conservation across Virginia now and for years to come."

<sup>3</sup> **Conserve Virginia.** "The Agriculture & Forestry Category identifies priority agricultural and forest lands across Virginia. It is comprised of two datasets. The Virginia Conservation Vision Agricultural Model quantifies the relative suitability of lands for agricultural activity across the state. This model went through rigorous testing and review by state and federal agricultural professionals. Agricultural value is assessed primarily based on inherent soil suitability, but also accounts for current land cover and travel time between agricultural producers and consumers."

<sup>4</sup> United States Department of Agriculture, Prime and Other important Farmland Definitions. Accessed online via [https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/pr/soils/?cid=nrcs141p2\\_037285](https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/pr/soils/?cid=nrcs141p2_037285)

- In cases where grading is required, topsoil should be removed from the area prior to grading. That soil should be stored on site and replaced after the grading is completed; and
  - Compression mats should be used during construction, in order to reduce topsoil compaction.
- The above mitigation measures could help to ensure optimal site reclamation opportunities at the end of the project's useful life; and limited grading could assist in minimizing the potential sedimentation of the Mechums River.

### **Mechums River Impacts**

Given the proposed facility's proximity to Mechums River, PEC is concerned that (1) onsite construction activities will create impactful erosion and sediment control implications, and (2) onsite conditions throughout the life of the facility could create long lasting stormwater impacts. The Mechums River serves as a tributary to the South Fork Rivanna Reservoir, which serves as a potable drinking water source for Albemarle and Charlottesville. In order to protect the onsite, adjoining, and downstream surface water impacts, PEC recommends:

- Protecting existing riparian buffers along the Mechums River, onsite/adjoining streams, and wetlands;
- Enhancing existing riparian buffers with additional, native trees with a caliper of at least 2 inches;
- Providing a stream setback of at least 100 feet from the Mechums River, onsite/adjoining streams, and wetlands; and
- Limiting onsite grading activities as discussed above.

### **Nearby Conservation**

There are 10 conservation easements within a 1-mile radius of the proposed facility, with a combined acreage of over 600 acres (**Attachment C**).

- The Commonwealth of Virginia dedicates funding to conservation, in order to protect important natural resources that provide clean air and water, in addition to cultural, historic, and scenic resources and values; and
- The staff report for this application indicates that the proposed facility will not visually impact adjoining or nearby properties; however, given the proximity to 10 conservation easements within a 1-mile radius, PEC disputes that claim.

### Public Trail Access

PEC is supportive of the community's desire for onsite public trails and river access. There are multiple possibilities for trail and river access to be granted that would not hold the landowner liable for onsite public use.<sup>5,6,7</sup>

### Fencing

The overall fence height should be increased to eight (8) feet above ground surface, in order to prohibit deer entry.<sup>8</sup>

Thank you for taking the time to review the PEC's concerns on this important matter. Please feel free to contact me with any questions or requests for additional information.

Sincerely,



Christopher Hawk

Land Use Representative - The Piedmont Environmental Council

11395 Constitution Highway

PO Box 195

Montpelier Station, Virginia 22957

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<sup>5</sup> § 29.1-509. B. A landowner shall owe no duty of care to keep land or premises safe for entry or use by others for hunting, fishing, trapping, camping, participation in water sports, boating, hiking, rock climbing, sightseeing, hang gliding, skydiving, horseback riding, foxhunting, racing, bicycle riding or collecting, gathering, cutting or removing firewood, for any other recreational use, for ingress and egress over such premises to permit passage to other property used for recreational purposes or for use of an easement granted to the Commonwealth or any agency thereof or any not-for-profit organization granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code to permit public passage across such land for access to a public park, historic site, or other public recreational area. No landowner shall be required to give any warning of hazardous conditions or uses of, structures on, or activities on such land or premises to any person entering on the land or premises for such purposes, except as provided in subsection D. The provisions of this subsection apply without regard to whether the landowner has given permission to a person to use their land for recreational purposes.

<sup>6</sup> Id sec. E. For purposes of this section, whenever any landowner has entered into an agreement with, or grants an easement or license to, the Commonwealth or any agency thereof, any locality, any not-for-profit organization granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, or any local or regional authority created by law for public park, historic site, or recreational purposes, concerning the use of, or access over, his land by the public for any of the purposes enumerated in subsections B and C, such landowner shall be immune from liability to any member of the public arising out of such member's use of such land for any such purpose, and the government, agency locality, not-for-profit organization, or authority with which the agreement is made shall indemnify and hold the landowner harmless from all liability and be responsible for providing, or for paying the cost of, all reasonable legal services required by any person entitled to the benefit of this section as the result of a claim or suit attempting to impose liability. Any action against the Commonwealth, or any agency thereof, shall be subject to the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.). Any provisions in a lease or other agreement which purports to waive the benefits of this section shall be invalid, and any action against any county, city, town, or local or regional authority shall be subject to the provisions of § 15.2-1809, where applicable.

<sup>7</sup> § 3.2-6400. "Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

<sup>8</sup> University of Vermont, Department of Plant and Soil Sciences. Effective Deer Fences. Accessed online via <https://pss.uvm.edu/ppp/articles/deerfences.html#:~:text=White%2Dtailed%20deer%20can%20jump,the%20fence%20and%20meet%20resistance>



# **Attachment A**

## **Conserve Virginia**

# Conserve VA Ag and Forestry Category + Midway Solar



March 18, 2021



Adjacent States



Agriculture & Forestry Category



Streams (NHD)

1:14,595



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community VDCR, YDOF, YDOF,

Piedmont Environmental Council

## **Attachment B**

# **Onsite Soil Composition**



# Central Virginia Electric Cooperative Property

- Steep Slopes Overlay - current
- 2020 Tax Parcels
- Conservation Easements
- Prime Farmland
- Farmland of Statewide Importance
- Not Prime
- Prime if Drained
- Prime if Drained
- Prime w/ Flood Protection



# **Attachment C**

## **Nearby Conservation Easements**

