

Planning Commission Staff Report

Revised for Board of County Commissioners

February 10, 2021

Conditional Use Permit – CU 03-20

Planning Commission Meeting Date: February 8, 2021

Planning Commission Recommendation: Approval 4-0

BOCC Meeting Date: February 16, 2021

BOCC Recommendation: TBD

Applicant: Levy Solar 1, LLC
422 Admiral Blvd.
Kansas City, MO 64106

Owners: Hardee, Chris & Frances
P.O Box 1401
Chiefland, FL 32644

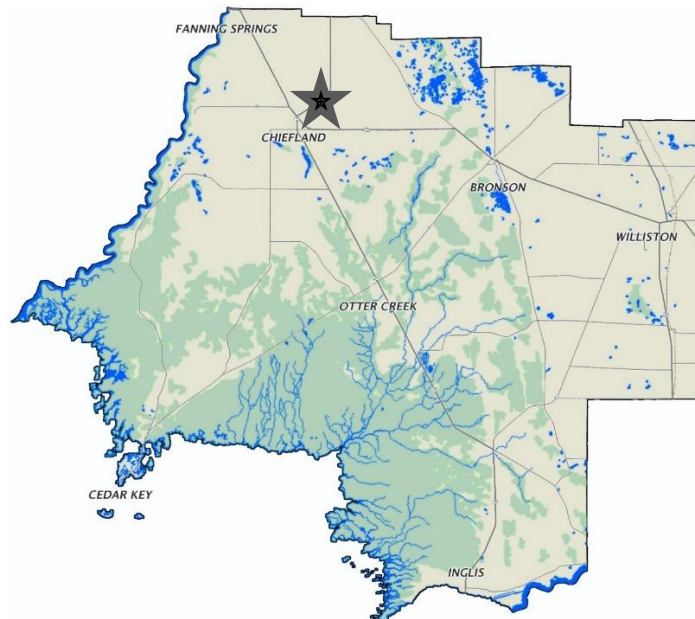
Petersen, Diane
11571 NW 40th Ave.
Chiefland, FL 32644

Fisher, Leslie
PO Box 424
Chiefland, FL 32644

Commission District: Commissioner Rock Meeks

Municipal Service District: None

Location: Properties straddle US 129, NW 120th Street, NW 110th Street bounded by NW 5th Avenue on the east.



Request: The applicant is requesting a conditional use for a Power Generating Facility on

715 acres that will be a 74.9 megawatt alternating current (MW AC) solar power generating facility including photovoltaic solar panels that will be mounted on single-axis tracking system with a 60 +/- degree tilt, along with associated infrastructure of electric inverters and transformers, underground electrical collection systems (distribution equipment), a solar meteorological station, and electrical collector substation. An accessory structure in the form of an operations and maintenance building or trailer will also be located onsite. The substation component of the project is considered an Essential Public Utility Service, which is a permitted use within the A/RR zoning district. The substation component of the project will comply with all applicable standards and guidelines associated with the Essential Public Utility Services.

Parcels included in this request:	0159400000, 0165200000, 0165200100, 0165300000, 0165500000, 0165600000, 0165800000, 0165800200, 0165800300, 0165800400, 0165800500, 0165800600, 0165800700, 0168700000
Section Township Range:	20/11/15, 29/11/15, 30/11/15, 10/11/15, 32/11/18
Current Comp Plan Designation:	A/RR: Agricultural/Rural Residential (1/10 ac.)
Current Zoning Designation:	A/RR: Agricultural/Rural Residential
Current Use:	Pasture, timber, cropland and the following improvements: a single family residence with well and septic and a single family residence with well and septic, 5 pole barns and one shed.

Applicant Levy Solar 1, LLC is requesting a conditional use approval from the Planning Commission and then subsequently the Levy County Board of County Commissioners for a Solar Power Generating Facility located east of Chiefland. The project encompasses 14 parcels of varying acres totaling 715 acres as described earlier. Many of the details can be found in the application so the staff report will be referencing those pages.

The application was submitted at the end of October but additional pages were added mid December. Staff has been informed that the applicant has reached out and was able to communicate with about 75% of the surrounding property owners.

The location of this project is outside the Chiefland MSD. It is also not located in an area of the county with environmentally sensitive lands. With the increase of solar on the rise historically many of these are primarily locating in areas of agriculture and silviculture where low-density residential is present. This seems to be two-fold. One reason is the requirement of open land and locations of existing sub stations and transmission lines. The second is to avoid tying up prime residential lands for approximately two generations. The land use is not changing nor is

the zoning so in most cases the land reverts back to agriculture in 30-40 years. This type of use is a fairly low-impact and passive use of land.

Comprehensive Plan Compliance

Staff comments in bold and italics

FUTURE LAND USE ELEMENT

Policy 1.2 Land use categories on the Future Land Use Map shall be defined as follows:

Agricultural/Rural Residential

This category provides for areas predominately used for agriculture, accessory and supportive uses to the agricultural industry, resource based and/or non-spectator based recreational uses, conservation uses, and very low density rural development. The maximum residential density is one (1) unit per ten (10) acres, except as otherwise provided by Policy 3.3. The minimum parcel size is ten (10) acres, or parcel of record as of December 31, 1989. Public schools are permitted in this land use category.

This project meets the minimum parcel size requirements.

Policy 3.3 Agricultural areas will be protected from the encroachment of incompatible development. Residential subdivisions will be discouraged in areas designated primarily for agricultural land use. Development shall be limited to a minimum tract size of at least ten (10) acres. As an incentive to conserve the use of land for agricultural purposes and/or open space, any development proposed as a Planned Unit Development and/or with a cluster development design pursuant to the Levy County Land Development Code, shall receive a density bonus of one (1) dwelling unit per five (5) acres from the undeveloped portion of the same common ownership to be utilized for agriculture and/or open space use, excluding wetlands.

The use of this property as a solar power generating facility conserves the future use of this property for agriculture use.

Policy 10.3 The County, through its land development regulations, shall require minimum setbacks and screening and buffering for all new subdivisions and developments abutting active agricultural lands or other incompatible land uses. These regulations shall address potential off-site impacts such as noise, dust, light, and stormwater run-off issues associated with the characteristics of the new development.

The project setbacks and buffers meets or exceeds all of the minimum criteria for the A/RR zoning district.

TRANSPORTATION ELEMENT

Traffic resulting from the operation of this project, once construction is complete, will be less than that of a single family home.

CONSERVATION ELEMENT

Open Space and Tree Protection

Policy 1.1 Enhance air quality by preserving trees, natural vegetation and open spaces through provisions in the land development regulations for tree preservation, buffering, and recreation and open space.

The applicant has stated that any trees that exceed 16" dbh will be replaced as part of the development in the buffer area.

Objective 3 Soils, Minerals and Native Vegetative Communities

Conserve and protect native vegetative communities, mineral resources, farm and forest lands, and preserve the natural drainage functions of the soils through the appropriate use of land.

Policy 3.1 Development proposals will be reviewed to ensure that environmentally sensitive features of the land are protected and impacts to wetlands are avoided, minimized, or mitigated commensurate with the quality of the wetlands system affected. Impacts to "high quality" wetlands on site will be limited to development of necessary improvements consistent with plans approved by state and federal regulatory agencies, for which no practicable alternative location exists, and mitigation shall be required consistent with conditions imposed by the regulatory agencies. High quality wetlands are herein defined as undisturbed wetlands or wetland that contain significant existing nesting habitat for listed wildlife species or significant existing habitat for listed plant species. Topographical characteristics, soils suitability and limitations, potential impact to surface and groundwater flow and quality and a floodplain assessment shall be reviewed prior to issuance of any development approval.

The methods used to protect sensitive features of the land and to address physical and environmental limitation of the land shall be documented by the developer prior to the issuance of development approval, provided, however, that such prior approval is not required for land use applications associated with projects subject to the Florida Electrical Power Plant Siting Act, Sections 403.501 through 403.518, Florida Statutes.

The applicant has reviewed the Generalized Environmentally Sensitive Lands Map located in

the comprehensive Plan and indicates no such features are depicted in their project site. None of the waters are classified as such by the FDEP were identified on site.

Policy 3.5 The review of proposed development will be coordinated with the County Agricultural Extension service, SWCD and other appropriate agencies to ensure that agricultural resources are protected.

This will be ongoing through the development process.

Objective 4 Forestry / Wildlife Habitat Conservation

Encourage the long-term conservation and proper management of forest lands in the County to ensure a continuous yield of forest products, habitats for wildlife, forest associated recreation, aesthetics, clean air and clean water.

Tree Ordinance

Policy 4.3 Unique or endangered native vegetation that will be adversely impacted or destroyed by proposed development shall be protected and conserved through tree preservation and open space requirements in the land development regulations.

Objective 5 Endangered and Threatened Wildlife

The County, in cooperation with the Florida Fish and Wildlife Conservation Commission (FWC) and the Florida Department of Environmental Protection, shall identify the locations of, and protect endangered and threatened wildlife species.

Wildlife Habitat Management

Policy 5.2 The habitat of any threatened or endangered species shall be managed to ensure survival of that species, with a population equal to or greater than existed prior to development. Mitigation activities shall sustain or increase the carrying capacity of that habitat in accordance with a State approved management plan (i.e., FDEP and FWC).

Objective 6 Protect the Quality and Quantity of Current and Projected Water Sources

Protect, appropriately use and conserve the quality and quantity of current and projected water sources within the County including surface water, springs, groundwater and waters that flow into the Gulf of Mexico.

Policy 6.4 Natural groundwater recharge areas, wellfield protection areas and surface waters

shall be protected from activities, such as, inadequate stormwater management, inappropriate use of septic tanks, intense development in karst sensitive areas and inappropriate densities and intensities of development in areas identified environmentally sensitive land.

Objective 4, 5 and 6 above have been surveyed by the applicant and based on staff review of maps have determined there will not be an impact to these habitats. Additionally, the use of this project site as a solar power generating facility, post construction, will have minimal use of groundwater resources.

Wellfield Protection

Policy 6.10 Developers shall obtain all permits required by the Florida Department of Environmental Protection, the Suwannee River Water Management District or the Southwest Florida Water Management District prior to the issuance of a development permit, provided, however, that such prior approval is not required for land use applications associated with projects subject to the Florida Electrical Power Plant Siting Act, Sections 403.501 through 403.518, Florida Statutes.

Policy 6.11 New developments meeting a specified threshold size will be required to evaluate geologic hazards on-site prior to development.

Freshwater and Environmentally Sensitive Coastal Areas

Policy 6.17 Through coordination and technical assistance from the water management districts in the development review process, water quality and quantity shall be addressed and protected. The owner/developer of any site shall be responsible for the management of runoff in a manner that the volume of runoff does not exceed pre-development conditions.

The above policies for Wellhead Protection and Freshwater and Environmentally Sensitive Coastal Areas will be scrutinized through the submission of the project's Environmental Resource Permit through Florida Department of Environmental Protection (FDEP).

SPRINGS PROTECTION ELEMENT

Objective 3 Development Design Standards

Development within the SPZ shall meet the design standards as set forth below:

Policy 3.2 Development shall be setback from springs, spring runs, and karst features as shown

below:

Feature	Minimum Setback (feet)
Springs	300
Spring runs	150
Sinkholes with a direct connection to the aquifer	200, measured from the drainage divide
Other sinkholes	100, measured from the drainage divide
Caves	300, measured on the surface from the outside wall of the cave system
Other karst features with a direct connection to the aquifer (swallet or stream to sink)	200, measured from the drainage divide

Variances from the prohibitions against construction of structures within the above development setbacks from springs, spring runs and karst features may be allowed only when, owing to the special shape, size, or physical features, the setback would result in the preclusion of all reasonable use of the subject property. When a variance is permitted, encroachment into the setback will be limited to the minimum needed to allow for reasonable use of the parcel.

Policy 3.3 The required setback described in Policy 3.2 shall retain all natural vegetation within the setback area.

Policy 3.7 Design of parking lots, sidewalks, buildings, and other impervious surfaces shall minimize connections between impervious surfaces through techniques shown on a site plan such as:

- a. Directing flows from roof drains to vegetated areas or to rain barrels or cisterns for reuse of the water;
- b. Directing flows from paved areas to vegetated areas;
- c. Locating impervious surfaces so that they drain to vegetated buffers or natural areas; and
- d. Breaking up flow directions from large paved surfaces.

Policy 3.8 Porous pavement materials, pervious concrete, and pervious asphalt should be used

to minimize the amount of impervious surface within new development and redevelopment.

Policy 3.9 Landscaping standards within the SPZ shall limit plant materials to native or naturalized species in order to avoid or minimize the use of irrigation and fertilizers. Landscaping standards should also require retention of existing native species rather than planting new vegetation.

Policy 3.12 In order to minimize the contribution of nitrates to groundwater with its resultant effects on increased growth of vegetation in the spring and river and loss of water clarity, and to foster long-term stewardship of the springs, special design and best management practices (BMPs) shall be instituted for all development in the SPZ.

The project is located in the Levy County Springs Protection Zone. The applicant states a geotechnical survey has been performed and based on those findings the setbacks above have been implemented. There are no identified springs on site. There will be less than 8 acres of impervious surface associated with interest, transformers, substation and internal roads. Stormwater treatment and storage will be subject to the permit review by the FDEP but it is anticipated by the applicant that stormwater treatment and storage will use the vegetative buffers planned onsite. Additionally, the plan by the applicant is to utilize sheep to do the weeding instead of broadcast fertilizer. There will be instances where spot treatment may be necessary. The use of native or natural species for plant materials will aid in cutting down on the use of fertilizers as specified in Policy 3.9

INFRASTRUCTURE ELEMENT

Objective 1 Utility Guidelines

Utilities Sub-Element

Goal:

Ensure that electric utilities are adequately and efficiently provided through coordination with private and state entities.

Objective 1 Utility Guidelines

Permit utility companies the maximum amount of flexibility in providing essential public services while protecting the environmental and aesthetic quality of the County.

Policy 1.1 Encourage utility facilities to locate in areas that efficiently serve designated growth areas, and minimize adverse impacts to the appearance and character of neighborhoods and

community.

Policy 1.2 Encourage the utilization of common corridors for utility distribution systems.

Policy 1.3 Encourage the use of underground transmission lines where feasible.

Policy 1.4 Essential public utilities shall be permitted in all of the land use classifications and consistent with standards and guidelines in the Capital Improvement, Conservation and Coastal Elements.

Policy 1.6 The County will maintain close contact with public utilities that provide essential services to the County through direct contact and the development of guidelines to assure continuity and availability of service.

There were many policies in the Infrastructure Element and subsequent Sub-Elements that were applicable to the location of a solar power generating facility and those can be closer examined in the applicant's Exhibit G but the goal and accompanying policies listed above was worth noting from the Comprehensive plan. This location is on a common corridor and undergrounding internally will be feasible except when the facility transfers to the substation.

Zoning Code Compliance

Chapter 50 of the zoning code and specifically Sec. 50-841 Conditional Use Permit states:

a) *Generally.* This section recognizes that it is impossible to identify every conceivable land use which might be permitted in each zoning district, and, that a means of permitting individual (i.e., not planned unit development) uses as conditional may provide a desirable alternative to amending the zoning ordinance.

b) *Objective.* To provide a mechanism for allowing specific uses not listed as a matter of right or by special exception but which by their nature are compatible with the existing zoning district.

So this is the mechanism the applicant has to make application.

Sec. 50-192. - Trees and open space.

(a)Dimensions. If a tree of 16 inches in diameter, or greater, as measured at a point of 4½ feet above ground level, must be removed for development purposes, a replacement tree shall be planted by the developer for each tree removed.(1)Trees removed for right-of-way or off-street parking construction and meeting the size criteria in this subsection shall be replaced

by the developer in an area dedicated to permanent open space.(2)Trees removed for building construction and meeting the size criteria in this subsection shall, in the case of any structure other than a single-family dwelling, be replaced in an area dedicated to permanent open space.(b)Exemption. Residential homes, and both agricultural and forestry land uses are exempt from this section. (c)Mitigation. Replacement tree sizes and species are optional, at the discretion of the developer.

The applicant, as stated in the Comprehensive Plan section and their application, will be replacing any tree with a dimension of 16” dbh in the buffer.

Sec. 50-351. - General noise control measurement standard and prohibitions.

It shall be unlawful for any person to create, operate, or cause to be operated on private property or any public space any source of sound in such a manner as to create a sound level which exceeds the limits set forth in Table 1 for the zoning district or category of property receiving the sound when measured at or within the boundary of the property receiving the sound. The measurement of sound or noise levels shall conform to the standards in section 50-355.

The applicant has stated that there will be no exceedances of the maximum noise limits at the project site boundary. Based on the provisions of this code section.

Sec. 50-667. - Intent of the various districts.

(a)In establishing the various districts, and in addition to the statement of purpose as adopted in section 50-661, it is the express intent of the board of county commissioners to:(1)Implement the county comprehensive plan by adopting zoning districts which are consistent with that plan and which constitute an integral part of the Code.(2)Comply with the state mandate that each local government shall, pursuant to F.S. § 163.3202, adopt land development regulations and to exercise land development regulatory authority pursuant to F.S. § 163.3201.(3)Discourage the proliferation of urban sprawl.(b)In addition:

(2) A/RR agricultural/rural residential district. The conservation element of the county comprehensive plan, and the land use element of the same document, have established objectives and policies to protect agriculturally productive lands. As with forestry lands, farming operations use chemicals for a wide variety of essential purposes. In addition, these activities generate noise, dust and waste products which, along with chemical emissions, are generally incompatible with residential development. Conversely, domestic pets such as dogs and cats are generally incompatible with adjoining livestock operations. The A/RR district is intended to provide for the continued viability of agribusiness in the county while permitting low-density residential land uses that are compatible with the predominant land use in the district, commercial farming.

In the applicant keeping the future land use and zoning the same, preservation of this 715

acres of agriculture land will be able to be used after the solar use is no longer viable and decommissioned. As stated in the LDC commercial farms are generally incompatible with residential development because of some of the activities generated by farming such as noise, dust, and waste products along with chemical emissions. This makes large tracks of land like this, outside the MSD not a good candidate for residential development.

Sec. 50-676. - Generally.

SCHEDULE 2
LOT, YARD AND HEIGHT REGULATIONS

District	Minimum Lot Size	Minimum Lot Width (Feet)	Minimum Lot Depth (Feet)	Minimum Yards (Feet)			Maximum Height (Feet)
				Front	Side	Rear	
A/RR Agricultural, Farming	10 acres***	200	300	50	10	50	25

This project meets the minimum lot size, width and depth requirements of the A/RR zoning district. The applicant commits to a minimum setback of 50 feet from the project boundaries and at least a 100-foot setback from a principal residential dwelling on a non-participating parcel adjacent to a project boundary. The project also exceeds the minimum setbacks for front, side and rear yards as required in A/RR. The maximum height of 25 feet will be exceeded by components of the electrical substation including poles but because that is considered an essential public utility service that is permitted.

SUMMARY

From a planning perspective this is a much less intense use of 715 acres than for example a poultry farm or animal processing plant both of which are allowed via a special exception in the A/RR district. The compatibility issues are not always as clear cut. What you think could be compatible to one is not with another. While this is a rather passive use of land the setbacks and buffers make it bearable. While looking at the use of agricultural land and its preservation in Levy County it is evident that the property owners at this time in their lives are not wanting to farm it as it has been in the past.

Decommissioning was only talked about as a condition of this approval. Staff and the Planning Commission feels there needs to be a more detailed plan of what a decommissioning looks like. The County will want some sort of financial security from the owners so that the County won't

be the ones responsible for returning this site back to agriculture lands. Many plans that have been reviewed leave remnants underground. I am not sure that is sufficient if the land does return to farming and plows and equipment can't be used because of the underground infrastructure left by this solar facility. The applicant has been amenable to working with the County to get something that both parties are comfortable with.

A few things to note: The proposed conditions requested by the applicant are mostly code requirements set out in our Levy County Land Development code. The applicant has stated that once the approvals are granted the project will be transferred to Duke Energy.

The Planning Commission has recommended APPROVAL to the Board of County Commissioners with a 4-0 vote. Should the Board of County Commissioners, find the application to be consistent with the Land Development code and Comprehensive Land Use Plan and moves to approve application CU 03-20, staff recommends the following conditions from the Order to Approve be attached to such approval.

Conditions of Approval

ORDER TO APPROVE

THE BOARD OF COUNTY COMMISSIONERS OF LEVY COUNTY, FLORIDA, on February 16, 2021, after due public notice, being empowered under Section 50-841, Levy County Code, to hear and decide requests for conditional use permits, does hereby make the following statements and issues the following Order as to the above conditional use permit for the development, construction and operation of a 74.9 megawatt alternating current solar power generating facility and uses and facilities accessory thereto on property located in the Agricultural/Rural Residential (A/RR) zoning district:

1. On February 8, 2021, the Levy County Planning Commission ("Planning Commission") conducted a public hearing on Conditional Use Permit Application CU 03-20, at which public hearing the Planning Commission heard and considered the Staff Report of the Development Department prepared for such hearing date regarding Application CU 03-20 ("Staff Report"), and presentations, if any, of the Applicant/Permittee and other parties in opposition to, and in favor of, Application CU 03-20.

2. At the conclusion of the Planning Commission public hearing on Application CU 03-20, the Planning Commission recommended _____ approval of Application CU 03-20, subject to certain conditions or denial.

3. On February 16, 2021, the Board of County Commissioners conducted a public hearing on Conditional Use Permit Application CU 03-20, at which public hearing, the Board was presented with and heard and considered the updated Staff Report dated _____, 20____, (if staff report gets updated for BCC, use “updated” and new date – if not, amend accordingly), and heard and considered the recommendations of the Planning Commission, and the presentations, if any, of the Applicant/Permittee and other parties in opposition to, and in favor of, Application CU 03-20.

4. Based on the recommendations of the Planning Commission, the findings and analysis presented in the Staff Report and the evidence presented at the public hearing on Application CU 03-20, the Board of County Commissioners has determined that the applicable requirements, criteria, or standards set forth in Section 50-841, Levy County Code, have been met for Application CU 03-20, provided certain conditions apply.

Accordingly, it is hereby

ORDERED that Application CU 03-20 is hereby approved for the property described in Exhibit “A” attached hereto and incorporated herein by this reference, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The following words, terms, or phrases, when used in this Order or Conditions of Approval, will have the meanings ascribed to them in this Condition 1, except where the context clearly indicates a different meaning:

Applicant/Permittee means Levy Solar I, LLC, a Delaware limited liability company authorized to transact business in Florida as a foreign limited liability company, or any of its successors or assigns.

Application CU 03-20 means the request filed by Applicant/Permittee with the County for a conditional use permit for the development, construction and operation of a 74.9 megawatt alternating current solar power generating facility and uses and facilities

accessory thereto as proposed in such request filed by Applicant/Permittee on property located in the A/RR zoning district, including the completed application form, including all narratives, exhibits, maps, sketches, development plans, drawings and other additional documents submitted by the Applicant/Permittee.

County means Levy County, Florida.

Department means the Levy County Development Department, or any successor County Department with the duties of administering and enforcing the zoning regulations of the County.

Owner means Christopher C. Hardee, Frances Hardee, Christopher C. Hardee, Trustee of the Faunita D. Hardee Irrevocable Trust #1, H. E. Petersen, Jr., Diane H. Petersen, L. Megan Petersen, Leslie D. Fisher, Jr., Maggie B. Fisher, John Stephen Fisher, Stanley Arthur Fisher, Spencer Carlisle Fisher, and Faunita D. Hardee, jointly or severally, or any of their successors or assigns.

Project means the development, construction and operation of a 74.9 megawatt alternating current solar power generating facility and uses and facilities accessory thereto as proposed in Application CU 03-20 on the Subject Property.

Regulatory Agency means any federal, state, regional, or local governmental or regulating agency, authority, or other entity with jurisdiction over any of the activities, uses, operations, facilities, construction or development proposed or contemplated by Application CU 03-20, or required or governed by these Conditions of Approval.

Regulatory Permit means any permit or approval, in whatever form, required, issued or granted by any Regulatory Agency for the activities, uses, operations, facilities, construction or development proposed by Application CU 03-20, or required or governed by these Conditions of Approval.

Subject Property shall mean the property described on Exhibit "A" attached hereto.

2. The Conditions of Approval contained in this Order are binding and enforceable against the Applicant/Permittee, any of the Applicant/Permittee=s parent entities, any of the Applicant/Permittee=s subsidiary entities that are involved in any way in the activities, uses, operations, facilities, construction or development approved by this

Order, the Owner of the Subject Property, any operator of the activities, uses, operations or facilities approved by this Order, the holder of the conditional use approval granted by this Order, or any of their successors or assigns, and all jointly and severally, regardless of whether any one or more of them is charged with compliance with any particular Condition of Approval.

3. Any decision, approval, or determination made or required to be made by the County, specific County staff, or the Department pursuant to any Condition of Approval contained in this Order shall be final.

4. This Order is for the development, construction and operation of a 74.9 megawatt alternating current solar power generating facility and uses and facilities accessory thereto as proposed in Application CU 03-20 on the Subject Property, and for no other purpose.

5. Issuance of this Order does not in any way create any rights on the part of the Applicant/Permittee to obtain a permit from any Regulatory Agency and does not create liability on the part of the County for issuance of this Order if the Applicant/Permittee fails to obtain requisite approvals or fulfill the obligations imposed by a Regulatory Agency or undertakes actions that result in violation of state or federal law.

6. The Applicant/Permittee shall obtain any and all Regulatory Permits applicable to the Project required by any and all applicable Regulatory Agency or Agencies (other than the Department) and provide copies of such Regulatory Permits to the Department prior to any activities, uses, operations, construction or development on the Subject Property related to the Project.

7. The Applicant/Permittee shall maintain all Regulatory Permits in current and good standing or other similar status. The Applicant/Permittee shall comply with all conditions or requirements of any Regulatory Permit, and shall perform and complete all activities, uses, operations, facilities, construction or development on the Subject Property for the Project according to the conditions or requirements of any applicable Regulatory Permit. In the event of any conflict between a condition, provision or requirement of a Regulatory Permit issued by a Regulatory Agency other than the County and a condition, provision or requirement of this Order or any applicable provision of the Levy County Code, the Applicant/Permittee shall either amend the applicable Regulatory Permit or amend Application CU 03-20 prior to continuing any further activities, uses, operations, facilities, construction or development authorized by this Order.

8. The Applicant/Permittee shall notify the Department prior to any changes to the Project, any changes in the identity of the Applicant/Permittee or any entity conducting the activities, uses or operation of the Project, any changes to Application CU 03-20, any changes to any activities, uses, facilities, operations, construction or development approved by this Order, or revisions to any Regulatory Permit. Upon review of such notice, the County, through the Department or other applicable County staff, shall notify the Applicant/Permittee on whether any such change or revision will require an amendment to Application CU 03-20.

9. In the event the Applicant/Permittee is required or notified to submit an amendment to Application CU 03-20, no activities, uses, or operations on the Subject Property that have been authorized by this Order may be conducted or continued until such amendment has been submitted and approved. Any such amendment to Application CU 03-20 may be processed as a minor modification or administrative amendment granted by the Department, or as a major, formal amendment to Application CU 03-20 considered by the Planning Commission and the Board of County Commissioners, as indicated and determined by the type of amendment required, the determinations of the applicable County staff reviewing the amendment, and the applicable regulations at the time of the amendment.

10. All construction, development or operation of the Project shall meet all applicable provisions of the Levy County Code (excluding maximum lot coverage limitations) that do not conflict with this Order, the requirements of any Regulatory Permit, and the requirements of any other applicable federal, state or local statute, ordinance, rule or regulation, regardless of whether such provisions or requirements are expressly set out in this Order.

11. Development of the Project shall meet the following setbacks:

(a) All Project facilities (excluding security perimeter fencing and vegetative buffer) shall be set back a minimum of fifty feet (50') from the Subject Property boundary;

(b) All Project facilities shall be set back a minimum of 100 feet from any residential dwelling on property abutting the Subject Property;

(c) Solar panels shall be set back a minimum of one hundred seventy-five feet (175') from the centerline of U.S. Highway 129; and

(d) All Project facilities shall meet any other applicable setback requirements contained in the Levy County Code that do not conflict with the setback requirements in this section, or contained in any Regulatory Permit.

12. Development of the Project shall meet the following height restrictions:

(a) Solar panels, other collection devices, components or other buildings or facilities, excluding substation and electrical transmission equipment, shall not exceed fifteen feet (15') as measured from the natural grade of the applicable panel, device, component, building or facility;

(b) Substation and electrical transmission equipment shall not exceed one hundred feet (100') in height; and

(c) All Project facilities shall meet any other applicable height restrictions contained in the Levy County Code that do not conflict with the height restrictions in this section, or contained in any Regulatory Permit.

13. All lighting installed for security, parking lots, driveways, external illumination of buildings, or illumination of signs shall be directed away and shielded from properties adjacent to the Subject Property and shall be so arranged as to not adversely affect driver visibility on adjacent roads or interfere with enjoyment of adjacent residences.

14. The Applicant/Permittee shall install and maintain throughout the life of the Project perimeter fencing that complies with the National Electrical Safety Code around the boundary of the Project prior to operation of the solar power generating facility. The fencing shall be either a six foot (6') chain link fence with barbed wire or a seven foot (7') chain link fence. The fencing shall contain warning signage posted so that it is clearly visible on the Subject Property. In the event the fencing or any warning signage requires maintenance, is damaged or needs repair, the Applicant/Permittee shall immediately perform such maintenance or repair.

15. All electrical components of the Project shall have an Underwriter Laboratory listing.

16. The Applicant/Permittee shall provide accessibility to the Subject Property for emergency service vehicles.

17. No advertising device or any graphic representation that is not related to the Project shall be allowed on the Subject Property. Entrance gate signage or notifications containing point of contact or other information as required by a Regulatory Agency will be allowed.

18. The removal of any trees for purposes of development of the Project shall meet the requirements of Section 50-192, Levy County Code, except as otherwise provided herein. Replacement trees for any mitigation required by Section 50-192, Levy County Code, may be planted in any vegetative buffer depicted in the plans in Application

CU 03-20, and shall meet the specifications for a vegetative Buffer Landscape Type A or vegetative Buffer Landscape Type B as contained in Application CU 03-20.

19. The Applicant/Permittee shall install all vegetative buffers as depicted as Vegetative Buffer Type A and Type B in the Site Plan and applicable Proposed Development Plans for Application CU 03-20 prior to operation of the Project on the Subject Property. The Applicant/Permittee shall maintain Existing Vegetative Buffers as shown on the Site Plan and applicable Proposed Development Plans in Application CU 03-20 throughout the duration of the Project so as to maintain the current or better level of opacity in such Existing Vegetative Buffers. The Applicant/Permittee shall maintain all installed Vegetative Buffers Type A and Type B as shown on the Site Plan and applicable Proposed Development Plans in Application CU 03-20 throughout the duration of the Project so as to reach and maintain the level of opacity that each Vegetative Buffer Type A or Type B will be at maturity.

20. The Applicant/Permittee shall reseed open areas outside of the solar panel facilities within the security perimeter fence line that are disturbed during construction and development of the Project. To the extent that such native grasses and seed mixes are considered viable for the applicable area, Applicant/Permittee shall use native grasses and pollinator-friendly seed mixes for such reseeding.

21. The Applicant/Permittee shall maintain vegetation on the Subject Property in a neat manner, avoiding and maintaining excess vegetative growth. The Applicant/Permittee's maintenance of the vegetative growth shall be done in such a way as to minimize the use of pesticides or herbicides.

22. Upon reasonable prior notification to the Applicant/Permittee, the County shall be allowed access to the Subject Property throughout the life of the Project to perform inspections in order to assure compliance with this Order or to investigate any complaints regarding the operations or activities at the Subject Property received by the County.

23. Within twelve (12) months after the end of the useful life of the Project or otherwise ceasing operation of the Project, the Applicant/Permittee shall remove all equipment and facilities that were used for power generation on the Subject Property that are obsolete, no longer operational, or will no longer be used for power generation. This removal will be referred to herein sometimes as "decommissioning." The Applicant/Permittee shall recycle any reusable equipment or facilities whenever economically feasible.

24. Prior to the conduct of any activities, uses, operations, construction or development on the Subject Property for the Project, the Applicant/Permittee shall prepare and provide to the Department a reliable and detailed cost estimate for the decommissioning of the Project. Such cost estimate shall be prepared by an engineer licensed by the State of Florida and experienced in the subject of the decommissioning and removal of solar power generating facilities. Such cost estimate shall explicitly detail the cost of decommissioning of the Project and shall include a mechanism for calculating increased costs due to inflation and with any reduction for salvage value on a specific schedule. Such cost estimate shall include discussion and analysis of salvage value and how it affects any cost estimate provided. After submittal of the initial detailed cost estimate, the Applicant/Permittee shall provide an updated detailed cost estimate for decommissioning of the Project every five (5) years throughout the life of the Project for County's review.

25. Prior to the operation of the Project as a solar power generating facility, the Applicant/Permittee shall provide a performance bond, cash escrow, letter of credit, or other form of assurance, satisfactory to the County Coordinator and the County Attorney, in at least the amount of the detailed cost estimate for the decommissioning of the Project as provided in Section 24 hereof, with the possibility of increasing the amount based on discussion regarding salvage value. Applicant/Permittee shall periodically increase the amount in the performance bond, cash escrow, letter of credit, or other form of assurance provided in accordance with the scheduled estimated increases in costs due to inflation contained in the initial detailed cost estimate for the decommissioning of the Project and salvage value required in Section 24 hereof, and with any increases contained in the updated detailed cost estimate provided to the County at five (5) year intervals also as required in Section 24. Along with the periodic increases in the performance bond, cash escrow, letter of credit, or other form of assurance as provided herein, the Applicant/Permittee shall provide documentation to the County evidencing such increases.

DONE AND ORDERED effective as of this ____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
OF LEVY COUNTY, FLORIDA

John Meeks, Chair

ATTEST:
Danny J. Shipp, Clerk of Circuit Court
And Ex officio Clerk to the Board of
County Commissioners

Danny J. Shipp, Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Anne Bast Brown, County Attorney

The following are the suggested/requested Conditions of Approval made by the applicant also as TAB 5 in the application. Many of the ones listed here are already required by our Land Development Code or by the NESC.

1. Project Facilities (excluding security perimeter fencing and vegetative screening) will be set back a minimum of 50 feet from the Project boundaries. Project facilities will be setback at least 100 feet from principal residential dwelling on a non-participating parcel adjacent to the Project boundary.
2. Solar panels shall be set back a minimum of 175 feet from the centerline of Highway 129.
3. Maximum height of the solar panels, other collection devices, components or buildings of the solar power generating facility, excluding substation and electrical transmission equipment, shall not exceed 15 feet (as measured from the natural grade at the base of improvements) at any time or location on the property. Substation and electrical transmission equipment shall not exceed 100 feet in height.
4. Solar power generating facility electrical components shall have an Underwriter Laboratory (UL) listing.
5. Solar power generating facility electrical components shall comply with the National Electrical Safety Code (NESC).
6. It is the responsibility of the Project owner to remove and abandoned solar power generating facility within 12 months of cessation of operations. Reusable components shall be recycled whenever economically feasible.
7. A solar power generating facility is exempt from maximum lot coverage limitations.
8. Any required lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
9. Reasonable accessibility for emergency service vehicles shall be required and shown on the required site plan.
10. No advertising or non-project related graphics shall be on any part of the solar power generating facility. This exclusion does not apply to the entrance gate signage or notifications containing points of contact for any and all other information that may be required by authorities having jurisdiction for electrical operations and the safety and

welfare of the public.

11. Perimeter fencing that complies with the NESC shall be installed around the boundary of the solar power generating facility. In order to comply with NESC, the fencing will either be 1.) a 6-foot chain link fence with barbed wire or 2.) a 7-foot chain link fence. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the property.
12. Any living trees greater than 16-inch diameter breast height that are cut for construction of the Project shall be mitigated pursuant to Land Development Code 50-192. Replacement trees may be planted in vegetative screening in key location on the perimeter of the Project.
13. To the extent possible, native grasses and pollinator-friendly seed mixes will be used to reseed open areas outside of the array and within the perimeter fence line that are disturbed during construction.

Recommendation

Staff recommends the Board of County Commissioners review the Conditional Use Application CU 03-20 as submitted and chose one of the following:

- Approve
- Approve with conditions
- Table
- Deny