IN THE MATTER OF HHK Farms, LLC - Legal Owner OneEnergy Development, LLC - Lessee 1139 Monkton Road Hereford, MD	*	BEFORE THE BOARD OF APPEALS OF
RE: Petition for a Solar Facility	*	BALTIMORE COUNTY
	*	Case No. 18-030-X

* * * * * * * * * * *

OPINION

This case comes before the Board on appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for a Solar Facility by Opinion and Order dated May 7, 2018. Protestants, Sparks-Glencoe Community Planning Council, Freeland Legacy Alliance, Inc., Richard Ryan, Lois Jean Bowman, Scott Dykes, Beverly and Salvatore Scavone, Wendy McIver, Lynne Jones, Kathleen Pieper (collectively the "Protestants") filed an appeal.

A *de novo* hearing was held before this Board on December 11 and 12, 2018, and January 19, 2019. The Petitioners, HHK Farms, and One Energy Development LLC (the "Petitioners") were represented by Adam Rosenblatt, Esquire, and Venable, LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. A public deliberation was held on March 5, 2019.

Factual Background

The subject property is located at 1139 Monkton Road and consists of 98.49 acres+/- on the south side of Monkton Road, in the Hereford Area of Baltimore County (the "Property"). It is split-zoned RC2, RC4 and RC7. Monkton Road is a designated scenic route. The Property was previously a farm but no farming activities presently take place there. The proposed Special Exception is 19 acres, with 13 acres being used for the actual solar array on a cleared area of the

Property pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility will generate no more than 2 megawatts of alternating current of electricity.

The Property contains a single, uninhabitable structure and is largely cleared and open in the center, having previously been farmed for many years. The entire southern, eastern, and western borders of the Property are wooded. An additional area of vegetation lines the northern boundary along Monkton Road. Testimony was presented that the Petitioners had previously obtained approval of forest stand delineation, wetland delineation and steep slope and erodible soils analysis, delineating forest buffers. (Pet. Ex. 21).

Solar Facilities Law

On July 17, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including RC2, RC4, RC5, and RC8. BCZR, §4F-102.A. The County Council imposed limits on the number of facilities per councilmanic district (*i.e.* 10 per district), and on the maximum area for each facility (*i.e.* the amount of acreage that produces no more than 2 megawatts alternating current (AC) of electricity). BCZR, §4F-102.B.1 and 2.

In addition to the special exception factors, there are 10 requirements set forth in BCZR, §4F-104.A:

> 1. The land on which a solar facility is proposed may not be encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement.
>
> 2. The land on which a solar facility is proposed may not be located in a Baltimore County historic district or on a property that is listed on the Baltimore County Final Landmarks List.
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> 3. The portion of land on which a solar facility is proposed may not be in a forest conservation easement, or be in a designated conservancy area in an RC 4 or RC 6 Zone.
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> 4. Above ground components of the solar facility, including solar collector panels, inverters, and similar equipment, must be set back a minimum of 50 feet from the tract boundary. This setback

does not apply to the installation of the associated landscaping, security fencing, wiring, or power lines.

5. A structure may not exceed 20 feet in height.

6. A landscaping buffer shall be provided around the perimeter of any portion of a solar facility that is visible from an adjacent residentially used property or a public street. Screening of state and local scenic routes and scenic views is required in accordance with the Baltimore County Landscape Manual.

7. Security fencing shall be provided between the landscaping buffer and the solar facility.

8. A solar collector panel or combination of solar collector panels shall be designed and located in an arrangement that minimizes glare or reflection onto adjacent properties and adjacent roadways, and does not interfere with traffic or create a safety hazard.

9. A petitioner shall comply with the plan requirements of § 33-3-108 of the County Code.

10. In granting a special exception, the Administrative Law Judge, or Board of Appeals on appeal, may impose conditions or restrictions on the solar facility use as necessary to protect the environment and scenic views, and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities, taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands.

There are also provisions regarding maintenance of the facilities:

§ 4F-106. - Maintenance.

A. All parties having a lease or ownership interest in a solar facility are responsible for the maintenance of the facility.

B. Maintenance shall include painting, structural repairs, landscape buffers and vegetation under and around solar panel structures, and integrity of security measures. Access to the facility shall be maintained in a manner acceptable to the Fire Department. The owner, operator, or lessee are responsible for the cost of maintaining the facility and any access roads.

C. Appropriate vegetation is permitted under and around the solar collector panels, and the tract may be used for accessory

agricultural purposes, including grazing of livestock, apiculture, and similar uses.

D. The provisions on this section shall be enforced in accordance with Article 3, Title 6 of the County Code.

A solar facility which has reached the end of its useful life must be removed in accordance with §4F-107 which states:

§ 4F-107. - Abandonment; removal.

A. A solar facility that has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the County by certified mail of the proposed date of discontinued operations and plans for removal.

B. Removal shall consist of the:
   1. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;
   2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
   3. Stabilization or revegetation of the site as necessary to minimize erosion.

C. If the owner or operator fails to remove the facility within 150 days of abandonment, the County retains the right to enter and remove the facility. As a condition of special exception approval, the petitioner and landowner agree to allow entry to remove an abandoned facility.

D. The Code Official may issue a citation to the owner or operator for removal of a solar facility if:
   1. The Code Official determines that the solar facility has not been in actual and continuous use for 12 consecutive months;
   2. The owner or operator failed to correct an unsafe or hazardous condition or failed to maintain the solar facility under Section 4F-106 within the time prescribed in a correction notice issued by the Code Official; or
   3. The owner or operator has failed to remove the solar facility in accordance with Paragraph C.

In order to grant a request for a special exception under BCZR, §502.1, it must appear that the use for which the special exception is requested will not:

> A. Be detrimental to the health, safety or general welfare of the locality involved;
> B. Tend to create congestion in roads, streets or alleys therein;
> C. Create a potential hazard from fire, panic or other danger;
> D. Tend to overcrowd land and cause undue concentration of population;
> E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
> F. Interfere with adequate light and air;
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
> H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
> I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

In *Schultz v. Pritts*, 291 Md. 1, 22-23, 432 A.2d at 1331 (1981), the Court of Appeals held that "the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone."

The Court of Appeals in *People's Counsel for Baltimore County v. Loyola College in Md.* 406 Md. 54, 106, 956 A.2d 166 (2008) upheld that longstanding *Shultz* analysis, explaining that a special exception use has "certain [inherent] adverse effects…[which] are likely to occur". In its analysis, the *Loyola* Court observed that "[t]he special exception adds flexibility to a comprehensive legislative zoning scheme by serving as a 'middle ground' between permitted use and prohibited uses in a particular zone." *Id.*, 406 Md. at 71, 956 A.2d at 176 (2008).

The *Schultz* and *Loyola* Courts, and more recently in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, 285 (2017) have expressly recognized that "[a] special exception is presumed to be in

the interest of the general welfare, and therefore a special exception enjoys a presumption of validity." (See also *Loyola*, 406 Md. at 84, 88; 105 *Schultz*, 291 Md. at 11). Based on this standard, once an applicant puts on its *prima facie* evidence in support of a special exception, the opponents must then "set forth sufficient evidence to indicate that the proposed [use] would have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard." *Attar*, 451 Md. at 287. (*See Montgomery County v. Butler*, 417 Md.271, 276-77 (2010) (opponent must show "non-inherent adverse effects" to "undercut the presumption of compatibility enjoyed by a proposed special exception use"). (*See also*, *Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties*, 453 Md. 516, 543 (2017) ("there is a presumption that the [special exception] use is in the interest of the general welfare, a presumption that may only be overcome by probative evidence of unique adverse effects").

Motions For Judgment

Plan Compliance with BCC, §33-3-108(c).

At the close of the Petitioner's case in chief, Protestants, through counsel, orally moved for judgment on the basis that Article 4F-104.A.9 requires the Site Plan to comply with BCC, §33-3-108, and that the Site Plan failed to list some of the items required in Subsection 33-3-108(c)1-18. We deny this Motion to Judgment for the reasons set forth below.

Evidence

The Petitioner had several witnesses who testified on its behalf in the merits of the case:

1. Marni Carroll – OneEnergy.

Marni Carroll is the Director of Project Development and outreach for OneEnergy Renewable headquartered in Washington D.C. (Pet. Ex. 3) ("Company" or "OneEnergy Renewable"). Trillium Solar Energy, LLC is a wholly-owned subsidiary of OneEnergy

Renewable. OneEnergy Renewable has developed several solar projects throughout Maryland. (T.15-16), Ms. Carroll submitted a PowerPoint presentation that provided information about the Company, the materials and panels that will be installed, and the methods used for potential site locations. (Pet. Ex 4, (T. 29-32); *see also* Pet. Ex 6).

Ms. Carroll testified that the panels are nontoxic, nonflammable, and do not contain any cadmium. (T. 18). Through an industry standard glare study, she provided evidence that the proposed facility will not cause any glare on surrounding roads and properties. (T. 35-38; *see also* Pet Ex 8.) She further testified that the solar panels are mounted on galvanized steel posts and have an aluminum and steel frame. (T. 19). She noted that the supporting posts are driven into the ground without any cement or permanent impact to the land. *Id.* The land beneath the panels will be planted with pollinator habitat that absorbs runoff and provides the possibility for the production of agricultural products such as honey. (T. 21; *see also* Pet. Ex 5). The panels rotate with the sun and are approximately nine feet tall at their highest point. (T. 18). Once installed, the panels will be remotely monitored throughout the life of the 35 year lease. (T. 20). At the end of the lease, OneEnergy is required to remove all equipment to three feet below the ground and to restore the ground to its previous condition. (T. 23). All of the materials can either be recycled or reused by the solar industry. *Id.* A site plan for the proposed facility showed the area in which the solar panel array will encompass. (Pet. Ex. 1).

Maintenance of the solar panel facility will take place once a quarter or as needed if an issue arises.

2. David Martin – Landscape Architect.

David Martin, a landscape architect with Daft, McCune and Walker, was admitted as an expert in the area of landscape architecture and land planning. (Pet. Ex. 10). Mr. Martin prepared

a Schematic Landscape Plan based on information he obtained from the Baltimore County GIS system. (Pet. Ex 2). Mr. Martin provided the Board with a presentation of photographs of the subject area. (Pet. Ex. 11). With regard to landscaping, testimony from David Martin confirmed that Petitioners worked with the Department of Planning and the County's Landscape Architect to develop a landscape plan that satisfies all requirements and provides additional screening to the neighbors that live on the north side of Monkton Road. (T. 145-149; *see also* Pet. Ex 12). Mr. Martin explained that the focus for landscaping is on the northern side of the Property because the southern, western, and eastern sides are all surrounded by natural forests and there are no immediately adjacent residences. (T. 149-50; *see also* Pet. Exs. 1 and 2).

Due to the fact that Monkton Road is a county scenic road, Mr. Martin explained that the Department of Planning asked him to reinforce the existing landscaping and to provide selective views into the Property rather than simply to wall it off with an artificial row of landscaping. (T. 147). Mr. Martin further explained that while many trees and other plants will be added to the site, no trees will be removed as part of this project. (T. 115).

3. Matthew Durette– Mechanical Engineer/Installation of Solar Facilities.

The Petitioners provided the testimony of Matthew Durette, a mechanical engineer with expertise in the installation of solar facilities. Mr. Durette testified that the facility will consist of just under 13 acres of solar panels in a special exception area that is approximately 19 acres in size. (T. 96). Specifically, the facility will consist of: (i) galvanized steel posts driven directly into the ground in a north to south orientation; (ii) an aluminum racking system placed on top of the piles; (iii) photovoltaic solar panels with an antireflective coating that are connected to the racking system; (iv) wiring connecting the panels to an inverter, transformer, and, ultimately, to

external power lines; (v) fencing placed around the facility for security (with no barb wire); and (vi) additional landscaping. (T: 89-93).

With respect to the panels, Mr. Durette explained that the Petitioners are proposing a "single-axis tracker" panel array that is designed to move with (*i.e.*, "track") the position of the sun to provide maximum exposure of the panels to the sun. (T. 88-89). The panels are three feet by six feet in size, are no taller than nine feet when they are tilted towards the sun, and are constructed of an aluminum frame and a glass top that is designed to minimize glare. (T. 88-90). Mr. Durette testified that there are no toxic chemicals in the solar panels, and there are no chemicals or other substances used to clean the panels. (T. 90). He further explained that the solar panels "self-clean" as rainfall in the region is typically sufficient to wash off any dust and dirt from the panels. (T. 100).

Mr. Durette explained that ground disturbance during construction consisted of the driving of piles to form the foundation of the tracker system, and some initial trenching for underground wiring. (T. 97). He further testified that he did not foresee any noise coming from the motors that operate the panel tracker system. (T. 118).

4. Eric Hadaway: Environmental Regulations

Petitioners provided the testimony of Eric Hadaway, an expert in environmental regulations in Baltimore County employed by Daft McCune Walker. Mr. Hadway testified that as there is no development history for the Property, there were no delineated environmental resources or recorded buffers on the Property prior to this request for a special exception. (T. 192). Testimony from Eric Hadaway revealed that Petitioners have performed a fully approved wetland and forest stand delineation and a steep and erodible soils analysis, so that if the special exception is approved, the environmental resources will be protected for the first time with

recorded buffers. (T. 192-193; *see* Pet. Exs. 1 and 21). The majority of the buffers are forested, but portions do extend into a cleared area that has been farmed over time. (T. 197-198). Additionally, all components of the solar facility, including the perimeter fence, are outside of the buffers. (T. 199). Mr. Hadaway opined that there will not be "any negative impact on the wetlands and streams on the property." (T. 202).

5. David Straitman: Real Estate Appraiser

Petitioners provided the testimony of real estate appraiser, David Straitman. Mr. Straitman testified in response to concerns expressed by several Protestants regarding the impact that the proposed solar facility will have on property value. Mr. Straitman presented an economic impact analysis regarding the proposed use generally; a solar facility in Howard County; and (3) examples where homeowners voluntarily put ground mounted solar panels on their properties. *Id.* Based on his economic analysis, Mr. Straitman opined that the proposed use will not have any negative impact on surrounding property values.

6. Mitchell Kellman: Expert Land Planner

Petitioners provided the testimony of Mitchell Kellman, an expert land planner, employed at Daft McCune Walker. Mr. Kellman testified that the proposed facility meets the requirements of BCZR § 502.1, Article 4F of the BCZR, and all legal requirements for obtaining a special exception. (T. 277-278). He testified that, in the Third Council District, the limit of ten (10) solar facilities has not yet been met. (T. 257). Additionally, Mr. Kellman confirmed that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement and that the property is not located in a Baltimore County historic district, nor is the property listed on the Baltimore County Final Landmarks List. (T. 258; *see also* Prot. Ex. 11). Additionally, Mr. Kellman confirmed that the aboveground components

of the solar facility, including solar collector panels, inverters, and similar equipment, will be set back at least 50 feet from the tract boundary. (T. 259). Finally, Mr. Kellman confirmed that no equipment associated with the solar facility will exceed 20 feet in height. (T. 259). Mr. Kellman also opined that the Site Plan complied with the plan requirements in BCC, §33-3-108. (§4F-104.A.9). Mr. Kellman presented a letter from Department of Environmental Protection and Sustainability ("DEPS") approving the forest stand delineation, wetland delineation and steep slope and erodible soils analysis, delineating forest buffers. (Pet. Ex. 21). Mr. Kellman explained that, in his experience, the Petitioner must first obtain special exception relief before the DEPS will review the plan for the requirements listed in Section 33-3-108(c). Mr. Kellman provided the Board with the Baltimore County Zoning Review checklist which is required to be included in plan submitted for zoning review. (Pet. Ex 20.)

Mr. Kellman also testified about the remaining special exceptions factors and in doing so, he opined that the solar facility use meets all of the factors. He described this use as a "passive" use, in that there is no impact on utilities, county structures, parks, schools. There is no density associated with the use nor is any traffic associated with the use. Nor is there any effects like dust smell, or noise.

As to BCZR, §502.1.F, given that the maximum height of the solar panels when tilted toward the sun is eleven feet, and the facility will be installed in the clear field of the Property away from neighboring residences as shown on Pet. Ex. 1, Mr. Kellman testified that the project would not interfere with adequate light or air or cause congestion.

Mr. Kellman testified that that the Baltimore County Council allowed for solar facility by Special Exception in the RC 2 zone and, therefore, is consistent with the spirit and intent of the zone, and noted the possibility of honey production on the site.

Relying on Mr. Hadaway's testimony as the basis for his opinion, Mr. Kellman noted that the proposed project was consistent with impermeable surface and vegetative retention provisions of §502.1.H, and the environmental and natural resources of the site under BCZR, §502.1.I, Mr. Kellman deferred to.

In summary, Kellman opined that there are no adverse effects from this use above and beyond those inherent in solar facilities and that it would not have any greater impact in this location versus any other location on the RC2 zone.

Protestants' Case

The Protestants had several witnesses who testified in the merits of the case:

1. Timothy Edwards.

Protestants offered the testimony of Timothy Edwards, who owns 1132 Monkton Road, directly across from the entrance to the proposed solar facility. Mr. Edwards, testified that he had lived on the property for most of his life and that the house on the property had been standing since 1852. Mr. Edwards expressed his concerns regarding the impact that the proposed solar facility would have on the scenic view along Monkton Road, and more obviously, the view from his house onto the proposed solar field. Using photo simulations provided by OneEnergy, Mr. Edwards testified that he would like to see some additional landscaping between his property and the proposed facility to try to block his view to the greatest extent possible. (Prot. Ex 7). Mr. Edwards stated that he was pleased that a housing development was not being built on the property, but did not look forward to having to look at the solar field for the next 30 to 35 years.

2. Nicholas Federici.

Protestants provided the testimony of Nicholas Federici, who resides at 1200 Monkton Road. Mr. Federici owns a home remodeling business and provided lay testimony regarding his

concerns with run-off and storm water management. Mr. Federici testified that in his approximation that the proposed solar array would create over 160,000 square feet of new surface area. He further commented that he believed that such a surface area would cause serious problems with storm water management during sustained rain falls. Mr. Federici also shared his concerns that the proposed landscape plan was insufficient to properly screen the solar field from the road.

3. Wendy McIver.

Protestants presented the testimony of Wendy McIver, who lives 23 Manor Brook Road, approximately a mile and a half from the proposed solar facility and has lived in the area for over 39 years. Ms. McIver is the secretary of the Sparks-Glencoe Community Planning Council and is presently a Baltimore County Historic Landmark Commissioner. Ms. McIver testified as to her concerns with the possible adverse effects the proposed solar facility would have on the many surrounding historical sites. Ms. McIver presented an exhibit to the Board, outlining the many historical sites in the area. (Prot. Ex 11).

4. Lynne Jones.

Protestants provided the testimony of Lynne Jones, who lives at 815 State Church Rd., Parkton, MD. Her home is a 150 acre farm where her family has lived for 7 generations beginning in 1745. Ms. Jones testified individually and as President of Sparks-Glencoe Community Planning Council ("Sparks-Glencoe Council"). (Prot. Ex 12 -13). Sparks-Glencoe Council, a party to this case, has 400 members and its boundaries run in a heart-shaped pattern from Hunt Valley in the south, to the Harford County/Baltimore County line in the east, to the Carroll County/Baltimore County line in the west. The proposed solar facility is within these boundaries. (Prot. Ex 14). Sparks Glencoe Council submitted a letter, signed by Ms. Jones, which

described general opposition to solar facilities on farmland in northern Baltimore County. (Prot. Ex. 13).

She expressed her concerns about water runoff, flooding and the negative impact on the agriculture industry created by using farmland for solar facilities. Her testimony centered on her dissatisfaction with the enactment of Bill 37-17 and development in general. Ms. Jones believes that solar facilities should be located in business and manufacturing zones. She is worried that the language in Bill 37-17 is not strong enough with regard to the issuance of a bond for maintenance and dismantling of the facility. Ms. Jones offered a body of exhibits emphasizing the agricultural strengths on this site within the context of the locality. These exhibits included documents, photographs, Master Plan 2020 excerpts and maps of the Agricultural Priority Preservation Areas.

5. Kathleen Pieper.

Protestants provided the testimony of Kathleen Pieper, who lives at 4310 Beckeysville Rd., Hampstead, MD, not in close proximity to the proposed site. Ms. Pieper is the president of the North County Community Group and has been involved as a community activist regarding the issue of solar farms is northern Baltimore county, but testified as a concerned citizen in this proceeding. She has lived in the vicinity for 30 years.

Ms. Pieper, who has been involved in the farming industry in the past, testified as to her concerns regarding the deceasing amount of farmland in Baltimore County which affects the livelihood of those who farm for a living. Ms. Pieper expressed a concern that the proposed special exception area is composed of prime and productive soils, and that solar facilities in general remove available farmland and crop production. She noted that the area where the solar array is proposed consists of Glenelg loam soil types, making it some of the finest prime and

productive farmland. (Prot. Ex. 41). Additionally, Ms. Piper presented evidence illustrating the amount of acreage used for solar arrays in other solar projects in the county and pointed out that it was possible to utilize less acreage and still produced two megawatts of energy. (Prot. Ex 43). Ms. Pieper offered into evidence the Maryland Department of the Environment's storm water guidelines for solar facilities and expressed her concerns that she felt that insufficient evidence had been presented regarding storm water management for the proposed site. (Prot. Ex. 45). Finally, Ms. Pieper provided examples of alternative locations where solar facilities could be located on land that was not prime and productive farmland. (Prot. Exs. 44a-d).

6. Ruth Masacri.

The Protestants presented the testimony of Ruth Mascari, who resides at 17210 Whitely Road, approximately, two miles from the proposed solar facility. Ms. Mascari testified that she has been active in the northern Baltimore county community for the past 45 years. She noted that she serves on Baltimore County's Landmarks Preservation Commission with Mr. Kellman. She expressed her concerns with the project and its impact on the "My Lady's Manor" national register historic district, which is near the proposed site. She is also concerned with the proposed site being near White Acres House, another local landmark. In addition to concerns regarding landmark preservation, Ms. Mascari is also concerned with whether the proposed solar facility will be properly screened from view along Monkton Road, a scenic road.

7. Adam Brown.

Protestants offered the testimony of Adam Brown, who resides at 1146 Monkton Road, where he has lived for 20 years. Mr. Brown provided photographs of the view from Monkton Road looking onto the proposed site. Mr. Brown testified to his displeasure with the speed in which a decision was being reached regarding the proposed project. He expressed his opinion

that he didn't believe farmland was the best place for such facilities and suggested that a landfill may be a more appropriate location. Additionally, Mr. Brown expressed his concern that the presence of the proposed solar facility may have a detrimental effect on surrounding property values. Finally, Mr. Brown expressed his concern that with the rapid development of technology, the technology on the proposed site may in time prove obsolete, leading to the projects abandonment.

8. Greg Volpitta.

Protestant provided the testimony of Greg Volpitta, who resides at 1220 Monkton Road, across the road form where the proposed solar facility will be located. He has lived at that location for 32 years. Mr. Volpitta expressed his concerns about being able to see the proposed facility when the leaves were off the trees in winter months. He also commented that the area was extremely quiet and that noise carried across the field. He worries that the sound of the inverter, even if it is as quiet as a hairdryer, may be heard from his home. Additionally, Mr. Volpitta shared the concerns of other neighbors regarding what effect the proposed site may have on surrounding property values. Finally, Mr. Volpitta expressed his preference that any new power line coming from the proposed site be run underground rather than using an above ground new utility pole, to connect with the line over Monkton Road.

9. Paul Colison.

The Protestants presented the testimony of Paul Colison, who resides at 1152 Monkton Road. Mr. Colison has lived at this address for 32 years. Mr. Colison testified that he is concerned that the present vegetation along Monkton Road is too thin to shield the proposed facility from view. He also expressed his concerns about the possible increased level of run off created by the proposed project. He explained that he currently has problems with water on his

property and fears that the proposed project would exacerbate this problem. Mr. Colison also expressed concerns about how the proposed project may affect local wildlife and shared in his neighbors' concerns regarding possible effects to surrounding real estate values.

Decision

As set forth above in BCZR, §4F-102.A, solar facilities are only permitted by special exception under the factors set forth in BCZR §502.1. The testimony of Mr. Martin, Mr. Kellman, Mr. Durette and Mr. Hadaway support the Petitioner's position that the proposed solar facility would not be detrimental to the health, safety or general welfare of the locality involved. To the contrary, the Protestants' collective concerns are impacts which are inherent with this particular use. It was apparent that the Protestants' complaints center on their dissatisfaction with the County Council's enactment of Bill 37-17 which is codified in BCZR, Article 4F. Understandably, the Protestants want the land in RC zones to remain farm land.

However, it is beyond the jurisdiction of this Board to rewrite Bill 37-17 or Article 4F. Applying the standard in *Shultz*, *Loyola* and *Attar*, the Protestants were required to present evidence that the adverse effects stemming from this solar facility, at this location, are unique and different than the inherent impacts associated with this use in general. We did not have such evidence here.

As described in detail above, Ms. Carroll and Mr. Durette testified that the solar facility would not create congestion in the roads as it is not a use that generates traffic into or out of the Property. (BCZR, §502.1.B.) Further, Ms. Carroll confirmed that there are no flammable materials used in this solar facility. Mr. Durette testified that it was unlikely for there to be a fire at the facility. Mr. Kellman testified that the Hereford Volunteer Fire company was in close proximity to the site. (T. 273; BCZR, §502.1.C.) As with the lack of traffic, Ms. Carroll and Mr.

Kellman explained that this use does not generate people and therefore it would not tend to overcrowd the land or cause an undue concentration of population. (T. 272; BCZR, §502.1.D.) Additionally, Ms. Carroll, Mr. Martin and Mr. Kellman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Durette confirmed that the height of the facility will be nine feet and would therefore not interfere with adequate light or air. (BCZR, §502.1.F.) The facility will stand in the cleared area of the Property, removed from any adjacent homes. Accordingly, the Board finds that shadowing and air circulation are not areas of concern.

As to the consistency of this use with the purposes of the RC zones and with the spirit and intent of the BCZR, solar facilities are consistent uses because they are temporary and are removed at the end of a lease term. There was testimony and argument about removing "prime and productive" soil from the agriculture industry. However, the evidence showed that the soil type remains the same before, during and after removal.

The County Council deemed solar facilities are uses consistent within the RC zone, provided they meet the special exception standard, as explained in *Shultz*, *Loyola* and *Attar*. The Protestants' argument that farming is the primary use and therefore is consistent with the RC zones, is an argument which should be directed to the County Council. This Board is not required to determine whether a solar facility is detrimental to agricultural uses. Our authority to approve this use is contained in Article 4F and §502.1 factors. Moreover, even if this Property contains "prime and productive" soil (an alleged fact which we are not deciding), the owner cannot be compelled to farm, or to lease the Property to a farmer.

Ms. Carroll and Mr. Hadaway explained that the use is consistent with impermeable surface and vegetative retention provisions of the BCZR because there will not be any clearing or grading of land, and no tree removal. Rain will propel off the solar panels and soak into the ground between the rows. Mr. Hadaway testified that the DEPS will determine whether any further storm water management retention measures are needed. (T.209)

Finally, Mr. Hadaway testified that this use, at this location, would not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

Having analyzed the special exception factors, the requirements of BCZR, §4F-102.B.1 and BCZR, §4F-104.A. 1-9 must also be satisfied by the Petitioner. Mr. Durette testified that the 19 acre special exception area and 13 acre solar panel array is the minimum acreage needed to produce approximately 2 megawatts AC of electricity. (BCZR, §4F-102.B.1.) The Protestants, through the testimony of Ms. Pieper, urged us to consider special exception areas and electricity generated in other recently approved solar facility cases and requested that the special exception area here should be restricted to 13 acres.

While Ms. Pieper's testimony was admitted as evidence at the request of Protestants, since this case is heard *de novo*, the ALJ's decisions in prior cases are factually specific to those cases is not part of the record and his analysis is not binding on the Board. Based on the evidence presented to the Board through the expert testimony of Mr. Durette, we find that there was no compelling evidence by the Protestants here, which contradicts the Petitioner's plan that 19 acre special exception area is the minimum area needed to produce less than 2 megawatts AC electricity. The Protestants did not have an expert testify on this issue. Accordingly, we find that the Petitioner has met this burden.

Mr. Kellman testified that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement or rural legacy easement, nor is it in a Baltimore County historic district or on the Baltimore County Final Landmarks list. (BCZR, §§4F-104.A.1 and 2.) In addition, as with the special exception factors, Mr. Kellman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.) There was no evidence by the Protestants which contradicted either of these requirements.

As to the setback and height requirements, Ms. Carroll and Mr. Kellman made clear that the facility at its highest peak will not exceed 9 ft. and will not be located within 50 ft. from the tract boundary. (BCZR, §§4F-104.A.4 and 5.) Accordingly, both the height and setback requirements have been met. There was no evidence by the Protestants which contradicted either of these requirements.

As testified to by Mr. Martin, the Petitioners will provide a landscaping buffer around the perimeter of the Property in areas where the solar facility may be visible from an adjacent residential property or public street. Due to Monkton Road's designation as a Baltimore County scenic route, views from the road will be screened in accordance with the Baltimore County Landscape Manual to the satisfaction of the County's Department of Planning and Landscape Architect. (Pet. Ex. 11). A schematic Landscaping Plan in support of its Petition was reviewed by the County. (Pet. Ex. 12). The Site Plan proposes a chain link fence without barbed wire between the landscape buffer and the solar facility. (BCZR, §4F-104.7). We find that these requirements have been satisfied.

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collisions and safety hazards. (BCZR, §4F-104.8). In this case, the Petitioners'

representative, Marni Carroll testified regarding the findings of a glare study using the a ForgeSolar software tool utilized in the industry which concluded that solar facility was designed to minimize glare and that no glare would interfere with traffic or create a safety hazard. (Pet. Ex. 8). The Protestants did not present an expert to contradict Ms. Carroll. The glare study indicated that there would be no glare produced by the solar panels here. Thus, we find that this requirement is satisfied.

Finally, the Site Plan must comply with BCC, §33-3-108. (BCZR, §4F-104.A.9). The Protestants argued in their Motion for Judgment that the Petition should be denied because the Site Plan failed to list each of the 18 elements in Subsection (c). In our review of BCC, §33-3-108, we find the that language in Subsection (a) is unambiguous. That Subsection requires the DEPS (as defined in §33-3-101(f)), to approve the Site Plan. Further, Subsection (b) directs that the Site Plan shall generally include such information (graphs, charts, etc.) to enable EPS to "make a reasonably informed decision regarding the proposed activity." Additionally, a plan submitted to DEPS for approval must also contain the information listed in Subsection (c).

In our view, the specific items listed in Subsection (c) must be considered by DEPS when it reviews and approves the Site Plan under that Section, not this Board. The testimony of Mr. Kellman was that DEPS' policy is that it will not approve a site plan until after the special exception relief is granted. We find his testimony to be consistent with the language in Section 33-3-105 (1) and (2) which provides that DEPS is "responsible for enforcing the provisions of [Title 33]" and the Director of DEPS "may adopt policies and regulations as necessary to implement the provisions of [Title 33]."

Given the express wording of Section 33-3-108 that DEPS shall approve the Site Plan, and that DEPS is responsible for ensuring that the Site Plan comply with both the general and

specific requirements of Subsections (b) and (c), we find that the appropriate resolution for this Board is to place a condition in the Order reiterating the words of §4F-104.A.9, that the Petitioner shall comply with Section 33-3-108. To do otherwise would be to overstep this Board's statutory authority.

Conclusion

After reviewing all of the testimony and evidence presented, the Board finds that Petition for Special Exception pursuant to BCZR, Article 4F should be granted.

ORDER

THEREFORE, IT IS THIS 16th day of May, 2019, by the Board of Appeals of Baltimore County,

ORDERED that the Protestant's oral Motion for Judgment be and the same is hereby **DENIED** for the reasons set forth herein, and it is further

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F as set forth on the Site Plan (Pet. Ex. 1), be, and the same is hereby **GRANTED**, subject to the following conditions under the Board's authority in §4F-104.A.10:

1. Petitioners shall submit for approval by Baltimore County a landscape plan for the Property demonstrating appropriate screening and vegetation is provided along Middletown Rd, a scenic route, as required by the Landscape Manual and as set forth in the Zoning Advisory Committee Comments dated November 28, 2017 (Pet. Ex. 12) and as under BCZR, §4F-104.A.6.

2. Petitioners shall install a 7 ft. high, security fence, without barbed wire, between the landscaping buffer and the solar facility as required by BCZR, §4F-104.A.7. Attached to the fence in a conspicuous place, while the solar facility is in operation, shall be the current contact information (name, address, 24-hour telephone

number, website and email address) of the operator of the solar facility.

3. Prior to the issuance of a building permit, Petitioner must satisfy the environmental regulations set forth in BCC, §33-3-108 pertaining to the protection of water quality, streams, wetlands and floodplains and obtain approval of the Site Plan from the Department of Environmental Protection and Sustainability as required in that Section.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew M. Belt, Panel Chair

Deborah C. Dopkin

William A. McComas

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

May 16, 2019

Adam M. Rosenblatt, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: *In the Matter of: HHK Farms, LLC – Legal Owner*
OneEnergy Development, LLC – Lessee
Case No.: 18-030-X

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hay

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Attached Distribution List

Stephanie Ann Rexroth, Managing Member/HHK Farms, LLC
Travis Bryan, Chief Operating Officer/OneEnergy Development, LLC
Sparks-Glencoe Community Planning Counsel
Freeland Legacy Alliance, Inc.
Beverly and Salvatore Scavone
Louis Jeanne Bowman
Scott Dykes
Richard Ryan
Wendy McIver
Lynne Jones
Lisa Arthur
Kathleen Pieper
Timothy Edwards
Nicole Earp
Renee Hamidi
Kirsten Burger
Matt Pappas
Lawrence M. Stahl, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: HHK Farms, LLC – Legal Owner
OneEnergy Development, LLC – Lessee
18-030-X

DATE: March 5, 2019

BOARD/PANEL: Andrew M. Belt, Panel Chairman
William A. McComas
Deborah C. Dopkin

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Exception pursuant to BCZR Section 4E-102 to approve a 13 ± acre solar facility on a portion of a 98.49 ± acre parcel of land split-zoned RC-2, RC-4 and RC-7, with the solar facility situated entirely within the RC-2 zoned portion of the property.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

DISCUSSION

- The Board discussed the request and held three days of hearings, which included testimony by the Petitioners, Protestants, and community members.

- The Board discussed the specific requirements of BCZR Section 502.1, Conditions determining granting of a Special Exception, as follows:

  A) The Board heard argument by the Protestants of potential danger and threat to the safety and general welfare of the community, but no scientific testimony was presented in support, only speculation. The Board found there would be no detriment to the health, safety or general welfare of the locality.

  B) The Board noted that traffic will be generated during the initial installation of the solar facility, with upkeep to occur during the summer, with remote access to the facility. The Board found there would be no impact on traffic or roads.

  C) The Board found there was no evidence of potential hazard from fire, panic or other danger.

  D) There will be no population increase as a result of the solar array, and accordingly will not overcrowd land or cause an undue concentration of population.

  E) The Board found the project will not have an impact on schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements.

  F) The Board noted that the height of the solar panels will not exceed 20 ft., and will not interfere with adequate light and air.

G) The Board discussed County Council Bill 37-17 which permits solar facilities in the RC-2 zone as long as it meets the special exception requirements. There was evidence and testimony from the Protestants and People's Counsel that the solar facility should not be at this location. The Board found that the statute allows the solar facility. The Board noted that the Planning Board recommendations were submitted to the County Council for review, which had the opportunity to impose additional restrictions, but did not. The Board found the proposal to be consistent with the spirit and intent of the Zoning Regulations.

H) The Protestants expressed concern about run-off as a result of the solar facility. There was testimony from Petitioner that plantings will be located under the solar panels. The Board noted that the Department of Environmental Protection and Sustainability ("DEPS") is charged with storm water management requirements and will ensure compliance. The Board noted that a storm water management facility or buffer does not currently exist on-site. However, with approval of the special exception, the Petitioner will be required to comply with the recommendations of DEPS.

I) There was testimony from the community expressing concern regarding impact to the environmental and natural resources on the site. The Petitioner presented expert testimony on this matter. The Board noted that the Petitioner had already consulted DEPS who visited the property. The Board found the Protestants concern to be understandable, as they do not get to see the storm water management proposal or participate in the process. The Board noted that the Petitioners will be installing buffers that currently do not exist, and they must rely on the expertise of DEPS to require appropriate measures to protect the environmental and natural resources on site.

- The Board discussed the prime and productive soils argument of Protestants and People's Counsel. The Board noted that taking prime and productive soils out of farming use can have a ripple effect, but is bound by the solar facilities bill. The Board pointed out there was discussion before the County Council regarding prime and productive soils, and the Council chose not to include the restriction in the bill.

- The Board discussed the requirements contained in BCZR Section 4F-104, as follows:

1) Not applicable. The land is not encumbered by an agricultural preservation easement, an environmental preservation easement or a rural legacy easement.

2) Not applicable. The land is not located in a historic district or on property listed on the Baltimore County Final Landmarks List.

3) Not applicable. The solar facility will not be located in a forest conservation easement, or in a designated conservancy area.

4) Meets requirement. The components of the solar facility will meet the minimum setback requirement of 50 ft. from the tract boundary.

5) Meets requirement. The structure does not exceed 20 ft. in height.

6) The Petitioner will be required to submit a landscaping plan, which must be approved by the County. There was testimony expressing concern regarding impact to the view from a neighbor whose property sits higher than the subject property. The Board would like the landscaping plan to take into consideration density to reduce the impact of views from this property.

7) The security fencing will be installed, with no barbed wire on top.

8) The Petitioner presented expert testimony which included a Glare Study. The solar panels will be designed to minimize glare or reflection onto adjacent properties and roads.

9) The Board discussed the requirement that the Petitioner comply with plan requirements of Section 33-3-108 of the County Code, and discussed the Protestants' Motion for Judgment.

The plan is required to comply with Section 33-3-108 of the County Code, and is not limited to subsection (c) which is a list of specific requirements. The Board finds this Section to be confusing. This section requires the plan to be approved by the "Department". The Board is not the "Department", DEPS is. The Board noted it is standing practice in Baltimore County that the "Department" won't approve a plan until zoning has been approved, then the project goes through the permitting process.

The Board found the plan is required to comply with the full development procedures, and will impose conditions to insure that all requirements are complied with.

- The landscape plan shall employ the best practice to shield impact on the surrounding community.

CONCLUSION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Special Exception with conditions imposed.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Tammy A. Zahner

Tammy A. Zahner

IN THE MATTER OF HHK FARMS, LLC LEGAL OWNER, AND ONE ENERGY DEVELOPMENT, LLC LESSEE	*	**BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY**
(1139 Monkton Road)	*	**Case No. 18-030-X**
7th Election District 3rd Councilmanic District	*	

RECEIVED
FEB 11 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* *

POST-HEARING MEMORANDUM

Petitioners, by undersigned counsel, hereby submit this Post-Hearing Memorandum in support of their Petition for Special Exception and state as follows:

INTRODUCTION

New land uses, no matter how benign, can scare people. The fear of the unknown causes opposition in cases such as this, where Petitioners are requesting a special exception for a technology that has not been previously used in Baltimore County. Solar cases have brought out a group of "community activists" in northern Baltimore County, who have developed speculative theories about potential negative impacts on the farming industry, on soils, and on environmental resources. This group of activists and residents (the "Protestants") fought hard in front of the County Council and Planning Board to obtain restrictions in the County's solar regulations that prohibit facilities on properties that contain "prime and productive soils" and/or to generally prohibit the facilities in the RC 2 (Agricultural) zone. However, the Council passed a bill that does not contain these restrictions.

Unsuccessful in their efforts before the Council, the advocacy groups have, instead, taken it upon themselves to oppose all of these requests before the Board of Appeals (the "Board"). To

that end, they are fighting solar facilities on land that is not within the geographical boundaries of their groups, and is many miles from their homes.

No matter how scary a new use may be to people, a generalized assertion that a special exception use should not be permitted in a particular area of the County or in a specific zone is not sufficient justification for the Board to deny a special exception. The Board must apply the existing law and evaluate the use at the particular location proposed when considering the applicable legal test most recently explained in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017). Petitioners presented strong and substantial evidence in support of their petition for special exception, and Protestants' broad-brush attack on the use itself failed to rebut the evidence presented by the Petitioners. Therefore, as explained below, the Board should grant the requested special exception.

BACKGROUND:
THE PROPERTY AND THE PROPOSAL

Petitioners are proposing to install a solar facility on property known as 1139 Monkton Road in the Hereford area of Baltimore County (the "Property"). The Property consists of just under 100 acres of land located on the south side of Monkton Road, east of York Road. *See* Petitioners' Exhibit 1. The Property contains a single, uninhabitable structure and is largely cleared and open in the center, having previously been farmed for many years. *See* Petitioners' Exhibit 2. The entire southern, eastern, and western borders of the Property are heavily screened with mature forest. *Id.;* T. 278.[1] A berm and strip of vegetation lines the northern boundary of the Property along Monkton Road.

All in all, Petitioners presented testimony from six expert witnesses that touched on each and every element required for a special exception for a solar facility in Baltimore County:

[1] A copy of the transcript cited in this pleading is attached hereto and referred to as "T. __".

- **Marni Carroll**: Expert in solar energy with particular knowledge of the site selection, installation, operation and maintenance of solar facilities (T. 12);

- **Matthew Durette**: Expert mechanical engineer with particular knowledge of the requirements of the design and installation of solar facilities (T. 86-87);

- **David Martin**: Expert landscape architect with particular knowledge of the requirements for landscape plans and special exceptions in Baltimore County (T. 137);

- **Eric Hadaway**: Expert in environmental regulations with particular knowledge of the standards in Baltimore County (T. 191);

- **David Straitman**: Expert real estate appraiser specializing in residential appraisals; and

- **Mitch Kellman**: Expert land planner with particular knowledge of the standards for applying for and obtaining special exceptions in Baltimore County (T. 254-255).

The Protestants did not provide any expert testimony to counter the evidence presented by the Petitioners. Instead, they presented testimony from several nearby neighbors and a series of community activists that expressed their general fears and opposition to solar facilities anywhere in northern Baltimore County.

Petitioners first called Marni Carroll, who gave the Board an understanding of OneEnergy and its success operating facilities up to three times larger than the proposed facility in locations across the country. (T. 15-16). Ms. Carroll submitted a PowerPoint presentation that provided information about the company, the materials and panels that will be installed, and the studies that are performed to find a suitable location and to ensure that any impacts to surrounding properties will be minimized. *See* Petitioners' Exhibit 4. She also provided testimony about the detailed analysis that takes place when choosing potential locations for solar facilities. (T. 29-32); *see also* Petitioners' Exhibit 6.

Ms. Carroll explained that the panels are nontoxic, nonflammable, and do not contain any cadmium. (T. 18). Through an industry standard glare study, she was able to confirm that the proposed facility will not cause any glare on surrounding roads and properties. (T. 35-38); *see also*

Petitioners' Exhibit 8. In terms of installation, the panels are mounted on galvanized steel posts and have an aluminum and steel frame that they clip to "like legos." (T. 19). The supporting posts are driven into the ground without any cement or permanent impact to the land. *Id.* The land beneath the panels will be planted with pollinator habitat that absorbs runoff and provides the possibility for the production of agricultural products such as honey. (T. 21); *see also* Petitioners' Exhibit 5. The panels rotate with the sun and are approximately nine feet tall at their most rotated. (T. 18). Once installed, the panels will be remotely monitored throughout the life of the 35 year lease. (T. 20). At the end of the lease, OneEnergy is required to remove all equipment to three feet below the ground and to restore the ground to its previous condition. (T. 23). All of the materials can either be recycled or reused by the solar industry. *Id.*

Testimony from Matt Durette, an expert mechanical engineer, revealed that the facility will consist of just under 13 acres of solar panels in a special exception area that is approximately 19 acres in size. (T. 96). Specifically, the facility will consist of: (i) galvanized steel posts driven directly into the ground in a north to south orientation; (ii) an aluminum racking system placed on top of the piles; (iii) photovoltaic solar panels with an antireflective coating that are connected to the racking system; (iv) wiring connecting the panels to an inverter, transformer, and, ultimately, to external power lines; (v) fencing placed around the facility for security (with no barb wire); and (vi) additional landscaping. (T. 89-93).

With respect to the panels, Petitioner is proposing a "single-axis tracker" panel array that is designed to move with (i.e., "track") the position of the sun to provide maximum exposure of the panels to the sun. (T. 88-89). The panels are 3' by 6' in size, are no taller than 9' when they are tilted towards the sun, and are constructed of an aluminum frame and a glass top that is designed to minimize glare. (T. 88-90). Mr. Durette confirmed that there are no toxic chemicals in

the solar panels, and there are no chemicals or other substances used to clean the panels. (T. 90). In fact, the panels "self clean" as rainfall in the region is typically sufficient to wash off any dust and dirt from the panels. (T. 100).

With regard to landscaping, testimony from David Martin confirmed that Petitioners worked with the Department of Planning and the County's Landscape Architect to develop a landscape plan that satisfies all requirements and provides additional screening to the neighbors that live on the north side of Monkton Road. (T. 145-149); *see also* Petitioners' Exhibit 12. Mr. Martin explained that the focus for landscaping is on the northern side of the Property because the southern, western, and eastern sides are all surrounded by natural forests and there are no immediately adjacent residences. (T. 149-50); *see also* Petitioners' Exhibits 1 and 2.

As Monkton Road is a county scenic road, the Department of Planning asked Mr. Martin to reinforce the existing landscaping and to provide selective views into the Property rather than simply to wall it off with an artificial row of landscaping. (T. 147). While many trees and other plants will be added to the site, no trees will be removed as part of this project. (T. 115). Additionally, the Petitioners will be required to execute a right of way agreement and post security to ensure that the new landscaping is installed correctly and survives over time. (T. 151-153).

As there is no development history for the Property, there were no delineated environmental resources or recorded buffers on the Property prior to this request for special exception. (T. 192). Testimony from Eric Hadaway revealed that Petitioners have performed a fully approved wetland and forest stand delineation and a steep and erodible soils analysis, so that if the special exception is approved, the environmental resources will be protected for the first time in recorded buffers. (T. 192-193); *see* Petitioners' Exhibits 1 and 21. The majority of the buffers are forested, but portions do extend into cleared area that has been farmed over time. (T. 197-198).

The established buffers and additional landscaping will protect these areas for the first time. (T. 198). Additionally, all components of the solar facility, including the perimeter fence, are outside of the buffers. (T. 199). Mr. Hadaway stated point blank that there will not be "any negative impact on the wetlands and streams on the property." (T. 202).

As some of the Protestants expressed concern with the impact that the proposed solar facility will have on property values, the Petitioners' presented an economic impact analysis prepared by expert witness David Straitman. *See* Petitioners' Exhibit 19. Mr. Straitman analyzed: (1) the proposed use; (2) a comparable facility in Howard County; and (3) examples where homeowners voluntarily put ground mounted solar panels on their properties. *Id.* Based on his economic analysis, he confirmed that the proposed use will not have any negative impact on surrounding property values. While the Protestants hinted that they were going to call a real estate expert in this case, they simply provided testimony from lay witnesses who speculated that the facility would negatively impact property values. Mr. Straitman's testimony put this issue to rest.

Finally, Mitch Kellman provided additional testimony about the site plan and confirmed that the proposed facility meets the requirements of BCZR § 502.1, Article 4F of the BCZR, and all legal requirements for obtaining a special exception. (T. 277-278).

In opposition, the Protestants presented testimony from several nearby neighbors and a group of "community activists" that do not live anywhere near the proposed facility. As explained below, they did not present any evidence by which the requested special exception can be denied.

ARGUMENT

As the following demonstrates, Petitioners provided substantial evidence that the proposed solar facility meets the requirements of § 502.1 of the BCZR, Article 4F of the BCZR, and the applicable case law regarding special exceptions in Baltimore County.

I. COMPLIANCE WITH BCZR § 502.1

A. The solar facility will not be detrimental to the health, safety or general welfare of the surrounding locality.

a. "Surrounding Locality"

An important preliminary issue regarding this requirement is the meaning of "surrounding locality." Unlike most special exception cases, the primary objectors to this proposed facility are "community activists" (such as Lynn Jones, Kathy Pieper, and Ruth Mascari), who live many miles from the Property and expressed concerns regarding the potential impact that the facility would have on the overall farming industry rather than any impact to the properties immediately adjacent to the facility. Indeed, these same witnesses are opposing all of the requests for solar facilities before the Board and raising the same arguments in every case.

In *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), the Court of Appeals interpreted BCZR § 502.1.A and confirmed that an applicant for a special exception "does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted *without real detriment to the neighborhood* . . . he has met his burden." *Id.* at 280 (*citing Schultz v. Pritts,* 291 Md. 1, 11 (1981)).

The phrase 'detriment to the neighborhood' "implies necessarily that the Board's task is to determine if there is or likely will be a detriment *to the surrounding properties." Attar*, 451 Md. at 280 (*citing Montgomery County v. Butler* 417 Md. 271, 305 (2010)). Thus, the *Attar* court confirmed that "within the context of a special exception, the 'neighborhood' means '**the surrounding properties.**'" *Id.* (emphasis added). In contrast, the definition of "neighborhood" within the context of a request for rezoning of property "will vary depending on the location involved" and "is not and should not be precisely and rigidly defined." *Montgomery v. Board of*

County Comm'rs, 263 Md. 1, 5 (1971); *Woodlawn Area Citizens Ass'n v. Bd. of Cty. Comm'rs for Prince George's Cty*, 241 Md. 187, 198 (1966).

While the testimony of Ms. Jones, Ms. Pieper, and other "community activists" might have some application in a request for rezoning, *Attar* makes clear that the impact to consider in a special exception case is that to the surrounding properties. In fact, these Protestants are attempting to take the Board down the path specifically admonished in *Lucas v. People's Counsel for Balt. Cty.* 147 Md. App. 209 (2002).

In *Lucas*, the appellate court overturned a Board of Appeals decision that denied a special exception for a proposed airport on agricultural land based on general concerns related to "land around Helmore Farm," on "the horse industry in the area," on the "historical district," and on "Greenspring Valley." *Id.* at 216-17. The court overturned the decision and held that the Board's broad interpretation of the "surrounding area" was insufficient to provide a court with the ability to assess the impact on "the immediate environment of the subject property." *Id. Lucas* makes clear that the Board cannot base its decision on the testimony of Ms. Jones, Ms. Pieper, and others that related to potential impact on the farming industry as a whole. To do so would constitute reversible error. *Id.*

b. The only impact to "surrounding properties" is that they may see the solar facility

Testimony revealed that the only potential impact to surrounding properties is that the facility will be somewhat visible from the north across Monkton Road. Ms. Carroll and Mr. Durette confirmed that there is little noise or traffic, no smell, no fossil fuels, and nothing toxic about the solar panels. Additionally, while there were some general concerns expressed regarding runoff from the panels, all of the neighbors on the north side of Monkton Road are higher in elevation than the proposed solar facility. *See* Petitioners' Exhibit 1. Finally, testimony of David

Straitman, an expert real estate appraiser, confirmed that the proposed facility will not have any impact on surrounding property values. Based on all of this evidence and testimony, Mitch Kellman, accepted as an zoning and land planning expert with decades of experience in Baltimore County, confirmed that the request meets the requirements of BCZR § 501.2.A. As previously stated, there was no expert testimony from the Protestants to counter this evidence.

With respect to visual impact, perhaps the most applicable testimony came from Timothy Edwards, who owns 1132 Monkton Road, directly across from the entrance to the proposed solar facility. Using photo simulations provided by OneEnergy, Mr. Edwards testified that he would like to see some additional landscaping between his property and the proposed facility to try to block his view to the greatest extent possible. His testimony did not provide the Board with any basis to *deny* the special exception, but it did provide an opportunity for the Board to add a *condition* of approval requiring additional screening between the facility and 1132 Monkton Road. While the Petitioners do stand by the landscape plan presented to the Board, any concerns regarding visual impact can be addressed by adding such a condition.

B. The solar facility will not tend to create congestion in roads, streets or alleys.

As Ms. Carroll and Mr. Durette confirmed, the proposed facility will be unmanned and will only generate a handful of trips to the Property per year. This requirement was met.

C. The solar facility will not create a potential hazard from fire, panic or other danger.

Ms. Carroll, who has years of experience in the solar industry, testified that she is not familiar with any solar facilities catching on fire. (T. 69). Mr. Durette explained that the inverters have a ground fault detection interruption system that would detect any fires and shut down. (T. 100-101). He testified that it would be "extremely unlikely" for there to be a fire at the facility. (T. 109). Additionally, Mr. Kellman confirmed that the Property is in close proximity to a fire

station (1.5 miles) in the unlikely event of a fire. (T. 273). There was no testimony on this issue from the Protestants beyond some far-fetched speculation, and there was no evidence that the proposed facility posed any danger above and beyond the low risk that is inherent to the installation of a solar facility.

D. The facility will not overcrowd land and cause undue concentration of population.

This requirement does not apply to a solar facility as it does not have any density.

E. The solar facility will not interfere with adequate provisions for schools, parks, waters, sewerage, transportation or other public requirements, conveniences, or improvements.

The solar facility does not generate a need for public facilities of any kind. In fact, it assists with the provision of public services to the extent it adds electric power into the grid.

F. The solar facility will not interfere with adequate light and air.

The components of the solar facility, which are approximately 10 feet in height and set back over 50 feet from any property line, will have no impact on adequate light and air.

G. The solar facility will not be inconsistent with the purposes of the property's zoning classification or the spirit and intent of the BZCR.

Petitioner anticipates that Protestants and People's Counsel will focus much of their argument on attempting to prove that the proposed solar facility is inconsistent with the purposes of the RC 2 zone, because, as they will allege, it will have a negative impact on the total amount of farmland and/or the availability of prime and productive soils in Baltimore County. Neither Article 4F, nor § 502.1, require Petitioners to disprove this assertion.

The County Council, in adopting Bill No. 37-17 and permitting solar facilities by special exception in the RC 2 Zone, has already determined that the use is generally compatible with the RC 2 Zone and that it is appropriate and acceptable for RC 2-zoned land. Once the Council determines that a particular use is permitted by special exception, the use "is presumed to be in the

interest of the general welfare" and "enjoys a presumption of validity." *Attar*, 451 Md. at 285. Thus, it is not for this Board to second-guess the Council's determination that solar facilities are an appropriate use on RC 2-zoned land. Instead, the proper inquiry is whether the proposed use will "have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Id.* at 286.

With respect to any allegation of general inconsistency with BCZR § 1A01, Petitioners are making a good faith effort to further the agricultural use of the Property by planting pollinator habitat within the solar field and siting the facility in a central location that allows many acres of the Property to still be farmed during the life of the facility. While "prime and productive" soils exist within the special exception area and, if the solar facility is approved and installed, those soils would not be available for traditional farming during the life of the solar facility, there was no evidence that the facility would cause any special "harm" to the soils. Removing land from potential agricultural production is an expected consequence of installing a solar facility anywhere in an open field in the RC 2 zone. There are thousands of acres of prime and productive soil in northern Baltimore County, further illustrating that there is no special, "above and beyond" harm on this Property. Additionally, as conceded by the Protestants, it is not uncommon for land with prime and productive soils to be used for something other than farming. This is evident to the north of Monkton Road, where the soils are present but the land is improved with single family homes and is not farmed. *See* Protestants' Exhibit 25.

Further, the same results (unavailability of land and soils for farming) would occur if the property owner simply chose not to farm the property any longer and, instead, chose to let the land lie fallow, a choice he or she is fully permitted to make. Indeed, a property owner may have the

most productive soils in areas perfectly suited for farming, but he or she cannot be compelled to farm that land for the benefit of the farming industry.

Finally, while a number of special exception uses are subject to the additional requirements in BCZR § 1A01.2.C,[2] that section was never amended to include "solar facility" as a listed use subject to the additional requirements. A reading of Bill No. 37-17 clearly confirms that, with the enactment of that legislation, the Council made no changes to § 1A01.2.C. The authority to approve this use and the particular requirements for such use are fully contained in Article 4F. No additional findings are required beyond Article 4F and § 502.1 in order to grant a special exception for a solar facility in the RC 2 zone.

H. The solar facility will not be inconsistent with the impermeable surface or vegetative retention provisions of the BCZR.

There are no impermeable surface or vegetative retention provisions applicable to the RC 2 zone. Regardless, no clearing will be done in conjunction with the installation of the solar facility, and existing vegetation will remain and be supplemented.

I. The solar facility will not be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers, and floodplains in the RC 2 zone.

Petitioners presented the testimony of Eric Hadaway, who was accepted as an expert environmental consultant with decades of experience working in Baltimore County. Mr. Hadaway confirmed that at the start of this project, there were no delineated or recorded wetlands or forest

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[2] BCZR § 1A01.2.C. Uses permitted by special exception. The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the request finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses.... (Emphasis added).

buffers to protect streams or other environmental resources on the Property. (T. 192). If the proposed solar facility is approved, for the first time, there will be recorded buffers to protect the environmental and natural resources on the Property. *Id.*

In fact, at the time this case was presented to the Board, Petitioners had already obtained approval from DEPS of their: (1) forest stand delineation; (2) wetland delineation, and (3) steep slope and erodible soils analysis (which delineates the forest buffer associated with a project). (T. 193); *see also* Petitioners' Exhibit 21. As Mr. Kellman testified, there was no appeal to the DEPS approval letter from April 21, 2018.

In addition to creating buffers for the first time, Mr. Hadaway confirmed that the proposed use will not have any negative impact on the streams or wetlands located on the Property. There is currently farming in the buffer that is detrimental to environmental resources but will stop if the facility is approved. (T. 198). The buffers will be planted with additional native trees and shrubs to further the effectiveness of the buffers. *Id.* During construction and operation, Petitioners will install best management practices for soil erosion and sediment control that will be reviewed and approved by the soil conservation district. (T. 201). At the time of permitting, stormwater management measures, which will be reviewed and approved by Baltimore County, will be implemented to provide additional management of any runoff related to the solar facility. (T. 264). Petitioners will implement stormwater management measures that will allow runoff to filter into the ground and dissipate to eliminate any environmental impact from runoff. (T. 202).[3] There was simply no evidence that the facility will have any adverse impact to environmental or natural

[3] Mr. John Altmeyer, who worked for Baltimore County for many years and has been called by the Protestants in numerous solar facilities cases, has repeatedly confirmed that stormwater management approval does not occur until the time of permitting.

resources. Mr. Hadaway, the only expert to testify on this issue, flatly stated that the facility is not "going to have any negative impact on the wetlands and streams on the property." (T. 202-203).

Finally, the parties disagree as to whether prime and productive soils constitute "environmental and natural resources" within the meaning of this regulation. Protestants admitted that they fought hard to have prime and productive soils added to the list of prohibitions in the County's solar facility statute but the words do not even appear in the adopted law. In fact, two Council Bills attempted to bar solar facilities on prime and production soils but were respectively withdrawn (Bill 9-17) and voted down (Bill 13-17). *See* Petitioners' Exhibits 16-17. Even still, there was no evidence proving *any* harm to the prime and productive soils and Mr. Hadaway confirmed that the planting of pollinator habitat and resting of the soil will actually improve its condition. (T. 204). The Protestants speculated as to their personal fears regarding environmental impacts, but they did not provide any expert testimony to counter Mr. Hadaway.

II. PETITIONERS DEMONSTRATED COMPLIANCE WITH ARTICLE 4F

Article 4F of the BCZR, adopted by Bill 37-17, provides additional requirements for solar facilities to be located in the RC 2 zone. The requirements are individually addressed as follows:

A. Requires Special Exception (§ 4F-102.A)

According to § 4F-102.A, solar facilities are permitted in the RC 2 Zone by special exception. The Property is zoned RC 2, and the solar facility is proposed to be located entirely within the RC 2 zone. *See* Petitioners' Exhibit 1.

B. Maximum Land Area for Facility (§4F-102.B.1)

Section 4F-102.B.1 provides that "[t]he maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts alternating current (AC) of electricity." Here, the area of the special exception is 19± acres, and the area of the solar array is

13± acres. (T. 96). As Mr. Durette explained, 13± acres is the minimum footprint necessary for this facility to produce two megawatts alternating current (AC) of electricity on the Property. (T. 99). If the array was smaller, Petitioners would not be able to generate two megawatts. *Id.*

Mr. Pieper attempted to refute this testimony by comparing the acreage and proposed output of some of the other proposed solar facilities in Baltimore County. However, she admitted that there are factors that go into the design and layout of solar facilities of which she is unaware. Mr. Durette is the only expert to provide testimony on this issue, and he stated, point blank, that the Petitioner needs the area shown on the site plan to produce the permitted amount of electricity. (T. 99).

C. Maximum 10 per Council District (Section 4F-102.B.2)

Mr. Kellman testified that, in the 3rd Council District, the limit of ten (10) solar facilities has not yet been met. (T. 257).

D. Additional Requirements for Section 4F-104.A: RC Zone Requirements

BCZR Section 4F-104.A outlines additional requirements for solar facilities located in an RC zone. Petitioners demonstrated compliance with each of these requirements:

1. **No Conflict with Preservation Easements.** Mr. Kellman confirmed that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement. (T. 258).

2. **No Historic Resources Impacted.** Mr. Kellman confirmed that the property is not located in a Baltimore County historic district, nor is the property listed on the Baltimore County Final Landmarks List. (T. 258); *see also* Protestants' Exhibit 11. The Protestants called Ruth Mascari, who testified that she serves on Baltimore County's Landmarks Preservation

Commission with Mr. Kellman. She confirmed that the "My Lady's Manor" national register historic district includes 18,000 acres of land but does not include the Property.

3. **No Conflict with Environmental or Conservancy Easements/Areas.** Mr. Hadaway and Mr. Kellman confirmed that the solar facility is not proposed to be located within a forest conservation easement or in a designated RC 4 or RC 6 zone conservancy area. (T. 258).

4. **Compliance with Setbacks.** Mr. Kellman confirmed that the aboveground components of the solar facility, including solar collector panels, inverters, and similar equipment, will be set backs at least 50 feet from the tract boundary. (T. 259); *see also* Petitioners' Exhibit 1.

5. **Height Not Exceeded.** Mr. Kellman confirmed that no equipment associated with the solar facility will exceed 20 feet in height. (T. 259).

6. **Landscape Buffer/Screening Provided.** As Mr. Martin explained, Petitioners will provide a landscaping buffer around the perimeter of the Property in areas where the solar facility may be visible from an adjacent residentially used property or a public street. As Monkton Road is a Baltimore County scenic route, the views from the road will be screened in accordance with the Baltimore County Landscape Manual to the satisfaction of the County's Department of Planning and Landscape Architect.

7. **Security Fencing Provided.** Mr. Durette explained that security fencing will be provided around the perimeter of the facility. At the request of Protestants, Petitioners agreed that the fence would not have barbed wire (or any rough, open edges) at the top and that they would accept this as a condition of approval in this case. (T. 22).

8. **No Glare.** To demonstrate that the facility has been "designed and located in an arrangement that minimizes glare or reflection onto adjacent properties and adjacent roadways" and will not "interfere with traffic or create a safety hazard," Petitioners presented a glare study

prepared by Marni Carroll. *See* Petitioners' Exhibit 8. Using the ForgeSolar software tool, which is the recognized standard in the industry, Ms. Carroll conducted a detailed, site-specific glare analysis. *Id.*

Specifically, Ms. Carroll input the footprint of the array and some specific information about the array itself into the program and selected 16 observation points (including 8 points along Monkton Road) for analysis of potential glare. (T. 36). The study projects that there will be "no glare at any of the observation points" at any time during the year. (T. 37). From the results of this study as well as her own observation of the site and the proposed layout, it was Ms. Carroll's opinion that the proposed solar facility has been designed to minimize glare onto adjacent properties and roadways and that it will not interfere with traffic or create a safety hazard. (T. 37). This testimony was unrebutted.

9. **Plan Requirements of Section 33-3-108:** BCZR Section 4F-104.A.9 requires that Petitioners "comply with the plan requirements of Section 33-3-108 of the County Code." Notably, the regulation does not limit this requirement to BCC § 33-3-108(c), it instead refers to the entire section: 33-3-108. As BCC § 33-3-108(a) explains, a plan approved by "the Department" is required for development in Baltimore County. The "Department" is defined in BCC § 33-3-101(f) as "the Department of Environmental Protection and Sustainability." The Department is not defined as the "Administrative Law Judge" or the "Board of Appeals." As Mr. Hadaway stated, in 27 years working with Baltimore County he has never seen these environmental plans presented to the ALJ or the Board as part of a zoning case. (T. 238).

In this case, Petitioners had already obtained approval from "the Department" of their: (1) forest stand delineation; (2) wetland delineation, and (3) steep slope and erodible soils analysis (which delineates the forest buffer associated with a project). *See* Petitioners' Exhibit 21. Mr.

Hadaway confirmed that these plans contain all of the information listed in BCC § 33-3-108 (T. 205) and Mr. Kellman confirmed that there was no appeal to the approval letter from the Department. Accordingly, Petitioners presented uncontradicted evidence that this requirement has been met.

E. Maintenance, Bond, and Removal Obligations (BCZR §§ 4F-105 – 107)

Ms. Carroll presented an overview of OneEnergy, a national solar energy developer that has obtained approval for projects three times larger than the proposed facility and has generated enough solar energy to serve nearly 7,000 homes with clean, renewable energy. *See* Petitioners' Exhibit 4. Quite simply, this is an experienced national company that is adequately prepared to comply with the maintenance, bond, and removal obligations in the BCZR. Additionally, Mr. Martin and Mr. Kellman explained that additional securities will be required before any permits will be issued for this project (T. 264-265). Although Protestants expressed some general concerns regarding the maintenance requirements, they offered no evidence to rebut this testimony.

CONCLUSION

For the reasons stated here, Petitioners respectfully request that the Board of Appeals grant the requested petition for special exception.

Respectfully submitted,

Adam M. Rosenblatt
Venable LLP
210 W. Pennsylvania Ave., Suite 500
Towson, Maryland 21204
(410) 494-6271
amrosenblatt@venable.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify on this 11th day of February, 2019, that a copy of the foregoing Post-Hearing Memorandum was mailed to: H. Barnes Mowell, P.A., 16925 York Road, Monkton, Maryland 21111, Attorney for Protestants; and to Carole Demilio, Deputy People's Counsel for Baltimore County, 105 W. Chesapeake Avenue, Suite 204, Towson, Maryland 21204.

Adam M. Rosenblatt

IN THE BOARD OF APPEALS FOR

BALTIMORE COUNTY, MARYLAND

In the Matter of :

HHK FARMS, LLC, LEGAL :

LEGAL OWNERS, and ONEENERGY: CASE NO.

DEVELOPMENT, LLC, LESSEE : 18-030-X

VOLUME I

TRANSCRIPTION OF PROCEEDINGS

FROM AUDIO FILES

BE IT REMEMBERED that the above-entitled action came on for a Special Exception Hearing, on Tuesday, December 11, 2018, at 9:09 a.m., before:

ANDREW M. BELT (Chair)

WILLIAM A. MCCOMAS (Exhibits)

DEBORAH C. DOPKIN (CourtSmart)

Transcribed by:

Paul A. Gasparotti II

APPEARANCES:

H. BARNES MOWELL, ESQUIRE
H. Barnes Mowell, PA
16925 York Road
Monkton, Maryland 21111
On behalf of the Protestants

ADAM M. ROSENBLATT, ESQUIRE
Venable, LLP
210 West Pennsylvania Avenue
Towson, Maryland 21204
On behalf of the Developer/Appellee

CAROLE DEMILIO, ESQUIRE
Deputy People's Counsel
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204

PROCEEDINGS

MR. BELT: All right, we are here on the regularly scheduled meeting of the Baltimore County Board of Appeals with case number 18-030-X, HHK Farms, LLC. This is a petition for a solar facility that was approved below with conditions, and appealed to this Board.

For the record, if counsel could identify themselves?

MR. ROSENBLATT: Good morning. Adam Rosenblatt of Venable LLC on behalf of the petitioner.

MR. BELT: Thank you, good morning.

MR. MOWELL: H. Barnes Mowell, here for the protestants.

MR. BELT: Good morning, Mr. Mowell.

MS. DEMILIO: Good morning, Carole Demilio, Deputy People's Counsel for Baltimore County.

MR. BELT: Fantastic. Okay, just a few reminders. If you have cell phones, turn them

off or on the vibrate, or in some sort of way that we never hear them.

Second of all, just to remember for counsel, we've tried to get back into the habit of standing for objections. This is not out of deference to this Board, but actually it reminds us to stop talking when there is an objection so it can be ruled upon, so that the record is not all muddled with people arguing over each other on the record, and things will run more smoothly.

Now, practice makes perfect. We have seen the players here before. Mr. Mowell, you should be an expert by now in this field, I'm sure. Mr. Rosenblatt, this is not your first rodeo here. MS. Demilio, is this your first solar case?

MS. DEMILIO: Yes, but I will try not to act like a novice.

MR. BELT: Fantastic. I see Ms. Jones is here.

If I bring that up, I think we have

learned together how to try to make these hearings proceed in an expeditious fashion, I think that should be our goal to do so, so hopefully we can get through a lot today.

Is there any preliminary matters or motions to be made for the record before we proceed today?

MR. ROSENBLATT: None for the petitioner.

MR. BELT: Mr. Mowell?

MR. MOWELL: No.

MS. DEMILIO: No.

MR. BELT: All right, fantastic. How about giving me a list of coming events. How many witnesses do we think we're going to get through today for the petitioners?

MR. ROSENBLATT: Sure. The petitioners have five witnesses. This is a case for OneEnergy who, I know Mr. Belt and Ms. Dopkin have seen before. It's the same basic outline of testimony that you've heard in another case. I

Page 6

know Mr. McComas has heard other solar cases but not this particular company.

We're hopeful we can finish our case today, that's going to be my goal, is to -- like you said, there's certain things in background that were maybe testified to the first time the board members heard one of these solar cases, but we're well aware that you've seen this subject matter, and we want to move as quickly as we can.

MR. BELT: Great, all right. And Mr. Mowell, I guess we will probably get into your case tomorrow. Is this scheduled tomorrow?

MR. ROSENBLATT: Yes.

MR. BELT: All right, fantastic.

I see there are some exhibits that are already on the board. Are they petitioner's exhibits.

MR. ROSENBLATT: They are. I've marked the site plan as Exhibit 1 and an aerial with landscaping as Exhibit 2. What I've done is I've printed 11-by-17 copies and marked the official

Page 7

full-sized copies on the board.

MR. BELT: Mr. Mowell, does he have his copy?

MR. ROSENBLATT: I will hand it all out as we go.

MR. BELT: Fantastic.

MR. ROSENBLATT: Okay. If I could give you maybe just a 30-second overview, and then we'll call our first witness?

MR. BELT: Sure.

MR. ROSENBLATT: The property at issue is known as 1139 Monkton Road, it's located on the south side of Monkton Road, which runs along the northern edge of the property. It's just east, a mile and a half or so east of York Road at its intersection with Monkton Road.

We're proposing a solar facility, which requires a special exception under Section 4.F of the zoning regulations. This is an RC-2 zoned property like many of the other petitions you've heard. The property itself is just under a

Page 8

hundred acres in size and the solar facility is, I believe, just under 14 acres of solar panels are shown on our site plan, The special exception area is closer to 19 acres, you'll hear testimony about the exact numbers.

We will, like I said, provide a similar presentation, so we will tell you about the applicants and the facility itself, and have an engineer to explain the layout and design of this solar facility, and then some witnesses to address various elements of the burden of proof.

MR. BELT: Thank you, sir. Mr. Mowell, would you like to respond with a brief opening? You're not required to, but would you like to add any preliminary comments, sir?

MR. MOWELL: Yes, briefly, thank you. The issues I think are going to be the same as in the other cases. These drawings are dated yesterday. We're getting them for the first time here today. Our position is they need to show a lot more on the map and on their site plan than

Page 9

they have, and I think it's the case here too, we need to know about the wetlands on this property and the streams and the slopes, and the stormwater management, before this should be granted. It doesn't appear, again, as if we have that information, so with that, we're ready to go.

MR. BELT: Thank you. Ms. Demilio.

MS. DEMILIO: Only to say, just to point out there's legal issues here, special exceptions, 502.1 in an RCT-2 zone, and Article 4.F on solar panels. Now the appellate courts require any administrative agency and the courts to look at these things in harmony. So one section -- in other words, solar panels don't get preference over the others, they all have to be read in harmony as the appellate courts require. So all of the agricultural protection planning which is in RCT must be taken into consideration, all of the sections of 502.1 including the preference, which talks about certain conditions

to these special exceptions could be detrimental to the health, safety and welfare.

The burden, I want to emphasize, always falls to the petitioners in these cases, so we will hopefully have all of these issues addressed and will have a thorough record on which to proceed with the petitioner's case, and I hope the Board will take that into consideration, and also look to the protestants' and people's counsel evidence, that also should be given some weight and admitted into evidence, so the Board has its own record to look at all of the issues.

MR. BELT: All right, thank you. All right, are we ready for the first witness, sir?

MR. ROSENBLATT: Yes. I just wanted to mention, there is no change on the site plan since the plan that was presented to the administrative law judge. The seal was yesterday because the plan was printed yesterday and sealed by a surveyor, but it's the same plan that the ALJ had for his report.

MR. BELT: Okay.

MR. ROSENBLATT: Ms. Carroll.

Whereupon,

MARNI CARROLL,

being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: Would you state your name and address for the record, spelling your last name please?

THE WITNESS: Marni, M-A-R-N-I, Carroll, C-A-R-R-O-L-L, 2003 Western Avenue, Seattle, Washington 98121. Can you hear me okay?

MS. DOPKIN: Yes, thank you.

MR. BELT: Now, Mr. Rosenblatt, I know Ms. Carroll is a company representative. Are you going to qualify her as an expert in some area as well?

MR. ROSENBLATT: I am. I actually wrote down the exact language that you read as chairman of the other case for what she was accepted as a

witness.

MR. BELT: So why don't you tell us what that is before we start, so we can all at least have some context?

MR. ROSENBLATT: Sure. Mr. Belt, Ms. Carroll was admitted as an expert in the field of solar energy based -- or, sorry. She was admitted in the field of solar energy with particular knowledge of site selection, installation, operation and maintenance of solar facilities.

MR. BELT: All right. Before we go further, Mr. Mowell, since you were present for that qualification and when se was accepted as an expert, are you willing to accept a proffer or would you like to do the voir dire at this point?

MR. MOWELL: No, I'll accept the proffer.

MR. BELT: Okay, and --

MS. DEMILIO: I'll accept the proffer.

MR. BELT: Well, fantastic. I think we

have had our first victory here in terms of moving swiftly.

MR. ROSENBLATT: Okay. I have handed up a copy of what I've marked as Exhibit 3, which is Ms. Carroll's resume.

DIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Just to quickly go through her background, she's been with OneEnergy, is it two years now?

A. Two years.

Q. And she has experience in the solar industry, two years with another solar company before OneEnergy?

A. That's right.

Q. And how many years with a third company in alternative energy before that?

A. Ten years.

Q. Okay. And her duties and responsibilities include securing and advancing solar energy projects in the Mid-Atlantic region.

She looks for parcels that I guess fit the criteria for solar and for willing owners, and sites the facilities and how they're maintained and et cetera. That will be --

MR. BELT: Fantastic, so she is so accepted in the areas that you just stated for the record. And Mr. Mowell, Ms. Demilio, if any questions deviate from what you believe to be the parameters of those expertise, you can always lodge an objection to that question. All right, ask your first question.

BY MR. ROSENBLATT:

Q. I'm going to hand you a copy of what I've marked as Exhibit 4. Ms. Carroll, did you prepare this presentation I just handed you?

A. I did.

Q. Why don't we walk the board members through this packet and explain a little bit about who OneEnergy is as a company.

A. Sure. OneEnergy Renewables is a national company, we have over a decade of

experience in solar energy. This project, Trillium Solar Energy LLC is wholly owned by OneEnergy Development LLC, OneEnergy Development LLC is wholly owned by OneEnergy Renewables.

We have deep experience in Maryland, our operating and soon to be constructed projects are listed there. I say that because we're very excited to be building our first community solar project set to begin in the spring, and that's in Prince George's County.

And the project is named after the trillium flower, flowering species that provides critical habitat and is local to Baltimore County.

Q. Can you mention a little bit specifically about some of your other projects in Maryland?

A. Yes. Our projects are nonprofits, universities and other entities. We have a 4.3-megawatt Kingbridge solar project on the Eastern Shore, 13-megawatt Wye Mills solar project also on the eastern shore, and the 10-megawatt Baker Point solar, which serves National Geographic, Hopkins University and the now Capital One Center up in Frederick. And again, lastly, a two-megawatt, our first community solar project, that anyone in the PEPCO territory can sign up for, that is located in Prince George's County.

Q. If you would turn the page, and can you just briefly explain a little bit about the community solar program?

A. Sure. Unlike our other projects that sell energy directly to the grid and then we secure customers, large customers, one, two or three who buy all of the energy, a community solar project allows us to offer anyone in that utility territory an opportunity to sign up and get solar savings on their bill, similar to if you had solar on your own roof. We're very excited about this program because it is for the first time a way to have everyone involved and

again, offer these savings to folks who, you know -- over half of the folks either are renting, or have a tree that creates shading, or don't have the ability to put solar on their own roof. This operates in the same way, just remotely.

These projects, as I mentioned, are a lot smaller than other projects, requiring .03 percent of farmland between this projects and our other projects. You know, I have some other statistics there that we can go over, but again, I think the main point here is that it does provide savings on electricity bills, obviously helps avoid harmful emissions, can also benefit the local grid, allowing lower levels of outages in the local area, and with a light touch on the land.

Q. Why don't we turn the page and talk a little bit about the panels themselves.

A. Sure. So, solar as an energy use has been around, was even on the White House rooftop

Page 18

in the '70s, so it's a proven technology. It is a simple membrane encased in glass. The panels are not considered hazardous to the environment and are nonflammable, and they do not contain any cadmium. The panels have been proven to withstand high winds, snow load. There's even one we almost put in near a gun range, so the glass is very durable, and we monitor them at all times, should there be anything that happens. The maximum height of the panel is a little bit, you know, taller than your arm length if you're raising your arm up, about nine feet tall at the maximum peak, but the panel will slowly track the sun, so for the majority of the hours it will be lower than that in height at its peak.

Q. And you list here, but can you explain what the panels are made of?

A. Yes. You know, the -- I'm not an electrical engineer, but I know that they are based on silicon and aluminum, those are the main components, and glass, as I mentioned.

Page 19

Q. On the next page, can you talk a little bit about the racking system?

A. Sure. Like the legs of a table, the panels are melted -- or, melted -- are mounted on top of galvanized steel posts and an aluminum and galvanized steel frame. They almost clip on like Legos, and are, you know, secured to that frame. Those posts are driven into the ground without any cement or permanent impact to the land, it is just driven in with a piledriver. The panels, as I mentioned, rotate with the sun very slowly through the day. There's no noise or oils that are associated with that movement, it's air driven and moves quite slowly through the day.

Q. Okay. On the next page you discuss some of the equipment that goes along with these panels. Can you talk about inverters and transformers?

A. I think you'll hear a little later from our electrical engineer so bear with me, but this is just to show the other main components of the

Page 20

system. It has to have a way to tie in to the grid, does not require any large substations or new equipment, ties in directly via underground new conduit that will connect to a pole on the side of the road.

Q. And are these photographs representative of the type of equipment you expect to be installed on this property?

A. Yes.

Q. All right. In terms of construction, can you explain a little bit about the installation and construction process for the Board?

A. Sure. Construction happens actually quite quickly, it takes anywhere between eight and 12 weeks to be ready to connect to the grid, it may take a little longer for BGE to connect it to the grid. The majority of the deliveries happen in the first two weeks of the panels that will be stored on site, and the major equipment used are, you know, a typical farming backhoe,

Page 21

and as I said, a piledriver, but nothing more than that.

So you see a picture here of the driven piles ready to put the racking on, and you can see that the ground is not disturbed in between those posts, and that will continue to be the case through the length of the project.

Q. Can you discuss operation and safety?

A. Sure. So, the facility will be operating for 35 years. The great news about the technology is it does not require a lot of maintenance or replacements. The facility will be monitored 24-7 remotely, and there will be someone on contract should there require any onsite resets or maintenance.

The area underneath the panels will be planted with pollinator friendly warm season grasses. Those after the first few years will not require mowing, but there will be somebody who comes and checks the facility in terms of maintaining the landscape buffer, that it's

adequately watered with a water truck, and adequately, that there are no invasives on the property and the grassland species are not getting too high.

Q. Talk a little bit about the type of fence that will surround the facility.

A. There will be a locked chain link fence around the facility and that will go up as one of the first things during construction. The fire department and police department will come to our preconstruction meetings and all our staff will be trained on their standards, and we will give them keys, access, phone numbers, should there be any emergency situations.

Q. Is there any plan to use barbed wire on the fence?

A. No.

Q. If requested by the protestants, would you accept a condition that no barbed wire be installed as part of this project?

A. Yes.

Q. Let's talk about what happens after the completion of your lease period on this property.

A. Okay. If I could mention one more thing about the facility during operation, just that there's no lighting required on the facility.

At the end of life, on the next page, we call that decommissioning the system. Under our lease agreement with the landowner, we must remove all the equipment to three feet below ground and restore the ground to its previous condition, to allow them to farm the area should they choose. 99 percent of the material can be recycled, and the rest of it can be reused, that is the panels, there is a national recycling program run by the manufacturers. The rest of the equipment is steel, which has value, and other conduit material that can be reused, so the facilities will be removed as quick as possible, because those equipments have value.

I also put a couple quotes there. There is now a wide body of literature from those who have studied what impact there might be from solar facilities that are ground mounted, so you have two quotes here from the University of North Carolina and the Union of Concerned Scientists, a nonprofit, that emphasize that their --

MR. MOWELL: Objection.

MR. BELT: And the basis for your objection, sir?

MR. MOWELL: I think this goes a little far afield from her qualification, for one. Beyond that, to quote a sentence from two other studies and say that is reliable information that's going to help anybody is just, it's inadmissible.

MR. BELT: Mr. Rosenblatt?

MR. ROSENBLATT: I know in the last case Mr. Mowell had a witness who spent an entire day reading from various articles that were printed off the Internet. I would ask that, I guess the Board give it the weight it deserves, and not necessarily take it for the truth of the matter

asserted, but for the fact that there is literature out there on the subject.

MR. BELT: Mr. Mowell, your objection is a valid objection, and I'm going to accept this piece of paper since she has been qualified as an expert, as material that she is basing these opinions on, but as Mr. Rosenblatt stated, I am not accepting them for the truth of the matter asserted. Therefore, it's not like we're putting these studies into evidence, we're just letting us know she's familiar with them, so it will be given the weight that it deserves. So your objection is sustained in part, and we will accepting this as acceptable hearsay through an expert.

MR. MOWELL: Thank you.

BY MR. ROSENBLATT:

Q. And I guess the entire next page, the same thing would apply. If you could just briefly explain, maybe in your own words, how farms benefit from the installation of solar

Page 26

facilities.

A. Sure. So, we have two options in terms of what we can do with the ground underneath the panels. We can put in turf grass that can just be easily mowed, that was the industry standard a while back. Our company is committed to improving on that and planting pollinator friendly grasses and flowering species within the buffer area, and underneath the panels.

Generally the Department of Agriculture has emphasized that local bees are on the decline. Pollinator habitat helps improve the likelihood of pollination and is something at that is generally promoted by the Department of Natural Resources and the Department of Agriculture, so we pride ourselves on contributing to those aspects.

Q. And while you're on the subject of pollinator habitat, I see you brought, as you did in the other case, some honey. And can you just kind of explain what this comes from and what

Page 27

this product is about?

A. Yes, and I -- this time I brought two, but not three, so you're still going to have to fight over them, I'm sorry. But this is a product from a solar farm in Minnesota, this is a growing field of agricultural product where local beekeepers are hired as part of an operating solar facility, and this product can then be sold at a premium. So our goal, although every project is different, you do need to find that reliable local beekeeper, but our goal would be to do the same here.

Q. Can you -- on the final page of your preparation, you talk about some additional benefits, if you could just briefly take the Board through those?

MR. MCCOMAS: Excuse me. Did we mark that the last time?

MR. ROSENBLATT: I don't think it was made an exhibit. I'm happy to do that. So the honey will be Exhibit --

Page 28

MR. MCCOMAS: How is that going to impact all the marking you've already done?

MR. ROSENBLATT: I didn't mark them, I do it as I go, because one time Mr. Belt did not let my Exhibit 1 or 2 in, and then I had to change every single number for the rest of the day.

MR. MCCOMAS: I was going to make it 4-A, but it will be Number 5.

MR. ROSENBLATT: Okay.

THE WITNESS: Yeah. So, we didn't talk about job impacts, but obviously onsite construction will need to hire, and local hiring is always a priority, roughly that's about 50 jobs. More importantly, there are 5,200 solar industry employees in the state, and building solar projects in the state helps insure that those workers stay in Maryland. You know, the state has prioritized and has statewide goals of generating more of Maryland's electricity from renewable sources because of the harmful

Page 29

emissions other sources create, so I have there the number of metric tons of carbon avoided. But the main point is the project is in line with goals that the state has committed to.

Again, I mentioned there, the additional positive impact to local grid reliability, and one thing I didn't mention, but the items that I described we will be doing in terms of land maintenance do also have a positive water quality impact.

MR. ROSENBLATT: I think that might be it for this presentation.

BY MR. ROSENBLATT:

Q. I want to talk a little bit about this project and how we ended up with this particular property, and I'm going to hand up a copy of what I've marked as Exhibit 6, and I'm handing this up, and if you could explain what this is?

A. Sure. There have been some questions around how we found this property. We put together our best, you know, historical

Page 30

recollection of how we arrived at this site. We looked at all of the parcels in Baltimore County that had the proper zoning that allowed for solar and parcels that were sufficient to support our size facility, so less than 15 acres would not be sufficient. You see the resulting number there, majority of the parcels in the county were rejected, and we calculated that it's roughly one percent that just based on those two criteria would be viable for solar.

You see there number two. We then reviewed the parcels to make sure that we could have a very light impact, that there were no open space designations, no conservation easements, no preservation easements, and with sufficient access to distribution lines to allow us to connect in with a light impact, without any major equipment.

And at this time, this was just based on those criteria, not on explicit environmental screenings. We go to number three, which is then

Page 31

site specific environmental screenings, so we look at floodplains, forests, builts, environments, slopes, surrounding land use for visual impacts, and we combine all of those things to make sure that we're siting these in a conscientious manner. It's obviously in our best interests, our interests are aligned in that way with those in the community to site this in a way that has the least impact possible.

So if you remember up top, 365,880 parcels, and as we go to number four, that resulted in 39 parcels only that met all of these screens, and that is just using desktop information.

Then we needed to contact the utility to, you know, the first priority is can you actually generate and connect new energy. You can't find that out from maps or screens, you need to contact BGE in this case directly. So we did that, we filed for what's called a preapplication review, and of that 39 of -- I'm

Page 32

sorry. 31 of the 39 parcels that were considered were rejected, so that left us with eight landowners that we then reached out to see if they would be interested in hosting the solar facility and having a lease for that time frame of operation, and ultimately we executed lease agreements with two of those eight landowners.

MR. ROSENBLATT: With respect to this particular owner, I'm going to hand up a copy of what I marked as Exhibit 7, and in anticipation of an objection, this is a letter from the owner, and admittedly contains hearsay. And I would ask again that this not be admitted for the truth of any of the matters asserted, but simply to show that the owner is aware of these proceedings and in supportive of the project.

MR. MOWELL: I have the same objection as the last time, it is hearsay, though it was admitted last time.

The bigger objection is this is the owner of the property who has responsibilities

Page 33

under the law, and we need her in here to hear from her about her situation, her finances, and so this falls far short of what we need in this case, but I really have no objection to it being admitted.

MS. DEMILIO: I agree. It's obviously hearsay, and this is a local resident so she could testify at the hearing today, so it, based on what the deficiencies are (inaudible).

MR. BELT: I think my prior ruling was consistent, I gave this letter the same weight as the sign-in sheet or a letter that we might get from surrounding neighbors that we often, that actually certain courts said we had to accept. I believe that was in the (unintelligible) case that the Court said we had to accept the letters, so we're accepting the letters for the value for what it is, basically I think it's redundant. It's basically saying that the owner of the property is in support of the project, I would think if they weren't, they would have a big

Page 34

surprise when this was said and done. But for that matter we will accept it for the limited purpose that we have previously discussed in the other matter, so not for the truth of the matter asserted, and it will have the same weight as some of the opposition letters from the neighbors, so any detail will not be taken into account as moving any matters for determination of this process. So with that being said, it's in the record for what it's worth.

MR. ROSENBLATT: Understood.

BY MR. ROSENBLATT:

Q. Let's talk about some of the impacts that will be associated with this solar facility. Can you explain what level of noise is anticipated that these solar panels will make?

A. There is no noise from the facility. There is very very limited noise level from the inverter, which is located away, purposely as far away as possible from any residence. Roughly it would sound like a low hum of a hair dryer,

Page 35

provided you're standing more than ten feet away from it.

Q. How about in terms of smell, is there a smell?

A. No.

Q. And in terms of sight, did you perform a glare study for this facility?

A. I did.

Q. I'm going to hand you a copy of what I've marked as Exhibit 8, and ask you to explain how this study is performed and what it shows for the Board.

A. Sure. This is a solar hazard analysis and glare study tool developed by the FAA and DOD. It's used regularly by those entities to evaluate if there might be any glare coming off of a building or any other facility in the built environment. This is the industry standard tool for evaluating if there might be any glare from the facility. We do this, we use this tool early on, and repeatedly if we make any changes to the

Page 36

layout.

Q. Let me ask you a quick question on that. It says on the first page of this exhibit that it was run by Marni Carroll on April 12th, 2018. Have there been any changes to the layout of this facility since April 12th, 2018?

A. No. You can see on page two in the analysis parameters, the font is a little small, but you can see that the model actually models every single minute through the year, assuming, you know, pulling from GoogleEarth the slope and site specifics and getting down to the level of an assumption on pupil diameter. So the tool has you choose what spots you want to assess, and we choose spots from the road, 16 spots, eight from the road and the rest from surrounding homes. The eight from the road are evaluated at eye level, roughly seven feet, six to seven feet, and then the homes assumed to be all at the second story level. And the result of this analysis showed that there would be no glare within the

Page 37

parameter set.

Beyond that, this is just one tool we use to assess glare, to insure that there might, that there are no concerns, we prioritize installing sufficient buffer to, all along the borders where there might be any view shed concerns.

Q. Does this study take into account vegetation that you're proposing to plant?

A. It does not.

Q. Does it take into account existing vegetation?

A. It does not.

Q. Okay. So what impact would the addition of the vegetation have on glare?

A. That would help further prevent any potential for impact on glare.

Q. And is this a tool that is routinely used in your field?

A. Yes.

MR. BELT: That's through the FAA,

right?
THE WITNESS: And DOD.
MR. BELT: So the original thought was to make sure there was no glare for aircraft?
THE WITNESS: Exactly.
MR. BELT: And just to be clear, that basically is a tool that you just input different parameters using slopes and things that are readily available on things like GoogleEarth.
THE WITNESS: Correct.
MR. BELT: All right.
BY MR. ROSENBLATT:
Q. The final subject, can you just explain a little bit about any long-term impact expected from installation of this facility?
A. There are no long-term impacts expected from the installation of this facility.
MR. ROSENBLATT: I don't think I have any further questions.
MR. BELT: Before we proceed, what exhibit are we up to?

MR. MCCOMAS: Number 8.
MR. BELT: Okay. As to, I guess it's 3 through 8, do we have any objections to them going into evidence at this point?
MR. MOWELL: No.
MR. BELT: Other than the previously stated limitations as to the hearsay blurbs that were allowed only for the expert's advice, other than that everything else is admitted, and Mr. Mowell, you're up, sir.
MR. MOWELL: Thank you.
CROSS-EXAMINATION
BY MR. MOWELL:
Q. Ms. Carroll, first on the glare analysis, as Mr. Belt said, what it says is this policy requires the following criteria be met for solar energy systems on airport property, and then it says no yellow glare for any flight path from threshold to two miles, no glare of any kind for air traffic control towers at cab height, so you're saying this applies to Monkton Road? Are

you saying people on Monkton Road will not have glare from these panels?
A. Yes.
Q. Okay, and that's based on this study that's done for airports?
A. That is one use of it.
Q. Okay. And your glare study, you sat at a computer and put in information, and it came out with this result that says there won't be any glare on any place on Monkton Road?
A. Correct.
Q. And your panels are essentially even with Monkton Road, aren't they, the same elevation?
A. That's something our civil can cover.
Q. Well, you picked the site. Aren't the panels close to the same elevation as Monkton Road?
MR. ROSENBLATT: Objection, asked and answered.
MR. BELT: Just for clarification, is it

okay to say you don't know? Do you know the exact elevation of the solar panels?
THE WITNESS: I know that the elevation changes over the site.
MR. BELT: Okay. Mr. Mowell, it might be better to say from your layperson's understanding of the array, the place where the panels are to be located, do you believe it to be at a higher elevation or equal to Monkton Road, or if you don't know, you can still say I don't know.
THE WITNESS: I don't know.
MR. BELT: Okay, so let's wait for the next witness.
MR. MOWELL: Okay.
BY MR. MOWELL:
Q. Ms. Carroll, I heard three different companies when you started talking, you mentioned OneEnergy Renewables, and that is a company from the state of Washington?
A. Our headquarters is based in Washington.

Page 42

We're a national company with solar facilities across the U.S.

Q. And Trillium Solar LLC, what is that? That's the first I've heard of that entity.

A. We have all of our applications and leases under OneEnergy Development LLC. When a project becomes more real, we establish an individual LLC for that project, that is what Trillium Solar LLC is.

Q. When was Trillium Solar LLC established?

A. I don't have the exact date.

Q. Within the last year?

A. Yes.

Q. And it has no assets, does it?

A. I believe that it has the project lease. I'm sorry. At this time it does not have any assets. When the project goes to operation, the assets, which are the interconnection agreement that will be signed and the lease, will be held by Trillium Solar LLC.

Q. And so why will it have assets then if

Page 43

it signs a piece of paper?

A. Because for tax and liability reasons, those assets need to be held in that entity once there are millions of dollars invested in it.

Q. What I show in this case is that the lessee is the third entity, OneEnergy Development LLC?

A. That's right.

Q. That has no assets either, does it?

A. Yes, it does.

Q. What does it have?

A. It has an executed lease agreement and an interconnection application.

Q. Does it have any other assets?

A. No.

Q. Does it have a bank account?

A. No.

Q. It doesn't have any employees?

A. No.

Q. It was formed in Maryland last year, or two years ago?

Page 44

A. Correct.

Q. And it was formed solely for the purpose of signing a lease for this project, wasn't it?

A. No. It is the entity that our parent company uses for all of our development projects across the country.

Q. I'm talking about OneEnergy Development LLC.

A. That's right.

Q. You're saying that entity is involved in all the projects all over the country?

A. Yes, and it is wholly owned by our parent company.

Q. Let me show you what we will mark as Protestants' Exhibit 1 and ask you if this, if you can identify that document.

MR. BELT: Mr. Mowell, I just thought of something, it may not be relevant to your question, but it might save us time. While it's on the board, perhaps if you grab three copies and pass them down, and then you can get to

Page 45

questioning the witness, rather than doing this long walk.

MR. MOWELL: I appreciate that.

MR. BELT: It might be a good idea.

BY MR. MOWELL:

Q. Ms. Carroll, I showed you a printout I got from the Maryland SDAT that says OneEnergy Development LLC was formed in 2014, or at least registered in Maryland in 2014. Would you agree with that?

A. Yes.

Q. Okay. And let me show you another document we'll mark as Exhibit 2, and ask you if this doesn't though that OneEnergy Development LLC filed its personal property returns in Maryland but didn't list any assets. Is that what this document shows?

A. Yes.

Q. So how is this company all over the country involved in all these projects? What you said at the last one was it was formed just for

that other project.
MR. ROSENBLATT: Objection.
MR. MOWELL: I'm asking about just the Maryland project.
MR. ROSENBLATT: Objection. That's a mischaracterization of testimony from a different case altogether.
MR. BELT: I guess the question could be framed, Mr. Mowell, isn't it true that at the last hearing under oath, that you testified that X, Y, Z, and she can tell us whether or not she believes that is her recollection.
BY MR. MOWELL:
Q. Ms. Carroll, as I recall in the last case, you testified that OneEnergy Development LLC, in fact had no assets and was formed for that project.
A. I don't believe that to be what I said.
Q. Isn't OneEnergy Renewables the country-wide company that has projects in various states?

A. It is the parent company that is the -- and this is the wholly owned subsidiary of OneEnergy Renewables.
Q. Okay. And does OneEnergy Development LLC, does that entity have any assets?
MR. ROSENBLATT: Objection, asked and answered.
MR. BELT: Well, just for clarification, because we've gotten a little bit confused between Renewables and Development, and I think now Mr. Mowell just wants a little bit of clarification.
So just to be clear, the actual OneEnergy Development LLC, does that have any assets?
THE WITNESS: I'm not a tax attorney and now I'm concerned about my definition of assets as a project developer versus the actual definition of what an asset is. I can tell you that what OneEnergy Development has is executed lease agreements that we, that form the basis of

what we then develop into project. When the project has an investment of multimillion dollars and takes tax credits for that purpose and liability purposes, I call an attorney and that attorney forms an LLC. I do not personally form LLCs, this is my understanding of our corporate structure.
MR. BELT: And just for clarification, that's what you believe to be the assets, but whether or not they're deemed assets by tax attorneys or folks at SDAT is beyond the purview of your expertise.
THE WITNESS: Well said, yes. I agree.
BY MR. MOWELL:
Q. Ms. Carroll, would you agree that OneEnergy Development LLC, at least in Maryland, didn't pay any tax based on its assets in the state of Maryland?
MR. ROSENBLATT: Objection. The document says what it says, and I think we've exhausted the witness's knowledge on this

subject.
MR. BELT: Mr. Mowell, I think your point is made. I think we're clear as to -- I think you've done your work.
MR. MOWELL: Okay. Just so I'm clear now.
MR. BELT: Okay, you can ask.
MR. MOWELL: Thank you.
BY MR. MOWELL:
Q. As I understand the way you do business, you form an LLC in order to sign a lease, is that right? In fact in this case --
A. No.
Q. In this case, did not OneEnergy Development LLC sign the lease with the property owner?
A. Yes.
Q. Okay. And after that entity is formed and signs the lease, when you start construction, you put that into the name of another LLC, and in this case you formed Trillium LLC for that

purpose; is that right?
A. Yes.
Q. Okay.
MR. BELT: Mr. Mowell, for the record so the Board understands, they are a wider national company, there is an LLC formed for the purposes of lease signing. Once development starts, there is another LLC formed for the specific project, and this Board takes into account that the latter that I mentioned neither has any bank accounts or tangible things, so that's the point that is taken, and we got that from the last one.
MR. MOWELL: Thank you.
BY MR. MOWELL:
Q. And not to beat a dead horse, but the entity that signed the lease is OneEnergy Development LLC and is that, we've established that?
A. Yes.
Q. You're familiar with the solar law here in Baltimore County that says the lessee and the

owner are responsible for maintaining this project during the life of the project?
A. That's right.
Q. And so we are to rely on OneEnergy Development LLC as the only legal entity that is responsible under our law to maintain this site.
A. Yes.
Q. And how do you think that makes us feel when an entity has no assets and it has to maintain a site for 30 years?
MR. ROSENBLATT: Objection.
MR. BELT: Sustained as to her ability to --
MR. MOWELL: Empathize?
MR. BELT: -- be sensitive to your feelings.
MR. MOWELL: Thank you, Mr. Belt.
MR. MCCOMAS: Ms. Carroll, is OneEnergy Development actually a Washington entity, that's involved here?
THE WITNESS: I know that we do, we have

filed here, OneEnergy Development I am -- it was formed in Washington.
MR. MCCOMAS: So it filed an annual report, personal property type or whatever the local jurisdiction or state requirement was in Washington as well?
THE WITNESS: Yes.
MR. MCCOMAS: And this year it filed in Maryland because it was starting to do business in Maryland.
THE WITNESS: That's right.
MR. BELT: And that's why on the form it says date of formation/registration, so it could be that it was just registered here.
THE WITNESS: Yeah. Just to be clear, I think the foreign is because it's not Maryland only.
MR. BELT: Okay. Mr. Mowell?
MR. MOWELL: Thank you.
BY MR. MOWELL:
Q. So there is a written lease with this

property owner?
A. Yes.
Q. And do you have that lease with you?
A. No.
Q. How long is the lease, the period of time?
A. My recollection, not having the lease in front of me, is 25 years, with two five-year extension options.
Q. And do you know anything about the party that you leased with, this HHK LLC?
A. Yes.
Q. What do you know about HHK LLC?
A. It is owned by Mrs. Stephanie Rexroth, who was given it by her family.
Q. Her family? Who told you that?
A. She did.
Q. Have you met -- how many times have you met with Ms. Rexroth?
MR. ROSENBLATT: Objection. What's the relevance to this?

MR. BELT: I'll allow one or two more questions about Ms. Rexroth. We did let in her letter. Do you have another question about the owner?

MR. MOWELL: I do, and you're not going to hear from her. I think we are allowed and should find out what we know about her and her reason for this project and most importantly, her finances, whether she can sustain for 30 years a requirement to maintain a place if they don't, and then to decommission the site. So that's why my direct, my questions are directed to the only person I think I can get this information from, which is Ms. Carroll.

MR. ROSENBLATT: We did cover this issue in the prior proceeding. The owner of this property's financial situation has absolutely no bearing on this petition for special exception. There is a requirement in Baltimore County solar law that an applicant for a building permit for a solar facility shall provide a security bond or

equivalent financial security. That is the only party that will have any financial obligation, whoever applies for the building permit. The owner has absolutely no bearing on this.

MR. BELT: Okay. Mr. Mowell, what did you want to say?

MR. MOWELL: I disagree with that interpretation of the law. I think the bond is a last gasp stop if the people who are responsible under this statute don't pay, and that is the owner and the lessee. On most construction projects, there is a payment or in this case a performance bond that says if the people that are supposed to do what they do don't do, then we can go after this bond, but we certainly have the right to find out the finances of the owner and the lessee on a project that's going to last 25 years.

MR. BELT: Well, I would rule, one, I believe I concur with Mr. Rosenblatt and as a practical experience, that this Board delving

into the finances of applicants is not something that's usually in our purview.

But the second part of my problem here is I think we're just, we're basically going to ask for tons of hearsay, because this individual is going to be asked to speak to the personal finances and conversations with another individual.

So on both those grounds, I believe I'm going to sustain -- I think there was an objection. If there was one, it is sustained, and we're going to proceed on to other grounds.

MR. MOWELL: Thank you.

BY MR. MOWELL:

Q. Ms. Carroll, let's talk about your procedure to choose a site. When did you first physically see this site?

A. I'm sorry, I'm just trying to find -- about a year and a half ago. Just for full disclosure, my team selected this site before I came on board. When I came on board, I went to

see the site, and meet Ms. Rexroth and her husband.

Q. Had you signed a lease by that point, by the time you first saw the site?

A. Yes.

Q. When you signed the lease, did you know there were any wetlands on the site?

A. I did not sign the lease. What I can describe is the process that we went through. We don't rule out properties that have wetlands on the site. I am aware that there are portions of the site that have wetlands. We are not planning to locate our facility in those wetlands, and we will observe all of the county requirements on setbacks and best management practices with respect to wetlands and stormwater management.

Q. Did your company learn that there were wetlands on this site before or after it signed the lease?

MR. ROSENBLATT: Objection. What's the relevance?

MR. BELT: Well, I'll see where Mr. Mowell is going, that might be a foundation question, so if the witness knows.

THE WITNESS: Before. Part of our determination, to follow on to that, was that there was sufficient land outside of the wetlands or other environmental constraints that would allow the technology, no high slopes, no floodplains. We're aware that there's a larger part of this property that we will not be using and will not be leasing.

BY MR. MOWELL:

Q. Well, you can't put solar panels in a wetland, can you?

A. We are not planning to put solar panels in a wetland.

Q. I know. You can't, can you?

A. We don't -- no, we do not, no.

Q. I have unfortunately just one copy. Does OneEnergy have a website?

A. Yes.

Q. Let me show you, is this from your website?

A. Yes.

Q. So a commonly asked question, is solar a good fit for your property? Working with you, OneEnergy completes an initial review of the proposed site to insure that it has three key ingredients, dependable amounts of sunshine, relatively flat land free of trees or wetlands, and close proximity to electrical infrastructure.

A. May I see that again?

MR. BELT: Ms. Carroll, for the record, can you confirm that this is from your website?

THE WITNESS: Yes.

MR. BELT: So you would concur that the language that Mr. Mowell read into the record is present on your website.

THE WITNESS: Yes. I did not write it.

MR. BELT: Well, that's okay. As the representative, you concur that it is on the website?

THE WITNESS: I'd like to point out that it uses the word proposed site. In our industry proposed site means the area where we will be locating the facility. You can see that then it says if the land is suitable, OneEnergy will offer the property owner a lease. The intention is that once we establish where the panels will go, that is the area that will go under lease.

BY MR. MOWELL:

Q. So you're saying it's okay to have wetlands on the property, if they're adjacent to where you're going to put the panels, that's not a problem in choosing a site?

MR. ROSENBLATT: Objection to adjacent. That wasn't the testimony.

MR. BELT: I'll let you clarify that on cross-examination, but the witness can clarify the, her answer to that question.

THE WITNESS: Could you repeat the question?

BY MR. MOWELL:

Q. It sounded to me like you -- well, you will accept a site if the site has wetlands adjacent to where you intend to put the panels; is that correct?

A. That's a broad generalization. I can tell you what my experience is and what I look for, and what I look for is a site where we can comply with county codes and not have any environmental, detrimental environmental impacts, including impacts to wetlands.

Q. All right. So you agree with your website, where you're looking for relatively flat land free of trees or wetlands?

A. Yes.

Q. Okay. But you chose this site that's got three separate areas of wetlands.

MR. ROSENBLATT: Objection. There's no basis that's been laid for that claim.

MR. BELT: Well, how about the -- that is sustained, but you must lay the proper foundation. The question would be, are you

familiar with the topography and the features of the site?

BY MR. MOWELL:

Q. Ms. Carroll, I'm going to ask this question. Have you seen Petitioner's Exhibit 1, the site plan for this site?

A. Yes.

Q. Is there a key up here that says existing non-tidal wetlands limits?

A. Yes.

Q. Are there three areas on, four areas on this property that correspond to that crosshatching for existing non-tidal wetlands limits?

A. Yes.

Q. Are there four areas of wetlands on the property that you chose for this site?

A. We chose an area that is free of wetlands within where we will put the panels.

MR. BELT: The original question, just to clarify and put an end to it and move on, you

acknowledge that on the property, not on the special exception area, there are four areas of delineated wetlands?

THE WITNESS: Yes.

MR. BELT: Okay.

BY MR. MOWELL:

Q. And do you know that the Baltimore County solar law allows solar facilities not just in the RC zones, but also the business zones and manufacturing zones?

A. Yes, that was part of our original screen, we looked at locations there as well, my team did.

Q. Do you know what the zoning is on the site that you selected?

A. Yes.

Q. What is it?

A. RC-2.

Q. Back to your website, so after you talk about your site selection, the next line says, the next phase referred to is due diligence

usually takes 18 to 36 months. During this time we will conduct in-depth studies and secure necessary permits.

A. Yes.

Q. What in-depth studies have you done?

A. Well, our civil engineer can speak a little more to this, but we've done wetland delineations to insure that we have adequate buffers from that area, and boundary surveys, topographic surveys, and archeological surveys.

Q. Has OneEnergy Renewables itself done any in-depth studies?

A. Yes.

Q. What has the company done?

A. That is what the company has done, again, under the whole, its wholly owned subsidiary.

Q. Do you know what type of soil is on the property?

A. Not offhand, but we did evaluate the soils, yes.

Q. And is it prime and productive soils?

A. I don't know.

Q. Do you know if it was being farmed as of last year?

A. Yes.

Q. What was its use as a farm, what was being grown?

A. There was winter wheat, and that's all I know of right now.

Q. Do you know how long it had been farmed?

A. I know that her family has been farming it since the early 1900s, yes.

Q. And Ms. Rexroth does not live on the property, does she?

A. No, she does not.

Q. She lives in Red Lion, Pennsylvania?

A. Yes.

Q. Does anybody live on the farm?

A. She's not a full-time resident. She does come down, so no, it is not rented out or otherwise, does not have other residents.

Q. I'm looking at your Exhibit 6, overview of site selection process. It looks like you got down to eight landowners who were interested in working with you; is that right?

A. That's right.

Q. And out of the eight, two signed a lease with you?

A. That's right.

Q. So the only two landowners in Baltimore County who expressed interest in signing a lease with you, you agreed to sign a lease?

A. Are you asking if other people called us?

Q. Did other people call you?

A. I don't know.

Q. Well, I'm looking at your chart.

A. Uh-huh.

Q. There were eight landowners with some interest in speaking with you, and two entered a lease with you.

A. That's not what the document says.

There are eight parcels where we had a conversation with the landowner. Those are not the only eight in all of Baltimore County who were interested in solar.

Q. Let me ask it this way. Of the eight who were potential lessors, did you reject any of them?

A. Can you repeat the question?

MR. BELT: Was there anybody who was really interested in getting a solar facility that you said no, we're not giving you one?

THE WITNESS: Possibly.

BY MR. MOWELL:

Q. Who was that?

MR. ROSENBLATT: Objection, relevance.

THE WITNESS: I don't know.

MR. BELT: The objection at this point in time is sustained, I think we've heard enough, we know that two people entered leases, and for this Board that's all we need to know at this point. Well, actually, not two, one, this one.

BY MR. MOWELL:

Q. Ms. Carroll, just a few more. I'm looking at your Trillium exhibit, Exhibit 4 I think it is. You said PV panels are not considered hazardous to the environment and are not, and are nonflammable. What is your basis for saying they are nonflammable?

A. Well, you see I put a reference in there to a report. We've also covered it, quite a number of facilities that are operational that have not had any issues and that were approved by local fire departments.

Q. Are you saying there that a solar array cannot catch on fire?

A. No.

Q. Can a solar array catch on fire?

A. I don't know.

Q. Have you seen a fire at or from a solar array?

A. No.

MR. BELT: Let me clarify that answer.

Have you seen one, that would imply that you were present for the visual conflagration of same. I guess the other question is, are you familiar with one of your facilities catching on fire?

THE WITNESS: No.

MR. BELT: In the industry, are you familiar with any others, or someone else's project catching on fire.

THE WITNESS: No.

MR. BELT: Okay, thank you.

BY MR. MOWELL:

Q. Well, Ms. Carroll, would you agree that a facility with thousands of panels creating electricity, running wires through an inverter to a transformer, there is a potential that that array could catch on fire?

MR. ROSENBLATT: Objection.

THE WITNESS: I would not agree.

MR. BELT: Basis?

MR. ROSENBLATT: We've established the extent of this witness's knowledge on the

subject, and now he's asking if something is possible. It calls for speculation.

MR. BELT: I guess the proper objection is it calls for speculation. Mr. Mowell, your question is a bit broad. If you're asking if it's possible, then this Board does take notice that anything is possible, and things might burn, but I guess her testimony is in keeping with best practices and in her knowledge of the industry, that fires do, she didn't even say not common, she's unaware of same, so let's leave it at that.

MR. MOWELL: No, she disagrees, I'm fine with that.

MR. BELT: Okay.

MR. MOWELL: I think that's all I have, thank you.

BY MS. DEMILIO:

Q. Good morning, ma'am.

A. Good morning.

Q. Let me just ask you a few more things about the maintenance of this facility. As you

know, the Baltimore County zoning regulations require maintenance, continued maintenance. For this particular solar facility, what is your understanding of what entity is responsible for the maintenance, who would that be.

A. Right now the applicant, OneEnergy Development LLC. Prior to beginning of construction, that obligation will transfer, as will all of the assets, to Trillium Solar LLC. That entity and its investors will be responsible, so that could be a bank in addition to OneEnergy Renewables. That's just to clarify, that entity will be responsible.

Q. Have you seen a maintenance plan developed by OneEnergy?

A. I have, yes.

Q. Do you have it with you?

A. I don't.

Q. So in terms of the maintenance of this facility, what, in terms of how often it's going to be inspected and so forth, is that included in

the maintenance plan?

A. Yeah, once a quarter or as needed if there is an issue, is onsite maintenance, that's our best guess. And so there will be, you know, one person on contract as I described if there's an emergency situation, and then the project is remotely monitored at all times. Our interests are aligned not to let the facility sit there if it's not generating, so if something is wrong, we will go and fix it. That includes vegetative management because if you have one corner of the bottom of the panel shaded by vegetation, it decreases the energy production of the facility. So our interests are aligned both on maintaining the equipment and maintaining the ground.

Q. I'm particularly concerned about the landscaping.

A. Sure.

Q. Who, is it the same entity that would be responsible for replacement of the landscaping if --

A. Yes.

Q. -- for some reason a tree falls over or dies?

MR. BELT: Just for the record, if you could wait for the end of the question, ma'am. She interrupted your question. I believe the answer was, is there someone who's going to take care of damaged vegetation or vegetation that dies, and is it the same entity, and the response was yes.

MS. DEMILIO: Thank you.

BY MS. DEMILIO:

Q. So what is your understanding of resources to replace landscaping, and in this area I can guarantee you that that will likely happen, so what are the resources to take care of that at the facility?

A. Sure. Can I give an example of an operating facility? In Maryland we had a facility that the landscaping was installed a year and a half ago, and the high winds in

Frederick, there was an issue with establishment of a few of the trees and those were replaced.

What the entity, Trillium Solar LLC will do, is contract with a local landscaping firm to go out and take care of those types of replacements and repairs.

Q. And the (unintelligible) who, Trillium?

A. Yes. When anyone invests in a project, that is part of the calculation of how much the project will cost to install, is ongoing operation and maintenance costs, including equipment replacement and annual maintenance, quarterly and annual maintenance.

Q. So if there is a maintenance and operation plan, will that be an agreement with the landowner or Baltimore County, do you know?

A. I know that if county zoning allows, we like to be that entity. Sometimes on stormwater or road maintenance, it needs to be with the landowner, and then we would sign an agreement with the landowner, so it will be our

responsibility, there might be some logistics involved there, but yeah.

MS. DEMILIO: Let me just ask you, changing the subject now, I think, and correct me if I'm wrong, Mr. Rosenblatt, but I think you said the special exception site is 19 acres and the panels will be 13 acres, is that correct, more or less?

MR. ROSENBLATT: That's approximately what I said. I can tell you that the next witness will testify to the exact number.

MS. DEMILIO: All right.

BY MS. DEMILIO:

Q. My question is, what are the expectations for --

A. I'd prefer if our civil engineer and electrical engineer went through the rationale for the layout.

Q. But when you selected the site, had you determined what it needed for the special exception, was that part of your responsibility,

or your team's?

A. I work with our civil and electrical engineers, so they would be able to get into those specifics.

Q. So you defer to their recommendations initially?

A. Yes.

Q. That's what I wanted to know, you deferred to them?

A. Yes.

Q. And are you, do you know -- I assume that the Baltimore Gas and Electric feeder is at least two megawatts. Do you know the maximum capacity of that feeder, for future megawatts?

A. No. The answer is no, and that is not something BGE would share with us. They study our facility and if the grid can allow for that capacity to come on line.

Q. That's all?

A. Yeah.

Q. They don't discuss future capacity?

A. No.

Q. Now in your lease agreement with the landowner, the property owner, is there a provision for expansion if the special exception --

A. No.

Q. You have to let me finish my question.

A. Okay.

Q. If there's (inaudible) requires expansion beyond the two megawatts or if you feel that you could accommodate more than two megawatts as well, is there any provision that would lead to that expansion?

A. No, and the program that we're a part of, the community solar program, would not allow us to be a part of a program if we expanded beyond two megawatts, that is the limit.

Q. But if the program expands beyond two megawatts.

A. The legislation that guides the program has that limit.

Q. But you would agree that legislation changes all the time, right?

MR. BELT: I guess the question is, if the legislature saw fit to increase the allowed capacity, is there any provision in this lease that would allow you to expand this facility?

THE WITNESS: No.

BY MS. DEMILIO:

Q. Nationwide, has that occurrence ever happened with OneEnergy Renewables, where there was an expansion beyond what was initially sought?

A. No.

Q. If such an expansion were permitted by either the legislature and also that BGE could accommodate it, would you agree that this, if this facility is approved, it wouldn't cover that expansion, do you agree with that, you would have to come in for a new approval?

A. Yes, and we would not pursue that project, because it requires a different level of

permitting and a number of other factors, different customers, different -- we would not be interested in a project beyond two megawatts at this site.

Q. So you're saying OneEnergy Renewables at this site, but they have other projects greater than two megawatts?

A. We do, but they were not put in and then expanded.

Q. Now, is this the first for-profit facility in Maryland? I think you said there were other project in Maryland that were nonprofit?

A. Sorry, to clarify, the person we sold the energy to is sometimes a nonprofit or a hospital or university. We are not a nonprofit.

Q. Okay. Other than these projects that you've listed in your Protestants' 4, what are the other projects in Maryland, or do you have any other -- excuse me. Do you have any other projects in Baltimore County?

A. Not operating.

Q. But you have other applications in Baltimore County, right?

A. One other application.

Q. What about, do you have other operations in Maryland?

A. Yes.

Q. Now when you talked about 50 employees are for this project, I assume that means for construction?

A. Yes.

Q. So they will be gone shortly after construction which takes, you said, a couple months?

A. Correct.

Q. So there's no onsite representative of OneEnergy Renewables, OneEnergy Development or Trillium, right?

A. That's right.

Q. Now in terms of the panels, do you have a, is that covered by your expertise, the panels

that are used for these projects?

A. Limited. I don't personally procure them.

Q. All right. Are you familiar with the capacity of the panels what will be used on this project?

A. The final wattage is what, the terminology we use of each panel, is determined by what's available in the market. It's all within a very limited range of wattage so that may mean -- that's the extent of what I can say. The panels are procured two to three months prior to operation when we're ready to make that millions of dollar level investment.

Q. So you wait until after approval?

A. Yes.

Q. So can you express to this Board that sufficient panels will be used for this project? In other words, you said that what's available in the market, but I assume that technology changes fairly rapidly?

A. From year to year. The wattage remains in a limited band, so yes, we balance cost with efficiency, but the panels are fairly standard within that range. Sorry, I'm really getting outside of my --

MS. DEMILIO: Is there someone else here who can testify to that?

MR. ROSENBLATT: I can tell you the next witness will be the engineer that can probably answer all these questions.

BY MS. DEMILIO:

Q. I don't know if I asked you this questions, but if 19 acres is required, the 13 acres will be the panels, and did I ask you, what are the other six acres going to be used for?

A. You did ask, and I said it's better answered by the other experts.

MS. DEMILIO: I think that's all the questions I have.

MR. BELT: Mr. Rosenblatt, do you have anything?

MR. ROSENBLATT: Very briefly.

REDIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. With respect to your glare study, do the locations you selected, does it test for glare into the air for airplanes from those locations, or on the ground?

A. On the ground.

Q. With respect to your corporate structure, is the structure employed in this case, is that typical in the solar industry?

A. Yes, it is.

Q. Is that similar to the structure on all of your company's projects?

A. Yes.

Q. And with respect to wetlands, are you proposing to put any panels in wetlands on this property?

A. No.

Q. Are you cutting down even a single tree to install this solar facility?

A. No.

MR. ROSENBLATT: Thank you. Nothing further.

MR. BELT: Anything further in light of those questions?

RECROSS-EXAMINATION

BY MR. MOWELL:

Q. Ms. Carroll, this structure typical for your company in Baltimore County, of creating entities for signing a lease and then construction?

A. Yes.

Q. That's your testimony, and you have two projects in Baltimore County?

A. Yes.

Q. And that's how you've done it in Baltimore County?

A. Yes.

MR. MOWELL: Thank you.

MR. BELT: All right, ma'am, thank you very much.

(Witness excused.)

MR. BELT: We will take maybe seven minutes, if you could maybe share the CV of the next witness if there is one with all the parties involved, and we will be ready for the next witness.

MR. ROSENBLATT: Thank you.

(Recess from 10:38 to 10:52 a.m.)

MR. BELT: All right, everybody can have a seat. Call your next witness, sir.

MR. ROSENBLATT: Matt Durette. While he's walking up, I put a copy of one marked as Exhibit 9, and three copies for each of the board members.

MR. BELT: All right, Mr. Durette, if you'd remain standing for a moment, sir?

Whereupon,

MATTHEW DURETTE,

being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Page 86

MS. DOPKIN: Would you state your name and address for the record?
THE WITNESS: Matthew Durette.
MS. DOPKIN: Spell it.
THE WITNESS: Durette is D-U-R-E-T-T-E and I'm with OneEnergy Renewables. Our office is 2003 Western Avenue, Seattle, Washington.
MS. DOPKIN: Keep your voice up, if you would please?
MR. ROSENBLATT: We're going to have you yell your entire testimony, because I think your yell is going to be okay for this room.
MR. BELT: Have we heard from Mr. Durette before?
MR. ROSENBLATT: Mr. Durette did testify in OneEnergy's other case. He was accepted as an expert mechanical engineer with particular knowledge of design of solar panels, requirements for laying out solar facilities.
MR. BELT: Mr. Mowell, do you recall that, sir?

Page 87

MR. MOWELL: I do, yes, and I don't have any voir dire.
MR. BELT: Okay, thank you. Ms. Demilio?
MS. DEMILIO: No voir dire.
MR. BELT: Okay, then we can proceed. He is accepted as, the expertise previously stated, and we will proceed.
MR. ROSENBLATT: And I have marked for the record his resume as Exhibit 9 and just ask that that be admitted, I guess with no objection.
MR. BELT: It's admitted.

DIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Durette, what's your current position with OneEnergy?
A. I'm the director of engineering at OneEnergy.
Q. When did you get that job?
A. In the summer, May, June.
Q. So since we put together this resume and you last testified, you were manager of project development. Is that a new title?
A. Yep, that's a new title.
Q. Okay. Let's talk about the panels that are proposed to be used as part of this facility. Can you explain what type of panel it is and how it works?
A. Yep. We're proposing silicon crystalline photovoltaic panels, so they are similar to what you see commonly, 72 cells, in size roughly six foot by three foot, and they're comprised of 72 silicon cells strung together in series with a glass top sheet. The glass top sheet has an antireflective coating that's lightly textured and there's an aluminum frame on the outside and a plastic backing to the module. Module and solar panel are synonymous with one another.
Q. So, are these the panels that will move throughout the day?
A. Yep, they will be mounted on a single axis tracker so they will actually roll from east to west throughout the day very slowly with the sun as it moves across the horizon.
Q. What impact does that have on the efficiency of the panels?
A. Well, if we point them directly at the sun, we can get more energy out of them than if they're at a fixed orientation.
Q. When they tilt -- you talked about the size of each panel but when they tilt, what's the tallest that one of these panels will ever be?
A. So at the maximum tilt, which would be the morning or evening, the very top of the panel would be in the eight- to nine-foot range.
Q. Can you explain all of the building materials, what they're made of, what the posts are made of, et cetera?
A. Yep. So the tracker system has steel piles, the piles are galvanized steel, they're thin gauge cold rolled steel, and also a steel torque tube that the panels are mounted on that

Page 90

run north-south the length of the tracker table. And so the, you know, the tracking system is mostly steel and aluminum, and the panel, I mentioned the materials of that already. The balance of the system would be electrical boxes and wiring which, the wiring would either be copper or aluminum wire.

Q. Now I've learned through our other case the word thin film and cadmium. Can you explain what those are and whether they will be present on this facility?

A. Sure. So, thin film panels or modules are a different cell technology that, the core material is cadmium telluride, and just to be clear, we're not using that technology here, the Trillium solar project, we're using crystalline silicon cells.

Q. Would we accept the condition that no thin film cadmium filled panels be installed as part of this facility?

A. Yes, we would.

Page 91

Q. Why don't we, if you can, and we're going to have to have you really keep your voice up, but if you could approach the exhibit on the board that's marked as Exhibit 1 and explain to the Board the general layout of the proposed facility. And really yell, so the microphones can pick you up and so everyone can hear you.

A. Okay. So the array layout is familiar, it's the same location and size that we proposed at the last Trillium project in May. There's an access point off Monkton Road that is the same access point where it is currently, and this gray area here is a gravel roadway which leads into the array. As you can see, all the tracker tables are these lines that run north-south, they're about 287 feet long.

So, there's also a fence around the array, and two equipment pads shown. This pad here that's centrally located within the array will have the inverters, or inverter and a step-up transformer, and this pad here will have a switch gear with some utility switches in here.

Page 92

Q. Just so the record is clear with respect to the first pad that you mentioned, inverter and motor, is that located just left or west of sort of the T in the access road?

A. Yep, that's correct, so there's a T turnaround within the array and it's probably hard to see, but there's a small pad just at the end of the T turnaround and that's where the inverters are located.

Q. And more in the, I guess right on the northern edge of the fenced in area, is that the second pad, equipment pad?

A. Yes, the second pad is close to the gate, maybe 50 feet or so away from the gate. That's where the utility's equipment will be placed.

Q. Okay. Where is the, I guess drive line, and where does this connect to the utility grid?

A. Sure. So the trackers, there's different types of single axis trackers, some have a motor on each table, some have one motor for an array that's connected by a drive line. We haven't selected the specific tracker at this time, but if there is a drive line selected, it will run right through the middle east to west, connecting the tracker tables for this array in the middle, the drive line would run right through the middle.

Page 93

Q. Okay. And where does this connect to the utility grid?

A. So, as proposed on this drawing, there's a connection point on the far north. There's actually breaking news here, I was working with BGE yesterday to try to reduce the length of the run and reduce the impact, so we actually are currently discussing a location, a pole location, existing pole location right in this region on the corner of this drive here.

Q. Okay. What will that look like once the installation is complete, will there be any above ground wiring or components?

Page 94

A. So, the proposed diagram shows underground north, and then either underground or overhead across the street. So if anything would be overhead, it would just be the two poles across the street, but we haven't worked out the final design. Similarly, if we use this location which is closer to the project and not in anyone's front yard, which is good to reduce impact, there would just be, if we go overhead, it would just be a road crossing directly across, and then underground to the utility gear pad.

MR. BELT: For the record, what road is that you're pointing to?

THE WITNESS: It's not labeled on the plan.

MR. BELT: What about the big road?

THE WITNESS: Oh, Monkton Road.

MR. BELT: So that is Monkton Road. Just for the record, you're hooking up to a pole at one of two locations thus far, that is presently on Monkton Road?

Page 95

THE WITNESS: Yes, that's correct. We're studying the alternative options for less impact.

BY MR. ROSENBLATT:

Q. When you say less impact, what do you mean by impact?

A. Well, just less conductor to run to it, and it's, we like this particular pole because it's not near anyone's home.

Q. Is there currently a line of wires and utility poles along Monkton Road?

A. Yes, there is a three-phase, two three-phase circuits on the same set of poles that runs along Monkton Road, and there's utility poles in each of these yards along the road.

Q. Would you be using an existing pole to hook up to?

A. Yes.

Q. Let's talk -- you can probably take a seat.

I think one of the first things that

Page 96

came up is how big is the special exception area and how much area of solar panels is shown on the site plan. Can you give those answers?

A. Yes. The special exception and array layout are the same as before, so just under 13 acres of panel area and I believe the special exception is around 19 acres.

Q. Okay. What -- let's answer that question. Why do you need more special exception area than panel area?

A. Let me go back up to the layout to point out some examples, but of course if panel area is where you see the darker colors, but we need additional area for access to the site, to incorporate new landscaping which our landscaping expert will discuss, for access from the perimeter around the panels, and also for material lay down, which then will be repurposed for pollinator habitat or something. So there's lastly, a little bit of flexibility we really hope to have, frankly we don't have much, you can

Page 97

see our fence runs right along the special exception boundary. There's a couple small, small spaces that if we had to slide the fence down for whatever reason in the future, we have some flexibility but not much, we're really, the special exception area is very close to our boundary.

Q. Okay. Let's talk about the installation of these panels. How does that happen, how do you install solar panels?

A. Sure. So the first thing that would happen would be driving the piles that form the foundations, so there's a small pile driver machine which will be on tracks and it just rams the piles in, vibrates them a little bit, and around the same time any underground wiring would be trenched. And then from there the mounting system is assembled, the tubes are put, the bearings that tubes are put on top of the piles, and the panels are then fastened to the mounting system and wired together in series. The panels

Page 98

are configured with about 28 modules connected in series.

Q. Do you know approximately how far apart the piles are, or the panels themselves are?

A. Approximately, the piles, maybe a span of ten or so feet, and then the second part of that?

Q. Are the panels spaced a certain distance?

A. Panel spacing, so the east-west spacing is, at this site it's just under ten feet, 9.6 feet.

Q. Let's talk about some of the specific code requirements. Are all above ground components of the solar facility, including solar collector panels, inverters and similar equipment, set back at least 50 feet from the tract boundary?

A. Yes.

Q. And you've answered how many acres of solar panels are shown on the plan. I think I

Page 99

said 14; what's the correct number?

A. It's 13.

Q. And in your opinion, is this the area needed to produce no more than two megawatts alternating current of electricity?

A. Yes.

Q. If you were to make this array smaller, would you consistently produce two megawatts of energy?

A. No, we would not consistently produce two megawatts.

Q. In terms of some of the impacts from this facility, are there any fossil fuels used for the inverter, the motor, anything like that?

A. No, there's no fuels, there's nothing toxic in any of the equipment.

Q. I think you mentioned steel galvanized poles; is that something commonly used in construction?

A. Yep, it's very common to have galvanized steel just to avoid corrosion.

Page 100

Q. And how about in terms of radiation, is there any radiation from solar panels?

A. No.

Q. Something that came up in other cases, cleaning products, are any chemicals, soaps, anything else used to clean solar panels?

A. No, there's no chemicals. There's actually no cleaning at all because of the rain here, there's enough rain here that they self clean.

Q. If you needed to clean them, what materials would you use to clean them?

A. Just water.

Q. Can you just discuss the likelihood of catching on fire? That was a question raised earlier today.

A. Yeah, I can address that. The inverters have what's referred to as a ground fault detection and interruption system. I believe the question was about electrical fires, so addressing that, inverters have a ground fault

Page 101

detection interruption system which if a wire in the system were damaged and short circuited, then the inverter can detect that and shut down. Modern inverters have an ungrounded design, which means they can detect it on both negative and positive wires, so it strongly eliminates the possibility of a fire.

Q. Do you know how far away this location is from the nearest fire station?

A. Not offhand.

Q. Okay. If the inverter shut off, does that impact the amount of energy that is generated from a solar facility?

A. Yes, if the inverter shuts off, then the inverter is producing zero energy.

Q. Does your company get paid if you stop producing energy?

A. No, we do not.

Q. Now I'm going to try to answer Ms. Demilio's question. She was asking about the highest best technology available in this

industry. Can you explain what your company's goal is when it comes time to purchase these panels?

A. Yes. At the time we purchase the panels, it's in our interest to procure the most efficient modules available to us. So when we talk about available, because we're looking at a lot of modules, it's not a small system, so about 9,000 modules, so we're making sure that they're available and competitive, and price is very important.

Q. Why do you say it's in your interests?

A. It's in our interests because if we can use a higher efficiency module we have less quantity of them, so less man hours to install them and less area to install them on which, we release the area, so it helps the project if we can use higher efficiency modules.

Q. You answered a number of questions about impacts. Can you think of any other impact other than having to see these panels?

A. No, I can't think of any other impact.

MR. ROSENBLATT: All right, nothing further.

MR. BELT: A brief question. In your expertise and in your experience, can you state that you have designed this project to optimize the least amount of acreage to produce the necessary wattage?

THE WITNESS: Yes, to produce the necessary megawatts, two megawatts on this facility.

MR. BELT: Now to further expand, can you tell us the factors that you employ that affects the shape of the array, where you put the array in the space it requires.

THE WITNESS: Sure, and the geometry of it, I guess a lot of that has to do with the site and every site is a little bit unique, but you have obviously the shape of the field and the boundary of the trees being the main constraint, so that will shape the array. And how we laid it

out in this manner is simply a matter of getting the trackers where we want, so we're trying to essentially place them that way.

MR. BELT: So you're trying to maximize, the game is to maximize the sun exposure?

THE WITNESS: Yes, exactly, and we actually, if you recall, we actually back in May, we moved the project even closer to the trees than we initially attempted to, there were concerns about the setback, so we are being very aggressive in getting closer to the trees, as far as shade loss.

MR. BELT: So there is realistic limitations due to topography, to foliage and things, to get maximum sun exposure, which would explain why we can't just bunch all of those as close as we can together in acreage to get two megawatts?

THE WITNESS: Correct, and they shade each other, so you can't just shrink the rows down.

MR. BELT: Right, they shade each other, okay. I have no further questions.

MS. DOPKIN: I have a brief question. Do you know from your experience on other solar arrays if any of these panels are likely to fail?

THE WITNESS: Well, we totally will procure modules that are what's considered in the industry as tier one and have gone through UL and IEC certifications, so we need the highest quality panels because we want reliable products.

MS. DOPKIN: Have they ever failed?

THE WITNESS: Occasionally, but when you install thousands of them, you have some that may need to be replaced.

MS. DOPKIN: How do you detect them?

THE WITNESS: So we have a data acquisition system that monitors the output of the inverter, and the inverters are monitoring the input on the direct current side and the array side, so we can compare one of them to the other actively during operations, and if there

were a performance issue, it would be investigated and located on site by a technician.

MS. DOPKIN: And then what do you do?

THE WITNESS: Well, if there's a performance issue with any panel, it would be replaced.

MS. DOPKIN: So they bring in a truck, and it pops one off like a Lego?

THE WITNESS: Yeah, they're clamped on, so they just unscrew the clamps and pull the energizer first, and then they're plugged together, and there's just a quick tool to unplug them and remove it.

MS. DOPKIN: Thank you.

MR. MCCOMAS: I have a question, and this may have been more suited for her. You have like a 24-hour maintenance, you know, a monitoring station of the grid I assume, right, of what's going on on all the panels?

THE WITNESS: Yeah, so we monitor.

MR. MCCOMAS: So you do have something

like that?

THE WITNESS: Yes.

MR. MCCOMAS: So suppose a deer jumps over the fence, an unlikely scenario. Who is a citizen, does your company have a path in which a citizen could call your operating center and say hey, there's a child in there, or there's a deer in there, because it's not connected to your sensors. Is there a path for the community to do that?

THE WITNESS: I'm not a hundred percent sure, but signage would be there.

MR. MCCOMAS: Thank you.

MR. BELT: All right, you can have a seat, and I believe -- I'm sorry. Mr. Mowell.

MR. MOWELL: Thank you.

CROSS-EXAMINATION

BY MR. MOWELL:

Q. Mr. Durette, you said if you use higher efficiency panels, they can cover less area; is that right?

A. Uh-huh.

MR. Belt: Is that a yes?

THE WITNESS: Yes.

BY MR. MOWELL:

Q. And so according to Ms. Carroll, you balance the efficiency with the cost of the panels, right?

A. Yes.

Q. Okay. And so if other people can get two megawatts out of less acreage, wouldn't you agree that your company could get two megawatts out of less acreage if you used more efficient panels?

A. Yes, that's what I said.

Q. And are you familiar with the solar law in Baltimore County, have you read the law?

A. I'm not familiar.

Q. Okay. And I wrote down that you were talking about the GFI's and you said that strongly eliminates the possibility of fires out of these arrays.

A. Yes.

Q. Are you telling us that it's impossible to have a fire in a solar array?

A. Extremely unlikely, yes. Nothing's impossible, I think we covered that already.

Q. Well, I happen to have what's called a Fire Safety, Firefighter's Safety and Emergency Response for Solar Power Systems, by the Fire Protection Research Foundation. Can you explain why there would be such a study if there's no possibility of fires in a solar array?

MR. ROSENBLATT: Objection, speculation.

MR. BELT: Well, Mr. Mowell, the objection's sustained at this time, but I believe a proper foundation could be useful. A proper question could be, are you familiar with such?

BY MR. MOWELL:

Q. Mr. Durette, are you familiar with this document? I'll show it to you.

MR. ROSENBLATT: Can I see it?

MR. MOWELL: I'm sorry.

MR. ROSENBLATT: Did you bring a copy?
MR. MOWELL: No.
MR. ROSENBLATT: Did you bring a copy of any of your exhibits that you have?
MR. BELT: Well, at this point in time it's not an exhibit, we're just going to refresh the recollection of the witness, and then we'll address whether or not it will be put into evidence.
MR. ROSENBLATT: I'm going to object to this having any relevance to this case. This appears to be a document from Quincy, Massachusetts, from 2010. I don't see what bearing this could possibly have on this case.
MR. BELT: Well, think the testimony -- I don't know what's in the document, but the testimony is it's highly unlikely that there's fires. Mr. Mowell, I believe, has information that there is some, at least some discussion of it in circles about fires, so he can at least ask the question to the witness, is he familiar with

such. If the witness is not familiar with it, I think it pretty much will end that, so let's start there.
BY MR. MOWELL:
Q. Are you familiar with this document?
A. I'm not familiar with this specific document, no.
MR. BELT: Are you familiar with the organization that has published the document?
THE WITNESS: I don't know, I'm sorry.
MR. BELT: Are you familiar with similar studies or any type of organizations that deal with fire safety at solar facilities.
THE WITNESS: Yes. So during the building permit design phase in my past, I've taken projects through construction, and we would meet with local fire department and answer any questions that they have, and if there were any, you know, instructions to communicate based on how we disconnect the system, at that time we would meet with them and talk about it, so yeah,

I'm accustomed to speaking with fire departments, local fire departments.
MR. BELT: Would you concede that there is protocol at different fire agencies for dealing with fires at solar facilities or what would, that there's at least prevention methods and things of that sort?
THE WITNESS: Yes.
MR. BELT: So I guess what Mr. Mowell's question is, if you think it's unlikely there is unlikely to be fires, you will concede that is a possibility, because there's folks out there who are thinking and writing about it.
THE WITNESS: Sure.
MR. BELT: Okay. We'll proceed from there.
MR. MOWELL: Okay.
BY MR. MOWELL:
Q. Well, isn't it true that you don't put out these fires by spraying water on them?
A. I'm not sure.

Q. Do you know how you put out a fire in a solar array?
A. I'm not a firefighter, I don't want to speak to that specifically.
Q. Did you say there were going to be 9,000 solar panels at this site?
A. Approximately, yes.
Q. And they're going to be in rows ten feet apart?
A. Approximately, yes.
Q. Why did you choose ten feet?
A. In part due to -- well, we model the energy production and we try to keep the system operating at approximately two megawatts AC consistently, so we have modeling feedback, and also we have feedback from the site itself, and the area we are working within.
Q. Does it have anything to do with the slope of the terrain where the panels would be installed?
A. No.

Q. Did you consider the slope where the panels would be installed in arriving at your ten feet between rows of panels?

A. No, not -- no, I did not.

Q. And how about in your design, did the wetlands on site play any part in where you put the panels?

A. As Marni mentioned, there are no wetlands within the array area, so obviously we did not put them where the wetlands are, if that's what you're asking.

Q. Well, I think I've gotten far enough along to know that, so thank you, but I know you can't put panels in wetlands. Aren't there buffers around wetlands where construction cannot take place?

A. Yes, they're shown on the site plan.

Q. The buffers are shown on the site plan?

A. Yes, this dark dashed line here.

MR. BELT: Let the record reflect the witness is pointing to the dashed line --

THE WITNESS: And the white dashed line down here.

MR. BELT: -- west and south of the array.

BY MR. MOWELL:

Q. Did the buffers play any role in how you designed and where you placed the panels?

A. I would say we are probably in this region here, where we could physically put more panels here but the buffer prevented them.

Q. How about any trees on the site, are you going to have to cut down any trees to put your panels in?

A. No.

Q. Let me show you on Exhibit 2, there appear to me to be light areas where the panels would be constructed. Weren't they, aren't they trees?

A. No.

Q. What are they?

A. It's a field.

Q. I'm sorry?

A. It's a field.

Q. And you know that from physically visiting the site?

A. Yeah, I've seen it, yes.

Q. When did you last physically visit the site?

A. I was there yesterday.

Q. And your testimony is there are no existing trees in the area where you plan to put panels?

A. Yes, that's my testimony. As I mentioned before, I think we're even a little close with logistics of shading, but we were trying to accommodate the county's request to stay off Monkton Road.

Q. And you decided not to put an access road all around the site?

A. That's correct, we just have an access road to the equipment in the center of the array.

Q. I've seen on other projects where

there's an access road that surrounds the site. Is there a reason you did not put that on this project?

A. We just anticipate frequent access to the main equipment and infrequent access to the other areas, so we didn't think we needed the access road.

Q. If there's a problem in the lower part of the panels, how are you going to get to them?

A. There is space to access it, yes.

Q. How much?

A. I want to say that this gap here is around 30 feet.

Q. And you talked about the motors to run this tracking system. You don't know how many motors will be on the site?

A. The maximum amount could be if we choose a row driven tracker where there's one motor per each table, and then there's, we could have as low as four motors based on this layout if we have drive lines connecting the tables.

Q. If you choose the other method, how many motors would you have on the site?

A. I don't know offhand, I would have to count the number of tables.

Q. Are we talking hundreds or --

A. Yeah, maybe a hundred.

Q. And you don't know which way you're going to go at this point?

A. Not at this point.

Q. What powers the motors, is that electricity from the panels themselves?

A. Yes.

Q. Do the motors make any noise?

A. No, very very little noise.

Q. Hundreds of motors make very little noise?

A. Very little noise because they're moving so slowly.

Q. And as they move, is there any noise from the movement itself, the creaking of the rack 20, 25 years down the road?

A. Not to my knowledge, no.

Q. Well, have you ever seen, do you have any in existence for 20 to 25 years?

A. Single access trackers have not been around that long.

Q. So you don't know what kind of noise is going to be coming from them 20 to 25 years from now, do you?

A. I don't foresee any noise coming from them.

Q. Well, you don't foresee any fires in solar arrays either.

MR. ROSENBLATT: Is that a question?

MR. BELT: No.

BY MR. MOWELL:

Q. Do you know the slope of the areas where you intend to install solar panels?

A. Not offhand specifically, no.

Q. That was of no concern to you in your design, was it?

MR. ROSENBLATT: Objection, asked and

answered.

MR. BELT: It was asked and answered. He can answer it one more time for clarification. Do you want to repeat your question, it was not his concern that what?

BY MR. MOWELL:

Q. Was the slope of any concern to you in your design of the project?

A. It was, we attempted to use the areas that had the least slope.

Q. And what is the slope of the area that you used?

A. I don't have that information offhand, the site rolls and it changes, so it varies.

Q. Are your panels going to be installed over any streams?

A. No.

Q. What's your basis for saying that?

A. The basis is seeing the site and our survey information.

Q. Where did you get your survey

information?

A. I think our environmental team can answer that question better.

Q. Okay, you're talking about the people here today?

A. Yeah.

Q. And is this your third plan for this site?

A. Third plan? I'm not sure. I mean, there have been a few versions, but as far as -- yeah, I mean, I think it's the second version that we've shown the county, on the county level, yeah.

MR. MOWELL: That's all I have, thank you.

MR. BELT: Okay, Ms. Demilio?

BY MS. DEMILIO:

Q. Good morning Mr. Durette.

A. Good morning.

Q. Let me ask you a question about the ground fault detection system. Did that cover

the transformer as well, or just the panels?

A. That covers the DC side. On the AC side there is a protective device, it's either a re-closer or a breaker, my memory's a little fuzzy, but that would protect the alternating current high voltage side for faults. It would protect the alternating current transformer voltage.

MR. BELT: Ms. Demilio, could you uncover the mic?

MS. DEMILIO: I'm sorry.

MR. BELT: It wasn't your fault, he was covering it up.

MS. DEMILIO: Thank you.

BY MS. DEMILIO:

Q. I'm sorry for that interruption.

So you, there is some protection for the transformer. Let me ask you about, do you participate in any review or discussions with the utility company that provides the feeder for this?

A. Yes, I do.

Q. So it's BGE here, as you know?

A. Yep.

Q. Now we can all assume, then, that BGE advised you that they could handle the two megawatts, or not?

A. Yes, they have. It's been studied, yes.

Q. It's been studied by?

A. By BGE.

Q. Now, do you know if it can handle more than two megawatts?

A. I don't know. As Marni mentioned, we're not privy to that, they only study our project, we only know the results of our project, its capacity.

Q. Let me just ask you, what happens if you for some reason, the capacity of the feeder is exceeded by the panel, let's say hypothetically, what would happen?

A. Well, the purpose of the study is to avoid that, so something else would have to

occur, there would have to be another change on the feeder that would increase the load or generation.

Q. I mean, is there a danger if the feeder exceeds the amount, the feeder or the lines that belong to the utility?

A. That's a good question for the utility engineers.

Q. But you don't know the answer to that, you don't have any safety concerns?

A. Safety? Well, we have just protections that if the distribution line were to be offline, if there was an outage for a storm or something, our system would detect that and shut down as well, it's called anti-islanding, and it's for the safety of the linemen that might need to get out and repair. That's one safety feature I'm aware of.

Q. You're not concerned that you could possibly exceed the feeder capacity?

A. There's no concern because we study it

in depth to avoid that, the utility studies it, they're the most conservative electrical engineers around, so --

Q. So it doesn't matter, and let's just say if we had more sunny days than expected, it would not exceed the capacity?

A. No.

Q. So there's nothing that controls at the panels?

A. No. The inverters will never export more than two megawatts AC.

Q. Okay. So, what is the wattage range of this panel?

A. The wattage range for 72-cell crystalline panels, it's in the 220 to 250 or, sorry, 320 to 350 range roughly.

Q. You don't know which one of these it is, right?

A. I'm not sure offhand.

Q. So if the wattage range would improve with technology in the future, does that mean

there would be smaller panels or less panels, or both?

A. Less most likely, yes.

Q. The size of the panels would remain the same?

A. The physical dimensions of the panel would remain the same, the efficiency of the cells would go up, so we would be able to use less of them.

Q. And would any solar facility company such as Trillium here then, be interested in reducing the number of panels by replacing what is currently being produced or what's currently in the array?

A. As I mentioned, at the time of procurement, we will use the most, highest efficiency panel that is available to us at that time with that volume.

Q. But this is a 25-year lease, so in the 15th year, would there be a provision to reduce the number of panels because the technology is

requiring less panels, and assuming it is still two megawatts?

A. Unfortunately, no. The cost of removing all the panels is too great, reinstalling all new panels. But I can't predict the future, so if there's, you know, some crazy efficiency jump, that could change the metrics, but currently based on what I know, no.

Q. Do you have any input into the maintenance agreement for these facilities?

A. I haven't specifically, no, it's not in my design expertise, though we consider the implication of our design choices on the maintenance plan, but we don't specifically create it.

Q. How often do you monitor the wattage from this site?

A. So, it's an ongoing, the data acquisition system has ongoing measurements, so I believe the interval depends on the specific system that's installed, but it's less than a

minute apart on all our typical measurements from the various devices that have sensors on the array and on the output, on the AC output.

Q. So would the company ever, and by the company I mean Trillium in this case, would they ever increase the panels if the output was consistently less than the two megawatts, increase the number of panels?

A. No, that's not planned.

Q. That could happen, in your experience could that happen?

A. I don't, I've never seen that, I don't think that would happen. We consider a very small degradation rate over time and we consider that when we construct the project.

Q. So that's part of the design?

A. Part of the design, so we don't anticipate, you know, incrementally adding anything, no.

Q. Back to the feeder capacity, you don't know if the criteria if Baltimore Gas & Electric

were to increase the feeder capacity, what criteria they would use?

A. I mean just generally, the transformer at the substation and the gauge of the line inform feeder capacity, but you know, what else -- did I answer the question?

Q. Well, if the feeder capacity here is increased by BGE, would the solar company's, which would be Trillium's location, then be eligible for an increased capacity if the zoning requirements allowed it?

A. The Trillium solar project was only granted two megawatts AC of capacity, so we can't increase project capacity.

Q. Granted by whom?

A. By the Community Solar Program and through BGE. I think Marni covered that one.

Q. Right, but if that changed, is there anything in the lease that says the project could be increased, and by increase I mean the number of panels, because you have more acreage than the

Page 130

panels occupy.

A. I'm not sure about the lease, but I actually would disagree about the acreage. I mean, there isn't much left that's useful, so I don't see this as an issue at all.

Q. Okay. In terms of the parameters of the 19 acres which is the special exception, is there any physical boundary established by the solar company to show the whole 19 acres, or is the fence just around the solar panels?

A. Could you try that again? I'm sorry, my fault.

Q. I'm sorry. We talked about fencing. I'm assuming the fence is just around the solar panels and not around the entire special exception area which is 19 acres; is that correct?

A. That's correct, yes.

Q. All right. So how close can a farmer plant crops to the solar array, up to the fence?

A. Up to the fence, assuming they can

Page 131

maneuver their tractor, and we would work with them to try to provide that access.

Q. You have to turn the tractor?

A. Yep.

Q. So --

A. And we've got the landscaping as well, so they have to obviously not damage the landscaping, the new landscaping.

Q. The landscaping's outside the fence, right?

A. Yeah. I'll let the landscaping architect talk about it, but it's outside the fence.

Q. Right, it does for the purpose of your answer?

A. Yep.

Q. Do you know if there's anything in the lease which would allow the farmer to plant crops on the special exception area, part of the 19 acres that are not utilized by the solar panels?

A. Is there anything in the lease that

Page 132

would, I'm sorry, that would prevent --

Q. Permit the farmer to plant in the special exception area that is part of the 19 acres but not occupied by the solar array or the landscape plan?

A. I'm not sure about the lease document, but it's definitely our intention to allow the farmer to farm as much as they can.

Q. I don't know if you know the answer but do you know if they lease by the acre or just by a flat fee for the site?

A. I believe it's by the acre.

Q. (Inaudible.)

A. I think so.

Q. In terms of setbacks from the road, and I'm just speaking hypothetically, can I assume that the only additional costs for a further setback from let's say the road, would be just running the cable from the panels to the line?

A. Yep, so the, talking about implications of moving away?

Page 133

Q. Right.

A. So the length of the cable, the length of the trenches for the cable in the ground, the length of the access roadway, and then also the closer we go to the trees, the more shading impact we have next to the trees. So again, I mentioned this already, but in my opinion we've already moved as close to the trees as we can, probably too close.

Q. So your main concern in the distance from the road, then, would be the efficiency of the project, and the cost for the project in terms of cables, roads, et cetera?

A. Yeah, and the feasibility of the project.

Q. Right. When the site was selected, do you have a say on the boundaries for the special exception site, is that part of your job?

A. Yep. You can see the boundaries of special exception, especially on the west side, largely follows the fence boundary, which was

Page 134

dictated by the panel layout, so yeah, I informed that.

Q. So then you would have a say on the acreage that you would need?

A. Yes.

MS. DEMILIO: Okay

MR. BELT: Thank you very much.

MR. ROSENBLATT: I just have one.

REDIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Mowell asked you about the different facilities and how much acreage they're taking up. Did you lay this facility out under the worst technology available to get more space?

A. No.

Q. What technology did you use when projecting the size that you need for this project?

A. We used the middle of the road efficiency which we're comfortable we can procure at the time we go to construct.

Page 135

Q. If you were to make this array smaller than what's shown on Exhibit 1, can you produce the two megawatts that you're authorized to by BGE?

A. Not consistently, that's the key. We want to see the output consistent across the day to produce the most energy for the system, and the most energy available for the retail customers.

Q. In your opinion, is this the minimum area needed to consistently produce that two megawatts?

A. Yes.

MR. ROSENBLATT: Thank you.

MR. BELT: All right, sir, thank you very much.

(Witness excused.)

MR. BELT: It is ten of, so I guess we will maybe start an expert, and then maybe we'll break after direct.

MR. ROSENBLATT: All right. Mr. Martin,

Page 136

sorry.

Whereupon,

DAVID MARTIN,

being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: State your name and address for the record, spelling your last name.

THE WITNESS: My name is David Martin, M-A-R-T-I-N, I am a vice president at DMW, Daft McCune Walker, we're located here in Towson.

MS. DOPKIN: And the address?

THE WITNESS: What is the address? My mind went blank, I'm fighting a sinus thing.

MR. ROSENBLATT: I'll show you your resume, at the bottom.

THE WITNESS: Thank you. Yeah, 501, that's it, Fairmont Avenue, here in Towson, 21286. Sorry.

MR. BELT: Mr. Rosenblatt, you're proffering Mr. Martin as an expert in?

Page 137

MR. ROSENBLATT: I know Mr. Martin testifies in a number of different areas. In this particular case he is the landscape architect, he's going to testify about the landscaping that's proposed as part of this facility.

MR. BELT: So the actual green stuff?

MR. ROSENBLATT: The actual plantings, yes.

MR. BELT: All right. Based on that proffer, Mr. Mowell, do you have any voir dire for Mr. Martin?

MR. MOWELL: No.

MR. BELT: You've seen enough of Mr. Martin?

MR. MOWELL: Yes.

MS. DEMILIO: No voir dire.

MR. ROSENBLATT: Which exhibit is this?

MR. MCCOMAS: Number 10.

MR. ROSENBLATT: So, I've marked his resume as Exhibit 10, I ask that be admitted, and

that's all the, I guess voir dire that I'll provide. He is a professional landscape architect and land planner.

MR. BELT: Okay.

DIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Martin, are your familiar with this property?

A. Yes, I am.

Q. Have you been to the property?

A. Yes.

Q. When was the last time you were there?

A. Monday, I believe.

Q. Did you take photographs when you were at the property?

A. I did.

Q. I'm going to show you your photographs and ask that you take the Board through a tour of this property. Let's walk the Board through it. The photos themselves are marked as Exhibit 11 and at the bottom of each photograph there's a

number, so if you could as you're going through, refer to the photo number and then explain what we're seeing.

A. Okay. So photo one is, there is an existing, I'll call it a pull-off area on Monkton Road, really the only safe place to pull a car off of the road, and photo one is, you can see Monkton Road to the right side of the photograph and I am looking west, parallel to Monkton Road.

Q. Just so the Board is clear, there's a cover sheet that says photo key; can you explain how each of those numbers work?

A. This basically shows where I was standing when I took the photograph, and the arrow is sort of the direction that I was looking.

Q. Okay.

A. Or the camera was looking. So photograph number two is shown on the key map of where I was standing, I had walked a little further to the east and down onto the, you can

see the very edge of that gravel pull-off, and that is looking almost due south. There is a, the opening, and some remnant of some, the farm field, but also there's a drainage swale and a buffer that's already shown on the plan in the backdrop.

And then photo three, you can see my car in the foreground, again parked in the same location. I was looking directly at the house across the street, which is identified on the photo key sheet, it shows that house at or slightly below grade on Monkton Road.

And then photograph four, I had turned and taken a photograph of the next house, basically the same location I was standing but the next house, which is shown on the key sheet as corresponding to four. That house does sit above Monkton Road, maybe as much as four or five feet.

Then photograph five, I actually had walked down into what would be the corner of the

largest array panel, almost dead center in the array layout, and looked to the north and photographed the house directly across the street, and you can see a filtered view through the existing treeline on the south side of Monkton Road, as well as the treeline and trees that are in the front yard of that particular residence.

Photograph six, also down in the edge of the largest field of the array facility looking east at Monkton Road, which you can see almost dead center in the photograph.

Q. Is that in the background, is that where you were parked essentially?

A. Yeah, that's my car, you can see a white vehicle there.

And photograph seven, I had walked to the east on Monkton Road and purposely started walking back towards my car but along took a sequence of photographs which you'll see in the next couple. So at this point I am to the east

Page 142

of the array and several hundred feet, probably 200 feet from where the turnout or the paved area is off of Monkton Road.

And photograph eight is all the way, I took this shot from inside the car, but I had driven to the west, turned around to come back in the sequence, so photograph eight is looking to the east as you round the horizontal curve in Monkton Road, and you can see the white, a white, I'll call it a farmhouse, and a red truck there in the foreground, the first property just to the west of where the array property starts.

The next photograph shows that same house or the next house, again on Monkton Road, and in the center of the photograph you can start to see a three-rail farm fence coming into the photograph, and that fence starts at approximately where photo number ten is taken and also keyed onto the site plan, and so ten shows the curve in Monkton Road. The property is still to the east of where this photograph was taken.

Page 143

And then further along the curve in the road on photograph 11, but still you can see the fence, so that defines that property there, and then --

Q. On photo 11 you can see an access on the kind of left center, but on the right side of Monkton Road?

A. Yes.

Q. Is that the access to the property?

A. Yes.

Q. Okay.

A. And then the last photograph, 12, is standing -- sorry. I moved my car but I had driven back east and turned around and come back again, and taken a picture of the red brick house to the north of the site identified on the photo key where that location is, as 12.

Q. All right, thank you. Let's talk about the overall goal of landscaping this property. Can you explain a little bit about what the goals were and how we laid out the landscaping for this project?

Page 144

A. The solar bill and the goal and the requirement in the solar bill is to screen these facilities from adjoining residential property uses, and so that in combination with whatever existing vegetation exists is the goal of the landscape plan in this case. Meetings with the county landscape architect, Mr. Jim Hermann, and the office of planning, basically evolved into a, I would call it a compromise solution to the landscaping and what it should really do for several things.

One is to screen the facility, which the law requires, but technically not to just close this thing off from Monkton Road. Monkton Road is a scenic road and identified as such in the county's master plans. And so the office of planning had asked, one, that the array be moved slightly away from, wherever we could, from Monkton Road, and also to use the landscaping to not just drop a screen or a curtain from Monkton

Page 145

Road from this property, but also to do it in such a way that actually enhances or helps frame where the views are in the view shed. So in order to do that, down by the, I'll call it the northwest corner of the array --

Q. Let me ask you this, because you're pointing. We've marked the big aerial photograph as Exhibit 2. Does that exhibit contain the landscaping that's proposed as part of this project?

A. Yes, a schematic layout for the landscaping, yes.

Q. Maybe the easiest way is if you approach that exhibit and kind of point out to the Board where the landscaping is proposed.

A. So the northwest corner of the array, I'm tracing with my finger, there is a heavy evergreen reinforced in the front, this is the planning's idea to add a more natural look, so the backdrop against the fence is an evergreen screen, evergreen plant material. And then in

Page 146

the foreground are deciduous trees to add to the deciduous trees that are in existence, both in the backdrop and along Monkton Road on both sides of Monkton Road which, you know, also created these, where they are vacant, there's open vistas and stuff. So that helps screen the actual array from the properties that are to the northwest on the curve of Monkton.

And then along Monkton itself sort of in the middle of the plan, north side of the array, we've, there is an existing tree hedgerow of interesting material that is clearly shown in the photographs that we just went through, and the office of planning and Mr. Hermann had asked that we reinforce that again, both with evergreens and deciduous trees. And working in favor -- and one of the reasons for that is in favor, working with the topography, this site drops away from Monkton Road, it is not at the same elevation as Monkton Road, so it's falling away to the south, and so what happens is the landscaping does no benefit

Page 147

of screening when it's down the hill. What you want to do is keep that at or about the same level as the existing tree hedgerow that's running along Monkton Road, and that adds a more efficient screen.

What we didn't do, to satisfy the office of planning and also keep the scenic vistas along Monkton Road, which by the way, on the plan is limited to this small window that I'm tracing, it's to the east of the actual array, and it's also the pad that I parked in along Monkton Road. So what we've done is actually tailhook the landscaping that's proposed along with the existing vegetation, so that that view shed down into the eastern open field of the property, nothing to do with the array area but to the east of the array, that that view remains and in fact is enhanced with the landscape arrangement.

Q. Let me ask you one question about that. You talked about a specific scenic view. How do you know that that's the area that Baltimore

Page 148

County designated as a scenic view shed?

A. Well, because it's on the map, on their scenic view road master plan document.

Q. What exactly is on the map?

A. There are two arrows that actually show where, that's the symbol that the county used to actually identify a view, a real view.

Q. So, is the arrow pointing in a certain direction?

A. It's pointing actually down that field.

Q. Okay. Is there any visual impact in that location from the proposed solar facility?

A. No, because by that time you've passed it and you're looking away from it.

Q. Okay. And just, if you could kind of carry around to the east of the facility, what if any landscaping is being proposed?

A. There's some additional planting along that same finger of open field that we talked about where the view shed is, and again, it's acting more as a backdrop to the existing

Page 149

vegetation that's along there. That vegetation is actually pulling away from, on an angle from Monkton Road, it's following the property line of this property, of the farm, and we're proposing to, again, add evergreen plant material and deciduous trees to reinforce that backdrop.

Q. Okay, let me ask you this. Is there any landscaping proposed on the south side, or really on the west side of the proposed array?

A. There really isn't, because this site is already encapsulated with natural systems of forests and the buffers have already been identified on this plan and the site plan itself. So it's pointless. And by the way, there's no residential properties down there that to, I guess it would be to the south of this, but this is all environmental area anyway, but it's already naturally encompassed.

Q. So, was the target area, so to speak for landscaping, where is that?

A. The target area was certainly the upper

Page 150

northwest corner of the array facility, a little bit of additional landscaping along the open, and along the driveway that exists just below Monkton Road, and then reinforcing the natural tree hedgerow that runs parallel with Monkton Road.

Q. Was this plan presented to the county's landscape architect, to your knowledge?

A. Yes.

Q. I'm going to show you what I've marked as Exhibit 12 and ask you to explain what this document is and what it tells us.

A. This document is a letter written by Jim Hermann, the landscape architect for the county, to DMW regarding this particular solar array, and it references the zoning case, and it basically says what I've said in other cases as well as this, that at the time of permitting process, this plan would likely meet the requirements of a schematic landscape submission and can be approved, provided the special exception is granted.

Page 151

Q. Okay. So process wise, when you submit landscape plans to Baltimore County, when is the final landscape plan approved as part of the process?

A. After you've actually been in the development process, whatever that is, whether it's straight to a building permit or a grading permit, or some other limited exception process identified in the code.

Q. Can you get a building permit without an approved landscape plan?

A. No.

Q. When you submit a landscape plan for approval, is any kind of agreement or security required?

A. Yes.

Q. Can you explain that?

A. It's a, Baltimore County has a, for landscape only, a right-of-way agreement. The landscape architects, in this case DMW, would prepare a cost estimate, that cost estimate would be reviewed by Mr. Hermann and approved, and at that point a right-of-way agreement would be completed by the applicant and approved by the county permits approvals and inspections, as well as the law office, and security would be posted to the tune of 110 percent of whatever the value is of that cost estimate.

Page 152

Q. So let's talk about the cost estimate. What are you estimating, the cost of what?

A. The cost of planting the plant material and the installation of the plant material.

Q. And what is the 110 percent number you just mentioned?

A. The 110 percent number is, so whatever the 100 percent number is, the cost of the plant material and the cost of the installation, the ten percent is the additional security the county requires.

Q. Can you get a building permit before that security is posted?

A. No.

Page 153

Q. And how do you get that money back?

A. By completing the installation in accordance with the plans, having it inspected by a landscape architect, a photo montage of the installation is prepared, as well as a certification letter to the county landscape architect.

Q. There's some security, a bond mentioned in the solar bill. Is this the same money, this security?

A. No.

Q. They're two separate securities?

A. Two separate things.

Q. Okay. Let me ask you some questions overall about the landscaping. As you've stated, the solar bill has certain requirements. Is a landscaping buffer provided around the perimeter of any portion of the proposed solar facility that's visible from an adjacent residentially used property or public street?

A. Yes.

Q. Is screening of the scenic road, Monkton Road, provided in accordance with the county's landscape manual?

A. Yes.

Q. Does the county's landscape architect review proposed landscape plans for impacts to scenic roads?

A. Yes.

Q. Does the planning department as well?

A. Yes.

Q. And before your final landscape plan is approved, do you have to satisfy those agencies that you've met your requirements?

A. For the final, I'm not sure that the planning office actually reviews the final, but Jim Hermann does, or the county landscape architect.

Q. So, I apologize. For the first level of approval, the schematic approval, you have to satisfy who?

A. Both the planning office and

Mr. Hermann, the county landscape architect.

MR. ROSENBLATT: Okay. I have no further questions.

MR. BELT: Mr. Mowell, do you think you can finish before 12:30?

MR. MOWELL: I would prefer to come back after lunch.

MR. BELT: I will, since I said it, I will defer to your preference.

MR. MOWELL: Thank you.

MR. BELT: Mr. Rosenblatt, so, with the very limited nature of his testimony, I don't see it taking too long after lunch. Who's our next witness after that?

MR. ROSENBLATT: We have an environmental witness who will be here ready to go by 1:30, is what he said.

MR. BELT: Okay, so let's come back at one, and we'll finish up with Mr. Martin and then we'll go from there. Is that okay with everyone? Okay. See you then.

(Recess from 12:07 to 1:08 p.m.)

MR. BELT: All right, we are back on the record, I believe we're about to begin the cross-examination of Mr. Martin, and Mr. Mowell, it was your turn.

MR. MOWELL: Thank you, Mr. Belt.

CROSS-EXAMINATION

BY MR. MOWELL:

Q. Mr. Martin, this is a 97-acre farm, the subject property; is that right?

A. Yes.

Q. And the farm has, it looks to me to be about 1,500 feet of frontage on Monkton Road, does that sound right?

A. Yeah, I would say that's probably true. I haven't scaled it.

Q. In fact, one of the recommendations to you from the Bureau of Development Plans Review was to, proposed landscape screening should begin at or near the special exception point of beginning label on the south side of Monkton Road

and extend eastward approximately 1,500 feet. Is that what they told you to do?

A. I'm not sure what you're reading from.

Q. Well, let me show you.

A. Yeah, please.

Q. This is the correspondence from Bureau of Development Plans Review number nine.

A. So this was from March 1st of last year, or this year, correct?

Q. Uh-huh.

A. I think that was an initial comment from Mr. Hermann on when he probably first saw this plan for the ZAC, as part of his ZAC comments.

Q. And what was he telling you, he was telling you to extend the landscaping east from the point of entry, I think is the term, which would be, is that here?

A. No.

Q. Here?

A. Yes.

Q. He's saying extend the landscaping 1,500

Page 158

feet eastward?
A. Yes.
Q. So it does have 1,500 feet of frontage on Monkton Road then?
A. If he scaled it. I'm not going to confirm what he scaled or what he didn't scale. Actually, I think there's more frontage.
Q. On Monkton Road?
A. Yeah.
Q. How much frontage do you think the property has on Monkton Road?
A. If I can look at the plan.
MR. BELT: Do you need a ruler?
THE WITNESS: No, I don't. So right here between my two fingers, there's 1,222 feet right there; then you add another 783 feet; and then there's another 498 feet; and then there's another 333 feet. So to be honest, from there to there is about 1,500 feet, where the landscaping is proposed.
BY MR. MOWELL:

Page 159

Q. All right. And how much total frontage, then, does the farm have on Monkton Road?
A. I didn't add it all up.
MR. BELT: The Board has the figures, it's in excess of 1,500, maybe a little closer to a little over two and some change.
THE WITNESS: I believe it's at least 2,000 feet.
MR. MOWELL: Thank you.
BY MR. MOWELL:
Q. And you said that Monkton Road is a scenic road as designated by Baltimore County?
A. Yes.
Q. It's also a, it has a designation from the state of Maryland; do you know what that designation is?
A. I think it's called a scenic byway.
Q. Yes, I'm looking at your map. It's called a Horses and Hounds Maryland State Highway Administration scenic byway, as identified in the Baltimore County Master Plan 2020. Do you know

Page 160

why it's designated as a scenic byway by the state of Maryland?
A. I do not.
Q. Did you look into that?
A. No.
Q. Have you ever worked on a solar project that is a on a road that is both a Baltimore County scenic road and a scenic byway as designated by the state of Maryland?
A. Possibly.
Q. Where was that?
A. It might have been the Sassafras solar site, or maybe Green Road. I don't remember.
Q. And so what your plan will result in is blocking the view of this farm from Monkton Road?
A. How so? I'm not blocking the view.
MR. BELT: Well, let's stop there and not ask question, you answer them. So I guess the proper question is, would you concede the fact that these solar panels will block this scenic view? I believe you said you did not

Page 161

concur.
THE WITNESS: I do not concur.
MR. BELT: All right then. Next question.
BY MR. MOWELL:
Q. Do you believe the trees that you plant between Monkton Road and the solar panels will block the view of this property?
A. No more than the existing trees, if in fact -- it's just a reinforcement to the existing treeline that's there.
Q. How many trees do you propose to plant?
A. I don't have the count in front of me.
Q. Is it more than a hundred?
A. I'm sure it's more than a hundred but I don't see the table on the plan yet, because it's not an official submission for schematic review.
Q. And do you know what kinds of trees you intend to plant?
A. It will be a mix of hardwood, deciduous trees, and evergreens.

Q. And how about the size of the trees, how tall will they be when they are planted?

A. The evergreens have to be a minimum of six feet tall at the time they're installed. The deciduous trees have to be minimum of two-and-a-half inch caliper, that's measured at breast height from the ground, and the caliper is the diameter of the tree trunk.

Q. Well, how tall is a deciduous tree when it has a two-and-a-half inch caliper?

A. Well, it depends on the species, but it could be anywhere from ten to 12 foot.

Q. And how fast, how much will an evergreen tree increase in height in one year?

A. It depends on what the species is.

Q. What's the range?

A. White pine can grow a foot a year, spruces a little slower, arbor vitae and Leyland cypress can grow as much as two feet a year.

Q. And how about deciduous, what is the rate of growth in a year for deciduous?

A. That widely varies on the species, oaks are slower growing, maples sort of in between, some of the softer hardwoods like poplars, tulip poplars, et cetera, grow faster.

Q. Well, can you give us a range?

A. Not really.

Q. Do they grow faster or slower than evergreens?

A. Typically they grow a little slower.

Q. And would you expect with that number of trees, that some of the trees won't survive after they're planted?

A. Well, they have to be replaced.

Q. Who is going to replace them?

A. The person who installs, or the company that installs them.

Q. And you heard the testimony today; you believe that would be Trillium Solar LLC?

A. Or their, it's probably a landscape contractor that they would sub for, have a contract with.

Q. Okay. How about 20 years down the road if a tree dies, who do you think would replace a tree?

A. At 20 years?

Q. Yes.

A. At 20 years, nobody's responsible for it. Once the county has returned security, which I mentioned before, which is a right-of-way agreement landscape only, once the project is closed out and inspected, the county agrees, and the money's returned. At five years, ten years, 20 years, no more than any other subdivision homeowner who was a part of a development plan is responsible to replace that tree.

Q. I know from other cases, you have read the solar law in Baltimore County.

A. Yes.

Q. And in light of the solar law and its discussion about maintenance of these sites that are leased, you don't believe anyone would be responsible for replacing a tree that was planted

as a result of this project?

A. Now wait. At 20 years, I don't know how that would be in effect. Prior to its being closed out and finally inspected by the county, that's another story, the county has the security and in order to release that security back to whoever the applicant is who posted it, the material would have to be as it was specified on the final landscape plan.

MR. BELT: Mr. Martin, just to be clear, I think we're talking about two different things, right? Didn't I hear testimony, we have a bond that's for the actual landscaping plan itself, but then there's the other bond pursuant to the actual development for the solar unit; is that correct?

THE WITNESS: Yeah, and I believe that bond is for the decommissioning of the facility, not landscaping.

MR. BELT: Okay. But the requirements for maintenance as for the facility, what you're

testifying to is your standard certification of a landscape plan after you've done the photo array and shown them everything you've done, once you've been certified, you're saying after that's done, you're no longer, or whoever installed it is no longer on the hook for the maintenance.

THE WITNESS: Yes, because the standard would be the county would -- there is a maintenance guarantee after the final inspection of one year, which is pretty common in the landscape industry, and they would release security up to a point to do that kind of, you know, guarantee, one-year guarantee after the one year is up.

MR. BELT: And just to be clear, the testimony you're offering now is dealing with the actual landscape and planting.

THE WITNESS: Yes.

BY MR. MOWELL:

Q. Mr. Martin, I hate to say it, I'm confused by your answer. Is your testimony that

after the trees are planted, none of the three solar companies we heard about today, Trillium Solar LLC, OneEnergy Development LLC and OneEnergy Renewables, none of them would be required to replace a dead tree during the lease period?

A. I honestly don't know the answer to that, but I don't -- I don't know.

Q. Let me show you another comment from a county agency. This is dated April 26, 2018, from Andrea Van Arsdale. Are you familiar with that?

A. I'm familiar with this section, yes.

Q. Have you seen this document before?

A. No.

Q. Okay, but you're familiar with the section they quoted from?

A. Yes.

Q. Okay. So they quote from the master plan that says the preservation and enhancement of scenic resources in Baltimore County is an

essential component of contributing to the quality of life of residents. Do you agree with that?

A. Yes.

Q. And they continue, for properties along scenic routes or within scenic view sheds, variances, amendments and special exceptions should be granted sparingly. Do you agree with that?

A. I may or may not agree with exactly that, but that's what their recommendation is. But that letter also refers to, or was the predecessor to why the array was moved further back from Monkton Road.

Q. Well, that last quotes is from -- would you agree the last quote is from the master plan?

A. Yes.

Q. And so they're saying if properties are along scenic routes or within scenic view sheds, that variances, amendments and special exceptions should be granted sparingly.

MR. ROSENBLATT: Objection, asked and answered.

MR. BELT: One last time, I'll overrule it just for a second. Do you understand the question, Mr. Martin?

THE WITNESS: I do. I may or may not agree with all of that statement just because the planning office said it. That's their recommendation.

BY MR. MOWELL:

Q. Do you agree with the part that says along scenic roads, special exceptions should be granted sparingly?

A. No, because I don't think that's the standard. The planning office may have a viewpoint on that, but I don't think that's the standard.

Q. So you don't believe -- your testimony is not that this is one of those rare cases where a special exception should be granted, you disagree with the proposition in the master plan

Page 170

that for properties along scenic routes, special exceptions should be granted sparingly.

A. I think I've said what I've said. I don't know how to better answer it.

MR. BELT: Let me interject. You first will admit that that's what the master plan says.

THE WITNESS: Absolutely.

MR. BELT: But your testimony is you don't believe that that statement is an operation of law, but rather is more of a guideline.

THE WITNESS: Exactly.

MR. BELT: Okay, that's what I understand, Mr. Mowell.

BY MR. MOWELL:

Q. I'm going to ask you a couple questions about your photographs. I counted at least four houses that are right across from where the panels are going to be that will have views of the panels.

A. Well, there's four houses immediately across the street, yes.

Page 171

MR. BELT: It was a compound question. To avoid confusion, how about the first question, do you admit that there's four houses across the street.

THE WITNESS: I do.

MR. BELT: Now for the second part of your question, Mr. Mowell.

MR. MOWELL: Thank you.

BY MR. MOWELL:

Q. Will all four houses across the street have views of the solar panels?

A. The house on picture number three will not.

Q. And is that because there are existing trees blocking the view?

A. No, it's because of the grades. That house is actually slightly below Monkton Road. Monkton Road acts as a, if you will, a sight line, the beginnings of a sight line obstacle, but then there is the treeline, and then the site slopes away from Monkton Road, so it's actually downhill from that house, that house is set far back, and it's the side elevation of the house. I don't think that house is going to be affected and see that until they get out on the road.

Page 172

Q. Looking at your photograph one, is that a view of the field where the solar array would be installed?

A. Yes, to the left side of that.

Q. And will your trees block that view?

A. In keeping, or in support of the existing trees there, they will be the backdrop, so -- and as I said, the evergreen trees at the time of installation at six feet, it's going to be pretty much of a curtain along that if you see that ridge line, the grass line and then there's trees in the backdrop.

Q. How about photograph two, is that, will the solar array be in any part of photograph two?

A. It's hard for me to actually say that, because I think, I think maybe the south, the most southeast corner is going to be pretty much

Page 173

blocked by the existing vegetation that's down there in the woods, so you may see some edges of the facility.

Q. Won't the proposed trees that you would plant block the view shown in photograph two?

A. To a degree, but what I said is the view, the real view from Monkton Road is looking this way, not back this way, because these trees already exist, we're just putting those a little further and directing the view to the open field beyond.

Q. Well, in answer to my question, would your trees block the view as shown in photograph two?

A. Yeah, because I'm looking straight almost due south in that picture.

Q. Is that the expansive view that the county talked about, is that an expansive or expanse view?

A. This particular view is where the two arrows are that are shown on the scenic road map,

Page 174

but they're looking actually east, more east than due south.

Q. So that's a scenic view shed, then, marked by Baltimore County?

A. Yes.

Q. Photograph two?

A. No, no. That's where the arrows are, but that's not necessarily the view itself.

Q. The arrows are there, but you're saying the view is in a different direction than your photograph two?

A. Yes.

Q. Photograph six is where the array would be installed?

A. Yeah, the northern edge of, the upper end of the array, yes.

Q. Right, the photograph is taken from where the array would be installed heading, shooting towards Monkton Road?

A. Yes, in an eastern direction.

Q. And I'm looking at the vegetation there

Page 175

in photograph six; do you know what that is?

A. It's a mix of hardwoods.

Q. I mean the cropland.

A. You know, I wondered what that was myself when I was out there. I've come to find out it's some sort of a radish that farmers use for no till operations through the winter. At first I thought they were actually parsnips, because the top part, they look like carrots. It turns out they are a radish species that the farmers are using for no till during the winter months.

Q. As a cover crop to improve the soil?

A. It's just to help from an erosion perspective and a cover crop that I presume they use.

Q. When did you take photograph six?

A. The same Monday.

Q. What day was that?

A. A week ago.

Q. Photograph ten, the fence on the right,

Page 176

is that part of the subject property?

A. It actually starts before the subject property.

Q. The fence, though, is part of the HHK Farm LLC property, the fence shown in photograph ten?

A. Yes.

Q. And so photograph 11 is what you see now as you come around Monkton Road heading east looking toward the right where the solar array would be installed?

A. True.

Q. And that view will be blocked by the trees that you plant between Monkton Road and the solar array?

A. Actually, no, because you can see almost midway along the road, Monkton Road where the mailbox is and the driveway that we propose to use. Landscaping is proposed as far back, there's very limited landscaping back down off of Monkton Road, at least 50 or 60 feet. There's

Page 177

one, two, you know, a half dozen trees, deciduous trees down here. The fence remains, so that view, whatever it is, with the exception of a few deciduous trees just to enhance what's there, because there's only two pine trees there, that stays open the way it is, and it doesn't pick back, the screening doesn't pick back up until we get past the driveway by say 50 feet or so.

Q. All right. Well then, so in photograph 11 as you come around that turn, you will see solar arrays to your right?

A. Yes, likely.

MR. MOWELL: That's all I have, thank you.

BY MS. DEMILIO:

Q. Is there going to be trees around the fence around the solar panels themselves?

A. There is screening on the fence on the north and the west side as I pointed out earlier on the plan. And then most of the other screening or landscaping as it's proposed is to

Page 178

reinforce whatever mother nature already has out there on the site, existing vegetation, so it's pretty much along Monkton Road and just beyond that where the scenic view arrows were on the master plan, that little gap where the turnout is where I parked my car.

Q. Right, so there's no other screening around -- that's what I'm saying, there's no other screening other than on the east side around the fence?

A. That's correct.

Q. Now in terms of who hired -- you have the landscape plan, but who hired the person that will do the installation, the purchase of the trees and whatever you install, will that be Trillium?

A. It would typically be the developer/construction company. In this case it might be Trillium or whoever they subcontract the actual installation if they're not doing it themselves. They would make that decision. It's

Page 179

very often, though, that a company like them would ask for our recommendations for landscape, you know, say two or three landscape contractors that we know are well qualified and have other credentials, and the wherewithal and the supply of plant material to do the job.

Q. Okay. DMW's job with regard to the landscaping plan would end once it's approved by the county?

A. Not necessarily, because they would come back to us like I said, during the construction, for installation and an initial inspection after the installation is complete.

Q. When you say they --

A. Whoever installs it, the contractor.

Q. (Inaudible.)

A. Correct, that's correct.

Q. So then, but after that, then DMW is not in the picture?

A. Only, normally we would be at the very end when there was a final inspection, which

Page 180

would start the clock running on a year maintenance program with the county, so at least one year after the initial installation approval is done, we would remain involved in that.

Q. Are you aware of any prohibitions for this Board if the special exception is granted, to require a maintenance, maintenance of the landscape plan for as long as the project remains, are you aware of any prohibitions?

A. I'm not.

Q. So the Board could put in a condition for approval?

A. I presume they have that authority, yes.

Q. Now when you talk about the types of -- you don't know exactly the types of trees, whether evergreens or deciduous, will be placed?

A. I would say generally they're going to be characteristic to this part of the county, the northern part of the county and whatever is existing. I mean, I don't think we want to put a bunch of ornamental material that's incongruous

Page 181

with the natural systems that exist out here. It's probably going to consist of oaks and maples as I said, maybe some tulip poplars, because there certainly are those in the wood lots, and then the evergreens would likely be pines and spruce species.

Q. So, can you assure that it would be plants that would be indigenous to Maryland?

A. Oh yeah, or well established in Maryland as being survivors.

Q. So what happens when the leaves fall, how can you guarantee that the view would be successfully screened adequately, would you account for that in your landscaping plan?

A. To some degree, because as I mentioned, the evergreens are typically the curtain in the foreground or between the existing vegetation and the new deciduous vegetation, so it's almost like an Oreo cookie. You've got the existing treeline along Monkton Road for example, then the evergreens, and then the deciduous trees behind

Page 182

them as backdrop. The point of the evergreen trees is they offer the screening up to six or seven feet from the ground at installation, which is typically, the eye level on a car is four feet, so from the road you're getting that curtain. And then above that is where the crown of the tree acts as a filter even in the winter as you can see from the photographs, even Mother Nature, the current existing situation, so those are just to reinforce and add to the crown of the existing trees that are there.

Q. And there's no other, you are considering trees, no other bushes or low level types of plants at this point?

A. Not really, because one, they become a maintenance issue; two, they become deer feed; and three, they don't really offer the screening that the evergreen trees and the deciduous trees offer.

Q. Am I correct that there are no power lines on this side of Monkton Road nearest the

Page 183

project?

A. That's my recollection, they're on the north side.

Q. Now, was your first and last visit to the site this last week when you took the photos, or had you been there before?

A. I was there this Monday, went by there again this Monday, but last week I took the photos.

Q. And that was your first visit to the site?

A. No, no, I've been there last year.

Q. Okay. Are you aware if there was any logging on the site, and when I say the site, I mean the special exception area, was there logging or any trees cut since you first visited the site?

A. I heard something to that effect, but I don't have any firsthand knowledge. That was before I even joined over with DMW.

Q. What did you hear?

Page 184

A. That the owner or somebody had actually cleared some trees off the site, and went through the county's mitigation process and remediation.

Q. That would be on record, wouldn't it?

A. Yeah, it should be, that's through DEPS.

MR. BELT: So unrelated to this project?

THE WITNESS: I believe it's pre-history of this.

BY MS. DEMILIO:

Q. But it's within the special exception area?

A. I believe so.

MR. BELT: When was it done?

THE WITNESS: I don't know firsthand, I really don't.

BY MS. DEMILIO:

Q. Just so I understand the limitation, did do you have anything to do with the DMW site plan?

A. No, that predates my employment at DMW.

Q. How long have you been there?

Page 185

A. Since June.

Q. And you say you went (inaudible)?

A. Well, I went out by the site the first time in conjunction with the two other solar facilities that my company had at the time, Middletown Road and Green Road.

Q. (Inaudible.)

A. Yes.

MS. DEMILIO: That's all I have.

REDIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. What section of the permits department does Jim Hermann work for?

A. He works for plans review, development plans review/SRAOE.

Q. And the fact that this is a state scenic byway, does that add any regulatory obligations to this project?

A. I'm unaware of any of that.

MR. ROSENBLATT: Nothing further.

MS. DOPKIN: I have a question.

EXAMINATION BY THE BOARD OF APPEALS

BY MS. DOPKIN:

Q. I direct you to your picture 11, and my question is, would the landscaping on the north and west side of the solar array bring the panels to view from this vantage point?

A. I believe in conjunction with the topography there will be quite a bit of screening, but it's hard to really say that you're never going to see the panels from this particular photograph. You might get a glimpse of, let's say a corner of one of the array fields, but the object is to put that screen, that particular area right up against the fence, and basically draw the curtain right at the fence line.

Q. All right. You mentioned a number of types of deciduous and evergreen trees. Do they have a typical life span, are they expected to live 20 or 30 years?

A. I think most hardwood trees of that

nature, oaks, maples, are expected well beyond a hundred years.

Q. And how long does it take for the plantings to reach, to reach maturity?

A. Well, it depends on the plant species, and I'm not trying to be evasive but it certainly does depend on that. But as I said, the tulip poplars could grow as a deciduous tree a foot to two feet a year, maybe more, and then it seems the older they get, the faster they start to top, you know, the leader keeps growing and growing, but I have experience where at ten years out from the installation they, all the trees look pretty mature. I mean, the caliper is now that big around in lieu of two-and-a-half inches, so there's a substantial amount of maturity in the hardwoods, and certainly the evergreens by that time are 12 to 15.

We had another case that the farmer had planted evergreens along the road, and they're 17 to 20 feet tall existing now.

Q. And if one were to die after that ten-year period, would it create a hole in the screen? I mean, how negative an impact would it have?

A. Yes. At that age of maturity it's not going to be that -- as a matter of fact, the more mature the plants, the more room they need to grow. It's often in order to meet landscape requirements and the screen requirements, a six-foot evergreen tree is planted probably a little to close to the next guy for its own good. So if one were to die, that additional growing room, they quickly seek their own way, as they do in the forest.

Q. And then on your photograph number six, would be radishes?

A. Yes.

Q. Is this the same area that was allegedly, or that you understood at one time to have been forested?

A. I honestly don't know. I don't think

so, this is pretty high up on the little, there's a turtleback out there.

Q. Let me change the question. Is the area that you think might have been forested, has it been farmed at all since -- I mean, it's all clear now, we know from your photographs, but has that been --

A. My observation when I was out her is that it's all being farmed, as there's no evidence of, other than the farmer's tractor road, it's all being used for this crop.

MS. DOPKIN: Thank you. I have no other questions.

MR. BELT: Mr. Martin, you can step down, sir. Thank you very much.

(Witness excused.)

MR. BELT: All right, who do we have next?

MR. ROSENBLATT: Eric Hadaway.

Whereupon,

ERIC HADAWAY,

being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: Would you please state your name and address for the record, and spell your last name?

THE WITNESS: My name's Eric Hadaway, spelled H-A-D-A-W-A-Y.

MS. DOPKIN: And your address, Mr. Hadaway?

THE WITNESS: 501 Fairmont Avenue.

MS. DOPKIN: And would you please keep your voice up so our recording equipment can hear you?

THE WITNESS: I'll do my best, thank you.

MR. ROSENBLATT: I've marked this as Exhibit 13, and I have copies.

Mr. Chairman, Mr. Hadaway did testify in the other solar case. He's the environmental expert that we're calling. I can run through

voir dire or --

MR. BELT: What is the specific area that he is to be accepted as an expert?

MR. ROSENBLATT: He is an expert in environmental regulations, with particular knowledge of the standards in Baltimore County.

MR. BELT: And Mr. Mowell, do you recall Mr. Hadaway's testimony previously?

MR. MOWELL: I do, yes.

MR. BELT: And do you have objection to him being offered as an expert in that field?

MR. MOWELL: No, I don't, I think that's what he talked about in the last one.

MR. BELT: Okay.

MS. DEMILIO: No objection.

MR. BELT: Fantastic, so he will be so admitted as an expert in the field as stated, and we shall proceed.

MR. ROSENBLATT: Thank you. Mr. Hadaway is with Daft McCune Walker, the same firm, and his credentials are outlined in his resume.

DIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Let's jump right into it. Can you explain a little bit about your experience with this project, have you been to this property before?

A. Yes, I have.

Q. How many times?

A. At least four.

Q. Have you in conjunction with this project prepared environmental plans for submittal to Baltimore County's environmental department?

A. Yes.

Q. Are there any recorded buffers on this property at this time?

A. No, there are none.

Q. If the solar facility is approved, will there be any recorded buffers on this property?

A. Yes.

Q. Can you go through the plans, or let's

discuss each of the plans that you submitted, and you tell me the status of their processing. Did you submit a steep slopes and erodable soils analysis?

A. I sure did.

Q. And where does that stand with DEPS?

A. The county has approved it.

Q. Did you submit a forest stand delineation plan?

A. Yes, we did.

Q. What is the status of that plan?

A. It's also been approved.

Q. Did you submit a wetlands delineation plan?

A. Yes, we did.

Q. And has that been approved by Baltimore County?

A. Yes, it has.

Q. Can you approach -- maybe the easiest way is if you approach Exhibit 1 and kind of go around and explain what the environmental

Page 194

features are of this site.

A. Sure.

Q. And again, keep your voice up so the speakers can all hear you. Thank you.

A. It may be that they show up more readily on the aerial photograph. All of the lines on the aerial paragraph are also depicted on the special exception plan. I guess I'll start with the patterned areas and the curvilinear line here, and then also running along here on the southern portion of the property, and as well over here along the eastern portions of the property, and even offsite to the southeast. These are the delineated field surveyed and county approved non-tidal wetlands and stream limits.

The heavy dashed line that I'm pointing to in this area, that's the county approved forest buffer limit. That limit was determined through the submittal of the steep slopes and erodable soils analysis that Mr. Rosenblatt

Page 195

referred to, and the location of that forest buffer limit has also been approved by the county.

As well, we do have symbology on our plan for the existing forest edge, and it's a little bit smaller here, it's also depicted on the aerial photograph, and as you can see on the aerial photograph, that's pretty much where the forests are existing. Those forests were described in our forest stand delineation, it was prepared in compliance with the state and county's forest conservation acts and it was subsequently approved by Baltimore County DEPS.

Q. Let's talk very quickly about this logging or forested versus what's out there now issue. To your knowledge, was there any enforcement action for cutting down of trees anywhere on this property?

A. No.

Q. What was the enforcement action that took place on this property, if you know?

Page 196

A. The landowner had, in doing some maintenance activities on the property, unknowingly placed some fill material into the upstream limits of non-tidal wetlands in this vicinity. When we submitted our wetland and stream delineation to the county and subsequently reviewed it in the field with the county representatives, they noticed that the area had been disturbed, and we're talking about several months prior to our involvement with the property.

We did subsequently work with an ecological restoration outfit and under the auspices of Baltimore County DEPS, restored that area to its historic condition, stabilized it, planted it with some native wetland vegetation seed, and if you go out there today, it looks great.

Q. Has DEPS approved the restoration efforts associated with that enforcement action?

A. Yes, they have, no further action.

Page 197

Q. And again, were any trees planted, cut down, or required to be replanted as part of that?

A. There were no trees in that area prior.

Q. Did that -- I'm sorry. Did the landowner's actions have any relation to this solar project?

A. No.

Q. You talked about the outline on the plan, and can you explain what is within the buffer that's shown, because you kind of traced a buffer line. Now let's talk about specifically what's inside that buffer.

A. Okay. The majority of the forest buffer adjacent to the streams and wetlands is in the forest cover, as you can see on the aerial photograph, or maybe you can see on the aerial photograph. There are portions of the buffer that do extend within parts of the field that are currently in cultivation, and then there are also portions of the buffer that have been maintained

Page 198

historically for ag use. There's an access lane that cuts through the northernmost portion of the buffer.

There's a little pull-off area, a storage area where the previous landowner had a storage shed and used the area for lay down of equipment and other materials.

Q. Is there currently any farming within that buffer area?

A. Oh yes. Yes.

Q. If the facility is approved, what will take place within that buffer area?

A. We're expecting it's going to be taken out of production.

Q. Would you expect that any planting will take place within any of the buffer areas?

A. Yeah, absolutely, likely that there's going to be native trees and shrubs planted in that area to provide the functions that a forest buffer is supposed to provide.

Q. Now it looks on the northwest corner of

Page 199

the proposed solar facility, like the buffer line is very close to one of the lines. Are there any solar panels proposed in the buffer?

A. No. No, the fence is outside of the buffer, the panels are outside of the buffer. We've left room to install sediment and erosion controls during construction so that everything we need to do to protect the resource and the buffer during construction, we'll have adequate room to do that.

Q. Is the buffer itself an environmental resource?

A. Yes, it is.

Q. What is the purpose of the buffer?

A. It's an area adjacent to regulated water resources, including wetlands and streams and floodplains. It specifically is to provide for filtering of nutrients, removal of sediments, and to provide habitat. That's one of the reasons they call it a forest buffer, it's anticipated that as part of establishing it as a buffer, it

Page 200

is either going to be planted or allowed to revert to a forested condition, and in doing that it will provide the utmost protection for the wetlands and streams.

Q. And you said there's non-tidal wetlands in that kind of hashed or dotted area on the plan. Can you explain, what does that look like, what do we expect to see in those areas?

A. The definition is that they're inundated or saturated for a certain amount of the year, they have plants that are typically adapted to life in wet conditions, and that the soils are indicative of soils that have formed under wet conditions. So if you went out there today, it would be over your ankles if you were wearing your shoes, and it would be squishy and wet.

Q. What would be over my ankles?

A. The non-tidal wetlands in this area.

Q. Water?

A. Yes, water and saturated soils. You would sink into the mud.

Page 201

Q. Okay. What is OneEnergy doing to protect that resource?

A. Well, we're going to establish the buffer, number one, so that our site design is outside of that protected area. Number two, during construction we're going to install best management practices for soil erosion and sediment control, that's going to be reviewed by the soil conservation district. We'll have a pre-construction meeting to make sure that all of those perimeter controls are established prior to any shovel going into the ground in relation to the solar array. Those best management practices will be maintained throughout the duration of the project construction until the site is stabilized with vegetation and the sediment control inspector says we can then remove those perimeter controls.

Our site design is also required to comply with the county's and state's stormwater management regulations, and in designing this

Page 202

site, we're doing it in such a way that it utilizes what the regulations call non-rooftop disconnect and design the site in that fashion, so the runoff is allowed to filter into the ground and dissipate.

So during construction, erosion control will be installed and maintained, and following construction, stormwater management is being addressed through site design.

Q. Can you get a grading or building permit in Baltimore County without sediment erosion control and stormwater management being reviewed and approved?

A. No.

Q. Let's talk about the impact of this facility long term on any environmental resources. What impacts do you anticipate this would have on the wetlands or streams on the property?

A. I don't anticipate that it's going to have any negative impact on the wetlands and

Page 203

streams in the property.

Q. Why is that?

A. The site is going to be rested in terms of its current intensive agricultural use. It's currently being cultivated for cereal crops, grain, things of that nature. It's currently being subjected to application of fertilizers, pesticides and herbicides. When the soil is cultivated and exposed to precipitation, you have increased opportunity for sediment erosion transport and offsite sediment transport, i.e., going down the hill into the streams.

After this site is constructed and before those sediment controls around the site are going to be removed, our understanding is that the site is going to be established in pollinator habitat, which is a native mix of herbaceous perennials and annuals that will seed themselves year after year, and the soils that are currently under intensive ag uses are basically going to be able to rest, and allowed

Page 204

to go fallow for a period of time.

Q. What impact does that have on the health of the soil?

A. I expect it's going to improve the condition of the soil because it's, again, not going to be subjected to all the extensive ag practices, applications of chemical fertilizers and other compounds, and you're going to have significantly less erosion and sediment runoff.

Q. And what impact does the planting of pollinator habitat have on runoff?

A. Well, it stabilizes the soil, as I said. You won't have any bare soil that when it rains, it won't be subject to erosion. But also, you get a dense root mat down into the soil substrate that's going to hold the soil together, and it's going to add to the organic matter that's within the soil.

Q. Are you familiar with the plan requirements of Section 33-3-108 of the Baltimore County Code?

Page 205

A. Yes, I am.

Q. How is OneEnergy addressing those requirements in this case?

A. Well, we've submitted the forest stand delineation, we've submitted the wetland and stream delineation, we've submitted the steep slopes and erodable soils analysis, all of which depict the items required under that code section, that being locations of slopes, soils, streams, buffers, forests, and again those pictures, or those features are depicted on our special exception plan.

Q. And do those plans combine the, does that contain all of the information outlined in 33-3-108?

A. Yes.

Q. And are any of those plans still in progress or are they all approved?

A. All of the environmental plans have been approved, and the special exception plan already went through one time.

MR. ROSENBLATT: I have no further questions.

THE WITNESS: Thank you.

MR. BELT: You can have a seat, sir, thank you.

THE WITNESS: Thank you.

CROSS-EXAMINATION

BY MR. MOWELL:

Q. Mr. Hadaway, I see two plans, Petitioner's Exhibit 1 and Petitioner's Exhibit 2. Did you create either one of those documents?

A. I assisted with the creation of both of those documents, yes.

Q. How did you assist with the creations?

A. Well, I supervise all of the environmental compliance work for Daft McCune Walker, so in addition to making sure that the plan is legible and depicts features as they actually exist in the field, I actually go out in the field and walk it myself and make sure things

are right.

Q. And you talked about three different plans that you submitted to the county, a steep slope analysis plan?

A. It's a steep slopes and erodable soils analysis plan, yes, sir.

Q. Do you have that with you?

A. I do not.

Q. And you talked about a forest delineation plan; do you have that with you?

A. A forest stand delineation plan. I don't have that with me either, sir, no.

Q. Do you have the wetlands delineation plan?

A. No, I didn't bring that with me either.

Q. Why didn't you bring any of the three plans that you worked on?

A. The information derived from those approved plans is all depicted on the plans that you have in front of you, sir.

Q. How does either one of those plans show

the steep slope analysis?

A. The steep slopes and erodable soils analysis is a process required by Baltimore County DEPS to determine the location and extent of the regulated forest buffer adjacent to wetlands, streams, floodplains. The ultimate purpose for preparing a steep slopes and erodable soils analysis is to get an approval of the fat dashed line that you see on that plan that represents the forest buffer.

Q. Do you know the range of slopes in the area where the panels would be installed, the percentage of slopes?

A. Generally.

Q. What is it?

A. Generally we've got mostly ten to 20s. There are some small areas that are a little in excess of 25 percent.

Q. There are some areas where the panels will be installed that have a slope percentage of 25 percent?

A. Very small areas, yes, sir.

Q. And your plan to handle runoff from this site is to have the disconnection, which is an area of grass between the rows of panels.

A. That's one of the methods that will likely be employed to provide stormwater management for this site.

Q. What are the other methods that might be employed?

A. There are other methods that the county may require, typically referred to as best management practices or BMPs, and whether or not we install structural best management practices such as level spreaders, grass swales, detention ponds, things of that nature, that all depends on the analysis that our engineers are going to have to conduct when we get to the permitting phase of this project. It's premature for me to say which of those BMPs will be employed.

Q. So you can't -- couldn't you create a plan to tell us and the Board, here is the runoff

we expect from the property that has these percentages of slopes and here is how we can tell you that we will be able to handle that runoff, why can't you present such a plan before the Board?

MR. ROSENBLATT: Objection.

MR. BELT: Basis?

MR. ROSENBLATT: He could do anything he wants. Why can't he prepare such a plan?

MR. BELT: How about let's rephrase, why did you not choose to do so with it?

THE WITNESS: Our understanding is it was not a requirement for this stage of the process.

BY MR. MOWELL:

Q. Well, have you read 33-3-108? Doesn't it talk about a stormwater management plan?

A. The plan requirements for 33-3-108?

Q. Yes.

A. I believe it requires us to show all of the natural features and information necessary

for the department to make a determination about the product.

Q. Actually, number 13 says, location and type of stormwater management devices and practices.

MR. ROSENBLATT: What are you reading from?

MR. MOWELL: I'm reading from 33-3-108.

MS. DEMILIO: Of the Baltimore County Code.

MR. BELT: So, would you like to approach the witness and see if it refreshes his recollection if you show him the actual code?

MR. MOWELL: Let me show you 33-3-108 of the county code, and ask you to read item 13.

MR. BELT: Mr. Hadaway, does that refresh your recollection as to the requirements of that code section?

THE WITNESS: Yes, it does. It says location and type of stormwater management devices and practices.

BY MR. MOWELL:

Q. And you haven't shown us that?

A. At the present time, sir, our understanding based on the layout of the solar array before you is that the non-rooftop disconnect is what we would anticipate is required.

Q. On slopes at 25 percent is what you're testifying.

A. That's right.

Q. Are you familiar with the MDE guidelines for stormwater management on solar arrays?

A. Yes, sir, I am.

Q. Doesn't it call for engineered drawings for slopes over 20 percent?

A. The language in that stormwater guidance states that non-rooftop disconnect can be used and that in certain instances, other practices may be required.

Q. And the other practices between five and ten percent that may be required are berms,

terraces and level spreaders; is that right?

A. Yes, that's right. Our understanding is that the word may means that it's up to the county to decide what's going to be required.

Q. Well, you're the engineer. Why can't you tell us what you think is the best way to protect this site and adjacent properties?

A. Sir, for the record, I'm not the engineer, I'm not a stormwater engineer. I work with stormwater engineers and I have a good working knowledge of those processes, but at this stage of the process, our expectation is that we're going with non-rooftop disconnect until the county tells us differently based on a more thorough review at a later point in time.

Q. Okay. So --

A. May I add, we intend to comply with the stormwater management regulations as part of the construction and permit process for this project.

Q. Well, you testified you intended to comply with 33-3-108, and you didn't do that.

MR. ROSENBLATT: Objection.
MR. BELT: Was that a question?
BY MR. MOWELL:
Q. You are the director of environmental services at your firm?
A. That's right.
Q. Is stormwater management a big part of protecting the environment?
A. Yes, it is.
Q. So you produce three plans that you didn't bring today that you submitted to the county, and you are telling us the county's okay with all three of them?
A. That's correct.
Q. Okay. And we're supposed to rely on that in making a decision whether this is a project that should go through or not?
MR. ROSENBLATT: Objection.
MR. BELT: I think that's a valid question. Are we supposed to rely on that, Mr. Hadaway?

THE WITNESS: Yes.
MR. BELT: Okay.
BY MR. MOWELL:
Q. Are the plans available, do you have copies of the plans?
A. They're available in the public record up at DEPS.
Q. You didn't keep a photocopy?
A. I sure have. I don't have them with me.
MR. BELT: Just so I'm clear, the result of that work product you're saying is what is depicted on these two exhibits, 1 and 2?
THE WITNESS: The work product being the steep slopes and erodable soils analysis?
MR. BELT: Yes.
THE WITNESS: Yes, sir, it's -- I'm going to point to it.
MR. MCCOMAS: The three things, right, you submitted. The steep slopes and erodable soils analysis determines the extent of the forest buffer.

MR. BELT: There's a calculation that's done, that's sort of beyond my pay grade?
THE WITNESS: It's a calculation.
The forest edge depicted on this plan is the result of that approved forest stand delineation.
The wetlands and the streams are also derived from the wetlands streams delineation that we submitted to the county and obtained their approval of.
MR. BELT: And on the, I can't see all the notations, but do some of the notations that are down there, do they reference those types of things in the key, are they referenced that they're part of the record, the list of comments, all your comments down there?
THE WITNESS: The data sources, may I?
MR. BELT: Okay.
THE WITNESS: Wetlands shown hereon, this is not the correct note, it says that the wetlands are preliminary until review, so that's

the wrong note, so we've got to correct a data source. My testimony is that the natural resources shown on this plan have all been reviewed and approved by the county.
MR. BELT: And you're stating that one could find those files.
THE WITNESS: Absolutely.
MR. BELT: Sorry.
MR. MCCOMAS: Do you know if the level spreader is accounted for in the array area in this model?
THE WITNESS: We're not in the point of design, we're not far enough along in the design to even know that we're going to be required to have level spreaders, so I don't know if they are or are not.
MR. MCCOMAS: If you are, what impact would that have, if you are required, what impact would that have?
THE WITNESS: It would require that we would construct those stormwater management

features, whether it's a level spreader or swale, or whatever.

MR. MCCOMAS: Would it expand the footprint of the array?

THE WITNESS: I believe the footprint stays where it is, I don't know that we're proposing to expand the special exception area.

MR. BELT: Where were we? Who did I interrupt? Mr. Mowell, were you still questioning?

MR. MOWELL: I'm still looking, sir.

MR. BELT: I'm sorry, sir.

MR. MOWELL: Sorry.

BY MR. MOWELL:

Q. Mr. Hadaway, a level spreader is in fact a stormwater management device, isn't it?

A. Yes, it is.

Q. And the purpose of controlling stormwater on a site is to protect the downstream sites, isn't it?

A. Yes, it is.

Q. And what have you shown us that you will protect the downstream site which is an RC-7 zoned property?

A. We're establishing a forested buffer that's going to remain in place to provide filtering, and other functions that the buffer requires. And as I said, if after additional analysis we are required to design, install and maintain stormwater management features, we'll do that, and it will be on the forthcoming plans.

Q. Would you agree that there will be runoff from 9,000 panels out in this field?

A. Yes.

Q. And will that runoff run downhill?

A. Whatever doesn't get soaked into the soil, yes.

Q. Right, and so will that runoff run first knew the forest buffers?

A. It's going to run into the grass areas around and beneath the solar panels, and then at some point if the soils become saturated and no longer able to absorb water, the runoff will run down the hill and it will run into the buffers.

Q. The forest buffers?

A. That's right.

Q. Is that a good thing for the forest buffers or a bad thing?

A. By definition it's what the buffers are supposed to do, they're supposed to intercept and absorb and treat runoff.

Q. From 9,000 solar panels?

A. From the upstream drainage area, whatever it happens to be.

Q. And if the water gets through the -- can the water get through the forest buffers down into the adjacent property zoned RC-7?

A. I imagine under certain circumstances.

Q. And that runoff can be controlled by certain measures that we talked about?

A. Yes, sir.

Q. And you're going to wait for the county to tell you what needs to be done to control that

runoff?

A. No. We're going to prepare a stormwater management plan consistent with the law and guidance that's currently on record, we're going to submit it to the county. The first step is a concept stormwater management plan, the county's going to review that and tell us what they think. Our engineers are going to, again, design in accordance with the guidance and the law, and there's an iterative review process, and ultimately whatever the county says is required to meet the requirements for stormwater management, that's what we're going to do.

Q. Are the streams marked on either one of the exhibits here?

A. Yes, sir, they're on both of the exhibits.

Q. How many streams are on the property?

A. There are five streams.

Q. Are there any streams under where the solar array would be installed?

Page 222

A. No, sir, there aren't.

Q. And as to the wetlands, who discovered that there were wetlands on this site, and when was it discovered?

A. Daft McCune Walker as part of our initial analysis, went out to the site, our environmental compliance staff, and we're trained in identifying non-tidal wetlands and other regulated water resources. We delineated those wetlands in the field and shared that information with the county. They came out into the field, walked it, evaluated our delineation, and gave their blessing ultimately.

Q. Did you share that information with the solar company?

A. Oh yes.

Q. Did you know that there were wetlands out there until you physically went out to the sigh?

A. I can't say that we knew. We suspected, we've been doing this a long time.

Page 223

Q. What made you suspect it?

A. Soil types, topographic information, aerial photographic interpretation.

Q. Do you know whether the solar company knew that there were wetlands on this site before you told them?

A. No, I don't.

Q. And when, again, did you tell them this?

A. This was very early on in the process.

Q. What year would that be?

A. When did we start in, 2017, end of '17? I think we started this sometime in the fall of 2017.

Q. And the buffers, you computed the width of the buffers around the wetlands?

A. Yes, sir.

Q. And is that determined by the slope and whether there is erodable soils on the site?

A. Those are two of the five factors that are considered, yes, sir.

Q. So what is the distance of the buffers

Page 224

that you put around the wetlands?

A. In every case it's at least 100 feet, and that's per the county law. In some places the buffer gets expanded where you have steep slopes or highly erodable soils, or vegetative cover that's not optimal.

Q. Did you expand the hundred feet on any of the wetlands on this site?

A. Yes.

Q. Where did you expand them and what is the width?

A. I need to get a scale. If you see this area here, sir, the lotus, well --

MR. BELT: If that's marked with a verbal clue, that will help.

THE WITNESS: I'm looking at the non-tidal wetland system located in the south, southwest portion of the property, where the longest stream on site intersects with its receiving waters, and the scale of this plan is one inch equals 100 feet, and in this location

Page 225

for instance, because of the degree of slope, we've expanded that buffer to approximately 180 feet, okay? Likewise, in the, let's call it the central stream system, we've expanded that buffer in an easterly direction roughly 190 feet, okay? There are several other locations on the site where the buffer was expanded due to the presence of steep slopes and highly erodable soils. Everywhere else, the buffer determination found that the buffer as shown was appropriate based on all of those five factors.

BY MR. MOWELL:

Q. Well, and is it true that no construction is allowed within a wetlands buffer?

A. Not without a permit.

Q. And why, what is the purpose of the buffers?

A. To protect the wetlands and streams.

Q. Well, why do we care about wetlands?

A. They provide water quality and habitat for downstream areas, and onsite areas, and

Page 226

ultimately the Chesapeake Bay, and because they're subject to state, local and federal regulations.

Q. And the same reason for buffers around streams, to protect the streams and the water quality?

A. At the county level those buffers are established for those reasons, yes.

Q. And you say there were five streams on the property?

A. That's right.

Q. And are streams classified by, isn't there a Class 1, 2, and Class 3?

A. That's certainly one of the designations for streams.

Q. What is the designation for these streams?

A. I believe these are 3-P.

Q. Okay. Are they trout streams?

A. That's right.

Q. All five are trout streams?

Page 227

A. That's right.

Q. Do you have any concerns about runoff from the solar array into the trout streams?

A. Not given our site design and best management practices in establishing the buffers, no.

Q. You have no stormwater management plan at this point and yet you still have no concern about runoff into trout streams?

A. That's right.

Q. Back to 33-3-108, nine says soils mapped and labeled in accordance with the soils survey of the county. Would you agree that these site plans don't have the soils map?

A. The other plans that we submitted and had approved met those requirements.

Q. The ones you didn't bring today?

A. That's right.

Q. And does your, do either one of your plans have contour lines with elevations?

A. Both of those do.

Page 228

Q. They have the elevations on them?

A. Yes, sir. I take that back. The top one does, the bottom one does not have contours.

Q. Are there any riverine floodplain limits on this site?

A. No.

Q. Your site plan doesn't have slopes greater than ten percent marked, or slopes greater than 25 percent marked on it; is that correct?

A. The other plans that we submitted do, these plans do not.

Q. Again, the plans you chose not to bring today?

MR. ROSENBLATT: Objection to this. What's the point of repeating this, other than to badger the witness?

MR. BELT: Overruled at this time, but the Board's got the point.

MR. MOWELL: Well, he's, with all due respect, I'm just trying to make it clear, he

Page 229

said the other plans. I'm not trying to badger him.

MR. ROSENBLATT: You thought it was other plans that we brought today?

MR. BELT: So, we will stop there and it is sustained for the moment, or actually, it's overruled, you're allowed to have that question. We will continue, and if it's something that's germane to confirm it is the three missing plans that were not brought here. Otherwise, it's asked and answered.

MR. MOWELL: Thank you.

BY MR. MOWELL:

Q. You also don't have on either plan rare species, threatened species or endangered species habitat?

A. Neither of those two plans depict that.

Q. Okay. Do you know whether there is a potential bog turtle site on this property?

A. Based on our review of available mapping, there is no bog turtle habitat on this

property.

Q. And finally, you have no historical and archeological sites shown on either site plan?

A. That's right.

Q. Are there any such sites, to your knowledge?

A. Not to my knowledge.

Q. Mr. Hadaway, could you point out where the streams are on the site plan please?

A. I'm going to highlight the streams. Can I do it on this exhibit? I'm going to mark the offsite stream because it does cast a buffer onto our site. I'll take this one up the hill.

MR. BELT: So just for the record, Mr. Hadaway, there's one stream that's actually off site, but there is a buffer on there to buffer that stream. So if we were being technical, there would be four that are on the site, and one off of the buffer that's provided.

THE WITNESS: There's actually five, because this stream bifurcates, so one, two,

three, four and five.

MR. BELT: Okay, so the other one, the sixth is the one that just has a buffer that's on the property.

THE WITNESS: That's right.

MS. DOPKIN: Can you make that clear for the record, what he's done?

MR. BELT: All the pink writing on Petitioner's 1.

BY MR. MOWELL:

Q. Are all the streams that you've shown at a lower elevation than where the solar array would be installed?

A. Yes.

MR. MOWELL: That's all I have.

MR. BELT: Ms. Demilio?

MS. DEMILIO: Well, since I just got my things back, I don't think I have too many questions.

BY MS. DEMILIO:

Q. Let me ask you, Mr. Hadaway, under the

special exception requirements in the Baltimore County Zoning Regulations, 502.1, it requires that before a special exception is granted, it will not be detrimental to the environmental and natural resources of the site and vicinity, including forests, streams, wetlands, aquifers and floodplains, you're generally familiar with that?

A. Yes.

Q. All right. And as I understand it then, it's your testimony that you do not believe the steep slopes plan, the forest buffer plan or the wetlands plan would be helpful for the Board in determining whether the special exception should be granted?

A. No, I didn't say that.

Q. But you didn't bring them today for the Board, correct?

A. That's right, I didn't bring them.

Q. So the Board does not have the benefit of looking at those to make an assessment on

whether this special exception satisfies that 502.1(i), correct?

A. They can see those plans.

Q. Now on the -- let me just ask you, on the -- you indicated that the soils map labeled in accordance with the soils survey of the county was included on one of the plans, or on a previous plan, not on this Petitioner's Exhibit 1?

A. That's correct.

Q. What should be on there, the soils survey, would that be the type of soils that are categorized in Baltimore County?

A. That's right, yes.

Q. You do not think that was pertinent for the Board to consider today under the special exception standards in 502.1?

A. I'm not saying that. I'm saying that we did provide plan information per the zoning code that met the requirements of Title 33, and those plans were approved and had information that this

Page 234

array respects those items, the wetlands, streams and buffers.

Q. So, are you suggesting that this Board of Appeals doesn't have an independent authority to make those assessments on its own?

A. No, I'm not.

Q. Well, you are saying that in the sense that you did not -- you're suggesting that they were approved by another county agency and therefore, the Board should accept that approval despite its authority for these requirements under 502.1(i) that I just read to you?

A. The county Department of Environmental Protection and Sustainability made their findings, these plans are reflective of those findings. The Board can agree to accept the county's findings or I guess if need be, copies of those plans could be obtained.

Q. So you're saying it's up to the Board to get those plans, that's why you didn't bring them?

Page 235

A. I said copies can be obtained, I didn't say who would obtain them.

Q. Well, you're not offering them into evidence, so would you suggest that I should obtain them, is that what you're suggesting?

A. That's not my place.

Q. So --

MR. BELT: I believe the line of questioning basically is --

MS. DEMILIO: I want to understand what that means.

MR. BELT: I mean, basically it's us, you're asking us to tell -- him to tell us whether or not it's important if they're not here. They're here, we know they're not here, and it's for the finder of fact to determine whether it's proper that the county thinks they're great is good enough for us.

MS. DEMILIO: All right, let me ask this question then.

BY MS. DEMILIO:

Page 236

Q. Mr. Hadaway, did you hear your coworker, David Martin's suggestion that something suggested by the Department of Planning is not binding on him, and he didn't even agree with what the Department of Planning recommended in terms of planning for the site? Did you hear that testimony?

A. I'm not sure that I did.

Q. Well, I need to refresh, or let me just demonstrate for you. A question was asked of Mr. Martin whether he agrees with the planning comment regarding certain requirements for this plan, this solar plan, the site plan, and Mr. Martin said well, he didn't agree with the Department of Planning's recommendation. Now, are you suggesting that this Board does not have the authority to disagree with the Baltimore County DEPS recommendations?

A. No, I'm not suggesting that at all.

Q. But you provided no other information other than the fact that the county agencies

Page 237

approved the three plans that you keep talking about.

MR. ROSENBLATT: Objection. That's not -- that's a mischaracterization of his testimony.

MR. BELT: You just asked, is he saying that we didn't have the power to evaluate the information on our own, he said no. The next question was, Ms. Demilio?

MS. DEMILIO: Yes.

BY MS. DEMILIO:

Q. The question was, your testimony seems to indicate that the Board of Appeals can rely, or should rely on the fact that DEPS approved the steep slopes plan, the forest buffer plan and the wetlands plan.

A. That and my testimony.

MS. DEMILIO: Well, I think Mr. Mowell actually covered all the other questions I had at this point, I'm not going to repeat them.

MR. BELT: Is there anything in

redirect?

REDIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Hadaway, how long have you been doing this in Baltimore County?

A. It will be 27 years in April.

Q. The three plans that have been mentioned, have you ever presented those plans to the Board of Appeals for approval?

A. No, I haven't.

Q. Have you ever presented them in a zoning case before the Board of Appeals?

A. No.

Q. Who approves those plans?

A. Baltimore County DEPS.

Q. Are you familiar with the checklist for a zoning site plan?

A. Yes.

Q. Are all the requirements of 33-3-108 requirements to be shown on a zoning site plan?

A. I don't think they all are, no.

Q. With respect to stormwater management, if DEPS requires a full engineering study as part of their approval, will Daft McCune Walker perform that type of study?

A. Absolutely.

Q. And with respect to steep slopes, there's been testimony that there are portions of the special exception area that have slopes 25 percent or greater.

A. Yes.

Q. Is the majority of the area where the panels are going to go that steep?

A. No.

Q. How big is the area where there are slopes of that magnitude?

A. I'm going to guess less than two percent.

Q. What's the slope on the majority of the special exception area?

A. Anywhere from five to 20 percent.

Q. Do you know if the steeper areas --

strike that.

Do you know if the steeper areas are natural or manmade?

A. I believe they're natural.

Q. And what impact do those have on the layout or the environmental approvals that you've obtained?

A. None, because they're too far distant from any of the regulated water resources.

Q. The particularly steeper areas?

A. Yes.

Q. Do you know where they're located within the special exception area, would that be something you could point to or at least say north, south, east, west?

A. Generally in this vicinity right here, we have a very small area of steep slopes.

Q. For the record, can you kind of give some dimensions? Compared to the T turnaround, where are you pointing?

A. Southeast of the T turnaround, sort of

in the east central portion of the array.

Q. Compared to the rest of the panels, how is that area distance wise from the environmental features on this property?

A. It's over 500 feet away.

Q. Okay.

A. There's also one other small area down here at the very southern end of the array that we have a vary minimal area of steep slopes.

Q. If additional stormwater management features are required in order to treat stormwater off the panels in those areas, could that be done within the special exception area?

A. I'm not sure.

Q. Okay. Who would make that determination?

A. Our professional engineers.

MR. BELT: Would you speak into the microphone?

THE WITNESS: Our professional engineers would make that determination, in conjunction

Page 242

with review by the county.
MR. ROSENBLATT: Okay. Nothing further, thanks.
MS. DOPKIN: I have one question.
EXAMINATION BY THE BOARD OF APPEALS
BY MS. DOPKIN:
Q. When a stormwater management plan is presented to the county, what exactly done, is it an analysis of the plan?
A. That's exactly what it is. We compare the existing drainage area characteristics with the proposed drainage area characteristics. It looks at the amount of water running off the site in the existing condition versus the amount of water running off the site in the proposed condition, and the whole goal of it is to make sure that that water is treated for quality and quantity, so that the water coming off of the site is clean and so that the water doesn't all rush into the stream at the same time and scour out the stream and impact the stream wetlands.

Page 243

Q. And after analysis, is it supposed to be as good as or better than before, or just okay, or, I mean --
A. We're not allowed to exceed the runoff rates in the proposed condition, okay, which means we're not allowed to have water running off the site any faster than it is today, and the water quality measures are determined based on the characteristics of the runoff, how steep the slope of the land is, how much impervious surface is being provided, compared to how much area of vegetative cover is going to be provided, again, for the filtration.
Q. Do the quality of the runoff characteristics include the temperature? There has been some discussion about that in a prior hearing.
A. My understanding of that is limited, so I know there's language in the law that says we're not allowed to exceed ambient temperatures, and that will be part of our analysis. I'm just not the guy that does it.

Page 244

MS. DOPKIN: Okay.
(Witness excused.)
MR. BELT: Now, Mr. Rosenblatt?
MR. ROSENBLATT: There was a request to take one witness out of order who can't be here tomorrow, which we're happy to do.
MR. BELT: Okay, sure.
MS. DEMILIO: A lay witness.
MR. BELT: I'm fine with that.
MR. MOWELL: Okay. The protestants would call Ruth mass Kay ray.
MS. DOPKIN: Thank you, Mr. Rosenblatt.
Whereupon,
RUTH MASCARI,
being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:
MS. DOPKIN: Would you state your name and address for the record, spelling your name if you would?

Page 245

THE WITNESS: Ruth Mascari, M-A-S-C-A-R-I. I live in Monkton, Maryland. Do you need the address? 17210 Whiteley Road, Monkton, Maryland.
MS. DOPKIN: Whiteley?
THE WITNESS: Whitely, uh-huh.
MS. DOPKIN: Please keep your voice up so the recording equipment can hear you.
MR. BELT: All right, Mr. Mowell.
MR. MOWELL: Thank you.
DIRECT EXAMINATION
BY MR. MOWELL:
Q. Ms. Mascari, how far do you live from this site?
A. Oh, two miles.
Q. Tell us a little bit about your background.
A. Okay. I have been active in the north county for about 45 years. I have a bachelor's and master's of history and political science with credit, reservation credits from Goucher. I

Page 246

was also chairman of the Baltimore County Landmarks Commission, chairman of the Baltimore County Historical Trust, and chairman of the commission, the state commission level, and I have worked for a very long time to bundle up all of the sorts of preservation and conservation items that we have. We have rural roads, we have legacy roads, legacy areas, we have conservancy areas, we have Sparks Glencoe. We have bundled these things all together along with National Registry of Historic Districts and the local landmark district to preserve what we have.

And putting in this sort of installation that far from My Lady's Manor, and I did bring a small map, I don't have a copy, I'm happy to show this to people. I was very concerned when I heard about the impact this will have on the area. It's not just the land, it's not just the water, it's not just the historic site, it's everything wrapped up together. People don't move out there to have a scar on their landscape

Page 247

like this installation will provide.

Q. What if any historical significance does the area have?

A. Well, there are individual sites. For example in Hereford, there's a local landmark called the White Acres House, which has been restored and is a benefit to the community. We have, we border on the My Lady's Manor National Registry of Historic Districts, 10,000 acres designated at the top federal level, especially for its agricultural significance.

Q. Is this site in the My Lady's Manor district?

A. No, it abuts it by about a mile, I think.

Q. And the house in Hereford, how far is this site from that house?

A. Probably less than a mile, and to get to any of this activity, you're going to have to go by -- I was listening to the very good explanation of the panes. Coming home in the

Page 248

evening you're going to see the panels turning up so they can get the western sun. Going to work in the morning, you're going to see the panels glaring at you so they can get the eastern sun. Nobody wants that. I understand people want to make money, I know they want to sell their land, I understand all that, but there's a certain point where you stop and say wait a minute, how much am I willing to give up, and I'm not willing to give this up.

Q. How well traveled is Monkton Road in that area?

A. Oh, moderate. Moderate, yeah.

Q. Is there anything else you would like to add?

A. No. I just wanted to say the question, I listened very intently to the question of the screening and the buffers. It's a scenic road. Why is it a scenic road? What you can see from it. If you can't see anything, or if all you're going to look at is panels, it's no longer a

Page 249

scenic road, it's an abuse of everybody's ability to live out there and be happy and take care of the land.

Q. How long have you lived on Whiteley Road?

A. 45 years.

MR. MOWELL: All right, that's all I have, thank you.

MR. BELT: Ms. Demilio?

BY MS. DEMILIO:

Q. Ms. Mascari, are there other roads in rural areas that are either RC-2 or RC-3?

A. Oh, there are rural roads all over the place.

Q. They're not all scenic roads, are they?

A. No, rural roads are a county designation, scenic roads is a state level, but they can overlap, they do overlap.

Q. But there are other locations of farmlands in the north county that are not on scenic roads, right?

Page 250

A. I'm sure there are, yes.

MS. DEMILIO: Thank you.

MR. BELT: Mr. Rosenblatt, do you have any questions, sir.

MR. ROSENBLATT: I do.

CROSS-EXAMINATION

BY MR. ROSENBLATT:

Q. Where is your property compared -- like how do you get to this property from your property?

A. I go, from this property to my property, I go east on Monkton Road, turn left on Wesley Chapel.

Q. And I'm sorry, on Wesley Chapel?

A. Uh-huh.

Q. How far down is Wesley Chapel from this project?

A. It's about, I would say maybe it's two miles.

Q. Two miles to Wesley Chapel?

A. Give or take.

Page 251

Q. And then you turn on that road, and then where is Whiteley Road?

A. It's right, just at the top of Wesley Chapel.

Q. It's a road off of Wesley Chapel?

A. Uh-huh.

Q. Okay. You talked about, was it My -- can you say the term again, My Lady's historic district?

A. No. In Baltimore County -- we have a National Registry of Historic Districts. You commonly see the term, on the map it should say NR, and that's 10,000 acres. My Lady's Manor is the local name for it.

Q. It's 10,000 acres?

A. Uh-huh.

Q. But this property isn't within it, is it?

A. No, it closely abuts it.

Q. Okay. Is this property in a Baltimore County historic district?

Page 252

A. It is not. But once again, it closely abuts the Baltimore County district of Monkton, which is the town center of Monkton, which has all the small restored houses.

Q. This property is outside of that district?

A. Yes.

Q. Is this property listed on the Baltimore County final landmarks list?

A. As I understand, and I think you will have testimony on this tomorrow, there's no single house in this, on this property that's on the final landmarks list. That does not mean that there are not houses that have BA numbers, which is how they designate them, and they are eligible to be on the landmarks list.

Q. But this property does not contain any structure that is on the Baltimore County final landmarks list?

A. Final, no.

Q. Is this, if you know, is this property,

Page 253

does it, is it within an agricultural priority preservation area?

A. I am not sure about that so I'm not going to comment on it.

Q. Do you know if there's an agricultural preservation easement on this property?

A. I don't think so.

MR. ROSENBLATT: Okay. Nothing further, thank you.

MR. BELT: Thank you, ma'am, you may step down.

(Witness excused.)

MR. BELT: All right, so we're going to take a quick five-minute break. We have about a 4:10 hard stop, so let's see where we are.

MR. ROSENBLATT: One more witness, and I'll move as fast as I can.

MR. BELT: Okay, great.

(Recess from 2:45 to 2:56 p.m.)

MR. BELT: All right, we can be seated.

MR. ROSENBLATT: I call Mitch Kellman.

Page 254

MR. BELT: All right, fantastic.

Whereupon,

MITCHELL KELLMAN,

being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: Please state your name and address for the record, and spell your last name.

THE WITNESS: Mitchell Kellman K-E-L-L-M-A-N, I'm employed by Daft McCune Walker here in Towson, address 501 Fairmont Avenue, 21286.

MR. BELT: Mr. Kellman is going to be an expert in?

MR. ROSENBLATT: Yes, he's an expert land planner with particular knowledge of the standards for applying and obtaining special exceptions in Baltimore County.

MR. BELT: Mr. Mowell, sir, what say you as to that?

MR. MOWELL: I'm okay, I think that's

Page 255

consistent with what he did in the previous case.

MR. BELT: Okay. Ms. Demilio?

MS. DEMILIO: No, no voir dire.

MR. BELT: Okay, he's so accepted as an expert in those areas. You may proceed.

MR. ROSENBLATT: I put a copy of Mr. Kellman's resume and three extra copies, and marked it as Exhibit 14, and ask that -- that has a summary of his experience, so I'll leave it at that.

DIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Kellman, were you involved in the preparation of Petitioner's Exhibit 1, the zoning site plan for this case?

A. Yes, I was.

Q. Because what I say in intro is not evidence, can you briefly go up to the site plan and give us an overview, acreage, zoning, layout, et cetera?

A. Yes. May I approach?

Page 256

MR. BELT: Sure.

THE WITNESS: Petitioner's Exhibit 1, as we've seen it here today, is the special exception plan for the solar facility. The property consists of approximately 98 acres, it is as people know it, on the southwest side of Monkton Road. The special exception area is approximately 19 acres. The actual panels themselves take up about 13 acres, as previously testified before. As we can see it on the board, that the property is somewhat irregularly shaped, going back from the city it is in the Hereford section of Baltimore County. As you see from the aerial photograph, a lot of the property is encumbered by forest buffer with open fields which have been used for farming operations.

BY MR. ROSENBLATT:

Q. Okay. Does this request require any variances from setback, landscaping, layout, et cetera?

A. It does not require any zoning

Page 257

variances. Of course it's on a scenic route, it will require landscaping.

Q. Landscaping to be installed as part of the project?

A. Yes, as far as to be installed, but no landscaping modifications or anything like that.

Q. Is a modification or waiver or anything like that from the landscape manual requested?

A. From the landscape manual, no modifications or waivers are requested.

Q. Let's jump right into the requirements for solar facilities in Baltimore County. Are they permitted in the RC-2 zone?

A. They're permitted in the RC-2 zone by special exception.

Q. At this time to your knowledge, are there fewer than ten approved solar facilities in Baltimore County's third councilmanic district?

A. Yes, there are less than ten approved in the third councilmanic district.

Q. Is this property encumbered by an

Page 258

agricultural preservation easement?
A. It is not.
Q. How about a rural legacy easement?
A. It is not.
Q. Is it a Baltimore County historic district?
A. It is not.
Q. Is the portion of the land on which the solar facility's proposed in a forest conservation easement?
A. It is not.
Q. Is there any forest conservation easement on the property at this time?
A. There is none.
Q. Will there be any forest conservation easement if the solar facility's approved?
A. No.
Q. Is the property in a designated conservancy area, or RC-4 or RC-6 zones?
A. It is not. The facility itself is in the RC-2 zone.

Page 259

Q. Are all above ground components including the panels, inverters and other equipment at least 50 feet from a tract boundary?
A. Yes, they are at least 50 feet from the tract boundary or as we know it, property line.
Q. Are there any structures proposed that are 20 feet or greater in height?
A. There are none over 20 feet.
Q. A couple terms we heard in our last case. Is this property in a targeted ecological area?
A. No, it is not.
Q. Is this property in an agricultural priority preservation area?
A. It is not.
Q. Monkton Road, is it a scenic road?
A. It is a scenic road.
Q. Are solar facilities prohibited on scenic roads?
A. They are not prohibited on scenic roads.
Q. Are they mentioned in the solar bill?

Page 260

A. They are mentioned in the solar bill.
Q. And what are the requirements associated with a scenic road?
A. That they must be landscaped and screened.
Q. Let me ask you about landscaping. It came up before, what's going to happen long term with this site in terms of landscaping. Let me ask you, based on your experience both working for Baltimore County and as a consultant in private practice, if over time a significant amount of the landscaping that's planted for this facility is wiped out by a storm or disease or something else, is there anything Baltimore County can do to enforce the landscaping that was approved as part of this project?
A. Yes. If there was an approved landscape plan or there were conditions imposed by the administrative law judge or the Board of Appeals within that case or a zoning case, a landscape plan that was approved by the county's landscape

Page 261

planner, if a bunch of trees or landscaping gets wiped out and they're not replaced, it could in turn go into an enforcement item.
Q. So under section 4.F-106 of the zoning regulations as part of the solar bill, maintenance is required to, it shall include painting, structural repairs, landscape buffers and vegetation under and around solar panel structures. In your opinion, does that give Baltimore County the authority to regulate the landscaping associated with this facility after the security itself is returned to the applicant?
A. Yes. If the security is returned, it's been my experience that if a bunch of landscaping was removed, wiped out, where it's not there to serve its purpose, it could be an enforcement item issue, someone could call the county and say the developer was required to have so much landscaping along a certain road, it's not there anymore. My opinion, they would have to go out and replace it if the county requires it.

Page 262

Q. Have you had any cases where Baltimore County has tried to enforce such a landscaping requirement against any of your clients?

A. Yes, I have.

Q. Has this project been presented to the Baltimore County Development Review Committee?

A. It has.

Q. Is that the DRC as we call it?

A. Yes, DRC or again, Development Review Committee.

Q. I'm going to show you what I'm going to mark as Exhibit 15. Take a look at Exhibit 15. When is this dated and what does this tell us?

A. The date of the letter is June 15th, 2018, and it says that the DRC has met, and I'm skipping the first couple paragraphs, but the DRC has met in open meeting June 12, 2018, and made the following recommendations. It goes on to say that, the DRC has determined that your project provisionally meets the requirements of the limited exemption under Section

Page 263

32-4-106(A)(1)(vi), and that's of the Baltimore County Code.

Q. When you get an (A) exemption, for example this (A)(1)(vi) exemption, what impact does that have on your development process?

A. You're exempt from the full county development process, which would be a community input meeting, administrative law judge hearing, and you're also exempt from a development plan.

Q. So will this project have to prepare a development plan in connection with this solar facility?

A. If you have an (A) exemption you will not have to prepare a development plan.

Q. In fact, the last sentence on the first page, now that you have received this limited exemption, please proceed with building permit application.

A. Yes, and under the (A) exemption that the DRC grants, that's a standard line as part of the letter that they put in there, is that you

Page 264

can proceed with the building permit application.

Q. And as part of the building permit application associated with this facility, are the environmental approval, stormwater management approval, when does that all take place and get approved by Baltimore County?

A. That will happen prior to building permit, you will need all your stormwater management plans, your grading, sediment erosion control plan, all that approved prior to building permit. Also, a landscape plan as well.

Q. Mr. Martin spoke about a right-of-way agreement and security associated with landscaping.

A. Yes.

Q. Are there additional agreements and securities that are associated with the plans you just mentioned?

A. Yes. Since you will need a grading sediment erosion control plan and stormwater management, you will also need an environmental

Page 265

agreement. That environmental agreement will also need to be approved and secured prior to building permit.

Q. When you say secured, does the developer have to post money?

A. The developer has to post money.

Q. Can you get a permit without posting the required securities?

A. You cannot.

Q. How does the county evaluate the, how do they determine how much security is needed?

A. It's based on the disturbed area.

Q. Does your firm prepare a cost estimate to submit?

A. We prepare a cost estimate, and it's also with guidance with, for the environmental agreement, it's concurred with DEPS. As far as the agreement for landscaping, that also has to be approved by the county landscape planner.

Q. These securities, are these the same as or in addition to the security that's mentioned

in Article 4.F of the zoning regulations?

A. These are not the same. They're in addition to the security required in Article 4.F.

Q. Were you following the county council when this solar legislation was passed that eventually passed in Bill 37-17?

A. I was.

Q. I'm going to show you two exhibits that will be 15 and 16.

MR. MCCOMAS: 16 and 17.

BY MR. ROSENBLATT:

Q. 16 and 17. Let's start with Exhibit 16. And I ask you, there's been some debate about what is and is not a requirement for this Board to determine in order to grant this special exception. What's the, what does the top page of Exhibit 16 show?

A. This is a list of the withdrawn bills from the 2017 council session.

Q. Does one of these have to do with solar regulations?

A. Yes, that is specifically Bill 9-17.

Q. Okay. And if you turn past this cover sheet, is this a copy of Bill 9-17?

A. Yes, it was, or it is.

Q. Does this bill, and I'll turn your attention to page six, this withdrawn bill contain any language regarding prime and productive soils?

A. It does.

Q. Can you read that language for the Board?

MS. DEMILIO: Mr. Chairman, I'm going to object to the introduction of evidence of a withdrawn bill, since obviously it's not law, and I don't think this Board can take any implication of why this bill was withdrawn, or why it's not binding, or the difference between this bill and the final bill. It's too much speculation.

MR. BELT: I think it -- I'm going to allow it. And just to -- sorry, Mr. Rosenblatt, I'm not letting you comment because I've heard it

before in that we've gone through this at the --

MS. DEMILIO: All right, I'll accept it then.

MR. BELT: We're going to have a lot of testimony and we accept a lot of testimony but, Mr. Zimmerman's not here, Ms. Jones is. We're going to have a lot of discussion about prime and productive soils and the interpretation of whether or not that is to be considered as part of the standards. Mr. Rosenblatt is attempting to show the legislative history, that it was considered and that it was withdrawn. In prior hearings, actually there's been testimony without the bill, this is the first time that we've actually seen the bill. So I'm going to allow it form for the limited purpose of showing a legislative history.

MR. ROSENBLATT: And I will be brief with these two exhibits. I appreciate that.

BY MR. ROSENBLATT:

Q. Can you please read the section to the

Board?

A. Yes. Page six, Section 12. In the RC-2, RC-6, RC-7 and RC-8 zones, a petitioner shall demonstrate at a hearing that measures are being taken at the location of the solar facility to minimize the impacts of the facility on prime and productive agricultural soil.

Q. And what was the outcome of this bill, did it pass?

A. No, it was withdrawn.

Q. I ask you to take a look at the cover page of Exhibit 17, and can you tell the members of the Board what this is a list of?

A. This is a list of tabled or failed bills in the 2017 session.

Q. Did any of these bills have to do with solar facilities?

A. Yes, Bill 13-17, the top of the page.

Q. Okay. And is that a copy of that bill attached to this exhibit?

A. It is.

Page 270

Q. And I ask you to turn to page five, and again ask you, did this bill reference prime and productive soils?

A. Yes, on page five, Section 7. When lands are in RC-2 and RC-6, the portion of land on which a solar facility is proposed shall not be prime and productive agricultural land as contained in the Baltimore County soils survey.

Q. And what was the results of this bill?

A. This was a failed pill.

Q. The bill that passed, Bill 37-17, are you familiar with the requirements of that bill?

A. I am, and our petition was filed under that bill.

Q. Does that bill have any reference at all to prime and productive soils?

A. No, it does not.

Q. Okay. I'm going to ask you, you have been sitting here throughout the hearing?

A. I have.

Q. Have you heard all of the testimony

Page 271

today?

A. Yes, I have.

Q. I'm going to ask you some questions and when necessary, you can refer to testimony that you're relying on from other witnesses, and I'll go through each of the legal requirements here.

Is the request in your expert opinion going to be detrimental to the health, safety or general welfare of the locality involved?

A. In my opinion, it will not be detrimental to the health, safety or welfare of the community or the locality involved, and I am basing that testimony on really everybody that I've heard so far.

Q. Do you evaluate -- what types of things do you normally evaluate when determining detrimental impact to health, safety and welfare?

A. Well, in testifying at past special exceptions, I've always in the back of my mind had if there was an impact on utilities, county structures, parks, schools, land in the area;

Page 272

those sort of things. This is a type of use that there's no density associated with the use, there's no traffic associated with the use, in my opinion it is a very passive use.

Q. Do you consider impacts such as smells and sounds and those sort of things?

A. I do. Especially in agricultural areas, you may have different agricultural uses that have smells, sounds. This solar facility will have none of those negative qualities such as -- I shouldn't say qualities but negative effects like dust, smell, noise, sound.

Q. Will this request tend to create congestion in the roads, streets or alleys therein?

A. Again, like I mentioned before, it is a passive use, it is really an unmanned facility, so you don't have average daily trips going into the site like you would with a residential subdivision or a church or a school, something else that's allowed by special exception in the

Page 273

RC zones.

Q. Will this request create a potential hazard from fire, panic or other danger?

A. In my opinion, it will not. It has to meet all current code requirements. As you go through the permit process, the fire marshal will look at the permit, as other agencies will look at the permit.

Q. Do you know how far this is from the nearest fire station?

A. It's about, I would guess and say about one-and-a-half miles from the Hereford Volunteer Fire Company.

Q. Where is that leaked?

A. That is located closer to York Road on Monkton Road.

Q. Will this request interfere with provisions of schools, parks, water, sewage, transportation or other public requirements?

A. As I said before, you know, in my opening statement with the special exceptions,

those are really the things that I consider first, whether they will have some kind of impact on schools, parks, county utilities, wells, septic. It will not have any impact.

Q. Will it tend to overcrowd the land and cause undue concentration of population?

A. It will not. Again, there's no population or density associated with this use, and all structures will meet the minimum setbacks from the tract boundary.

Q. Will the facility interfere with adequate light and air?

A. It will not. The solar panels will be no higher than ten feet, so coming way off, you know, we meet the minimum distance from the property line, so there's no congestion on the property.

Q. Will the request be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the zoning

regulations?

A. It will not. It's clearly a use that's permitted by special exception by recent bill. What's a good quality with this is it's going to give the soil a break, you're going to be, you know, generating honey from a solar, you know, uses that are under a solar facility.

Q. My question was, what impact does the pollinator habitat and the potential production of honey have on this analysis?

A. It's not going to have a negative impact. To me, it's an agricultural related use.

Q. How does that relate to the property's zoning classification?

A. Agricultural related uses such as farming operations, any kind of ag production is permitted in the RC-2 zone. That's the intent of the RC-2 regulations.

Q. Will this request be inconsistent with the impermeable surface and vegetative provisions of the zoning regulations?

A. In my opinion, it will not be inconsistent.

Q. Are trees being cut down as part of this proposal?

A. There are no trees being cut down as far as this proposal.

Q. Are trees being planted as part of this proposal?

A. Yes, they are. Again, since we are on a scenic road, we will be required to enhance the existing natural landscaping with proposed landscaping.

Q. Will this request be detrimental to the environmental and natural resources of the site and vicinity, including forests, streams, wetlands, aquifers and floodplains in the RC-2 zone?

MR. MOWELL: Objection.

THE WITNESS: It will not, and I'm going to base --

MR. BELT: Hold on. Yes, sir?

MR. MOWELL: He's an expert but even an expert needs a foundation to give an opinion, and we haven't had any foundation. I don't know how he can give that opinion based on what we've heard today, I don't think there's a foundation that can be laid.

MR. BELT: You might have a point but I think that's a great point for cross-examination, so I will allow the testimony and you can pick up on cross, so overruled at this time. You may proceed.

MR. ROSENBLATT: Okay.

THE WITNESS: I can base my opinion on Mr. Hadaway's testimony, and also add that where there were no buffers before, as part of approval of the solar facility there will be recorded buffers required around the natural resources.

BY MR. ROSENBLATT:

Q. In your professional opinion, does this request meet all the factors under Section 502.1 of the zoning regulations?

A. As explained with all those items under 502, yes, it will meet the provisions of 502, special exceptions.

Q. And in your professional opinion, would this use have any greater impact in this location than it would somewhere else in the RC-2 zone?

A. In my opinion it would not have a greater impact. This is a large property, close to a hundred acres, this special exception area is approximately 19 acres, which is about 20 percent or less of the actual property, again, with no trees being torn down. You have a natural buffer to the south of this property which pretty much encapsulates the facility.

MR. ROSENBLATT: Thank you. I don't have any further questions.

MR. BELT: Mr. Mowell, sir.

MR. MOWELL: Thank you.

CROSS-EXAMINATION

BY MR. MOWELL:

Q. Mr. Kellman, have you testified in

hundreds of zoning cases either before the administrative law judge or this Board?

A. I would say hundreds.

Q. And when you testify, are you testifying on behalf of the party requesting some relief from the zoning laws?

A. Twice in my occasion, I've testified in opposition.

Q. Okay. The rest of the time you have been on the side looking for some relief from the zoning laws?

A. You're correct.

Q. And every time you have come in to testify before the ALJ or the Board, your opinion has been that the requested relief should be granted; isn't that correct?

A. With good reason.

Q. Okay. And you feel you have good reason in this case?

A. I do.

Q. And you're saying yes, the requested

relief should be granted?

A. I am saying that.

Q. And as part of your testimony, you said that in your opinion, allowing this solar array in an RC-2 zone would not be inconsistent with the purposes of the property's zoning classification?

A. That's correct.

Q. And is that because they might be growing a little honey in the grass?

A. I think the council enacted legislation to specifically permit this by special exception in the RC-2 and all the RC zones.

Q. And so because they can be allowed by special exception, that means that it is not inconsistent with the purpose of an RC-2 zone?

A. Vegetation, a lot of vegetation, the trees are being retained, nothing is being torn down, and you are still going to have an agricultural related operation there.

Q. Are you talking about the honey?

A. I am talking about the honey.

Q. All right. If there wasn't honey on this site, would it be still be, or would the use be inconsistent with the purpose of an RC-2 zone?

A. It wouldn't be inconsistent.

Q. So the honey really doesn't matter?

A. I think the honey is a benefit and it shows that you're providing an agricultural use on the property.

MR. BELT: If we removed the honey, would it change your expert opinion?

THE WITNESS: No, it wouldn't.

MR. BELT: That would be your answer, Mr. Mowell, he's all in, honey or no honey.

THE WITNESS: I mean, the honey shows good intent to comply with the RC-2 regulations.

BY MR. MOWELL:

Q. Let me ask you about this Exhibit 15, which is the letter you got from the county about the DRC. What effect does this have on the request that's before us today for a special

Page 282

exception, is it consistent with the request, is it in addition to the request, is it required with this hearing today?

A. It's not required as a condition with the special exception hearing. It's another process, another county process that you have to go through to get approval of the solar facility.

Q. And you've already gone through this procedure?

A. I have.

Q. Okay. And so when it says please proceed with the building permit application, you can't do that now, can you?

A. You cannot do that right now. I couldn't go in tomorrow and file for building permits and licenses right now.

Q. And when it says on the back, herein find the zoning review checklist that will serve as a guide when preparing plans for building permit application, do you know if that's the checklist that Mr. Hadaway was talking about?

Page 283

A. I believe Mr. Hadaway was talking about a checklist that was, the applicable section of Baltimore County Code to comply with Section, I think it was 32, and I don't know the subsection. On that letter they're referring to a zoning checklist, which is a combined checklist to file for zoning hearings and also building permit applications, different checklists.

Q. And you talked about if the trees died, you thought the county could pursue an enforcement case against someone?

A. Yes.

Q. And that would be against either Trillium Solar LLC or OneEnergy Development LLC?

A. That's correct.

Q. All right. And so they can say you need to replace those trees?

A. They could, yes.

Q. And we would be relying on those two entities, for one, still being in existence at the time, and for a second, having the finances

Page 284

to replace the trees.

A. Either the entity, the owner, or both.

Q. What owner are you talking about?

A. The property owner.

Q. HHK Farms LLC?

A. It could be.

Q. What if anything do we know about that entity's finances to replace the trees that might die five years down the road?

A. I can't tell you about that entity.

Q. So the county could go to HHK Farms or some other newly formed LLC and say you need to replace the trees?

A. Yes.

Q. Okay. Does that get the trees replaced?

A. It would get the trees replaced if these people don't want to pay a fine.

Q. Well, wouldn't the LLC be the one that was fined?

A. You know what, I'm not sure whether it's the LLC or the owner, but someone would be

Page 285

responsible for planting those trees, or they would be paying a fine.

Q. Well, if the owner is an LLC, wouldn't it just be the LLC that got fined?

A. I'm not sure. I just, what I said is it could be a violation case.

Q. Aren't there a lot of violation cases that, where a fine is imposed but never paid?

A. I don't agree with you there.

Q. All right. And you talked about the two bills that failed, that talked about prime and productive soils, and is it your position that this Board is not to consider prime and productive soils in deciding whether to allow this solar array?

A. In my opinion, the Board doesn't have to consider it, it's not in the law.

Q. The fact that it's been taken out of the proposed statute you think means that it should not even be considered?

A. I think that if the board would consider

prime and productive soils, they would have rolled it over into the bill that got passed.

Q. And I notice in the two bills that passed, they do talk about section 33-3-108, or in the bills that failed, they still included the requirement that a petitioner shall comply with what's required under 33-3-108, that stayed in these failed bills and it's still in fact part of the law, isn't it?

A. It is part of the new law too, the current law, yes.

Q. Right, and you knew about that law when you got involved in this case?

A. Yes, we did.

Q. Okay. When did you personally first learn that there were wetlands on this site?

A. I do not handle, from DMW, investigating the wetlands, it's Eric Hadaway who was just up on the stand that handled the wetlands. I believe it was when we started, you know, preparing the plan, that they had, you know, that

they thought there were wetlands on the property.

Q. So you learned it when you saw it on the plan?

A. When I was participating in preparing the plan, yes.

MR. MOWELL: All right, that's all I have, thank you.

THE WITNESS: Thank you.

MR. BELT: Thank you, Mr. Mowell. Ms. Demilio?

BY MS. DEMILIO:

Q. Following up on the soil issue, Mr. Kellman, and good afternoon by the way.

A. Good afternoon. And I apologize. Sometimes when people are talking, I can't hear them, I'm kind of clogged up today, so please don't take it, if I ask you to speak up.

Q. I won't. All right.

To follow up on the soils discussion that was presented to you, in the solar panel legislation, one section gives you the specifics,

it is section 4.F.104(A)(ix) in the Baltimore County Zoning Regulations, and it states that a petitioner shall comply with the plan requirements under 33-3-108 of the county code?

A. Yes.

Q. That's the testimony we have?

A. Yeah.

Q. Do you want me to show it to you?

A. No.

Q. All right. And then so, if we look at 33-3-108 in the Baltimore County Code, one of the requirements is paragraph C(9), soils mapped and labeled in accordance with the soils survey of the county, correct?

A. I agree with you.

Q. Okay. So that you -- so, are you saying that the county council required the soils survey to be included on the plan but that the Board of Appeals or even the administrative law judge should ignore that provision in the plan?

A. With regard to soils, soils are not an

item that is on the zoning office checklist. The section that you just referred to from the county code is when the engineer is submitting plans to DEPS, and they're looking for wetlands, streams. Yeah, to have those soils are important, but they're not on a zoning site plan checklist.

Q. No, but they're required under the solar panel legislation, that they have to be on your plan.

A. It's submission of environmental plans to DEPS, not on a zoning plan.

Q. Right, but they still have to, the soils have to be considered, though, because they're not excluded. In other words, the county council didn't say in the solar panel legislation, the petitioner shall comply with the plan requirements of 33-3-108 except the soils requirement, so they still have to be listed.

A. In my opinion it's apples and oranges. That section is out of the county code. Environmental is doing their environmental

reviews, again, for wetlands, streams, any of the environmental resources where soils are considered. In my opinion, they're not listed on the zoning checklist and they're not, it's not a requirement in the bill that you have to, that you can't build on prime and productive soils.

Q. I know, it says you can't, so that's a prohibition, but the county council didn't say that they cannot be considered in determining where solar facilities can go.

A. In my opinion if the county council wanted them considered, they would have said you've got to consider prime and productive soils before a special exception is granted.

Q. Okay. So you think they can be ignored on the plan?

A. I don't -- it's not part of a zoning plan item.

Q. It's part of the, you will agree, though, it's part of the requirements for the solar panel legislation?

A. And that refers you, again, that refers you to a section of the code for plan requirements when you're submitting environmental plans to DEPS.

Q. What's in a soil survey, would it be classification of soils whether they're prime and productive or not prime and productive?

A. In a soil survey, all the different soil types, the areas, you know, classifications, the qualities of the soils.

Q. So if I told you that, and there will be testimony later to this, if I told you that some acreage here is considered prime farmland and also some acreage is considered farmland of statewide importance, is it your testimony that the Board can totally ignore those classifications?

A. Yes.

Q. All right. They have no bearing on this special exception?

A. In my opinion, no.

Q. What other special exceptions under the Baltimore County Zoning Regulations have a requirement that the petitioner shall comply with the plan requirements of 33-3-108, can you name any?

A. I'm not sure, not off the top of my head.

Q. But this is different from what you usually see when the special exceptions are listed in the zoning regulations?

A. Yeah, the special exceptions, there are different requirements for different uses in different zones, but again, off the top of my head, I don't recall.

Q. All right. In the purpose and definitions of the solar facility special exception, 4.F.101(A), and I think I'll show it to you so I don't have to read it to you, will be easiest.

A. Okay.

MR. ROSENBLATT: 4.F.101?

MS. DEMILIO: I don't like to put legislation in evidence, I don't think that's a good thing to do, but I'll be happy to give a copy to the Board if they want to read the law, or they can look with Mr. Kellman.

MR. BELT: Well, Mr. Kellman and I agree that the law is always in evidence, because it's the law.

MS. DEMILIO: But sometimes it's better if someone has it in front of them.

MR. BELT: No, that's great to refresh his recollection, but it doesn't need to be part of the record, because it was part of the record when it was passed into law.

MS. DEMILIO: Right, and I just would like to point out for the record that I did highlight in yellow the section that I want to refer Mr. Kellman to.

BY MS. DEMILIO:

Q. So, I'll give you a second to read that yellow highlighted section, the first page.

A. Okay.

Q. Okay. So what I want to emphasize, Mr. Kellman, and ask you questions about is that it, there's a phrase in there that says the purpose and intent of this article is to permit solar facilities in parts of the rural commercial area in the county by special exception, and to balance the benefits with its impact on the county's land use policies, so you understand what that means, I take it?

A. Yes.

Q. All right. So if you look at the RC-2 legislation, you're familiar with the RC-2, so I'm going to see if I can give you a copy to look at. Under the RC-2, Section 1.A.01.1 of the Baltimore County Zoning Regulations, it states under the -- I'm sorry, under Section 1.A.01.2(A), the preferred use as of right, it's at the top of the page that I'm handing to you right now, use regulations?

A. Uh-huh.

Q. Would you take a section to look at A?

A. A?

Q. Uh-huh. So if I can paraphrase that, what is says essentially is that agricultural uses are afforded preferential treatment over and above other permitted uses in the RC-2 zone, and that would include the solar facilities law to the best of your knowledge, because that hasn't been changed?

A. That has not been changed.

Q. Right, and the solar facilities law, there's nothing in the solar facilities law that makes an exception for that preference as stated in the RC-2?

A. No, but in my opinion it's now a use allowed by special exception in the RC-2 and the RC zone. Especially in the RC-2 you have big parcels, areas of land, and you can put a facility in and only take up a small portion of that piece of property.

Q. But there are other uses in the RC-2

zone by special exception, permitted by special exception, that also are still subject to this preferential treatment in --

A. You know what, I don't know if you go back, it says permitted uses, it says preferred uses, but then that's saying you could never have any special exception uses in there because the preferred is having agricultural uses.

Q. No, I'm not suggesting that. I'm just saying that there's a balance under the solar facilities special exception use.

A. Yes.

Q. Okay.

A. There's a balance, and maybe that's why they are only allowing ten in the councilmanic district.

Q. And maybe that's why it's by special exception. And would you agree that there are some agricultural, some RC-2 properties that are better suited to agriculture than other RC-2 properties?

A. Yes.

Q. And what would be the difference between the some that are better than others, can you state what the differences might be?

A. You know, I haven't been involved with many agricultural uses, but they have could have, some agricultural properties could have a resource on the property that's being used for agricultural purposes.

Q. Would you consider soils, the type of soils as one of those differentiating qualities, yes or no?

A. I don't consider soils in my opinion as a resource, an environmental resource.

Q. So even though the -- well, looking at -- I'm sorry. Did you look at the master plan when you made that conclusion?

A. No.

Q. So, are you familiar with the section of the master plan that talks about land resources?

A. I'm sorry?

Page 298

Q. Are you familiar with the section of the master plan that talks about land resources?

A. No, if I could see it?

Q. All right, I'll show you.

MR. BELT: Just to be short, would you concede that an RC-2 property that has good soil is more fitted for agriculture than an RC-2 property that has bad soil? It's in simple terms, but one that has good soil is better for agriculture than one that has bad soil.

THE WITNESS: I mean, logical if it's got bad soils, like all rock and clay, you're not going to be farming in there, you know, versus the good soils.

MR. BELT: So that would be one factor that differentiates being better suited for agriculture.

THE WITNESS: Yes.

MS. DEMILIO: And if I could just show you a copy of the Visions of Master Plan 2020 and again, I don't want to necessarily put it into

Page 299

evidence, but I'm looking at Sections 9 and 10, particularly 10. The first page is all I want him to refer to.

MR. ROSENBLATT: Okay.

MS. DEMILIO: I'll give you a second, Mr. Kellman, to look at the 9 and 10 that I've highlighted in yellow.

MR. ROSENBLATT: This is out of the master plan?

MS. DEMILIO: Yes, this is the Visions of Master Plan 2020, page, or I guess Roman numeral ii, no, not Roman numeral, small ii.

THE WITNESS: Okay.

BY MS. DEMILIO:

Q. So if I can paraphrase that, then, environmental protection refers to land and water resources. Doesn't it say that?

A. Yes.

Q. All right. And the second -- that's in paragraph nine, and then paragraph ten, it says resource conservation, and it refers to among

Page 300

other things like waterways and forests, agricultural areas, does it not?

A. Yes.

Q. Good. So, do you still maintain the position that land is not a resource in Baltimore County under its definitions?

A. In Baltimore County it's a resource. I don't think it's an environmental resource.

MS. DEMILIO: I have just a couple more questions, I'm sure we will finish on time, Mr. Chairman.

MS. DOPKIN: Could I ask one?

MS. DEMILIO: Sure.

MS. DOPKIN: I'm looking at the aerial photographs, Petitioner's Exhibit 2, and from this aerial, it appears that this property is either residential or rural residential, and not other farmed properties.

THE WITNESS: Yes. When you see a big forested area surrounding the land area where the solar facility is going to be located.

Page 301

MS. DOPKIN: And across the road it looks like primarily?

THE WITNESS: That's correct.

MS. DOPKIN: (Inaudible.)

THE WITNESS: Excuse me?

MS. DOPKIN: It does not appear to abut other farm property?

THE WITNESS: That's correct, yes.

MS. DOPKIN: Okay.

MS. DEMILIO: Are you finished, Ms. Dopkin?

MS. DOPKIN: Yes.

MS. DEMILIO: Okay.

BY MS. DEMILIO:

Q. But this property itself is 98, almost a hundred acres, and you admit that this property's been farmed, as other witnesses have testified?

A. Yeah, part of it has been farmed.

Q. Okay. And when you define agriculture under the Baltimore County Zoning Regulations, it does also include forest areas, they're also

Page 302

included as agricultural uses, are they not under the definition?

A. I haven't read the definition, but I'll take your word for it.

Q. Okay. I don't want to jump around too much, but when you talked about enforcement by the Baltimore County Enforcement Division to replace trees that have died or somehow disappeared, isn't it true, though, that Baltimore County enforcement is an elective procedure, and Baltimore County doesn't follow every citizen's request for enforcement if in their perception the regulation is not followed, it's up to Baltimore County officials to conduct enforcement?

A. Yeah. I mean, I don't want to say it's totally complaint driven enforcement, you know, because my understanding is that there are inspectors that go out and see certain things without complaint and, you know, they issue correction notices.

Page 303

Q. But they may not issue a correction notice, right?

A. They may not.

Q. And Mr. Hadaway testified of DEPS' approval of the plan submitted by the petitioner in this case, but are you aware of any statute in the zoning regulations or the county code that requires the Board of Appeals to follow the recommendations of the county agencies in a zoning case?

A. For this, I don't know. I don't know, I would have to look at the regs, but you're asking if the Board of Appeals must follow other county regulations?

Q. No, the county agencies' recommendations.

A. Recommendations, I don't believe the Board has to, but I believe that the Board considers them.

Q. Great. That answers my question, thank you.

Page 304

Are you familiar at all with the decommissioning agreements that are required in this case.

A. Somewhat. We have a project that's kind of in a later stage that is going through the decommissioning, you know, bonding security right now.

Q. And you agree that the decommissioning agreements really are limited to what happens to the solar panels after decommissioning?

A. Yes. However, it's my understanding that many, I won't say many of the agencies, some of the agencies were not releasing approvals of certain plans until the decommissioning agreement was approved.

Q. My point is the decommissioning agreement doesn't refer to maintenance, it only refers to the --

A. Removal.

Q. -- the removal after termination, and that's what's in the statute?

Page 305

A. Yeah, but I don't really know the exact wording of the decommissioning agreement.

Q. When you formed your opinion that you felt that a special exception would not be detrimental to health, safety or general welfare, or all of the other requirements of the special exceptions, what, did you consider agricultural areas that were not in prime and productive soils?

A. No.

Q. You said you didn't, you are familiar with the site?

A. I was at the site as late as yesterday.

MS. DEMILIO: I have no further questions.

MR. MCCOMAS: I have a brief line.

EXAMINATION BY THE BOARD OF APPEALS

BY MR. MCCOMAS:

Q. That checklist that you're referring to, you use that to make your zoning diagram, is that your testimony?

A. Yes, when you file an application for -- there's really two types of zoning applications you file, you either do a residential, which is a single family residential lot, whether it's a townhouse or single family dwelling, or a commercial, anything other than residential. Anything other than residential has a more detailed requirement on that checklist where the plans have to be sealed by a professional engineer, surveyor or landscape architect, and there's items on there, there's a list of items.

Q. And is that the list that's more accessible, and that's the one you used for the special exception?

A. That list is the one I use for special exceptions.

Q. Okay. How often does that list change?

A. Every once in a while, I'm going to say like it's updated two to three years maybe.

Q. So it's the same checklist that has been in place since 2014, '15?

A. Yeah. Well, it may get modified.

Q. All right. Then the other question I have is on, you testified, I've heard a few of these and it's kind of a new fact that I hadn't heard before, but in talking about the security for, I'm going to call it wastewater but it's not really that, it's what, runoff water?

A. Yeah, stormwater.

Q. I guess stormwater management, that there's a security agreement with MDE on that, the state MDE?

A. It's an environmental agreement with Baltimore County.

Q. Oh, it's with Baltimore County?

A. Yes.

Q. Not with the state?

A. No, it's with Baltimore County.

Q. And that's basically once all the plans have been finalized and agreed to, and before construction actually begins, right?

A. Yes.

Q. But there's a preliminary step, like a concept or design that gets submitted early in the process, is that how that process works?

A. Yes, that's correct. It goes through phases and initially you have concept hydrology, which is like your just conceptual stormwater management, and then they will send it back to you, and then you start getting into more detailed plans.

MR. MCCOMAS: Okay.

MR. BELT: Just a quick question for my clarification.

BY MR. BELT:

Q. The soil delineation studies or, I forget what it's called.

A. The soils survey?

Q. Soils survey. The soils survey, that's submitted before permitting in solar cases, correct?

A. Yes.

Q. And that is something that's frequently

requested in cases that have nothing to do with solar, right?

A. Yeah. I mean, you could be doing a residential subdivision and as far as like if you've got an environmental resource on the property like forests, you know, forest buffers, streams, wetlands, you know, you get really specific with the soils.

Q. And I believe Mr. Hadaway stated that that information of the soil survey is a tool also for determining the location of the buffers?

A. Yeah, it's the soils that we would, and I'm kind of rephrasing Mr. Hadaway, as when you look at what are wetlands and streams, you look at the soils.

Q. The nature of the soil would be relevant to the permeable nature of that type of soil?

A. Yes.

Q. Which in fact would then lead to where the buffers would have to be?

A. That's correct.

Q. Because ground that actually soaks up water would be better than dirt that did not.

A. That's correct.

Q. So there's actually, identification, delineation of soils has nothing to do with whether something grows on it well, but rather whether or not water seeps through it well.

A. I mean, what grows on it well, you know, you're not going to have things that are growing in clay, you know, so --

MR. BELT: All right, that's all.

MS. DOPKIN: I have one question.

BY MS. DOPKIN:

Q. Ms. Demilio asked you if you looked at other sites, and does the zoning checklist, or the statute for solar facilities require any kind of analysis of other sites, alternate or other suitable sites, is that a requirement?

A. To the best of my knowledge, they don't require an analysis of another site. The only thing is that you can't have more than ten in the

councilmanic district, so you have to look at that.

MR. BELT: Mr. Rosenblatt?

REDIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Kellman, you've made your thoughts clear on whether prime and productive soils are a question for the Board. Let me ask you this. If the Board does consider impact on prime and productive soils, do you still feel that this petition should be granted?

A. I do.

Q. Have you heard any testimony that concerns you about impact on prime and productive soils?

A. I have not.

Q. Ms. Demilio asked you about the preferred uses in the RC-2 zone. In your opinion, if, would this type of use have any greater impact here than any other farm field in northern Baltimore County?

A. In my opinion, it would not have a greater impact here. I may have said that before, it wouldn't have a greater impact at this location than it would in someplace else.

Q. Can you give a little explanation of why?

A. Again, it's a large piece of property. The special exception area itself is comprising about a fifth of the property, and the field in the location where the facility is going is encapsulated by forests.

Q. So there's essentially three, or maybe even four finger looking parts of this property that are cleared. What's the intent with the two finger areas where there's no solar panels?

A. To keep farming it.

Q. Are there properties where that would not be possible with a solar facility of this size?

A. I think there's properties with a solar facility of this size where it takes up, you

know, a large part of the facility, where there's no more land to farm.

MR. ROSENBLATT: Okay. No further questions, thank you.

MR. BELT: All right, sir, you may step down.

THE WITNESS: Thank you.

(Witness excused.)

MR. BELT: Mr. Rosenblatt, is that your case, sir?

MR. ROSENBLATT: That completes our case in chief.

MR. BELT: All right. Ms. Jones, if you want to hand up the sign-in sheet, we'll just put that into the file. Are we scheduled for nine tomorrow? Nine, and Mr. Mowell, you will have all your witnesses lined up and ready to go?

MR. MOWELL: With the afternoon left, I hope to.

UNIDENTIFIED SPEAKER: May I explain something?

MR. BELT: Why don't you do this? How about, it's not going to change, we're still going to have to come back no matter what you say, unless you give me the day off, and I don't think you're going to do that, so we'll be back tomorrow.

UNIDENTIFIED SPEAKER: That would be fun.

MR. BELT: All right, we'll address that. And you'll have somebody ready.

MR. MOWELL: We'll at least have somebody.

MR. BELT: We're off the record. Thank you.

(Whereupon, the hearing adjourned at 3:56 p.m.)

TRANSCRIBER'S CERTIFICATE

I, PAUL A. GASPAROTTI, II, Notary Public, hereby certify that I transcribed from audio file the proceedings to the best of my ability in the foregoing-entitled matter; and I further certify that the foregoing is a full, true and correct statement of such proceedings and a full, true and correct transcript of the audio files produced.

IN WITNESS WHEREOF, I have subscribed my name on February 5, 2019.

_____

PAUL A. GASPAROTTI, II
Notary Public - Maryland
My Commission Expires
September 3, 2019

CONTENTS

WITNESS NAME	DIRECT	CROSS	BOARD
MARNI CARROLL			
By Mr. Rosenblatt	13		
By Mr. Mowell		39	
By Ms. Demilio		70	
By Mr. Rosenblatt	83		
By Mr. Mowell		84	
MATTHEW DURETTE			
By Mr. Rosenblatt	87		
By Mr. Mowell		107	
By Ms. Demilio		121	
By Mr. Rosenblatt	134		
DAVID MARTIN			
By Mr. Rosenblatt	138		
By Mr. Mowell		156	
By Ms. Demilio		177	
By Mr. Rosenblatt	185		
By Ms. Dopkin			186
ERIC HADAWAY			
By Mr. Rosenblatt	192		
By Mr. Mowell		206	
By Ms. Demilio		231	
By Mr. Rosenblatt	238		
By Ms. Dopkin			242
RUTH MASCARI			
By Mr. Mowell	245		
By Ms. Demilio	249		
By Mr. Rosenblatt		250	
MATTHEW KELLMAN			
By Mr. Rosenblatt	255		
By Mr. Mowell		278	
By Ms. Demilio		287	
By Mr. McComas			305
By Mr. Belt			308
By Ms. Dopkin			310
By Mr. Rosenblatt	311		

RE:	PETITION FOR SPECIAL EXCEPTION 1139 Monkton Road; SW/S of Monkton Road, SW 507' to c/line Bluemount Road 7th Election & 3rd Councilmanic Districts Legal Owner(s): HHK Farms, LLC Contract Purchaser(s): One Energy Development, LLC Petitioner(s)	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY 2018-030-X

* * * * * * * * * * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S POST-HEARING MEMORANDUM

TABLE OF CONTENTS

I. Introduction 1

II. The Zoning Regulations 2

1. R.C. 2 Zone Section 1A00, 1A01 et seq. 2

2. Special Exceptions Section 502.1 3

3. The Solar Statute Article 4F 5

III. Interrelation of Applicable Statutes 9

IV. Interpretation of Maryland Special Exception Law 12

Statutory Construction – Further Guidelines and Criteria 14

V. The Evidence 16

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BOARD OF APPEALS

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PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S POST-HEARING MEMORANDUM

"Communication (from Latin communicare, meaning "to share")[1] is the act of conveying meanings from one entity or group to another through the use of mutually understood signs, symbols, and semiotic rules." Wikipedia

"Communication is simply the act of transferring information from one place to another. Although this is a simple definition, when we think about how we may communicate the subject becomes a lot more complex. skillsyouneed.com"

I. Introduction

The decision of the County Board of Appeals ("CBA") in this case is a two-step process with pertinent subplots:

(i) The CBA must decide the evidence that is germane to the issues, within the context of statutory construction, burden of proof, and adherence to the statutory scheme.

(ii) The CBA must assess the pertinent evidence – both testimony and documentation, including credibility of lay and expert witnesses, drawing of inferences and finally persuasiveness of each party's case.

The appellate courts defer to the administrative agency's ability to assess the demeanor of witnesses and apply common sense. But the agency must respect the burden of proof, and carry out the legislative purpose. To assure fairness and accessibility, the rules of evidence are more relaxed, and leeway is given to admissibility of evidence. In this more relaxed structure, the agency should benefit from as much admissible evidence that is feasible and available in order to conduct a fair assessment of the facts and the applicable law. Experts' opinions have no advantage over lay testimony. In fact, an

expert's opinion is of no greater persuasive value unless supported by facts. An expert's bald allegations can't carry the day. At the end of the day, if these basic principles are fairly applied, the decision of the agency comes down to persuasiveness, as it should.

In our opinion, One Energy encourages a myopic view of the law that short shifts standards in the Resource Conservation 2 zone ("R.C.2"), (BCZR 1A01 et seq.), important elements of special exception standards (BCZR 502.1), and the solar facility legislation ("Solar statute") (BCZR 4F). **Legally**, this position contradicts the rules of statutory construction, including the ever-present tenant of **common sense.** What did the legislative body intend when **communicating** through these statutes?

For example, One Energy cherry picks how it want the CBA to consider the aforementioned zoning regulation – certain stated words and phrases should be ignored, while unstated language must be considered. But administrative decisions are not made in such a rote fashion, like a mere calculator. An administrative agency must make a lawful and well-reasoned decision based on what the legislative body is **communicating** with the language in the statutes, including the purpose and intent of the law, and the significance of factors relative to the purpose and intent.

Here the statutory scheme is apparent and the aforesaid zoning regulations can be read in harmony; all the language has meaning to this case.

II. The Zoning Regulations

1. R.C. 2 Zone Section 1A00, 1A01 et seq.

"§ 1A00.1 – Findings

It is found:

A. That Development in the rural areas of Baltimore County has in recent years been taking place at an increasing rate;

* * *

F. That it has been established that this development carries with it an extremely high cost to the county in a number of respects including:

* * *

2. The cost with respect to its consumption and use of prime agricultural land, critical watershed areas, mineral extractive sites, as well as of other important natural resource areas;" (emphasis added).

§ 1A01.1. - General provisions.

B. Purposes. The R.C.2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses.

§ 1A01.2. - Use regulations.

A. Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones.

C. Uses permitted by special exception. The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses:

§ 1A01.5. - Inconveniences arising from agricultural operations.

Any dwelling, business or use in or near an R.C.2 Zone may be subject to inconveniences or discomforts arising from agricultural operations, including but not limited to noise, odors, fumes, dust, the operations of machinery of any kind during any 24-hour period (including aircraft), the storage and disposal of manure and the application, by spraying or otherwise, of chemical fertilizers, soil amendments, herbicides and pesticides. The County shall not consider an agricultural operation to be a public or private nuisance if the operation complies with these regulations and all federal, state or County health or environmental requirements; except that during the period between 10:00 p.m. and sunrise as defined by the National Weather Service for sunrise on the particular day in the Baltimore area, an agricultural operation may not fire or otherwise discharge an air cannon or similar device that releases a loud shotgun-like blast within 500 feet of an adjacent residential dwelling."

2. Special Exceptions Section 502.1

BCZR 502.1 A-I sets out prohibited impacts mandating denial of a special exception. Commensurate with protection for rural and agricultural areas explicitly stated in other BCZR zoning statutes, paragraphs G. and I are particularly applicable here:

" G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4,

R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones."

Allow us to clarify at this juncture, the meaning of certain words in the context of the statute, as explained by the appellate courts.

The placement of the word "including" prior to "forests, streams, wetland, aquifers and floodplains" does not express or imply the exclusivity of these listed resources. It is not exclusive either literally or in the R.C. 2 Zone context. In other words, soil quality, particularly in an agricultural zone, is a natural resource. We need only look to BCZR 1A00.1 Findings [in the RC Zones] F.2 where "prime agricultural land" is among the "important natural resource areas" (cited fully on page 2 above).

To confirm and verify this point, Judge Alan Wilner wrote in Housing Authority v. Bennett 359 Md. 356, 371 (2000):

> "Although this Court has stated that "'[o]rdinarily, the word "including" means comprising by illustration and not by way of limitation,' " *State v. Wiegmann,* 350 Md. 585, 593, 714 A.2d 841, 845 (1998), quoting *Group Health Ass'n v. Blumenthal,* 295 Md. 104, 111, 453 A.2d 1198, 1203 (1983), we have also recognized that, "[w]hile 'include' or 'including' may introduce illustrations of a general term, the words also may signal an expansion in meaning of previous language." *Pacific Indem. v. Interstate Fire & Cas.,* 302 Md. 383, 396, 488 A.2d 486, 492 (1985).

In Wiegmann, Judge Dale Cathell had prefaced the above quote, 350 Md. at 593,

> "In construing the rule here, we are mindful of the principle that the expression of one thing is generally the exclusion of another. *Long,* 343 Md. at 666, 684 A.2d 445; *Leppo,* 330 Md. at 423, 624 A.2d 539. On the other hand, the use of the word "including" suggests that the seven enumerated powers are not exclusive."

For even more emphasis on prohibited effects in a special exception case, **paragraph 502.1A,** in the broadest terms, prohibits a special exception if it is ". . . detrimental to the health, safety or general welfare of the locality involved." The "health, safety, or general welfare" clause translates to the state and local police power. This is an essential function of government and is construed broadly. This is illustrated by the landmark comprehensive zoning decision in Village of Euclid v. Ambler Realty Co. 272 U.S. 365 (1926). The Court of Appeals has confirmed the police power extends to natural resources and the environment. Potomac Sand and Gravel Co. v. Governor 266 Md. 358,

370-75 (1972); Mayor and City Council of Annapolis v. Annapolis Waterfront Co. 284 Md. 383 (1979).

Ruark v. Engineers Union 157 Md. 576, (1929) interpreted "locality" as follows:

> "While "locality" is a word of relative meaning, its context commonly determines its meaning . . . .
>
> * * *
>
> Thus it appears that the word "locality" has a place in important and enforced legislation; and, whatever may be the scope of its varying significance, its meaning in a particular statute is susceptible of being determined from the context, since the words of a statute are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the Legislature had in view. Endlich on the Interpretation of Statutes, § 73. When so read, it is quite evident that, in the statute before the court, "locality" imports the area which embraces, not only the actual site where the public work is to be performed, but also such adjoining territory within which there then prevails a current rate of daily wages for the particular work to be done. In other words, "locality" defines a region, with the public undertaking as an axis or focal point, throughout which region the daily wage of the particular class to which the worker belongs is uniform."

Further, Section 502.2 grants authority to the CBA ". . . impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring property." Even if a special exception is granted, the use may be so precarious that further safeguards are needed.

3. The Solar Statute Article 4F

The "purposes" 'definitions" and "findings" stated in a statute are a meaningful guide to interpretation. Section 4F-101 A. includes this language:

> "The purpose and intent of if this article is to solar facilities in parts of the rural and commercial areas of the County by special exception, and to balance the benefits of solar energy production with its potential impact upon the County's land use policies by ensuring sufficient safeguards are in place to protect the County's communities and its agricultural land, forests, waterways and other natural resources.

Section 4F-104 lists prohibited sites, establishes setbacks, area requirements, including buffers and screening, fences, and glare restrictions. It also requires ("shall") detailed plans as set forth in the Baltimore County Code. Finally, it reinforces the authority of the administrative agency, including the CBA, to impose conditions ". . . to protect the environment and scenic views, and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities,

taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands." The concern for the impact of a solar facility is again emphasized by the particularity and specificity for vulnerability of the environment, scenic views, surrounding residences and other communities. This language not only comports with the authority in a special exception case to impose restrictions and conditions under BCZR 502.2, it operates as an admonition that the special exception should not be granted on sites where there is no realistic protection of the environment and scenic views, and the health safety and welfare of surrounding residential properties and communities. Furthermore, paragraphs BCZR 502.1 G. and I. and the further protection afforded in 501.1 A. reinforce the denial of a special exception for certain prohibited conduct or consequences adversely affecting the environment, among other things, in the R.C. 2 agricultural zone.

Section 4F-104.A.9 (titled "Requirements") states: "A petitioner shall comply with the plan requirements of Section 33-3-108 of the County Code." (emphasis added). The Code section 108 is nothing without its subsections (a) (b) (c). In other words there is no language under Section 33-3-108 other than the title "Plan Information". The purpose of requiring certain information is spelled out in a subsection:

> " § 33-3-108 – PLAN INFORMATION.
> (b) *Details of plan — In general.* The plan shall include an informative, conceptual, and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents to enable the Department to make a reasonably informed decision regarding the proposed activity.
>
> (c) *Same — Specific requirements.* The plan shall contain the following information:
>
> * * *
>
> (9) Soils mapped and labeled in accordance with the soil survey of the county."

And to be even clearer, Subsection (c) again emphasizes a mandatory requirement: "*Same- Specific requirements*. The plan shall contain the following information:" (emphasis added). Subsection (9) requires identification of the soil classes. In light of the emphasis on agriculture, how can the soils not be relevant to a comparison of the location of the solar facility – both on the site and among other sites in the zone. To ignore this mandate is a reckless disregard for long-established principles of statutory interpretation.

One Energy arbitrarily chooses what to include on the Plan in the zoning case or in the development case, including forest buffers, wetlands, slopes and contours. But the statute does not give One Energy the choice. Mapped and labeled soils is an equally described requirement in BCC 33-3-108 but disregarded by this Petitioner. There is no "cafeteria" option under the BCC; as a result, the special exception Plan is defective on its face.

From the point of view of statutory construction, there comes into play the settled canon quoted in Evans v. State 420 Md. 391, 400-01 (2011),

> "To assist in resolving the present issue, we rely on one oft-cited statutory standard of review, which we articulated in *Ray v. State,* 410 Md. 384, 978 A.2d 736 (2009):
>
> 'In statutory interpretation, our primary goal is always to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision, be it statutory, constitutional or part of the Rules. **We begin our analysis by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory. If the language of the statute is clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends.** Occasionally we see fit to examine extrinsic sources of legislative intent merely as a check of our reading of a statute's plain language. In such instances, we may find useful the context of a statute, the overall statutory scheme, and archival legislative history of relevant enactments.
>
> If, however, the language is subject to more than one interpretation, it is ambiguous, and we endeavor to resolve that ambiguity by looking to the statute's legislative history, case law, statutory purpose, as well as the structure of the statute. **When the statute is part of a larger statutory scheme, it is axiomatic that the language of a provision is not interpreted in isolation; rather, we analyze the statutory scheme as a whole considering the purpose, aim, or policy of the enacting body, and attempt to harmonize provisions dealing with the same subject so that each may be given effect."** Emphasis supplied.

This familiar canon comes into play here in two ways.

To begin, Code Sec. 33-3-108 applies to all development, uses permitted by right or special exception. Petitioners must comply with this section anyway. By adding it in plain language to the solar facility law, the County Council focused on it in the zoning process and special exception review. To rule otherwise renders this addition surplusage, superfluous, meaningless, and nugatory. This is against the law.

Furthermore, the legislative statement of purpose in BCZR Sec. 4F-101 highlights the importance of evaluating environmental issues in the zoning process, and not abdicating based on the excuse that the bureaucracy will take care of it later.

Common sense tells us if the County Council truly wanted to eliminate soils from consideration they could have excluded subsection (c)(9) from the plan requirements. Instead the language used ("shall" and "specific requirements") is mandatory under legal principles of statutory construction.

Finally, Sections 4F-105 and 106 of the Solar Facility Law set forth required security and maintenance standards. These post-approval requirements are not often seen in use provisions in BCZR. They suggest the extent of the intrusion of this use compared to other uses permitted in the zone.

The statutes in Section II, subsections 1, 2, 3 above, **must** and **can** be read harmoniously. Chief Judge Bell stated in Dept of Human Resources, Balto City v. Hayward and Dixon May 23, 2012:

> "When we undertake to interpret a statute, we do not review it in a vacuum, "nor do we confine strictly our interpretation of [the] statute's plain language to the isolated section alone." . . . Instead, "we analyze the statutory scheme as a whole and attempt to harmonize provisions dealing with the same subject so that each may be given effect."

Moreover, in the interpretation and application of land use regulations in Baltimore County, the administrative agency must defer to the greater statutory restrictions:

> "**SECTION 600 – Interpretation**
> In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare. Where these regulations impose a greater restriction on the use of buildings or land or on the height of buildings, or require larger yards, courts or other open spaces, or impose other higher standards than are imposed by the provisions of any law, ordinance, regulation or private agreement, these regulations shall control. When greater restrictions are imposed by any law, ordinance, regulation or private agreement than are required by these regulations, such greater restrictions shall not be affected by these regulations."

III. Interrelation of Applicable Statutes

The special exception law mandates we look even beyond the criteria in 502.1 and scrutinize the statutory scheme. In turn, the statutory scheme encompasses all applicable laws pertaining to the use and the site. And the applicable laws include not only the words used but the spirit and intent of the law. The intent of the R.C. 2 zone is to preserve agriculture on sites particularly suited to that use, whether currently farmed or not. Certainly one of the most significant, if not the most significant feature, would be soil classification. Concomitantly, a solar facility would have a greater adverse impact on prime soil sites in the R.C. 2 zone under the explicit preferred agricultural use over all other uses. BCZR 1A01.2.

The very language in BCZR 502.1 is additional support for this construction. Before a special exception can be granted, the proposed use must not conflict with any of the standards in paragraphs 502.1 A.-I. It's not enough that the use does not produce detrimental results in some of the paragraphs or even most of the paragraphs. Each criteria stands on its own and a single detrimental effect in 502.1 can be sufficient to deny special exception relief.

Protestants' and People's Counsel's evidence raises issues under the special exception spectrum, particularly paragraphs A. G. and I. What are the criteria in determining if the proposed use would violate the standards in the applicable paragraphs? The Solar statute does not usurp the preferable agricultural use in R.C. 2 zones, but rather requires respect for agriculture by ensuring **". . . sufficient safeguards are in place to protect the County's . . . agricultural land, . . . and other natural resources."** Coupled with the purpose ". . . to permit solar facilities in parts of the rural . . . areas of the County by special exception, . . .", can only mean some agricultural areas are not suitable. (emphasis added) On what basis?

Both special exception and the solar facilities statutes reference natural resources. To exclude soil types in agricultural zones is irrational. BCZR 502.1 G. requires consideration of the site's zoning classification, and the spirit and intent of the zoning classification. (emphasis added). As we have seen, the R.C. 2 zone focuses on

agriculture. 502.1 I's reference to examples of natural resources is not a limiting phrase. In Gomez v. Jackson Hewitt, 427 Md. 128 (2012), the Court of Appeals excluded a business from the application of a statute although it was not on the list of exempted businesses in the statute itself. Instead the Court reasoned:

> "According to the "well-recognized rules of statutory construction, . . . [o]ur primary goal is " 'to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision [.]" (citations omitted). Id. 143.

To exclude soil classifications ignores the requirement in BCZR 4F-101. A. to balance the " . . . benefits of solar energy production . . . with its impact upon the County's land use policies. . . ." Properly applied, this balancing must not "Be detrimental to the ". . . general welfare of the locality involved;" BCZR 502.1A. In this regard, soil types are distinguishing and relevant factors.

PC's exhibit 1 contains a chart of the prime, statewide important, and non prime soils on this very site. (See attachments) Nearly 50 % of the site is non prime. Why not locate the solar array in that area? Or construct the array on the separate, non-contiguous non-prime soils on the site, where collectively the same megawatts are produced? There was no evidence that required a single field for the array. There was no evidence One Energy attempted to protect the soils or ameliorate the impact on agriculture, not even a debatable excuse. Their choice to locate closest to Monkton Road is driven by the desire to be as close to the BGE power grid in order to save costs for cable wires and perhaps poles for the wires. Agricultural concerns, including soil type, were never considered, or addressed. It is not only reasonable, but consistent with the intent of the zone, that "parts of the rural areas" suitable for solar facilities would be the nonprime soils on a site.

One Energy's claim that soil classification is irrelevant because the County Council removed the absolute prohibition in the final bill is presumptuously self-serving and short-sighted. Perhaps a prohibition is redundant in light of the respect accorded agriculture in the statute; perhaps the protection of natural resources quite logically included soil types; perhaps the requirement to map and label soils on the plan expresses the intent that such information is meaningful; perhaps the Council did not want an absolute prohibition if the solar facility merely touched on a fraction of an acre of prime

and productive in the course of laying out the solar array and thus would not interfere with the preferred agricultural use. Conversely and, just as equally, the Council did not make solar facilities an exception to the preferred agricultural use, or exclude soil classifications from inclusion on the Plan for consideration in the zoning case. It appears One Energy wants the CBA to ignore altogether a standard problematic to its burden of proof in order to justify the end result. This is wrong. The citizens are entitled to a fair fight.

A reasonable reading of the statutes demands consideration of the impact on agriculture, including usurping prime and productive soil for non-agricultural use. This is the essence of a special exception hearing. From our perspective, to ignore soil type altogether is reversible error under the plain meaning of the regulations set out in our Section II. We trust the CBA will apply the legal standards and common sense to factor soil types, and specifically the importance of prime and productive soils and soils of statewide importance in order to maximize agricultural production here.

When solar facilities can be located on non prime soils in the R.C. zones, does not the "balancing" of solar energy production with the preservation of agricultural land require a denial of the special exception, or at least a restriction to locate the array on the non-prime soils on the site? As pointed out, nearly 50% of an almost 100 acre site is nonprime and productive. And, the extent of improvements and acreage for personal use is minimal since the owner, who does not reside on site, never claimed use for his own domestic activities. There are no other significant limitations on site. Soil classification *vis a vis* agriculture is the most important factor. In light of the alternatives, there is no legal or rationale basis to ignore the adverse impact here.

The claim that it costs more to extend a hookup farther from the electric lines on Monkton Road is irrelevant and self-serving; there is no economic consideration for the property owner or lessee in BCZR 502.1. Similarly, the testimony that few landowners responded positively to One Energy's massive, indiscriminate solicitation is irrelevant. Every potential buyer or lessor for <u>any</u> use can only go forward if there is a willing seller or lessee. If none found, so be it.

Judge Glenn Harrell revisited in depth the integral relationship between the land use elements of master plan, zoning, and development law in People's Counsel v. Surina 400 Md. 662, 688-93 (2007). He explained that zoning and development controls are "intended to complement each other in terms of the safety, health, and general welfare of the community at large." They "... serve additional common [land use] objectives ..." 400 Md. at 689. He quoted Wesley Chapel Bluemount Ass'n v. Baltimore County 347 Md. 125, 129 (1997) to illustrate that these complementary land use controls "... to some extent, coalesce, in that they are all designed to assure that land development occurs in a manner that is consistent with overall legislative policy and community welfare." 400 Md. at 690.

Bill 37-17 designates solar facilities as special exception uses rather than uses permitted by right. This means some locations are inappropriate. Otherwise, the Council would have permitted them by right. The Bill's legislative findings, and the appellate history of special exceptions discussed below, confirm this distinction, highlighting the necessity to safeguard the County's agricultural land.

IV. Interpretation of Maryland Special Exception Law

Judge Davidson elucidated the special exception concept and standards in Schultz v. Pritts 291 Md. 1 (1981), still a landmark opinion.

Schultz underlined the major differences between uses by right and special exception. The Courts and administrative agencies must respect and defer to the legislature in these matters. A use permitted by right is permitted in the designated zone without a zoning hearing even if there are potential adverse impacts particular to the location and there is disharmony or incompatibility with the area's comprehensive zoning plan. But a special exception use must go to hearing and satisfy that there are no adverse impacts or disharmony particular to the location in the zone

Many locations may be appropriate, but others inappropriate. The task is to differentiate or distinguish the appropriate and inappropriate, the concordant and discordant. This involves an integral evaluation of the proposed use, site, location, neighborhood, impacts, and legislative intent of the zone.

In each case, it is necessary to identify potential adverse impacts. If there are such impacts, then the next step is to evaluate whether they are above and beyond those likely at other locations. This does not require that the location be the worst in the zone, just that the impacts relate particularly to the location and not "inherent" throughout the zone. A classic "inherent" impact, i.e., not particular, would be the arguable depressing effect of a funeral home, which would occur similarly anywhere in the zone.

It is also necessary to identify the area's comprehensive zone plan, its character, and whether there is harmony or disharmony. To be sure, this involves judgment. The issue is sometimes clear and sometimes debatable.

This included Judge Davidson's frequently quoted interpretation of special exception criteria, 291 Md. at 11,

> "This Court has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.
>
> Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal."

The "presumption" is thus not a free pass. Judge Davidson described the zoning board's "limited authority," its duty to judge adverse impact and harmony with the comprehensive zoning plan. She reminded that the burden of proof is on the applicant to

satisfy the prescribed standards relating to detriment to the neighborhood and, significantly, the public interest. She proceeded to discuss various scenarios.

In People's Counsel v. Loyola College 406 Md. 54 (2008), although the special exception granted by the CBA was affirmed, Judge Joseph Murphy added a very helpful concurring opinion, providing a concise primer for the rules of engagement at p. 107-10:

> "It may be helpful to restate the rules of engagement in special exception litigation, and review how those rules were applied in the case at bar. Although it is of no real consequence whether we say that an applicant "is entitled to a special exception, *provided that,*" or that an applicant "is *not* entitled to a special exception, *unless,*" the applicant for a special exception bears both the burden of production and the burden of persuasion on the issue of whether the special exception should be granted. If the zoning authority is presented with evidence that generates a genuine question of fact as to whether the grant of a special exception would violate the applicable legislation and/or the requirements of *Schultz,* the applicant must persuade the zoning authority by a preponderance of the evidence that the special exception will conform to all applicable requirements.
>
> In the case at bar, the petitioners presented evidence that generated a genuine question of fact as to whether (1) an adverse "thermal" impact would result from stormwater ponds draining into a trout stream near the property, and (2) there would be an adverse "traffic impact" on the main public road used by persons traveling to and from the proposed Retreat Center. Respondent was not entitled to a special exception unless it persuaded the Board of Appeals that neither of those adverse impacts would result if the special exception was granted. The Board, applying the correct burden of persuasion, found in favor of respondent on both of these issues. Under the applicable standard of review, this Court must affirm the Board's decision."

Notably, in Loyola, all the parties provided substantive evidence about the traffic and environmental impacts. These were not deferred to the development process.

Statutory Construction – Further Guidelines and Criteria

Statutory construction depends on context. This includes the principle that related provisions should be integrated so as to give function and meaning to each to the extent possible. Kaczorowski v. Baltimore, 309 Md. 505, 513-16 (1987) stated that legislation "... usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end." 309 Md., at 513. Judge Adkins wrote:

> "Moreover, despite Kaczorowski's pleas that we examine the trees so closely that we do not see the forest, the plain-meaning rule does not force us to read legislative provisions in rote fashion and in isolation. What we are engaged in is the divination of

> legislative purpose or goal... The 'meaning of the plainest language' is controlled by the context in which it appears." 309 Md., at 514.

He cited Justice Holmes' concept that "the general purpose is a more important aid than any rule which grammar or formal logic may lay down." *Ibid.*

Board of Physicians v. Mullan 381 Md. 157, 168 (2004) reiterated,

> "...we 'avoid constructions that are illogical, unreasonable, or inconsistent with common sense..., and instead interpret and harmonize statutes as a whole, giving meaning and effect to all parts of the statutory language and refraining from interpretations that render any part of a law surplusage or contradictory."

Legislation "... usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end."

Baltimore County Coalition Against Unfair Taxes v. Baltimore County, 321 Md. 184, 203-04 (1990) also explained the importance of context,

> "Thus, we have said that a statute must be construed in context, because the meaning of the 'plainest language may be governed by the context in which it appears.'... In this regard, words in a statute must be read in a way that advances the legislative policy involved. ... Courts may, therefore, consider not only the literal or usual meaning of those words, but their meaning and effect in the context in which the words were used, and in light of the setting, the objectives, and purpose of the enactment. ... Moreover, in such circumstances, courts may consider the consequences that may result from one meaning rather than another, with real intent prevailing over literal intent."

The tone of One Energy's case seems to imply that meeting the criteria and restrictions in BCZR 4-F, satisfies the burden of proof and merits approval of the special exception. This essentially elevates a special exception to a use permitted by right. The County Council could have permitted the use by right provided enumerated conditions are met. We find this approach for primary and accessory uses by right throughout BCZR. Some examples in the R.C. 2 zone are utility lines if they are installed underground; wholesale flower farms subject to the setbacks and other restrictions in Section 404; trailers or mobile homes limited by usage, setbacks and storage in 415.2 and 414.3; farmers' roadside stands as long as in accord with conditions in section 404.4; professional offices with conditions of location, restricted amount of floor area, limited employees; piers etc. provided compliance with conditions in section 417; equestrian

centers, with access requirements and restrictions on lighting and structure size; domestic animal sanctuary on minimum lot sizes only; farmstead creamery, subject to production, size and structure limits in 404.13, to name a few. Such principal or accessory uses by right with "built in" restrictions are prevalent throughout BCZR, particularly in BCZR Article 4, many of which apply to the R.C. zone uses. Even uses in the commercial zones, starting with the B.L. zone, are limited by BCZR 230.2 "Permitted use conditions."

The examples are numerous. The point is the Council could have permitted solar facilities by right AND subject to the conditions in Section 4-F 102 B. and 4F-104. The only logical assumption is the legislature intended scrutiny under the special exception standards, which we have seen require deference to the stated purposes and preferred use in the zone as well as the overall spirit and intent of all applicable zoning regulations, and the County Code where stated. By reasonable deduction, there are some distinguishing features of sites in the R.C. 2 zone where the impact of the solar array's location has a greater adverse impact than other locations, either on the site itself or at other sites.

V. The Evidence

The United States Department of Agriculture, Natural Resources Conservation Service Report from Mr. James Brewer, NRCS Resource Soil Scientist ("Brewer Report") People's Counsel Exhibit 1, provides the factual analysis of the soil types and definitions on the site. ***(1) The Table labeled Farmland Classification, page 35, (2) the map labeled Custom Soil Resource Report, Map-Farmland Classification, color-coded to show soil ratings on the site, (3) the Map legend on page 33, (4) the map labeled Custom Soil Resource Report Crop National Commodity Crop Productivity Index p. 42 (5) Map Legend p. 43 (6) Tables – National Commodity Crop Productivity Index, pp 44-45;*** are all reproduced at the end of this Memorandum for the reader's ease of reference. (Other pages in the Brewer report confirm the site is well-drained, suitable for farming - pp. 47-48, not attached). Notably, the attached seven pages confirm our assessment that about half the acreage is non – prime. There was no evidence the array cannot locate on these areas. Moreover, much of the contiguous non-prime is at the rear of the site, farther from the residences across Monkton Road, and farther from the scenic

road, which must be protected from the solar array under BCZR 4-F A. 6. An adjustment to the layout or size of the array on non-prime soils, even if additional acreage is needed to account for slight slopes, is feasible, and maybe foreseeable, because the limitation under the statute is wattage, not acreage.

Although the affirmative burden of proof rests with One Energy, as clearly established in Turner v. Hammond 270 Md. 41 (1973), Protestants provided ample testimony and evidence pointing out the adverse impacts on this site compared to other sites in the rural north county where solar facilities are permitted by special exception. Kathleen Pieper produced remarkable additional and corroborative testimony about the prime and productive soils. She did this for the property. She zoomed in on the location of the solar facility. She also zoomed out for a large surrounding area of interest. She identified four other potential sites with minimal adverse impact.

Ms. Pieper derived her testimony in large part from USDA website sources. Such government website evidence is admissible even under the more exacting federal evidentiary rules. Williams v. Long 585 F. Supp. 2d 679, 690-91 (D. Md. 2008); Shantillo v. Aramark Healthcare Support Services 2011 WL 3651048 (D. Md. 2011); United States v. DeNius 330 F. 3d 919, 925-26 (7th Cir. 2003).

Her unique background combining engineering and farming added a level of knowledge over and above the usual lay witness.

Ms. Lynne Jones, the owner of agricultural land long held by her ancestors, and herself familiar with farming operations, offered a useful body of exhibits emphasizing the agricultural strengths on this site within the context of the locality. She also produced observations, documents and photographs, including Master Plan 2020 excerpts, and maps of the Agricultural Priority Preservation Areas.

Neighbors residing directly across the site on Monkton Road provided significant testimony regarding their actual views and viewpoints. Such testimony also showed the solar array's exposure to Monkton Road, a designated scenic road. Visual impact has a role in zoning regulations and is a recognized adverse impact in a use case. Notably, the "mainstream of judicial thinking" has justified setback regulations based on aesthetics.

Salkin, P. American Law of Zoning 5th edition, Sections 7.19, 9.58. Dorsey Enterprises v. Shpak 219 Md. 16 (1959), affirmed denial of a junkyard for unsightliness, and depreciation of property values. Crowther v. Johnson 225 Md. 378 (1961) affirmed a trailer park denial, reviewing adverse impacts due to departure from the zoning plan, with a corresponding depreciation in neighboring property values. In Board of Co. Comm'rs v. Holbrook 314 Md. 210 (1988), the Court sustained denial of a special exception for a mobile home based on the particular adverse visual impact and depreciation of value for a neighboring single-family detached dwelling. There the Court reviewed the facts and deferred to the zoning board's finding of particular adverse impacts. The Court described "countless locations in the zone" where there would be no such adverse impact. The Court held the administrative agency's decisions and reasons for denial were in accord with the Schultz test: Judge Cole wrote, "The Schultz test accords with the general standard for judicial review of the ruling of an administrative agency." 314 Md. at 218.

The protesting witnesses here described the importance of their homes to their financial stability. Most who testified were at least middle-age or retired. They provided credible testimony that the rural ambiance is important to current and potential residents (buyers). They described how the solar array would be very visible from their property and that it is not compatible with the rural vista and the scenic road designation. They described the screening as impractical and inadequate. They were very concerned their property values would suffer irretrievably. Courts have historically recognized the validity of a homeowner's opinion on home value. Salkin, P. American Law of Zoning 5th edition, Section 40:36. The CBA has traditionally allowed such testimony in *de novo* zoning appeals.

These neighbors certainly provided more probative testimony on the adverse impact on the value of their homes than One Energy's real estate expert, Mr. Straitman. In Brandywine Senior Living v. Paul, 227 Md. App. 195 (2018), the Court held " . . . the effect of a proposed conditional use on a neighboring property's value must be evaluated against the specific actual current value of the property, not against a theoretical value based upon a hypothetical alternative for the proposed conditional use site. Id 233. The

court went on to recognize the parties disagreed on the meaning of value between "economic value" which it defined as "concrete purchasing power" and "a price which can be actually obtained" and the "fair market value based upon an appraisal ---- which is a subjective judgment based upon various factors ---. . ." Id. 234. One Energy's expert utilized neither definition. Instead he compared 13 acres of panels on this site to a non-Baltimore County homeowner's small array on his suburban yard for personal use. He claimed there was no reduction in the assessed value, thus no negative effect. But there was no evidence the tax accessor even visited that homeowner's property after the panels were constructed. In the instant case, the farm is about a mile from the nationally historic designated My Ladies Manor and other historic landmarks. Mr. Straitman, as well as other One Energy witnesses, failed to acknowledge nor respect the unique rural character of northern Baltimore County. He provided no viable comparisons to agricultural land on designated scenic roads.

One Energy's landscape architect, Mr. David Martin, described the screening, which the neighbors found insufficient. His testimony implied that approval of the landscape plan by the County's landscape architect, Mr. Herman, is all that is needed to satisfy the special exception standards, as if the Board of Appeals' review is superfluous.

Despite the adverse impacts described by Protestants, Mr. Mitch Kellman, the proponent's expert on zoning regulations, described the solar panel as a "passive use", dismissing the impact on agriculture and aesthetics. He mystifyingly disregarded soil classification as a natural resource, nor the need to provide a soil table on One Energy's Plan in the special exception case. He relegated identification to the development process, despite the requirement in BCZR 4-F-104. A.9. Again, depriving the Board of Appeals of pertinent information, and minimizing its role in the zoning process.

Mr. Eric Hadaway, the environmental witness, relied on approval of environmental plans by the County department, giving the impression that the Board of Appeals is a rubber stamp, despite this important *de novo,* singular evidentiary hearing.

Such positions are mystifying in light of the burden of proof on One Energy. More specifically, the legislature has delegated broad authority to the County Board of Appeals

which is why it always had the authority, in a *de novo* zoning case, to disagree with the positions taken by County agencies. The burden is on petitioners to persuade the Board with sufficient evidence to justify approval. While there is leeway in reviewing an administrative agency's opinion, there must be sufficient reasoning.

The Court said in Maryland State Police v. Zeigler 330 Md. 540, 559 (1993):

> "Procedural due process, guaranteed to persons in this State by Article 24 of the Maryland Declaration of Rights, requires that administrative agencies performing adjudicatory or quasi-judicial functions observe the basic principles of fairness as to parties appearing before them."

An essential element of administrative due process of law is that the agency make sufficient findings of fact and legal reasons. This meets "... the right of the parties to be apprised of the facts relied upon by the tribunal in its decision." Overpak v. Baltimore 395 Md. 16, 40 (2006). It is also "... to provide a basis upon which judicial review may be rendered." *Id.* Bucktail v. County Council of Talbot County 352 Md. 530, at 553-54 (1999) explains the minimum requirements for an administrative agency's opinion:

> "[A] fundamental right of a party to a proceeding before an administrative agency [is] to be apprised of the facts relied upon by the agency in reaching its decision and to permit meaningful judicial review of those findings. In a judicial review of administrative action the court may only uphold the agency order if it is sustained by the agency's findings and for the reasons stated by the agency."); *United Steelworkers of America AFL-CIO, Local 2610 v. Bethlehem Steel Corp.*, 298 Md. 665, 679, 472 A.2d 62, 69 (1984)".

In United Steelworkers v. Bethlehem Steel Corp. 298 Md. 665, 679 (1984), the Court wrote:

> "Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency."

The Maryland appellate courts have focused on sufficiency of the findings and reasons in such land use cases as Harford County v. Preston 322 Md. 493, 504-05 (1991), Bucktail v. County Council of Talbot County 352 Md. 530, 552-58 (1999); Maryland-

National Capital P. & Pl. Comm'n v. Greater Baden-Aquasco Citizens Ass'n 412 Md. 73, 108-09 (2010); People's Counsel v. Mockard 73 Md. App. 340, 348-49 (1987). As a corollary, the findings must be relevant to and not sidestep the essential legal issues. Anselmo v. Mayor & City Council of Rockville 196 Md. App. 115, 121, 127-28 (2010). The catalog of unacceptable agency decisions runs the gamut of half-baked conclusions, meaningless findings of fact, conclusory statements, and boilerplate resolutions. Greater Baden-Aquasco Citizens, *supra*.

It is doubtful, under the guidelines in these appellate decisions, if an opinion approving a special exception that relies on past or future approval of a pertinent requirement by a county agency, without a separate review by the Board of Appeals would survive appellate scrutiny. To disregard soil classifications, and thus agriculture, is an incomplete assessment. The Board should be afforded thoroughness of evidence to make a fair, well-reasoned and legally sustainable decision.

A serious consideration of the admonitions in 502.1 that the use cannot be "inconsistent with the purposes of the property's zoning classification" (the preference for an agriculture use on R.C. 2 lands) and cannot be "inconsistent with the spirit and intent of these Zoning Regulations" (requirement in 4-F to "balance the benefits of solar energy production with its potential impact upon the County's land use policies . . . to protect . . . its agricultural land . . .") requires denial of the special exception as it is proposed by One Energy. We disagree with the Administrative Law Judge's characterization that the effect of a solar facility is the same on all the rural sites. "All for one and one for all" is the antithesis of a special exception case. The special exception statute, coupled with its reference to the site's zone and all that it encompasses, as well as the language in the solar facilities law, requires a discriminating review of each case under the pervasive and exacting burden of proof standard.

For these reasons, we respectfully submit the special exception plan here should be denied.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 2019, a copy of the foregoing People's Counsel for Baltimore County's Post-Hearing Memorandum was mailed to H. Barnes Mowell, Esquire, 16925 York Road, Monkton, Maryland 21111, attorney for Protestants, and Adam Rosenblatt, Esquire and Patricia Malone, Esquire, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, Attorneys for Petitioner(s).

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel for Baltimore County

Table—Farmland Classification (1139 Monkton Road)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	All areas are prime farmland	2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	All areas are prime farmland	3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	All areas are prime farmland	12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	All areas are prime farmland	6.7	6.9%
GhC	Glenville silt loam, 8 to 15 percent slopes	Farmland of statewide importance	9.1	9.3%
HbA	Hatboro silt loams, 0 to 3 percent slopes	Not prime farmland	7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	All areas are prime farmland	1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	Farmland of statewide importance	14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	Not prime farmland	21.1	21.6%
MbD	Manor channery loam, 15 to 25 percent slopes	Not prime farmland	7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	Not prime farmland	13.0	13.3%
Totals for Area of Interest			**97.9**	**100.0%**

Rating Options—Farmland Classification (1139 Monkton Road)

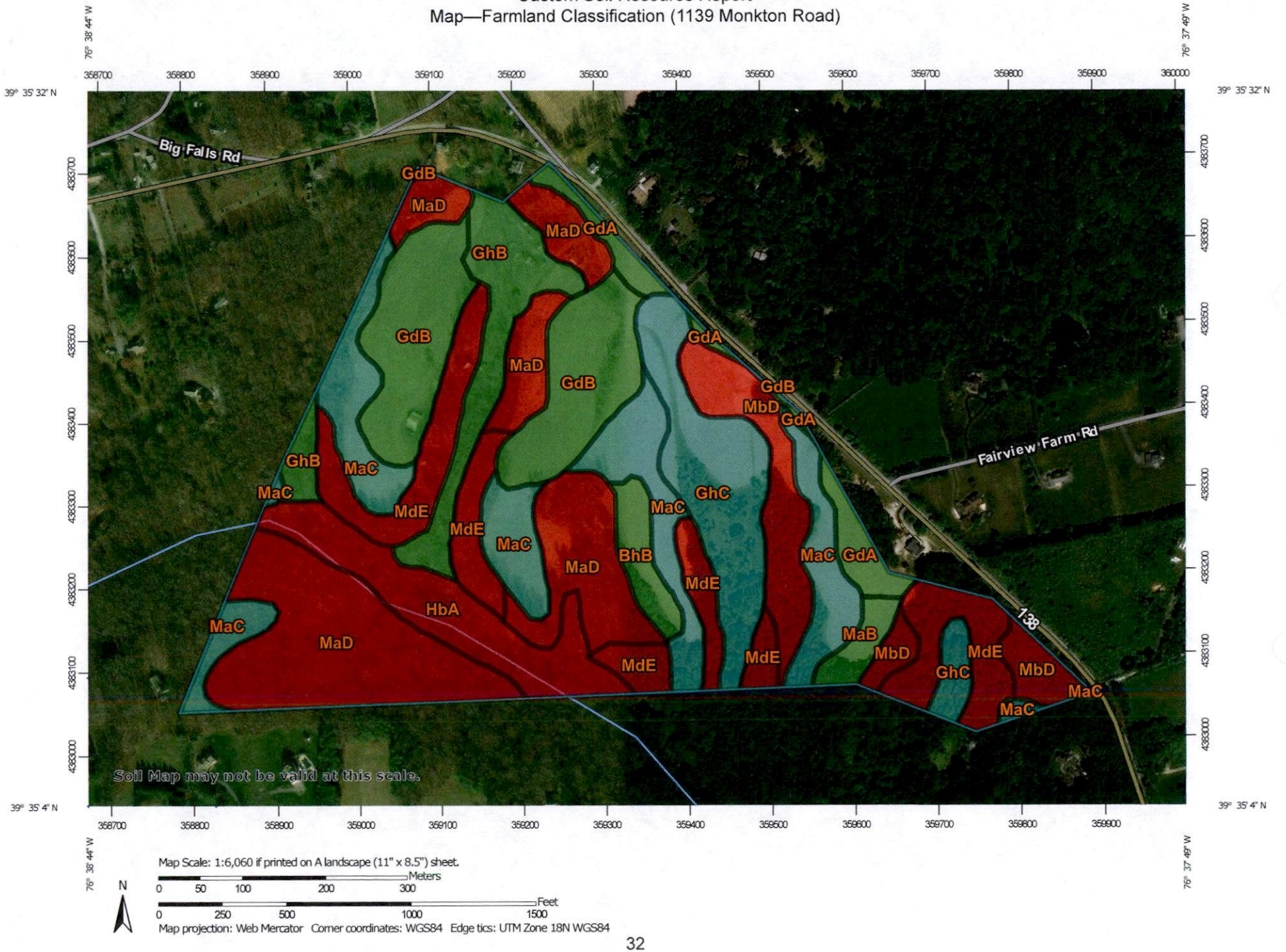
Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

Hydric Rating by Map Unit (1139 Monkton Road)

This rating indicates the percentage of map units that meets the criteria for hydric soils. Map units are composed of one or more map unit components or soil types, each of which is rated as hydric soil or not hydric. Map units that are made up dominantly of hydric soils may have small areas of minor nonhydric components in the higher positions on the landform, and map units that are made up dominantly of nonhydric soils may have small areas of minor hydric components in the lower positions on the landform. Each map unit is rated based on its respective components and the percentage of each component within the map unit.

Custom Soil Resource Report
Map—Farmland Classification (1139 Monkton Road)



MAP LEGEND

Area of Interest (AOI)

- Area of Interest (AOI)

Soils

Soil Rating Polygons

- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines

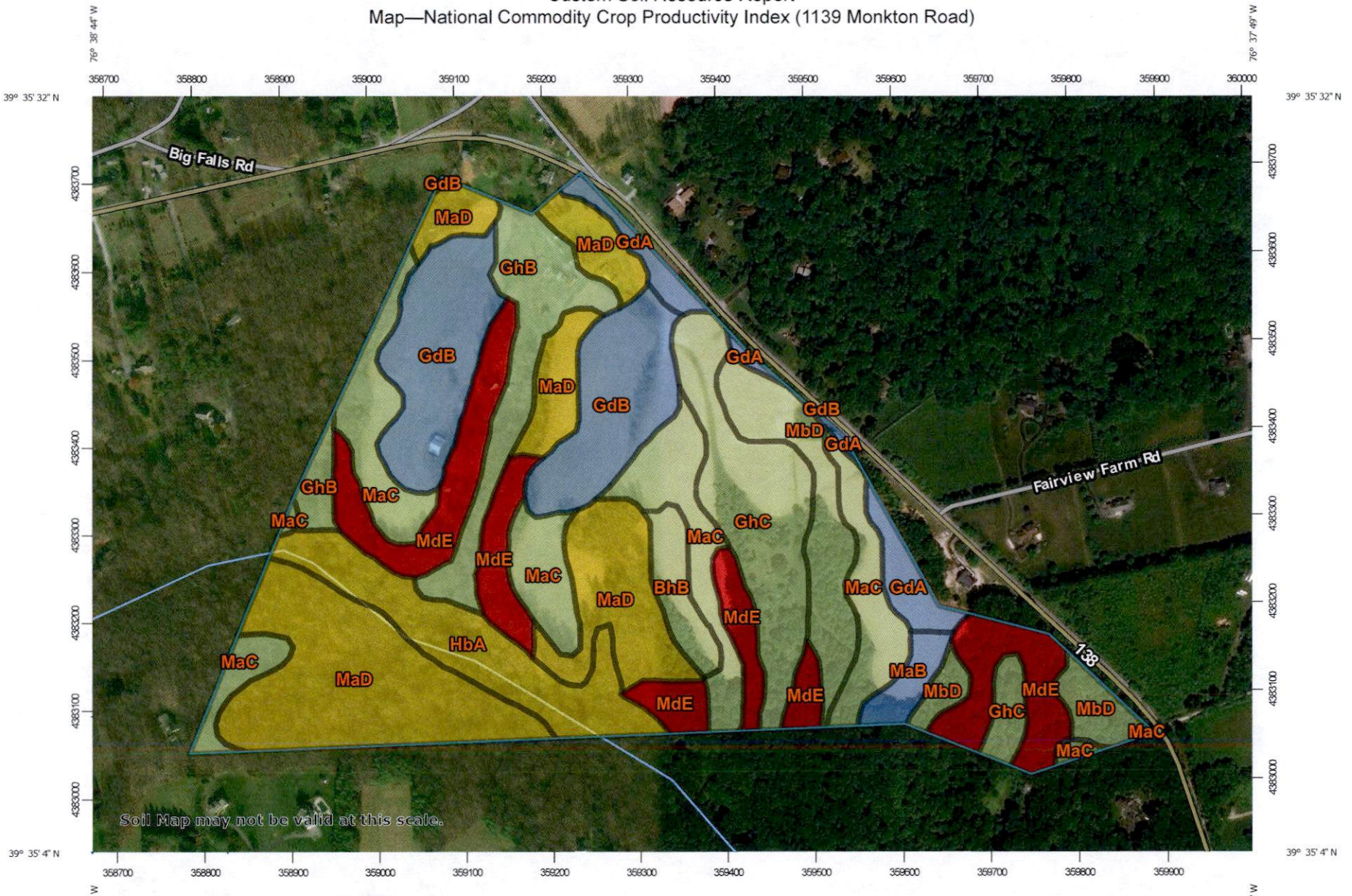
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points

- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

Custom Soil Resource Report
Map—National Commodity Crop Productivity Index (1139 Monkton Road)



Map Scale: 1:6,060 if printed on A landscape (11" x 8.5") sheet.

N

Meters
0 50 100 200 300

Feet
0 250 500 1000 1500

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

MAP LEGEND

Area of Interest (AOI)

- Area of Interest (AOI)

Soils

Soil Rating Polygons

- Low inherent productivity
- Moderately low inherent productivity
- Moderate inherent productivity
- Moderately high inherent productivity
- High inherent productivity
- Not rated or not available

Soil Rating Lines

- Low inherent productivity
- Moderately low inherent productivity
- Moderate inherent productivity
- Moderately high inherent productivity
- High inherent productivity
- Not rated or not available

Soil Rating Points

- Low inherent productivity
- Moderately low inherent productivity
- Moderate inherent productivity
- Moderately high inherent productivity
- High inherent productivity
- Not rated or not available

Water Features

- Streams and Canals

Transportation

- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background

- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Baltimore County, Maryland
Survey Area Data: Version 13, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 23, 2013—Oct 20, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Tables—National Commodity Crop Productivity Index (1139 Monkton Road)

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	0.478			2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	0.683			3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	0.693			12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	0.553			6.7	6.9%
GhC	Glenville silt loam, 8 to 15 percent slopes	0.502			9.1	9.3%
HbA	Hatboro silt loams, 0 to 3 percent slopes	0.266			7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	0.625			1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	0.499			14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	0.386			21.1	21.6%
MbD	Manor channery loam, 15 to 25 percent slopes	0.480			7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	0.100			13.0	13.3%
Totals for Area of Interest					**97.9**	**100.0%**

Rating	Acres in AOI	Percent of AOI
0.386	21.1	21.6%
0.499	14.8	15.1%
0.100	13.0	13.3%
0.693	12.6	12.9%
0.502	9.1	9.3%

Rating	Acres in AOI	Percent of AOI
0.480	7.2	7.4%
0.266	7.0	7.2%
0.553	6.7	6.9%
0.683	3.0	3.1%
0.478	2.0	2.0%
0.625	1.3	1.3%
Totals for Area of Interest	**97.9**	**100.0%**

Rating Options—National Commodity Crop Productivity Index (1139 Monkton Road)

Aggregation Method: Weighted Average

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

H. BARNES MOWELL, P.A.
Attorney At Law
16925 York Road
Monkton, Maryland 21111
Phone: 410-329-6488 Fax: 410-357-4663
barneymowell@hotmail.com
February 11, 2019

Board of Appeals of Baltimore County
105 W. Chesapeake Avenue
Suite 203
Towson, Maryland 21204

RECEIVED
FEB 11 2019
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Petition for Special Exception
1139 Monkton Road
Legal Owner: HHK Farms, LLC
Lessee: One Energy Development, LLC
Case No: 2018-030-X

HAND-DELIVERED

Ladies and Gentlemen:

I have enclosed, for filing, the Protestants' Post-Hearing Memorandum for this case. Thank you for your cooperation in this regard.

Very truly yours,

H. Barnes Mowell

Certificate of Service

I HEREBY CERTIFY that a copy of this letter and Post-Hearing Memorandum were mailed this 11th day of February 2019 to Adam Rosenblatt, Esquire, 210 West Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, and to Peter Zimmerman, Esquire, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204.

H. Barnes Mowell

RE: PETITION FOR SPECIAL EXCEPTION 1139 Monkton Road Legal Owner: HHK Farms, LLC Lessee: One Energy Development, LLC	*	BEFORE THE BOARD OF APPEALS
7th Election District 3rd Council District	*	OF BALTIMORE COUNTY CASE NO: 2018-030-X

RECEIVED
FEB 11 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * *

PROTESTANTS' POST-HEARING MEMORANDUM

The Protestants, by their attorney H. Barnes Mowell, submit this Post-Hearing Memorandum in support of their request that the Petition for Special Exception be denied in this case, and state as follows:

Protestants' Motion for Judgment

The Protestants moved for judgment at the end of the Petitioners' case, because the Petitioners had not produced sufficient evidence for the Board to determine whether a solar array should be allowed at this site. While the Petitioners have the burden of persuasion, they also have the burden of production. People's Counsel v. Loyola, 406 Md. 54,109 (2008).

Before granting a Special Exception, the Board of Appeals must be provided evidence that the proposed use will not "Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers, and floodplains…" Baltimore County Zoning Regulations Section 502.1 (I). In the solar facilities law, that evidence comes by way of Section 33-3-108 of the County Code. 4F-104(9) directs that "A Petitioner *shall* comply with the plan requirements of Section 33-3-108 of the County Code. (*emphasis added*). Section 33-3-108 contains a long list of environmental information that must be included with the Plan, including (6). field delineated, marked and surveyed streams, springs, seeps, bodies of water, and

wetlands, (8). riverine floodplain limits, (9). soils mapped and labeled in accordance with the soil survey of the county, 10). slopes greater that 10% for areas adjacent to and within 500 feet of streams, wetlands or other bodies of water, 11). rare species, threatened species, or endangered species habitat, 12). existing vegetation, 13). location and type of stormwater management devices and practices, and 16). historical and archaeological sites.

4F-104(10) of the solar facilities law advises that:

"In granting a special exception, the administrative law judge or Board of Appeals on appeal may impose conditions or restrictions on the solar facility use as necessary to protect the environment and scenic views and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities, taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands."

This site contains six wetlands areas, five Class III trout streams, and steep slopes. One would be hard-pressed to find a more environmentally sensitive area in northern Baltimore County. The plan is to put 9,000 solar panels on this property. There will be runoff from the panels, into the wetlands and streams. We don't know how much runoff, or how it will be controlled, because the Petitioners have provided no stormwater management plan, as required by 33-3-108(13). We don't know how fast the runoff will move, because we don't know how steep the slopes are on site, as required by 33-3-108(10). We don't know whether there are any endangered species habitat (such as potential bog turtle sites), or historical or archaeological sites on the property. We don't know what effect this use will have on the trout in the streams. We don't know the quality of soil at the site, as required by 33-3-108(9).

The solar facilities law requires the Petitioners to produce evidence that their project is safe. They must show the Board that their project will not be detrimental to the natural resources at the site. The Petitioners did not meet their burden of production in their presentation, and their Petition should have been denied upon completion of their case in chief.

"The Checklist"

When asked why he had not provided the information specified in 33-3-108, Mitchell Kellman replied "Because it's not on the Checklist". On the last day of the hearing, Mr. Kellman produced his mysterious, yet all-powerful Zoning Checklist, introduced into evidence as Petitioners' Exhibit 20. The first sentence in the Checklist advises users that "This checklist is a **guide** in preparing plans and information for building permit and/or zoning public hearings." (emphasis added). Page 8 of the Checklist warns that "No employee of the Department of Permits, Approvals and Inspections may provide legal advice to anyone. The representations and opinions of any employee are not to be construed as definitive in any case." Finally, the bottom of page 8 tells the reader to limit reliance on the Checklist: This information is provided "to give the petitioner a basic understanding of the legal burden of proof that must be satisfied prior to the granting of the petition. It is not a substitute for private legal counsel nor should it be construed as legal advice."

Mr. Kellman worked in the County Zoning Office for fifteen years and is, no doubt, familiar with how things were done there. But he left Baltimore County in 2000. He handled no solar array cases at the Zoning Office because there were none. The Checklist does not mention solar array cases. The solar array statute does not mention the Checklist. Mr. Kellman has taken the untenable position that a specific requirement contained in a new statute can be ignored, if that requirement is not included in the Checklist. Even though the Checklist is a general guide, not to be construed as definitive in any particular case, or relied upon as legal advice, the Checklist trumps the statute, according to Mr. Kellman. He is wrong. The Checklist is a guide; it is not law. The law is set forth in 4F 101 et seq., and it directs that the information in 33-3-108 *shall* be provided. "Shall" cannot be read any other way than to require the environmental

information to be provided. This Board is guided by what the law requires, and not by a checklist. The Petitioners did not provide the information required by law, and their Petition should be denied.

Site Selection

One Energy's Site Selection chart, entered into evidence as Petitioners' Exhibit 6, presents an interesting look at how they arrived at 1139 Monkton Road as a site for this project. According to the chart, there are 365,880 parcels of land in Baltimore County. One Energy rejected 361,876 of those as potential sites, because they had less than 15 acres, or incompatible zoning. Of the 4,004 parcels remaining, 3,825 were rejected because they were not close enough to BGE lines, or could not be developed (preservation easements). That left 179 potential sites, which One Energy reviewed, parcel by parcel. They looked for usable space for their solar panels, and considered "wetlands, floodplain, forest, built environment, slopes, site geometry, etc." They also reviewed surrounding land use, "for residential or historical land use, and viewshed concerns." Of the 179 potential sites, One Energy rejected 140 of them. 94 were rejected solely based on surrounding land use. That left 39 parcels. 31 of those were rejected, either by the landowner, or by BGE. Of the 8 remaining, only two landowners were willing to sign a lease, and those are the two projects that One Energy has in Baltimore County.

The chart reveals that One Energy had two considerations when selecting a site; what was on the site itself, and what surrounded the site. It rejected 94 of 140 sites solely because of what surrounded the site. If the site was near residential or historical land use, or if there were concerns about viewsheds, One Energy did not want to build there. That means that One Energy rejected the remaining 46 of the 140 total rejections because of concerns, at least in part, about the site itself; things such as wetlands, forest, and slopes. One Energy considered these features

to be important enough to reject 46 sites.

How, then, did this site make it through One Energy's own screening process? Why was 1139 Monkton Road not one of the 94 rejected for surrounding land use considerations? Monkton Road, across from the site, is lined with residences. Monkton Road is a County scenic road, a State scenic road, and a County designated viewshed points directly at the proposed site. Even more baffling, why was 1139 Monkton Road not one of the 46 sites rejected because of concerns about the site itself? With six wetlands areas, five streams, forest, and slopes, it has everything, and more, that One Energy was looking for, onsite, to reject a property.

The answer can be found at the bottom of One Energy's site selection chart. Baltimore County landowners are not interested in One Energy projects. Only two were willing to sign leases. One Energy is well aware of the problems inherent in placing one of its arrays in a residential area, with "viewshed concerns"; it rejected 94 sites based on those issues. One Energy knows to stay away from sites that have wetlands, forest, and slopes. It rejected 46 sites with those features. If there is a willing landowner, however, One Energy will overlook its concerns, and press forward with a project - even on a site that should have been eliminated in its own screening process.

1139 Monkton Road is a beautiful 97 acre farm, with about 1500 feet of road frontage on Monkton Road, residential housing on the other side of the road, and streams, wetlands, forests and steep slopes onsite. Why should the Board permit this use when the solar company has shown us, by its own standards, that it is not a suitable site for such use?

Runoff

The Petitioners intend to install 9,000 solar panels, and then encapsulate them, on three sides, with forest buffers. Section 33-3-103(b) of the Baltimore County Code describes the

purpose of forest buffers:

1. Multiple environmental protection and resource management values are provided by forest buffers.
2. Forest buffers enhance and protect the natural ecology of stream systems, water quality, wildlife habitat, the aesthetic and scenic qualities of natural features, environmentally sensitive areas, such as aquifer recharge areas, and flora and fauna preservation sites.
3. Forest buffers adjacent to stream systems:
   i) Restore and maintain the chemical, physical, and biological integrity of the water resources;
   ii) Filter nutrients and toxins;
   iii) Reduce erosion and control sedimentation;
   iv) Stabilize stream banks;
   v) Provide infiltration of stormwater runoff;
   vi) Maintain base flow of streams;
   vii) Provide the organic matter that is the source of food and energy for the aquatic ecosystem;
   viii) Provide tree canopy to shade streams and encourage trout and other desirable aquatic species;
   ix) Provide riparian wildlife habitat;
   x) Provide scenic value and recreational opportunity; and
   xi) Minimize public investment in waterway restoration, stormwater management, and other resource expenditures.

The highest elevations on this property are near Monkton Road, and the property slopes downhill from there. The solar panels would be installed near Monkton Road. Hard rains would hit 9,000 impermeable glass panels, three feet by six feet, stream off each panels' lower edge, and onto the ground. Nicholas Ferlingetti, who lives across Monkton Road from the site, testified that one inch of rain, hitting 9,000 panels, each 18 square feet, would produce 13,494 cubic feet of runoff (.0833 feet of rain hitting an area of 18 square feet times 9,000 = 13,494 cubic feet). No witness from the Petitioners challenged that figure, or gave their own measurement of runoff. It is inconceivable that all of this rainwater will be absorbed into the ground. It will runoff. It will run downhill, and into the forest buffers - those same buffers that are supposed to protect the streams and wetlands from runoff. Granting permission to install a runoff-generating solar array, and then requiring buffers to protect the streams and wetlands from

the runoff just created, makes no sense. A field with streams and wetlands should be protected, not by buffers, but by sound land use policy that prevents 9,000 impermeable glass panels from being installed above them.

All parties agree that the solar panels would be installed on sloping soil. The Protestants placed into evidence the Stormwater Design Guidance that the Maryland Department of the Environment has provided for solar panel installations. Those guidelines describe what is needed to control stormwater runoff. For sites between 0 and 5% slopes, all that is needed is to keep a "disconnection flow path" between rows of panels, at least equal to the width of the panels. If the panels are 6 feet wide, for example, by leaving the proper vegetation in an area 6 feet wide between the rows of panels, "the runoff from 1.0 inch of rainfall is treated." (Left unsaid is whether such a method would handle the rains that we have had recently).

For slopes between 5% and 10%, the guidelines suggest that more may be needed, such as level spreaders, terraces, or berms. Level spreaders are gravel-filled trenches or containers situated at the drip edge of each row of panels. They are designed to slow down and catch runoff from the panels. Berms and terraces can also be used, by grading the area, also to slow down and redirect the runoff.

For slopes greater than 10%, the guidelines mandate a formal stormwater management plan: "However, installations on slopes greater than10% will require an engineered plan that ensures adequate treatment and safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice."

The Petitioners did not tell us how steep the slopes are at their site. We know from Eric Haddaway's testimony that he did a "steep-slope analysis", although he chose not to share his findings. We have no engineered plan from the Petitioners. This site sits about a mile or so

uphill from the Gunpowder Falls. This Board has been given no information to conclude that runoff from a 19 acre field full of solar panels will be properly handled and contained, will not damage the six wetlands areas and five streams onsite, or the Gunpowder Falls.

Prime and Productive Soils

The County Council Planning Board took another look at Bill 37-17 last summer, and recommended that solar facilities not be permitted on prime and productive soils. Kathie Pieper testified that approximately 75% of the Special Exception area at this site contains prime and productive soils. Ms. Pieper noted that the location of the solar array would effectively remove this entire farm from crop production, as only small, inaccessible parcels would be left to farm. Finally, she testified that she had little trouble in finding more suitable sites in this area that were not on prime farmland, were on flatter ground, and were not on a scenic road, yet still had access to the required electric lines.

It is clear that if the law is changed, a solar facility will not be allowed on this site. Section 2 of Bill 37-17 required the Planning Board, in consultation with other county agencies, the Sierra Club, and the Valleys Planning Council, to "study and evaluate the impact of Solar Facilities in Baltimore County and the effect of Article 4E of these regulations, and by July 1, 2018, submit recommendations to the County Council and the County Executive regarding potential changes to the current law." The Planning Council conducted such a study and concluded that solar facilities should not be allowed on prime and productive soils. Implicit in that recommendation is their belief that the impact is unacceptable at sites with good soil, and that prime farmland should be reserved for agricultural use. This Board should follow the Planning Board's recommendation to prohibit solar arrays on sites with prime and productive soil, like this one, even if such prohibition is not added to the law by the County Council.

Allowable Area for Solar Facility

Section 4F-102(B) places specific limits on how much of the land in Baltimore County can be used for solar facilities. 4F-102(B)(1) applies to the acreage allowed for each project:

"B. The allocation of land for solar facilities in the County is limited to the following:
1. The maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts alternating current (AC) of electricity."

Kathy Pieper examined this issue as well. She charted the acreage required to produce one megawatt of electricity for twelve proposed projects in Baltimore County (Protestants' Exhibit 30). She found that the project at 15637 York Road proposed to produce one megawatt on 4.5 acres. On the other hand, this project, 1139 Monkton Road, will require 9.54 acres to produce one megawatt.

Why do the Petitioners need 19 acres to produce 2 megawatts on Monkton Road when it can be done on York Road on 9 acres? The One Energy witnesses gave us the answer. Marni Carroll said that purchasing 9,000 solar panels is a million dollar investment, and they wouldn't be bought until several months before construction began. She said that One Energy "would balance cost with efficiency" in selecting which panels to buy. Matthew Durette, One Energy's engineer, admitted that choosing higher efficiency panels would take up less area. One Energy is not concerned about how much land it uses. If it decides to choose cheaper panels, its solar array will be bigger. If it uses more expensive panels, the area will be smaller.

4F-102(B)(1) should be read as a specific requirement to only allow efficient solar arrays in Baltimore County. It should be used to weed out systems which use less efficient panels that take up more land than they should to create two megawatts of power. The Petitioners have reserved the right to install such a system. Their proposal should be denied because it does not commit to minimizing the footprint of its solar array by using the most efficient panels.

Incompatibility with Zoning Classification

Photographs of the site, put into evidence by both sides, show this to be a beautiful, working agricultural farm. The solar panels would be installed on property that is zoned RC 2. Section 1A01.1(B) of the Baltimore County Zoning Regulations states that "The R.C. 2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." Under Section 1A01.2(A), "Agricultural operations" are the preferred use, and "shall be afforded preferential treatment over and above all other permitted uses in R.C. 2 zones." Under 1A01.2(C), special exceptions may be permitted, "provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity..." Section 32-4-415(C) of the Baltimore County Code provides that "On prime and productive soils within the RC-2 zone, the county may not approve a Development Plan or plat unless the county finds that construction, excavations, buildings, structures, pavements, grading, clearing or other disturbances of the soils will be limited or restricted in accordance with policies established by the Department of Environmental Protections and Sustainability to promote agricultural use and protect the county's soil resources." It is beyond dispute that construction of an industrial solar array on this RC 2 farm, with prime and productive soils, would not promote agricultural use, or protect the County's soil resources.

A solar array here would take a 97 acre farm out of agricultural production. Some of the best soil in Baltimore County would be covered with solar panels. They would be put in a zone that was created "to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban

uses." The panels' size, height, color and numbers, 9,000 of them, row after row, covering 19 acres, would be wholly incompatible with the surrounding farmland.

Five Class III Trout Streams

There are five Class III trout streams on this property. Lynne Jones introduced into evidence the Maryland Brook Trout Fisheries Management Plan. The document begins by stating that brook trout are Maryland's only native freshwater trout. The Maryland DNR has listed brook trout as a "Species of Greatest Need of Conservation." Brook trout require "relatively pristine conditions for survival and typically cannot survive when water temperatures exceed 68 degrees." "In watersheds where land use exceeds 18%, brook trout populations cannot survive. If impervious surface area is greater than .5% in a watershed, brook trout will typically be extirpated."

Runoff from the solar panels would find its way into all five trout streams on this property. Nineteen acres of solar panels would increase both the ambient air temperature and the temperature of rainwater running off of the solar panels. Nineteen acres of panels would exceed 18% land use on these 97 acres. It would cover much more than .5% of the area with impervious surface. The brook trout will not survive if this project is approved.

Wetlands

The subject property contains six wetlands areas. Wetlands are natural assets afforded significant protection in Baltimore County. Section 32-4-414 of the County Code is entitled "Floodplain and Wetland Protection". Section 32-4-414 (e) reads as follows:

(e). Wetlands.

1) The county may not permit dredging, filling or construction in any nontidal wetland or tidal wetland.

2) The county shall require adequate protection of nontidal wetlands or tidal wetlands

from contamination.

Under 33-3-111(c) of the County Code, a complicated formula is used to determine the size of the forest buffer around wetlands. The steepness of the slopes at the site, the soil erodibility, and the vegetative cover are examined, to come up with a score, which determines how wide the buffer must be around the wetlands. The buffer could range from 25 feet to over 300 feet. The Petitioners did not explain the width of the buffers around the six wetlands areas, or how the proposed array can be built without encroaching into the buffers. Nor did they explain how they would protect the wetlands from runoff.

It makes no sense to build a solar array surrounded by wetlands. Marni Carroll acknowledged that One Energy's own website tells landowners that, "Working with you, One Energy completes an initial review of the **proposed site** to ensure it has three key ingredients; dependable amounts of sunshine, relatively flat land **free of trees or wetlands,** and close proximity to electrical infrastructure." This proposed site is not free of wetlands, and not the type usually accepted by One Energy.

Viability of Petitioners

Baltimore County's law directs that "all parties having a lease or ownership interest in a solar facility are responsible for the maintenance of the facility." 4F-106(A). Expected maintenance includes "painting, structural repairs, landscape buffers and vegetation under and around solar panel structures, integrity of security measures", and access roads. Under 4F-107, the owner or operator are also responsible for removing the solar facility at the end of its useful life, or when it has been abandoned.

Petitioners' Exhibit 3 describes One Energy Renewables as a "national solar energy developer." It is based in the state of Washington. The lessee in this case, however, is One

Energy Development, LLC. It was formed to sign the lease with the property owner to build this project. It has no assets. On the first day of the hearing, we heard, for the first time, of another entity. Trillium Solar, LLC will operate the facility. It, too, has no assets. One Energy Renewables has created *two* shell companies. Being a "national solar developer", it doesn't want to put its assets at risk if something goes wrong here in Baltimore County, so it has created not one, but two shell entities to assume any legal liability.

When asked who would replace a tree that had died, or deal with a deer that jumped into the array, none of the Petitioners' witnesses had any answers. This is a shell game. One Energy Development, LLC and Trillium Solar, LLC will blame each other if a problem arises, and neither will have assets to handle the problem. In the meantime, One Energy Renewables will continue to build, by forming new entities, with no assets, to avoid liability. It would be an insult to the community should this scheme, put in place by a company located 3,000 miles away, be allowed here in Baltimore County.

The financial status and reliability of the property owner, HHK Farms, LLC, is completely unknown. Petitioners' Exhibit 7 is a letter from Stephanie Rexroth, the managing member of HHK Farms, LLC. She says that she was "personally granted the rights to the property in June 2012 by Herman Kupisch, Jr., a man that I consider family and credit for helping to raise me." She says that HHK Farms, LLC has owned the farm since 2016. As such, it too is responsible for maintaining and then tearing down the site.

We heard nothing from HHK Farms, other than the Rexroth letter. We did not hear the property owner's plan for maintaining the site, taking down the panels 20 or more years from now, and then restoring the property to agricultural use. We heard nothing about its financial ability to take care of the site. We don't know if Ms. Rexroth and her entity are even aware of

their maintenance and tear-down responsibilities under the solar law. We don't know how the lease addresses such responsibilities.

The Petitioners did not explain how they will maintain the site, handle any problems that arise, and then tear down the array when the lease has ended. That is because One Energy Development, LLC and Trillium Solar, LLC will simply walk away if a problem arises, or if the project is not profitable. Will either entity care if it gets a code enforcement fine for not replacing a dead tree, or is sued for negligence in operation of the site? Neither entity has assets, and nothing to lose if it gets fined, or sued, or doesn't fulfill its obligations under the lease or the solar law.

If this venture loses money, and the solar array is abandoned, there is zero chance that the shell entities will tear down the array. The panels will be left there to rust (Anyone who believes that an insurance company that provided a surety bond will step in and voluntarily assume that responsibility has never dealt with such sureties.) If the solar array sustains damage, and stops working, it will only be repaired if it makes economic sense to One Energy Renewables. If it does not, One Energy Development, LLC and Trillium Solar, LLC will be fined and sued, but will pay nothing. The parent company, One Energy Renewables, will move on to new ventures, in new communities, and will create new shell entities.

The Petitioners have the burden of production as to all issues in this case. They have failed to provide evidence explaining how they will maintain, monitor, and tear down this site. This is a long-term project in which the owner and lessee must be financially able to fulfill their obligations for twenty or more years. We have every indication that they intend to avoid their obligations.

Scenic Route

Monkton Road is designated as a Baltimore County scenic route. According to the Master Plan, "The preservation and enhancement of the scenic resources in Baltimore County is an essential component contributing to the quality of life of residents." Master Plan 2020, p. 99. It is the policy of Baltimore County to "preserve scenic corridors and views through proper zoning and coordination with federal and state governments." Master Plan 2020, p.99. "For properties along scenic routes or with scenic view sheds, variances, amendments and special exceptions should be granted sparingly." Master Plan 2020, p. 101.

Monkton Road has also been designated by the Maryland State Highway Administration as the "Horses and Hounds" Scenic Byway, a nod to the history of fox hunting on the farms that abound in this area of Baltimore County. Finally, Baltimore County has designated a "scenic viewshed" at this exact location on Monkton Road, and directed to the field where the solar panels would be installed.

The County Department of Planning was concerned enough about this project that they made two site visits. In their comments, dated April 26, 2018, they noted that they "observed agricultural practices being conducted on the subject property" during both visits. They pointed out that the site is located within a resource preservation area, which is "designated to preserve and protect the historic, cultural, recreational and environmental resources in the rural area." They then expressed concern about the "two primary locations where there are expansive views into the property" from Monkton Road.

One of the recommendations from the County Planning Board, in its August 2018 review of the solar law, was that "Solar facilities should not be detrimental to scenic views or routes". This site has both a scenic view and a scenic route. While planting trees between Monkton Road and the solar panels may eventually block out the panels, they will also block the "expansive

views" into the property. Those views will be gone for good. An industrial site will be built next to a road recognized by both the County and State for its scenic views. Surely a better site can be found.

Conclusion

This site should have been rejected by the solar company before getting this far. The lack of interest from Baltimore County property owners, coupled with a rush to be one of the first ten approved, resulted in poor site selection by the solar company. One Energy chose a site that was *available*, and not one that was *appropriate*. Five streams, six wetlands, steep slopes, and scenic routes were ignored, as the solar company went with the only site that it could find, confident that its regular team of experts would push this one through.

The Petitioners, and the community, have faith that the Board will not be swayed, but will be guided by the stated purpose of the Solar Bill:

"The purpose and intent of this Article is to permit solar facilities in parts of the rural and commercial areas of the County by Special Exception, and to balance the benefits of solar energy production with its potential impact upon the County's land use policies by ensuring sufficient safeguards are in place to protect the County's communities and its agricultural land, forests, waterways and other natural resources." (4F 101.1)

The Petitioners have no safeguards to protect the County's natural resources of streams, wetlands, and scenic beauty at this site. They have not shown that the benefits of solar energy production, at this unique location in Baltimore County, outweigh its potential impact on that area. For that reason, and for all of the reasons cited above, their Petition for a Special Exception should be denied.

H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111
410-329-6488
barneymowell@hotmail.com

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed this 17th day of February 2019 to Adam Rosenblatt, Esquire, 210 West Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, and to Peter Zimmerman, Esquire, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204.

H. Barnes Mowell

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 18, 2019

NOTICE OF DELIBERATION

IN THE MATTER OF: HHK Farms, LLC – Legal Owner
OneEnergy Development, LLC – Lessee
18-030-X 1139 Monkton Road
7th Election District; 3rd Councilmanic District

AGENDA: Petition for Special Exception pursuant to BCZR Section 4E-102 to approve a 13 ± acre solar facility on a portion of a 98.49 ± acre parcel of land split-zoned RC-2, RC-4 and RC-7, with the solar facility situated entirely within the RC-2 zoned portion of the property.

This matter having been heard on December 11and 12, 2018 and concluded on January 9, 2019, a public deliberation has been scheduled for the following:

DATE AND TIME: **MARCH 5, 2019 at 9:00 a.m.**

LOCATION: Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due on **February 11, 2019 by 3:00 p.m.**
(Original and three [3] copies)

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER THE CONCLUSION OF THE DELIBERATION. A COPY OF THAT OPINION AND ORDER WILL BE SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Counsel for Petitioners	: Adam M. Rosenblatt, Esquire
Legal Owner	: HHK Farms, LLC
Lessee	: OneEnergy Development, LLC
Counsel for Protestants	: H. Barnes Mowell, Esquire
Protestants	: Sparks-Glencoe Community Planning Council Freeland Legacy Alliance, Inc., Beverly & Salvatore Scavone, Lois Jeanne Bowman, Scott Dykes, Richard Ryan, Wendy McIver, Lynne Jones, Lisa Arthur, Kathleen Pieper

Timothy Edwards
Nicole Earp
Renee Hamidi
Kirsten Burger
Matt Pappas

Jeff Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael E. Field, County Attorney
Mike Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney
Office of People's Counsel

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

December 14, 2018

NOTICE OF ASSIGNMENT

IN THE MATTER OF: HHK Farms, LLC – Legal Owner
OneEnergy Development, LLC – Lessee
18-030-X 1139 Monkton Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4E-102 to approve a 13 ± acre solar facility on a portion of a 98.49 ± acre parcel of land split-zoned RC-2, RC-4 and RC-7, with the solar facility situated entirely within the RC-2 zoned portion of the property.

5/7/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter was heard on December 11 and 12, 2018 and did not reach a conclusion. Therefore, Day 3 has been

ASSIGNED FOR: JANUARY 9, 2019, AT 9:00 A.M.

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Counsel for Petitioners	: Adam M. Rosenblatt, Esquire
Legal Owner	: HHK Farms, LLC
Lessee	: OneEnergy Development, LLC
Counsel for Protestants	: H. Barnes Mowell, Esquire
Protestants	: Sparks-Glencoe Community Planning Council Freeland Legacy Alliance, Inc., Beverly & Salvatore Scavone, Lois Jeanne Bowman, Scott Dykes, Richard Ryan, Wendy McIver, Lynne Jones, Lisa Arthur, Kathleen Pieper

Timothy Edwards
Nicole Earp
Renee Hamidi
Kirsten Burger
Matt Pappas

Office of People's Counsel
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney

Citizens Sign-In Sheet

Case Name: 1139 MONKTON RD

Case No.: 2018-30-X

Date: 12-11-18

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	RUTH MASCHKE	11246 Wilkdale Rd 21111	443-717-3466	[illegible]	Sykesville	!
✓	LYNNE JONES	815 STABLERS CHURCH RD	PARKTON 21120			
✓	Sharon Colson	1152 MONKTON RD	21111		homeowner	
✓	Paul Colson	1152 Monkton RD	"		Homeowner	✓
✓	ADAM BROWN	1146 MONKTON RD	"		NONE	
	Barbara Federici	1200 Monkton Rd	"		homeowner	
✓	Nick Federici	1200 Monkton Rd	"		homeowner	
✓	GREG VOLPITTA	1220 MONKTON ROAD	"		HOMEOWNER	
✓	Wendy McIver	23 Manor Brook Rd. Monkton	21111	410-472-4101	SGCPC + homeowner	
✓	Tim Edwards	1132 Monkton Rd				

Citizens Sign-In Sheet

Case Name: 1139 MONKTON RD

Case No.: 2018- -X

Date: 12-12-18

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
	LYNNE JONES	815 STABLERS CHURCH, PARKTON	21120			
	Timothy Edwards	1132 Monkton Rd Monkton,	21111			
	Wendy McIver	23 Manor Brook Rd.	21111			
	GREG VOLPITTA	1220 MONKTON ROAD	21111			
	Paul Colison	1152 Monkton Road	21111			
	Sharon Colison	1152 MONKTON RD	21111			
	ADAM BROWN	1146 MONKTON RD	21111			
	LISA ARTHUR	19500 Burke RD	21161			
	Dirk Federici	1200 Monkton Rd.	21111			

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 31, 2018

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: HHK Farms, LLC – Legal Owner
OneEnergy Development, LLC – Lessee
18-030-X 1139 Monkton Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4E-102 to approve a 13 ± acre solar facility on a portion of a 98.49 ± acre parcel of land split-zoned RC-2, RC-4 and RC-7, with the solar facility situated entirely within the RC-2 zoned portion of the property.

5/7/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter was scheduled for a hearing on September 20, 2018 and has been postponed. This matter has been

REASSIGNED FOR: ~~**DECEMBER 5, 2018, AT 10:00 A.M. – Day 1,**~~
DECEMBER 11, 2018, AT 9:00 A.M. – Day ~~2~~ 1
and **DECEMBER 12, 2018, AT 9:00 A.M. – Day ~~3~~ 2**

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

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Krysundra "Sunny" Cannington
Administrator

Counsel for Petitioners	: Adam M. Rosenblatt, Esquire
Legal Owner	: HHK Farms, LLC
Lessee	: OneEnergy Development, LLC
Counsel for Protestants	: H. Barnes Mowell, Esquire
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Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Friday, August 24, 2018 3:18 PM
To: Krysundra Cannington; barney Mowell; Peter Max Zimmerman; Malone, Patricia A.
Cc: Carole Demilio
Subject: RE: Scheduling for HHK Farms LLC

Understood. I am definitely sympathetic to the fact that there are a number of these multi-day hearings right now as well. Just want to try to get it on the books as soon as we can.

Please copy Ms. Malone on any emails next week as I will be away from the office.

Thank you very much for your assistance.

Adam M. Rosenblatt, Esq.
Venable LLP
t 410.494.6271 | m 410.294.9430
210 W. Pennsylvania Avenue
Suite 500
Towson, MD 21204

From: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Date: Friday, Aug 24, 2018, 2:59 PM
To: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>, barney Mowell <barneymowell@hotmail.com>, Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: RE: Scheduling for HHK Farms LLC

Adam,

Again, I am checking the availability of the Board members. Please be patient as I check with them.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Confidentiality Statement

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, August 24, 2018 3:00 PM
To: 'Rosenblatt, Adam M.'; barney Mowell; Peter Max Zimmerman
Cc: Carole Demilio
Subject: RE: Scheduling for HHK Farms LLC

Adam,

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From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Friday, August 24, 2018 2:21 PM
To: barney Mowell <barneymowell@hotmail.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: RE: Scheduling for HHK Farms LLC

That is a lot of days to be unavailable. Can you please provide some kind of backup to confirm your conflicts?

In light of this email can we please have the four November dates for this hearing?

Thank you Sunny.

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Friday, August 24, 2018 2:21 PM
To: barney Mowell; Krysundra Cannington; Peter Max Zimmerman
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Adam M. Rosenblatt, Esq.
Venable LLP
t 410.494.6271 | m 410.294.9430
210 W. Pennsylvania Avenue
Suite 500
Towson, MD 21204

From: barney Mowell <barneymowell@hotmail.com>
Date: Friday, Aug 24, 2018, 10:11 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>, Rosenblatt, Adam M. <AMRosenblatt@Venable.com>, Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: Re: Scheduling for HHK Farms LLC

Ms. Cannington: I have to be in court for another trial or settlement conference on each of the following dates, and am therefore unavailable on Sept. 26, October 17,18, 30, and December 13th and 19th. thanks, Barney Mowell

From: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Sent: Friday, August 24, 2018 10:02 AM
To: Rosenblatt, Adam M.; Peter Max Zimmerman; barney Mowell
Cc: Carole Demilio
Subject: RE: Scheduling for HHK Farms LLC

Hi Adam,

First, I have not heard back from Mr. Mowell.

Second, I am checking to see if I can get the same panels for the dates I provided.

Third, it seems no one had a problem with the September date, given the difficulty scheduling can often be, might I suggest we keep the September date and schedule 3 other dates?

Thank you,

Krysundra Cannington

From: barney Mowell <barneymowell@hotmail.com>
Sent: Friday, August 24, 2018 10:11 AM
To: Krysundra Cannington; Rosenblatt, Adam M.; Peter Max Zimmerman
Cc: Carole Demilio
Subject: Re: Scheduling for HHK Farms LLC

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Cc: Carole Demilio
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Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

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From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Friday, August 24, 2018 9:14 AM

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, August 24, 2018 10:02 AM
To: 'Rosenblatt, Adam M.'; Peter Max Zimmerman; barney Mowell
Cc: Carole Demilio
Subject: RE: Scheduling for HHK Farms LLC

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Sent: Friday, August 24, 2018 9:14 AM
To: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Krysundra Cannington <kcannington@baltimorecountymd.gov>; barney Mowell <barneymowell@hotmail.com>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: RE: Scheduling for HHK Farms LLC

We would propose setting the case in for all 4 of the October dates. Hopefully the case will not take 4 days, but based on other solar cases that is the safest thing to do. If these dates are acceptable to everyone we can cancel the September 20 date.

Thank you,

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Friday, August 24, 2018 9:14 AM
To: Peter Max Zimmerman; Krysundra Cannington; barney Mowell
Cc: Carole Demilio
Subject: RE: Scheduling for HHK Farms LLC

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Thank you,

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/1wsMETs3RkZ--HXfgk8Ky-pdoyZzrOw4pR9nxIRJCJJiaTcUDnviQo699JPC1u0o7i-gB977PxG-azJS7P0HxVdfddi2Zg8drOBw_QXfTenCiSuCzm_ayewrcoqu4LqoNbJn8MJtnvol06J7XyEmiBxPK3A1VSahaleviSREzfEp7nsldU8J20khkmyGdPjHa2nWkK201EXJI8CV5h1v7RpYmL6VTEY3l4-DZA9fTqGHBiz-WoGe7N25Tcd5KrdtBpNmqfxug7ftycDB5UVB_U-LcwgwQu7i6T6cSrnNjDIX1ka__64wIGoQT1FHYnjw7uh5-0_EMGkVh75b74ks5JUFjg7IBwjwy2GO7xPUgHjzKIG_k2r3OdVlyZSIH-wbye8B29HMBaDmg8qNvcH2V54XB6ubuGF74qQ1FIhmQmDIAKEDVn9z0h6jiWNKEPRA1YWl_rep7m74upJbWt5XqGA/http%3A%2F%2Fwww.Venable.com

From: Peter Max Zimmerman [mailto:pzimmerman@baltimorecountymd.gov]
Sent: Thursday, August 23, 2018 10:20 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; barney Mowell <barneymowell@hotmail.com>
Cc: Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: RE: Scheduling for HHK Farms LLC

Good Morning Sunny,

Ms. Demilio is available the follow dates:

October 10, 18, 24, 30, November 7, 13, 20, 21, December 5, 11, 12, and 13.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

From: Krysundra Cannington
Sent: Thursday, August 23, 2018 8:59 AM

Krysundra Cannington

From: Peter Max Zimmerman
Sent: Thursday, August 23, 2018 10:20 AM
To: Krysundra Cannington; Rosenblatt, Adam M.; barney Mowell
Cc: Carole Demilio
Subject: RE: Scheduling for HHK Farms LLC

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October 10, 18, 24, 30, November 7, 13, 20, 21, December 5, 11, 12, and 13.

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From: Krysundra Cannington
Sent: Thursday, August 23, 2018 8:59 AM
To: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>; barney Mowell <barneymowell@hotmail.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Subject: RE: Scheduling for HHK Farms LLC

Good morning Counsel,

Without checking with the Board members, we have the following dates available on our calendar: September 26, October 3, 10, 17; 18, 24, 30, November 7, 13, 14, 20, 21, 28, December 5, 11, 12, 13, 18, 19, and 20.

Please be advised I cannot hold these dates as we have other cases also asking for additional dates.

Please let me know which dates work best for you. Please also let me know how many additional dates you would like as I believe the solar cases that have started with two dates have had two additional dates scheduled.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203

Krysundra Cannington

From: Krysundra Cannington
Sent: Thursday, August 23, 2018 8:58 AM
To: 'Rosenblatt, Adam M.'; barney Mowell; Peter Max Zimmerman
Subject: RE: Scheduling for HHK Farms LLC

Good morning Counsel,

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Thank you,

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From: Rosenblatt, Adam M. [mailto:AMRosenblatt@Venable.com]
Sent: Tuesday, August 21, 2018 2:53 PM
To: barney Mowell <barneymowell@hotmail.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: Scheduling for HHK Farms LLC

Sunny,

Krysundra Cannington

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Tuesday, August 21, 2018 2:53 PM
To: barney Mowell; Peter Max Zimmerman; Krysundra Cannington
Subject: Scheduling for HHK Farms LLC

Sunny,

This is a solar case that is currently set for September 20. Given the way that the other cases have gone, I believe it is in our interest to request two additional hearing dates so that the case can be completed. Could you please give us some additional dates that we can check with our respective teams?

Thank you very much,

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | http://secure-web.cisco.com/1Hui0ffWvTvL2NZ_uuiOSibz_4u3O1ix04JOu0rbBIbctuXlygmD79Np76FP29MG18jM2xQoOj2SGtEeILdC7jATtlyOF8YSiQkXHq3e8v9eiv4sgkmlQxqTWrDw2a7ZteVvrTkRPCBMQj87DbriUBkrZjAjPlqlVNBrVobW-KXhiYljt21FcUz52zL1TBXif5ZA5x26q7iEA_WxtT_dQjZnkvnT5RYWXeh2CzTQjB_97jhW1nTUL5cugHFQEstKolbGWvkukRwrfjCU4QWQAVPn7sh3t-6OdNhm_9OwgVZnsbu_RLr5X7QPVKfeVB3aD5eJFqvUC4H02viP-w5CZ1xXCq9XfH582wOOUbp3fDEH_suevPm3PACXH9Q1lyBzHkRa0Uc-T62l0oig5dEOpBVlfviJnq4TwV0XQsbPyEr2GedEuZjK_VvSDw2eOaCyiNim8ifK8T5B8SgUlESMXmg/http%3A%2F%2Fwww.Venable.com

****
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****

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

June 26, 2018

NOTICE OF ASSIGNMENT

IN THE MATTER OF: HHK Farms, LLC – Legal Owner
OneEnergy Development, LLC – Lessee
18-030-X 1139 Monkton Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4E-102 to approve a 13 ± acre solar facility on a portion of a 98.49 ± acre parcel of land split-zoned RC-2, RC-4 and RC-7, with the solar facility situated entirely within the RC-2 zoned portion of the property.

5/7/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

ASSIGNED FOR: **SEPTEMBER 20, 2018, AT 10:00 A.M.**

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Counsel for Petitioners	: Adam M. Rosenblatt, Esquire
Legal Owner	: HHK Farms, LLC
Lessee	: OneEnergy Development, LLC
Counsel for Protestants	: H. Barnes Mowell, Esquire
Protestants	: Sparks-Glencoe Community Planning Council Freeland Legacy Alliance, Inc., Beverly & Salvatore Scavone, Lois Jeanne Bowman, Scott Dykes, Richard Ryan, Wendy McIver, Lynne Jones, Lisa Arthur, Kathleen Pieper

Timothy Edwards
Nicole Earp
Renee Hamidi
Kirsten Burger
Matt Pappas

Office of People's Counsel
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney

STAPLES
IT'S PRO TIME

Cannington, Sunny

Order Due: Friday, 07/20/18, 5:22 PM

Order Number
2202676629

Rewards Number
3103091801

Order Received: Friday, 07/20/18, 4:22 PM

Contact Phone: (443) 854-3111

Call When Ready for Pickup: Y

Job 1 of 2 - Blueprints

Job Due: Friday, 07/20/18, 5:22 PM

SKU	Description	Qty	Subtotal
2071218	Blueprints - Blueprints	1	$3.59

Job 2 of 2 - Blueprints

Job Due: Friday, 07/20/18, 5:22 PM

SKU	Description	Qty	Subtotal
2071218	Blueprints - Blueprints	2	$11.87

Order Summary:

Total Price $ 15.46

Your satisfaction is our goal.
If your order doesn't meet your expectations, let us know so we can fix it.

Check out our current Print Promotion

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KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

June 6, 2018

RECEIVED
JUN 06 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Adam Rosenblatt, Esq.
Venable, LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS** – Petition for Special Exception
Case No. 2018-0030-X
Property: 1139 Monkton Road

Dear Mr. Rosenblatt:

Please be advised that an appeal of the above-referenced case was filed in this Office on June 5, 2018. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
H. Barnes Mowell, Esq., H. Barnes Mowell, P.A., 16925 York Road, Monkton, MD 21111
Salvatore & Beverly Scavone, 20220 Middletown Road, Freeland, MD 21053
Timothy Edwards, 1132 Monkton Road, Monkton, MD 21111
Nicole Earp, 1230 Monkton Road, Monkton, MD 21111

Renee Hamidi, 85 Sparks Station Road, Sparks, MD 21152
Wendy McIver, 23 Manor Brook Road, Monkton, MD 21111
Kirsten Burger, 1906 Corbridge Lane, Monkton, MD 21111
Matt Pappas, 1158 Monkton Road, Monkton, MD 21111
Jessica Cohen, 5784 Easterling Drive, Bryan, TX 77808

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No 143388

Date: 6/5/18

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				385.00

Total: 385.00

Rec From: H. Barnes Mowell

For: 2018-0030-X

1139 Monkton Rd CK# 1403

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
6/06/2018	6/05/2018	13:39:27	1

REG WS01 WALKIN LJR
>>RECEIPT # 788919 6/05/2018 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 143388
Recpt Tot $385.00
$385.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

№ 143388

Date: 6/5/18

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				385.00

Total: 385.00

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1139 Monkton Rd CK# 1403

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WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
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PAID RECEIPT

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Dept 5 528 ZONING VERIFICATION
CR NO. 143388
Recpt Tot $385.00
$385.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

H. BARNES MOWELL, P.A.
Attorney At Law
16925 York Road
Monkton, Maryland 21111
Phone: 410-329-6488 Fax: 410-357-4663
barneymowell@hotmail.com

June 4, 2018

RECEIVED
JUN 05 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

Arnold Jablon, Director
Department of Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Suite 205
Towson, Maryland 21204

via Hand-Delivery

Re: Notice of Appeal of OAH Decision
Case NO: 2018-0030-X

Dear Mr. Jablon:

I have enclosed a Notice of Appeal of the Opinion and Order of the Office of Administrative Hearings in the captioned case, as well as a check for the $385 filing fee.

Should you have any questions, please contact me.

Very truly yours,

H. Barnes Mowell

cc: Baltimore County Board of Appeals
Office of Administrative Hearings

RECEIVED
JUN 05 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

IN RE: PETITION FOR SPECIAL EXCEPTION (1139 Monkton Road) 7th Election District 3rd Council District HHK Farms, LLC *Legal Owner* OneEnergy Development, LLC *Lessee*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioners	*	CASE NO: 2018-0030-X

* * * * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks-Glencoe Community Planning Council, Box 937, Sparks, MD 21152, Freeland Legacy Alliance, Inc., 20220 Middletown Rd., Freeland, MD 21053, Salvatore and Beverly Scavone, 20216 Middletown Rd., Freeland, MD 21053, Lois Jean Bowman, 2709 Flintstone Rd., Freeland, MD 21053, Scott Dykes, 2603 Flintstone Rd., Freeland, MD 21053, Richard Ryan, 2602 Flintstone Rd., Freeland, MD 21053, Wendy McIver, 23 Manor Brook Road, Monkton, MD 21111, Lynne Jones, 815 Stablers Church Rd., Parkton, MD 21120, Lisa Arthur, 19500 Burke Road, White Hall, MD 21161 and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, MD 21074.

Please note the appeal by the above-named entities and individuals to the Baltimore County Board of Appeals of the Opinion and Order entered in the captioned case by the Office of Administrative Hearings on May 7, 2018.

H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111
410-329-6488
barneymowell@hotmail.com

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed this 4th day of June 2018 to Adam Rosenblatt, Esquire, Venable, LLP, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204 and to Peter Max Zimmerman, Esquire, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204.

H. Barnes Mowell

H. BARNES MOWELL, P.A.
Attorney At Law
16925 York Road
Monkton, Maryland 21111
Phone: 410-329-6488 Fax: 410-357-4663
barneymowell@hotmail.com

June 4, 2018

RECEIVED
JUN 05 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

Arnold Jablon, Director
Department of Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Suite 205
Towson, Maryland 21204

via Hand-Delivery

Re: Notice of Appeal of OAH Decision
Case NO: 2018-0030-X

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Should you have any questions, please contact me.

Very truly yours,

H. Barnes Mowell

cc: Baltimore County Board of Appeals
Office of Administrative Hearings

RECEIVED
JUN 05 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
JUN 05 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

IN RE: PETITION FOR SPECIAL EXCEPTION (1139 Monkton Road) 7th Election District 3rd Council District HHK Farms, LLC *Legal Owner* OneEnergy Development, LLC *Lessee*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioners	*	CASE NO: 2018-0030-X

* * * * * * *

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H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111
410-329-6488
barneymowell@hotmail.com

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed this 4th day of June 2018 to Adam Rosenblatt, Esquire, Venable, LLP, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204 and to Peter Max Zimmerman, Esquire, 105 W. Chesapeake Avenue, Room 204, Towson, Maryland 21204.

H. Barnes Mowell

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

May 7, 2018

Adam M. Rosenblatt, Esq.
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0030-X
Property: 1139 Monkton Road

Dear Mr.Rosenblatt:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Salvatore & Beverly Scavone, 20220 Middletown Road, Freeland, MD 21053
Timothy Edwards, 1132 Monkton Road, Monkton, MD 21111
Nicole Earp, 1230 Monkton Road, Monkton, MD 21111
Renee Hamidi, 85 Sparks Station Road, Sparks, MD 21152
Wendy McIver, 23 Manor Brook Road, Monkton, MD 21111
Kirsten Burger, 1906 Corbridge Lane, Monkton, MD 21111
Matt Pappas, 1158 Monkton Road, Monkton, MD 21111

IN RE: PETITION FOR SPECIAL EXCEPTION (1139 Monkton Road) 7th Election District 3rd Council District HHK Farms, LLC *Legal Owner* OneEnergy Development, LLC *Lessee* Petitioners	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY Case No. 2018-0030-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of HHK Farms, LLC, legal owner and OneEnergy Development, LLC, lessee ("Petitioners"). The petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a Solar Facility.

Marni Carroll, landscape architect Edward Tom, professional engineer Matt Durette and planner Mitch Kellman appeared in support of the petition. Adam M. Rosenblatt, Esq. represented the Petitioners. Several citizens attended the hearing and opposed the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS), the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP).

The subject property is approximately 98.49 acres in size and is split-zoned RC-2, RC-4 and RC-7. The proposed solar facility would be situated entirely within the RC-2 zoned portion of the site; a solar facility is permitted in an RC-2 zone by special exception. Representatives of the lessee testified the solar panels would occupy approximately 13 acres of the site, and in response to comments by the DOP the panels were shifted further away from Monkton Road. When originally submitted the plan indicated that at the closest point the panels would be 79 ft.

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Date 5/7/18
By

from Monkton Road, and the revised plan reflects that distance has increased to 125 ft. As Mr. Kellman testified, the law requires only a 50 ft. setback from a road, including a scenic route like Monkton Road. BCZR §4E-104.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Kellman, who was accepted as an expert, opined the plan satisfied all requirements set forth in BCZR §502.1 governing special exceptions. He also opined that any detrimental impacts upon the community at this location would be no worse than at other RC-2 zoned parcels in northern Baltimore County. Having satisfied their burden of proof under Maryland law I believe Petitioners are entitled to the special exception.

I am sympathetic to the concerns expressed by the community, which (as in several previous cases involving solar facilities in RC zones) focused upon the potential environmental impact from the solar panels as well as the detrimental impact the panels will have upon the bucolic country setting. While these are legitimate concerns, they are also inherent in the operation of a solar facility in the RC-2 zone generating two megawatts of electricity. A special exception petition cannot be denied based upon an inherent adverse impact upon the community. *Id.* Petitioners will be required to comply with all County environmental regulations, and a condition to that effect

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By

will be included below. In addition, Petitioners will need to submit for County approval a landscape plan that will mitigate the visual impact of the solar facility upon the scenic route and adjacent homes.

THEREFORE, IT IS ORDERED this 7th day of **May, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to use the property for a Solar Facility be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

2. Petitioners must comply with the ZAC comments submitted by the DEPS and Bureau of DPR, copies of which are attached hereto and incorporated herein.

3. No trees may be removed from the site in connection with the construction of the solar facility.

4. No barbed wire fencing shall be permitted in conjunction with the solar facility.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING
Date 5/7/18
By sln

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: March 1, 2018

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For February 12, 2018
Item No. 2018-0030-X (Revised Plan)

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

If Special Exception is granted, a landscape plan is required per the requirements of the Landscape Manual, Bill No. 37-17 and the CMDP. Specific landscape comments:

1. Monkton Road is a Baltimore County Scenic Route,
2. Perimeter landscape buffers are required,
3. Perimeter landscape buffers required along Monkton Road might require the solar facility to be set back further from Monkton Road to allow room for adequate and diverse landscape screen plantings,
4. Must minimize tree and vegetation removal,
5. Solar panels are considered a utility and should be designed and located to harmonize with the surroundings and to create the least visual impact. (See Comment # 9, 10, 11 & 12 below),
6. Additional landscape buffers (including contour strip buffers) may be required to address existing topography changes, Scenic Views, Scenic Routes, etc. depending on a number of items including the subject properties topography,
7. More comments may be rendered during review of the landscape plan,
8. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
9. Proposed landscape screening should begin at or near the Special Exception "Point Of Beginning" label on the south side of Monkton Road and extend eastward approximately 1,500 feet or approximately 100 feet to the east of the existing shed to assure screening of the solar array field from Monkton Road views.
10. Both 1111 and 1123 Monkton Road (Scenic Route) are adjacent properties that need to be reviewed for possible landscape screening to be designed and installed between their property and the proposed solar facility.
11. Landscape screening appears to be needed to address adjacent properties views when it relates to the proposed solar facility. Including, but not limited to 1132 thru 1238 Monkton Road (Scenic Route).
12. Proposed 16 foot access road may need to have a chicane or bends to assure screening of the solar array field from Monkton Road views if landscape screening does not.

* * * * *

VKD: cen
Cc: file

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Date 5/7/18
By

5-4

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
MAR 14 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: March 13, 2018

SUBJECT: DEPS Comment for Zoning Item # 2018-0030-X- *revised*
Address 1139 Monkton Road
(HHK Farms, LLC Property)

Zoning Advisory Committee Meeting of **February 16, 2018.**

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments: Resource delineations, which have not been submitted for review, are required to make a final determination regarding compliance with the above-referenced regulations. This may result in, but not be limited to, the recordation of Forest Buffer Easement(s) and/or Forest Conservation Easement(s), along with Declarations of Protective Covenants, in the Land Records of Baltimore County.

Reviewer: *Thomas Panzarella, Environmental Impact Review*

ORDER RECEIVED FOR FILING
Date 5/7/18
By Sln

C:\Users\snuffer\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\WPHS9SSK\ZAC 18-0030-X 1139 Monkton Road (003).doc

1. In order to meet State – mandated stormwater management requirements and minimize water quality impacts, the project must be designed and constructed in accordance with the attached Maryland Department of the Environment solar panel installation guidance document as part of the permit approval process.

ORDER RECEIVED FOR FILING

Date 5/7/18

By Sen

MDE Maryland Department of the Environment

Stormwater Design Guidance – Solar Panel Installations

Revisions to Maryland's Stormwater Management regulations in 2010 require that environmental site design (ESD) be used to the maximum extent practicable (MEP) to mimic natural hydrology, reduce runoff to reflect forested wooded conditions, and minimize the impact of land development on water resources. This applies to any residential, commercial, industrial or institutional development where more than 5,000 square feet of land is disturbed. Consequently, stormwater management must be addressed even when permeable features like solar panel installations exceed 5,000 square feet of land disturbance.

Depending on local soil conditions and proposed imperviousness, the amount of rainfall that stormwater requirements are based on varies from 1.0 to 2.6 inches. However, addressing stormwater management does not mean that structural or micro-scale practices must be constructed to capture and treat large volumes of runoff. Using nonstructural techniques like disconnecting impervious cover reduces runoff by promoting overland filtering and infiltration. Commonly used with smaller or narrower impervious areas like driveways or open roofs, the disconnection of non-rooftop runoff technique (see PP. 5.61 to 5.65 of the 2000 Maryland Stormwater Design Manual) is a low cost alternative for treating runoff in situations like rows of solar panels.

When non-rooftop disconnection is used to treat runoff, the following factors should be considered:

- The vegetated area receiving runoff must be equal to or greater in length than the disconnected surface (e.g., width of the row of solar panels)
- Runoff must sheet flow onto and across vegetated areas to maintain the disconnection.
- Disconnections should be located on gradual slopes (≤ 5%) to maintain sheet flow. Level spreaders, terraces, or berms may be used to maintain sheet flow conditions if the average slope is steeper than 5%. However, installations on slopes greater than 10% will require an engineered plan that ensures adequate treatment, and the safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice.
- Disconnecting impervious surfaces works best in undisturbed soils. To minimize disturbance and compaction, construction vehicles and equipment should avoid areas used for disconnection during installation of the solar panels.
- Groundcover vegetation must be maintained in good condition in those areas receiving disconnected runoff. Typically this maintenance is no different than other lawn or landscaped areas. However, areas receiving runoff should be protected (e.g., planting shrubs or trees along the perimeter) from future compaction.

Depending on the layout and number of panels installed, the disconnection of non-rooftop runoff technique may address some or all of the stormwater management requirements for an individual project. Where the imperviousness is high or there is other infrastructure (e.g., access roads, transformers), additional runoff may need to be treated. In these situations, other ESD techniques or micro-scale practices may be needed to provide stormwater management for these features.

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Date 5/7/18
By

Example 1 – Using Non-Rooftop Disconnection Where the Average Slope ≤5%

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope does not exceed 5%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed according to Figure 1 below. In this scenario, the disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). Therefore, each row of panels is adequately disconnected and the runoff from 1.0 inch of rainfall is treated.

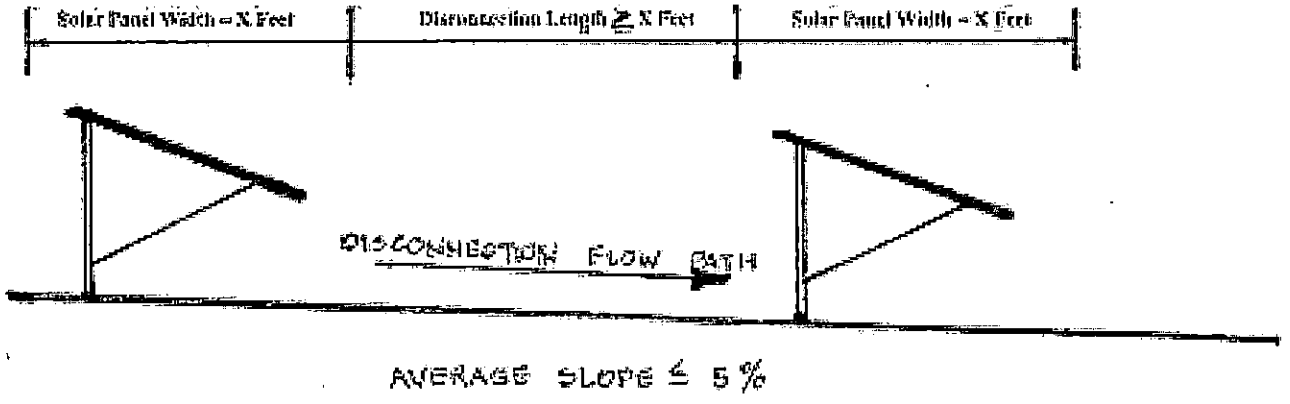


Figure 1. Typical Installation – Slope ≤5%

Example 2 – Using Non-Rooftop Disconnection Where the Average Slope ≥ 5% but ≤10%

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope is greater than 5% but less than 10%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed as shown in figure 2 below. The disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). However, in this example, a level spreader (typically 1 to 2 foot wide and 1 foot deep) has been located at the drip edge of each row of panels to dissipate energy and maintain sheet flow.

Discussion

To meet State and local stormwater management requirements, ESD must be used to the MEP to reduce runoff to reflect forested conditions. While all reasonable options for implementing ESD must be investigated, minimally, the runoff from 1 inch of rainfall must be treated. In each of the examples above, there may be additional opportunities to implement ESD techniques or practices and reduce runoff that should be explored. However, simply disconnecting the runoff from the solar panel arrays captures and treats the runoff from 1.0 inch of rainfall. Where imperviousness is low and soil conditions less optimal (e.g., HSG C or D), this may be sufficient to completely address stormwater management requirements. In more dense applications or in sandy soils, additional stormwater management may be required.

ORDER RECEIVED FOR FILING
Date 5/7/18
By

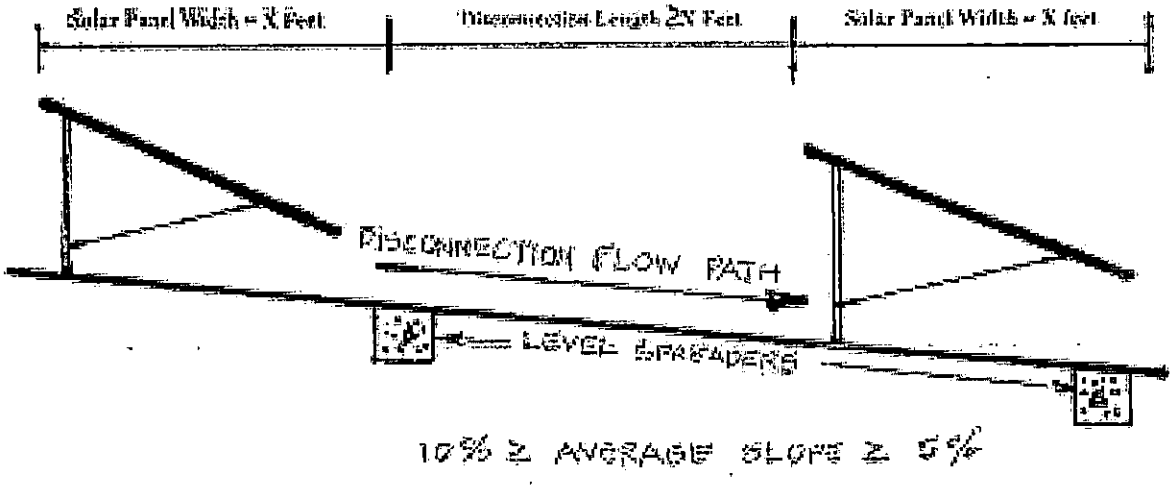


Figure 2. Typical Installation – Slope ≥5% but ≤10%

Conclusion

The primary purpose of Maryland's stormwater management program is to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Any land development project that exceeds 5,000 square feet of disturbance, including solar panel projects, must address stormwater management. However, for solar panels, stormwater management may be provided in a cost effective manner by disconnecting each row of panels and directing runoff over the vegetated areas between the individual rows.

Resources

1 2000 Maryland Stormwater Design Manual, Volumes I and II, MDE, October 2000 (http://www.mde.state.md.us/programs/Water/StormwaterManagementProgram/MarylandStormwaterDesignManual/Pages/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/index.aspx)

ORDER RECEIVED FOR FILING

Date 5/7/18

By

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 1139 Monkton Road, Monkton, MD 21111 **which is presently zoned** RC 2; RC 4; RC 7

Deed References: 37926/11 10 Digit Tax Account # 0 7 1 1 0 8 9 0 7 5

Property Owner(s) Printed Name(s) HHK Farms, LLC

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1.____ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. X **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for SEE ATTACHED

3.____ **a Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

See Attached
Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

See Attached /
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

Mailing Address City State

Zip Code / Telephone # / Email Address

ORDER RECEIVED FOR FILING
Date 5/7/18
By

Attorney for Petitioner:

Adam M. Rosenblatt
Name- Type or Print

Signature

210 W. Pennsylvania Avenue, Ste. 500, Towson, MD
Mailing Address City State

21204 / (410) 494-6271 / arosenblatt@venable.com
Zip Code Telephone # Email Address

Representative to be contacted:

Adam M. Rosenblatt
Name – Type or Print

Signature

210 W. Pennsylvania Avenue, Ste. 500, Towson, MD
Mailing Address City State

21204 / (410) 494-6271 / arosenblatt@venable.com
Zip Code Telephone # Email Address

CASE NUMBER 2018-0030-X **Filing Date** 7/24/17 **Do Not Schedule Dates:** _____ **Reviewer**_____

Revised

REV. 10/4/11

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION

SPECIAL EXCEPTION

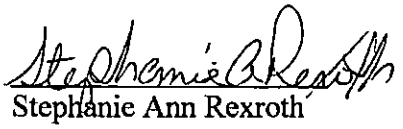
1. Petition for Special Exception, pursuant to Section 4E-102 of the Baltimore County Zoning Regulations, for a solar facility.

2. Also, for such further relief as the Administrative Law Judge may require.

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION

Legal Owner of 1139 Monkton Road:

HHK Farms, LLC
25 Woodsview Drive
Red Lion, Pennsylvania 17356
(717) 246-0803

By: 
Name: Stephanie Ann Rexroth
Title: Managing Member

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

LESSEE:

OneEnergy Development, LLC
2003 Western Avenue, Suite 225
Seattle, Washington 98121
(206) 922-7072

By: _____
Name: Travis Bryan
Title: Chief Operating Officer

DAFT McCUNE WALKER

Zoning Description

To Accompany

Special Exception Request

Baltimore County, Maryland

Commencing from the point formed by the intersection of the centerline of Blue Mt. Road with the centerline of Monkton Road; thence running southeasterly with the centerline of said Monkton Road approximately 625 feet to the point of beginning; thence leaving said point of beginning and referring all courses and distance of this description to the Maryland Coordinate System (NAD83) (1) South 71 degrees 05 minutes 57 seconds East 32.80 feet; thence (2) South 60 degrees 04 minutes 57 seconds East 155.08 feet; thence (3) South 44 degrees 29 minutes 34 seconds East 191.93 feet; thence (4) South 04 degrees 33 minutes 20 seconds West 62.66 feet; thence (5) South 41 degrees 52 minutes 38 seconds East 670.93 feet; thence (6) South 00 degrees 00 minutes 00 seconds East 483.02 feet; thence (7) North 90 degrees 00 minutes 00 seconds West 199.51 feet; thence (8) South 00 degrees 00 minutes 00 seconds East 280.00 feet; thence (9) North 90 degrees 00 minutes 00 seconds West 376.58 feet; thence (10) South 00 degrees 00 minutes 00 seconds East 75.00 feet; thence (11) North 90 degrees 00 minutes 00 seconds West 275.00 feet; thence (12) North 00 degrees 00 minutes 00 seconds West 280.00 feet; thence (13) North 90 degrees 00 minutes 00 seconds East 54.20 feet; thence (14) North 00 degrees 00 minutes 00 seconds West 410.61 feet; thence (15) North 90 degrees 00 minutes 00 seconds East 55.00 feet; thence (16) North 00 degrees 14 minutes 26 seconds East 448.79 feet; thence (17) North 89 degrees 00 minutes 35 seconds East 261.74 feet; thence (18) North 60 degrees 52 minutes 41 seconds East 43.14 feet; thence (19) North 39 degrees 18 minutes 12 seconds

501 Fairmount Avenue, Suite 300, Towson, MD 21286 p: 410 296 3333 f: 410 296 4705 www.dmw.com

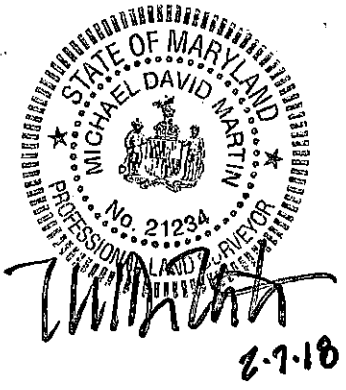
Revised

West 516.95 feet; thence (20) North 22 degrees 48 minutes 03 seconds East 65.08 feet to the point of beginning; containing 831,329.97 square feet or 19.085 acres, more or less, as now surveyed by Daft- McCune-Walker, Inc. in January 2018.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR PROPERTY CONVEYANCE.

February 7, 2018

Project No. 17028.A (L17028.A)



2-7-18

CE..TIFICATE OF POST..G

2018-0030-X

RE: Case No.: _____

Petitioner/Developer: _____

HHK Farms, LLC
OneEnergy Development, LLC

May 4, 2018

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1139 Monkton Road

SIGN 1

April 14, 2018

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

April 14, 2018

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2018-0030-X

RE: Case No.: _____

Petitioner/Developer: _____

HHK Farms, LLC
OneEnergy Development, LLC

May 4, 2018

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

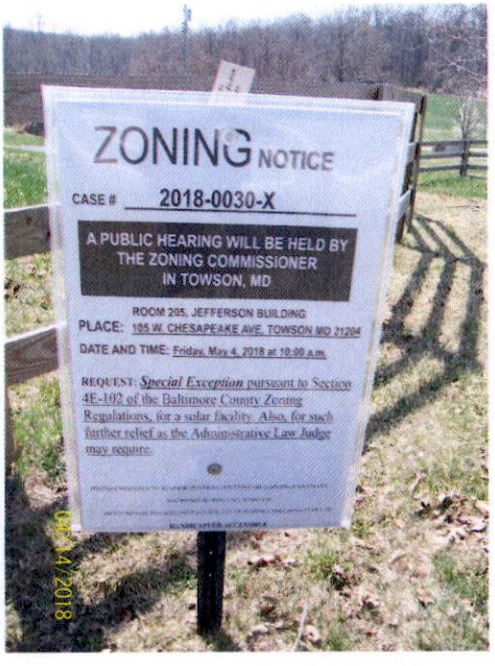
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1139 Monkton Road **SIGN 2**

April 14, 2018

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

April 14, 2018

(Signature of Sign Poster) **(Date)**

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2018-0030-X

RE: Case No.: _____

Petitioner/Developer: _____

HHK Farms, LLC
OneEnergy Development, LLC

May 4, 2018

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

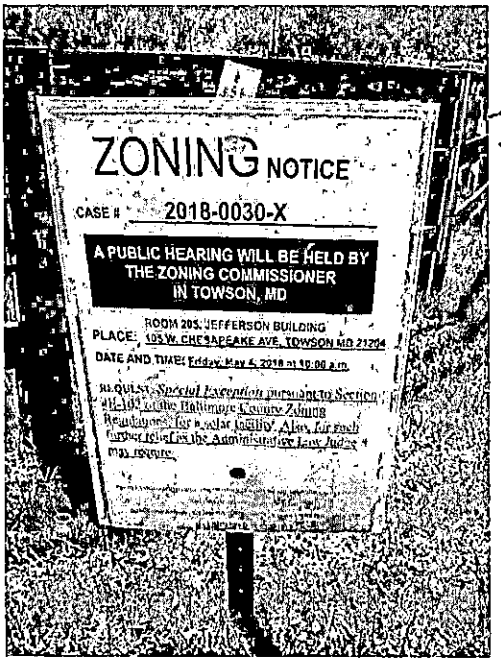
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1139 Monkton Road

SIGN 2 Re-Certification

April 14, 2018

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

April 30, 2018

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2018-0030-X

RE: Case No.: _____

Petitioner/Developer: _____

HHK Farms, LLC
OneEnergy Development, LLC

May 4, 2018

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

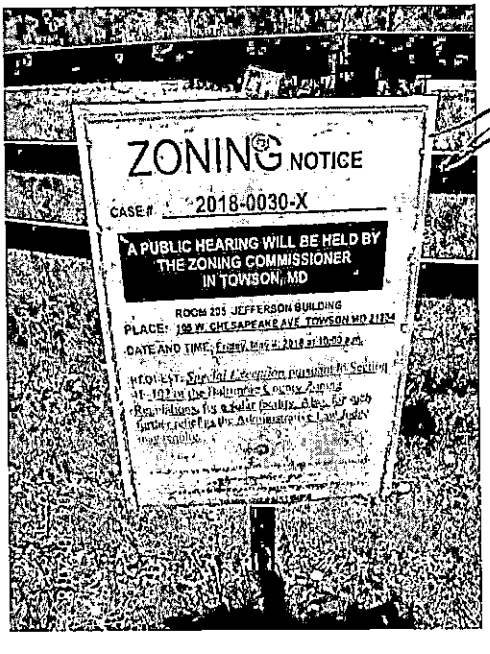
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1139 Monkton Road

SIGN 1 Re-Certification

April 14, 2018

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

April 30, 2018

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100
http://www.thedailyrecord.com

Order #: 11536837
Case #: 2018-0030-X
Description:

Case Number: 2018-0030-X - Notice of Zoning Hearing

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

4/13/2018

Darlene Miller

Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0030-X
1426 Reisterstown Road
1439 Monkton Road
SW/s Monkton Road, SW of Bluemount Road
7th Election District - 3rd Councilmanic District
Legal Owners: HHK Farms, LLC
Contract Purchaser/Lessee: OneEnergy Development, LLC

Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations, for a solar facility. Also, for such further relief as the Administrative Law Judge may require.

Hearing: Friday, May 4, 2018 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

ARNOLD JABLON,
Director of Permits,
Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

ap13

April 4, 2018

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0030-X
1139 Monkton Road
SW/s Monkton Road, SW of Bluemount Road
7th Election District – 3rd Councilmanic District
Legal Owners: HHK Farms, LLC
Contract Purchaser/Lessee: OneEnergy Development, LLC

Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations, for a solar facility. Also, for such further relief as the Administrative Law Judge may require.

Hearing: Friday, May 4, 2018 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: Adam Rosenblatt, 210 W. Pennsylvania Avenue, Ste. 500, Towson 21204
Stephanie Rexroth, 25 Woodsview Drive, Red Lion PA 17356
Travis Bryan, 2003 Western Avenue, Ste. 225, Seattle Washington 98121

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, APRIL 14, 2018.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE:	PETITION FOR SPECIAL EXCEPTION 1139 Monkton Road; SW/S of Monkton Road, SW 507' to c/line Bluemount Road 7th Election & 3rd Councilmanic Districts Legal Owner(s): HHK Farms, LLC Contract Purchaser(s): OneEnergy Development, LLC Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-030-X

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
AUG 08 2017

Carole S Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of August, 2017, a copy of the foregoing Entry of Appearance was mailed to Patricia Malone, Esquire & A. Neill Thupari, Esquire, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

April 26, 2018

HHK Farms, LLC
Stephanie Ann Rexroth
25 Woodsview Drive
Red Lion, PA 17356

RE: Case Number: 2018-0030 X, Address: 1139 Monkton Road

Dear Ms. Rexroth:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on July 24, 2017. This letter is not an approval, but only a **NOTIFICATION.**

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Adam M Rosenblatt, Esquire, 210 W Pennsylvania Avenue, Suite 500, Towson MD 21204

MARYLAND DEPARTMENT
OF TRANSPORTATION

STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

Gregory Slater
Administrator

Date: 8/2/17

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the Case number referenced below, which was received on 8/2/17. A field inspection and internal review reveals that an entrance onto MD 138 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Special Exception, Case Number 2018-0030-X.

Special Exception
HHK Ferms, LLC, Stephanie Ann Rex 10th
1139 Monkton Road
MD 138

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) X 2332 or by email at (rzeller@sha.state.md.us).

Sincerely,

Richard A. Zeller

for Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 4/26/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 18-030 (revised)

INFORMATION:

Property Address:	1139 Monkton Road
Petitioner:	HHK Farms, LLC
Zoning:	RC 2, RC 4, RC 7
Requested Action:	Special Exception

The Department of Planning has reviewed the petition for special exception to use the property for a solar facility.

A site visit was conducted on August 10, 2017. A second site visit was conducted February 26, 2018. The Department observed agricultural practices being conducted on the subject property at the time of these visits. The area for special exception is located entirely upon RC 2 zoned land. The site is located within a resource preservation area as identified in the Baltimore County Master Plan 2020 (MP2020). These areas are "*designated to preserve and protect the historic, cultural, recreational and environmental resources in the rural area*" (MP2020 pgs. 91,92).

Monkton Road is a Baltimore County scenic route and also a State of MD scenic byway. The views into this site are obstructed along much of Monkton Road but there are two primary locations where there are expansive views into the property. MP2020 states, "*the preservation and enhancement of scenic resources in Baltimore County is an essential component of contributing to the quality of life of residents*" and puts forth as an action item, "*for properties along scenic routes or within scenic viewsheds, variances, amendments, and special exceptions should be granted sparingly*" (MP2020 pgs. 99,100). The Department applies the design guidelines established within the Comprehensive Manual of Development Policies (CMDP) when considering development along scenic routes. When developing on a scenic route, the CMDP instructs one to "*maintain a buffer between the road and the new development*" (CMDP pg. 180). The Department supports the efforts of the State in maintaining scenic byways and recommends the petitioners work with the Maryland State Highway Administration in ensuring the proposal fits within the context of the route.

The Department has no objection to granting the petitioned zoning relief based upon the following conditions:

- Submit a landscape plan to the Baltimore County Landscape Architect for review and approval. The Department supports the Baltimore County Landscape Architect in planting requirements deemed necessary to include interior contour screening and other planting schemes that will mitigate the visual impact of the special exception proposal upon the scenic route. The Department recommends such a landscape plan shall:
  - Install a significant buffer of mixed vegetation between the proposed driveway and Monkton Road which may necessitate shifting the panels southward to provide sufficient space.
  - Enhance the existing plantings along Monkton Road with a mixture of deciduous and coniferous trees and shrubs in a naturalistic pattern.
  - Maintain an expansive view into the site along that part of Monkton Road east of 1123 Monkton Road to the point where the existing screening begins.
  - Preserve views into the property as seen looking west, across the site.
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR§4F-102.B.1-4 and §4F-107.
- Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in its respective councilmanic district. If approved, Petitioners shall submit to this Department at the time of building permit application the final fixed location and area of the facility by coordinate data so that an inventory may be kept.
- Lighting shall be limited to what is required for security purposes only and will be sited in such a way as to have minimal spillage onto neighboring properties.
- Signage shall be limited to that which is necessary for safety and security purposes.
- No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 P.M. through 6 A.M.
- Indicate on the plan the means and location by which the solar facility connects to the power grid and whether grading or clearing will be involved.

For further information concerning the matters stated herein, please contact Wally Lippincott at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Deputy Director:

Jeff Mayhew

AVA/KS/LTM/

c: Wally Lippincott
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Adam Rosenblatt
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: March 1, 2018

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For February 12, 2018
Item No. 2018-0030-X (Revised Plan)

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

If Special Exception is granted, a landscape plan is required per the requirements of the Landscape Manual, Bill No. 37-17 and the CMDP. Specific landscape comments:

1. Monkton Road is a Baltimore County Scenic Route,
2. Perimeter landscape buffers are required,
3. Perimeter landscape buffers required along Monkton Road might require the solar facility to be set back further from Monkton Road to allow room for adequate and diverse landscape screen plantings,
4. Must minimize tree and vegetation removal,
5. Solar panels are considered a utility and should be designed and located to harmonize with the surroundings and to create the least visual impact. (See Comment # 9, 10, 11 & 12 below),
6. Additional landscape buffers (including contour strip buffers) may be required to address existing topography changes, Scenic Views, Scenic Routes, etc. depending on a number of items including the subject properties topography,
7. More comments may be rendered during review of the landscape plan,
8. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
9. Proposed landscape screening should begin at or near the Special Exception "Point Of Beginning" label on the south side of Monkton Road and extend eastward approximately 1,500 feet or approximately 100 feet to the east of the existing shed to assure screening of the solar array field from Monkton Road views.
10. Both 1111 and 1123 Monkton Road (Scenic Route) are adjacent properties that need to be reviewed for possible landscape screening to be designed and installed between their property and the proposed solar facility.
11. Landscape screening appears to be needed to address adjacent properties views when it relates to the proposed solar facility. Including, but not limited to 1132 thru 1238 Monkton Road (Scenic Route).
12. Proposed 16 foot access road may need to have a chicane or bends to assure screening of the solar array field from Monkton Road views if landscape screening does not.

* * * * *

VKD: cen
Cc: file

5-4

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
MAR 14 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: March 13, 2018

SUBJECT: DEPS Comment for Zoning Item # 2018-0030-X- *revised*
Address 1139 Monkton Road
(HHK Farms, LLC Property)

Zoning Advisory Committee Meeting of **February 16, 2018**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments: Resource delineations, which have not been submitted for review, are required to make a final determination regarding compliance with the above-referenced regulations. This may result in, but not be limited to, the recordation of Forest Buffer Easement(s) and/or Forest Conservation Easement(s), along with Declarations of Protective Covenants, in the Land Records of Baltimore County.

Reviewer: *Thomas Panzarella, Environmental Impact Review*

1. In order to meet State – mandated stormwater management requirements and minimize water quality impacts, the project must be designed and constructed in accordance with the attached Maryland Department of the Environment solar panel installation guidance document as part of the permit approval process.

MDE Maryland Department of the Environment

Stormwater Design Guidance – Solar Panel Installations

Revisions to Maryland's Stormwater Management regulations in 2010 require that environmental site design (ESD) be used to the maximum extent practicable (MEP) to mimic natural hydrology, reduce runoff to reflect forested wooded conditions, and minimize the impact of land development on water resources. This applies to any residential, commercial, industrial or institutional development where more than 5,000 square feet of land is disturbed. Consequently, stormwater management must be addressed even when permeable features like solar panel installations exceed 5,000 square feet of land disturbance.

Depending on local soil conditions and proposed imperviousness, the amount of rainfall that stormwater requirements are based on varies from 1.0 to 2.6 inches. However, addressing stormwater management does not mean that structural or micro-scale practices must be constructed to capture and treat large volumes of runoff. Using nonstructural techniques like disconnecting impervious cover reduces runoff by promoting overland filtering and infiltration. Commonly used with smaller or narrower impervious areas like driveways or open roads, the disconnection of non-rooftop runoff technique (see PP. 5.61 to 5.65 of the 2000 Maryland Stormwater Design Manual) is a low cost alternative for treating runoff in situations like rows of solar panels.

When non-rooftop disconnection is used to treat runoff, the following factors should be considered:

- The vegetated area receiving runoff must be equal to or greater in length than the disconnected surface (e.g., width of the row of solar panels)
- Runoff must sheet flow onto and across vegetated areas to maintain the disconnection.
- Disconnections should be located on gradual slopes (≤ 5%) to maintain sheet flow. Level spreaders, terraces, or berms may be used to maintain sheet flow conditions if the average slope is steeper than 5%. However, installations on slopes greater than 10% will require an engineered plan that ensures adequate treatment, and the safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice.
- Disconnecting impervious surfaces works best in undisturbed soils. To minimize disturbance and compaction, construction vehicles and equipment should avoid areas used for disconnection during installation of the solar panels.
- Groundcover vegetation must be maintained in good condition in those areas receiving disconnected runoff. Typically this maintenance is no different than other lawn or landscaped areas. However, areas receiving runoff should be protected (e.g., planting shrubs or trees along the perimeter) from future compaction.

Depending on the layout and number of panels installed, the disconnection of non-rooftop runoff technique may address some or all of the stormwater management requirements for an individual project. Where the imperviousness is high or there is other infrastructure (e.g., access roads, transformers), additional runoff may need to be treated. In these situations, other ESD techniques or micro-scale practices may be needed to provide stormwater management for these features.

Example 1 – Using Non-Rooftop Disconnection Where the Average Slope ≤5%

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope does not exceed 5%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed according to Figure 1 below. In this scenario, the disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). Therefore, each row of panels is adequately disconnected and the runoff from 1.0 inch of rainfall is treated.

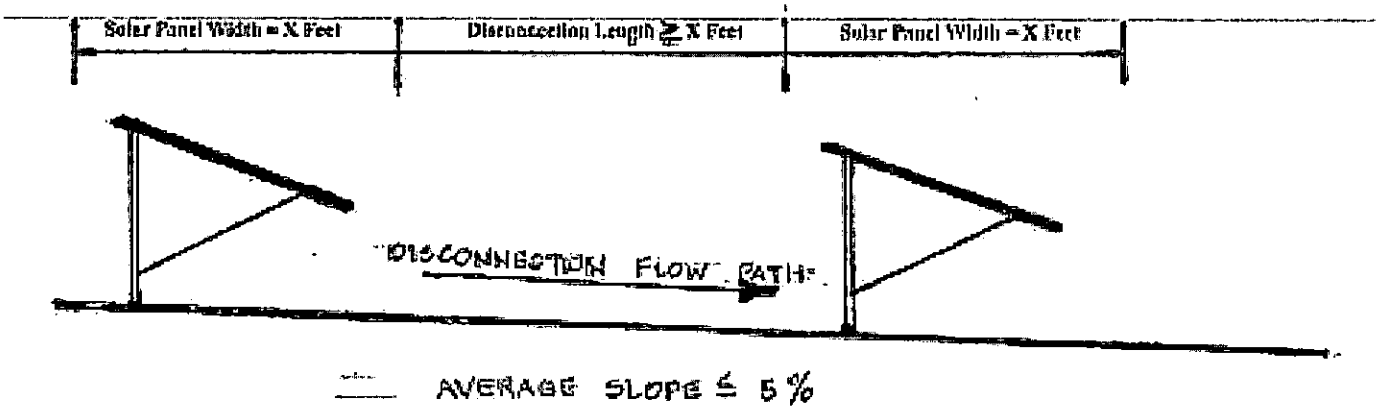


Figure 1. Typical Installation – Slope ≤5%

Example 2 – Using Non-Rooftop Disconnection Where the Average Slope ≥ 5% but ≤10%

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope is greater than 5% but less than 10%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed as shown in figure 2 below. The disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). However, in this example, a level spreader (typically 1 to 2 foot wide and 1 foot deep) has been located at the drip edge of each row of panels to dissipate energy and maintain sheet flow.

Discussion

To meet State and local stormwater management requirements, ESD must be used to the MEP to reduce runoff to reflect forested conditions. While all reasonable options for implementing ESD must be investigated, minimally, the runoff from 1 inch of rainfall must be treated. In each of the examples above, there may be additional opportunities to implement ESD techniques or practices and reduce runoff that should be explored. However, simply disconnecting the runoff from the solar panel arrays captures and treats the runoff from 1.0 inch of rainfall. Where imperviousness is low and soil conditions less optimal (e.g., HSG C or D), this may be sufficient to completely address stormwater management requirements. In more dense applications or in sandy soils, additional stormwater management may be required.

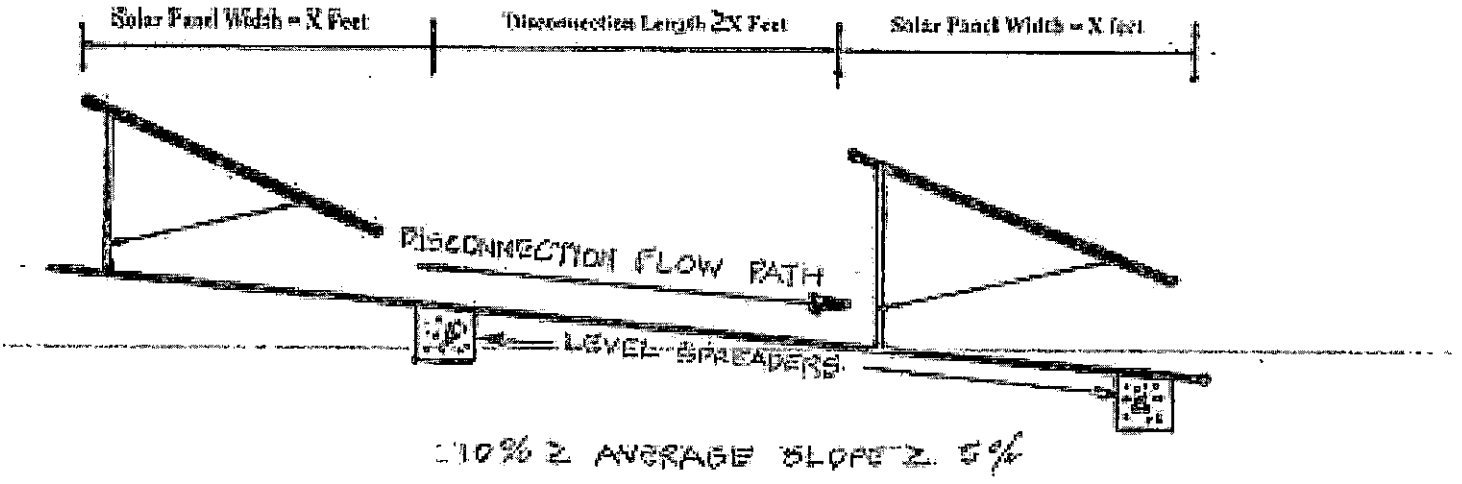


Figure 2. Typical Installation – Slope ≥5% but ≤10%

Conclusion

The primary purpose of Maryland's stormwater management program is to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Any land development project that exceeds 5,000 square feet of disturbance, including solar panel projects, must address stormwater management. However, for solar panels, stormwater management may be provided in a cost effective manner by disconnecting each row of panels and directing runoff over the vegetated areas between the individual rows.

Resources

1 2000 Maryland Stormwater Design Manual, Volumes I and II, MDE, October 2000 (http://www.mde.state.md.us/programs/Water/StormwaterManagementProgram/MarylandStormwaterDesignManual/Pages/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/index.aspx)

PLEASE PRINT CLEARLY

CASE NAME 2018-0030-X
CASE NUMBER
DATE 5/4/18

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Adam Rosenblatt	210 W. Pennsylvania Ave	Towson MD 21204	amrosenblatt@verdeble.com
Patricia Malone	Suite 500	" "	pamalone@verdeble.com
EDWARD TOM	501 FAIRMOUNT AVE.		etom@dmw.com
Marni Carroll	2003 Western Ave Seattle WA 98121		marni@oneenergyrenewables.com
Kate Lawson			kate@ "
Matt Durette			matt@ "
Mitch Kellman	501 Fairmount Ave, Ste 300	Towson 21204	MKellman@dmw.com

PLEASE PRINT CLEARLY

CASE NAME 2018-0030-X
CASE NUMBER
DATE May 4, 2018

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
SALVATORE SCAVONE	20220 MIDDLETOWN RD	FREELAND, MD 21053	—
BEVERLY SCAVONE	" "	" "	—
Timothy Edwards	1132 Monktown Rd	Monkton MD 21111	Timothy Edwards 1969@ Ya Hoo
Nicole Earp	1230 Monkton Rd.	Monkton, MD. 21111	ntearp33@gmail.co.
Renee Hamidi	8 Sparks Station Rd	Spark MD 21152	reneehamidi@gmail.com
Wendy McIver	23 Manor Brook Rd.	Monkton 21111	WMciver23@hotmail.com
Kirsten Burger	1906 Corbridge Ln, Monkton	21111	Kirsten burger@ comcast.net
[illegible]	1158 Monkton RD	MONKTON 21111	PAPPAS1158@gmail.com

Debra Wiley

From: Administrative Hearings
Sent: Monday, May 07, 2018 9:38 AM
To: Jessica Cohen
Subject: RE: Case 2018-0030-X

You're welcome.

From: Jessica Cohen [mailto:thecohenfamily2009@gmail.com]
Sent: Monday, May 07, 2018 8:54 AM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Re: Case 2018-0030-X

I will just wait for the mailed decision then, thank you very much!

Have a nice day,
Jessica

Sent from my iPhone

On May 7, 2018, at 7:51 AM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:

> Ms. Cohen,
>
> Your email will be placed in the case file and a copy of the decision mailed to you as soon as it's released.
>
> A CD can be purchased for $50 of the proceedings; this is only a recording and not a transcript.
>
> Thank you.
>
> ---
>
> **From:** Jessica Cohen [mailto:thecohenfamily2009@gmail.com]
> **Sent:** Monday, May 07, 2018 8:29 AM
> **To:** Administrative Hearings <administrativehearings@baltimorecountymd.gov>
> **Subject:** Re: Case 2018-0030-X
>
> Thank you very much for your response!
>
> My mailing address is 5784 Easterling Drive Bryan, TX 77808.
>
> Are meeting minutes available by any chance?
>
> Many thanks again,
> Jessica
>
> Sent from my iPhone

On May 7, 2018, at 6:48 AM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:

Good Morning,

Our office is in receipt of both your email and voicemail. The judge does not make a decision verbally at the hearing. He usually issues a written Order a few days following the hearing; no decision has been written as of Friday.

If you're interested in obtaining a copy of the decision, please send us your mailing address.

Thank you for contacting the Office of Administrative Hearings.

From: Jessica Cohen [mailto:thecohenfamily2009@gmail.com]
Sent: Saturday, May 05, 2018 2:32 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Case 2018-0030-X

Hello,

I am interested in purchasing property at 1313 Monkton Road and understand that this property may be affected by a zoning petition for a Solar Facility that was heard on Friday, May 4th at 8 pm. May I ask if there was a decision reached and where I can find out more details (and when will the decision be made available in writing)?

Many thanks,
Jessica Cohen
630-297-1018

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

John E. Beverungen

From: Renee Hamidi <reneehamidi@gmail.com>
Sent: Friday, May 04, 2018 1:07 PM
To: John E. Beverungen
Subject: 1139 Monkton Road
Attachments: 1139 monkton.pdf

Thank you for holding such an interesting hearing this morning. We've all learned a lot from each other about solar installations and community concerns. I'm sorry you declined to look at the map I printed from My Neighborhood - it shows more than one stream on the property and I attach it here in case you want to see it. I don't imagine it will affect the decision on this special exception but since studies on the impact of large-scale solar installations on streams and rivers are lacking, it's important to at least know what water will be affected. This property is in the Loch Raven Reservoir watershed; the reservoir provides drinking water for hundreds of thousands of Baltimore City and County residents.
Thank you again for conducting the hearing.
Regards,
Renee Hamidi

inistrative Hearings
esapeake Avenue, Room 103
lding
yland 21204

Return Service Requested

Jessica Cohen
5784 Easterling Drive
Bryan, TX 77808

mailed on 5-7-18

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

June 6, 2018

RECEIVED
JUN 06 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Adam Rosenblatt, Esq.
Venable, LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS** – Petition for Special Exception
Case No. 2018-0030-X
Property: 1139 Monkton Road

Dear Mr. Rosenblatt:

Please be advised that an appeal of the above-referenced case was filed in this Office on June 5, 2018. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
H. Barnes Mowell, Esq., H. Barnes Mowell, P.A., 16925 York Road, Monkton, MD 21111
Salvatore & Beverly Scavone, 20220 Middletown Road, Freeland, MD 21053
Timothy Edwards, 1132 Monkton Road, Monkton, MD 21111
Nicole Earp, 1230 Monkton Road, Monkton, MD 21111

Renee Hamidi, 85 Sparks Station Road, Sparks, MD 21152
Wendy McIver, 23 Manor Brook Road, Monkton, MD 21111
Kirsten Burger, 1906 Corbridge Lane, Monkton, MD 21111
Matt Pappas, 1158 Monkton Road, Monkton, MD 21111
Jessica Cohen, 5784 Easterling Drive, Bryan, TX 77808

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 1139 Monkton Road, Monkton, MD 21111 **which is presently zoned** RC 2; RC 4; RC 7

Deed References: 37926/11 10 Digit Tax Account # 0 7 1 1 0 8 9 0 7 5

Property Owner(s) Printed Name(s) HHK Farms, LLC

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1.____ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. X **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for SEE ATTACHED

3.____ **a Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

See Attached
Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

See Attached
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 5/7/18
By

Attorney for Petitioner:

Adam M. Rosenblatt
Name- Type or Print

Signature

210 W. Pennsylvania Avenue, Ste. 500, Towson, MD
Mailing Address City State

21204 (410) 494-6271 arosenblatt@venable.com
Zip Code Telephone # Email Address

Representative to be contacted:

Adam M. Rosenblatt
Name – Type or Print

Signature

210 W. Pennsylvania Avenue, Ste. 500, Towson, MD
Mailing Address City State

21204 (410) 494-6271 arosenblatt@venable.com
Zip Code Telephone # Email Address

CASE NUMBER 2018-0030-X **Filing Date** 7/24/17 **Do Not Schedule Dates:** _____ **Reviewer**____

REV. 10/4/11

Revised

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION

SPECIAL EXCEPTION

1. Petition for Special Exception, pursuant to Section 4E-102 of the Baltimore County Zoning Regulations, for a solar facility.

2. Also, for such further relief as the Administrative Law Judge may require.

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION

Legal Owner of 1139 Monkton Road:

HHK Farms, LLC
25 Woodsview Drive
Red Lion, Pennsylvania 17356
(717) 246-0803

By: _____
Name: Stephanie Ann Rexroth
Title: Managing Member

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

LESSEE:

OneEnergy Development, LLC
2003 Western Avenue, Suite 225
Seattle, Washington 98121
(206) 922-7072

By: _____
Name: Travis Bryan
Title: Chief Operating Officer

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 1139 Monkton Road, Monkton, MD 21111 **which is presently zoned** RC 2; RC 4; RC 7

Deed References: 37926/11 10 Digit Tax Account # 0 7 1 1 0 8 9 0 7 5

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3.____ **a Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

See Attached
Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

See Attached
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 5/7/18
By DEN

Attorney for Petitioner:

Adam M. Rosenblatt
Name- Type or Print

Signature

210 W. Pennsylvania Avenue, Ste. 500, Towson, MD
Mailing Address City State

21204 (410) 494-6271 arosenblatt@venable.com
Zip Code Telephone # Email Address

Representative to be contacted:

Adam M. Rosenblatt
Name – Type or Print

Signature

210 W. Pennsylvania Avenue, Ste. 500, Towson, MD
Mailing Address City State

21204 (410) 494-6271 arosenblatt@venable.com
Zip Code Telephone # Email Address

CASE NUMBER 2018-0030-X **Filing Date** 1/24/17 **Do Not Schedule Dates:** _____ **Reviewer**_____

REV. 10/4/11

Revised

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION

SPECIAL EXCEPTION

1. Petition for Special Exception, pursuant to Section 4E-102 of the Baltimore County Zoning Regulations, for a solar facility.

2. Also, for such further relief as the Administrative Law Judge may require.

ATTACHMENT TO
PETITION FOR SPECIAL EXCEPTION

Legal Owner of 1139 Monkton Road:

HHK Farms, LLC
25 Woodsview Drive
Red Lion, Pennsylvania 17356
(717) 246-0803

By: _____
Name: Stephanie Ann Rexroth
Title: Managing Member

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

LESSEE:

OneEnergy Development, LLC
2003 Western Avenue, Suite 225
Seattle, Washington 98121
(206) 922-7072

By: _____
Name: Travis Bryan
Title: Chief Operating Officer

DAFT McCUNE WALKER

Zoning Description

To Accompany

Special Exception Request

Baltimore County, Maryland

Commencing from the point formed by the intersection of the centerline of Blue Mt. Road with the centerline of Monkton Road; thence running southeasterly with the centerline of said Monkton Road approximately 625 feet to the point of beginning; thence leaving said point of beginning and referring all courses and distance of this description to the Maryland Coordinate System (NAD83) (1) South 71 degrees 05 minutes 57 seconds East 32.80 feet; thence (2) South 60 degrees 04 minutes 57 seconds East 155.08 feet; thence (3) South 44 degrees 29 minutes 34 seconds East 191.93 feet; thence (4) South 04 degrees 33 minutes 20 seconds West 62.66 feet; thence (5) South 41 degrees 52 minutes 38 seconds East 670.93 feet; thence (6) South 00 degrees 00 minutes 00 seconds East 483.02 feet; thence (7) North 90 degrees 00 minutes 00 seconds West 199.51 feet; thence (8) South 00 degrees 00 minutes 00 seconds East 280.00 feet; thence (9) North 90 degrees 00 minutes 00 seconds West 376.58 feet; thence (10) South 00 degrees 00 minutes 00 seconds East 75.00 feet; thence (11) North 90 degrees 00 minutes 00 seconds West 275.00 feet; thence (12) North 00 degrees 00 minutes 00 seconds West 280.00 feet; thence (13) North 90 degrees 00 minutes 00 seconds East 54.20 feet; thence (14) North 00 degrees 00 minutes 00 seconds West 410.61 feet; thence (15) North 90 degrees 00 minutes 00 seconds East 55.00 feet; thence (16) North 00 degrees 14 minutes 26 seconds East 448.79 feet; thence (17) North 89 degrees 00 minutes 35 seconds East 261.74 feet; thence (18) North 60 degrees 52 minutes 41 seconds East 43.14 feet; thence (19) North 39 degrees 18 minutes 12 seconds

501 Fairmount Avenue, Suite 300, Towson, MD 21286 p: 410 296 3333 f: 410 296 4705 www.dmw.com

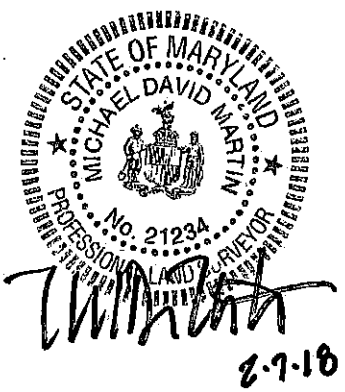
Revised

West 516.95 feet; thence (20) North 22 degrees 48 minutes 03 seconds East 65.08 feet to the point of beginning; containing 831,329.97 square feet or 19.085 acres, more or less, as now surveyed by Daft- McCune-Walker, Inc. in January 2018.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR PROPERTY CONVEYANCE.

February 7, 2018

Project No. 17028.A (L17028.A)



2-7-18

IN THE MATTER OF HHK Farms, LLC - Legal Owner OneEnergy Development, LLC - Lessee 1139 Monkton Road Hereford, MD	*	BEFORE THE BOARD OF APPEALS OF
RE: Petition for a Solar Facility	*	BALTIMORE COUNTY
	*	Case No. 18-030-X

* * * * * * * * * * *

OPINION

This case comes before the Board on appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for a Solar Facility by Opinion and Order dated May 7, 2018. Protestants, Sparks-Glencoe Community Planning Council, Freeland Legacy Alliance, Inc., Richard Ryan, Lois Jean Bowman, Scott Dykes, Beverly and Salvatore Scavone, Wendy McIver, Lynne Jones, Kathleen Pieper (collectively the "Protestants") filed an appeal.

A *de novo* hearing was held before this Board on December 11 and 12, 2018, and January 19, 2019. The Petitioners, HHK Farms, and One Energy Development LLC (the "Petitioners") were represented by Adam Rosenblatt, Esquire, and Venable, LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. A public deliberation was held on March 5, 2019.

Factual Background

The subject property is located at 1139 Monkton Road and consists of 98.49 acres+/- on the south side of Monkton Road, in the Hereford Area of Baltimore County (the "Property"). It is split-zoned RC2, RC4 and RC7. Monkton Road is a designated scenic route. The Property was previously a farm but no farming activities presently take place there. The proposed Special Exception is 19 acres, with 13 acres being used for the actual solar array on a cleared area of the

Property pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility will generate no more than 2 megawatts of alternating current of electricity.

The Property contains a single, uninhabitable structure and is largely cleared and open in the center, having previously been farmed for many years. The entire southern, eastern, and western borders of the Property are wooded. An additional area of vegetation lines the northern boundary along Monkton Road. Testimony was presented that the Petitioners had previously obtained approval of forest stand delineation, wetland delineation and steep slope and erodible soils analysis, delineating forest buffers. (Pet. Ex. 21).

Solar Facilities Law

On July 17, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including RC2, RC4, RC5, and RC8. BCZR, §4F-102.A. The County Council imposed limits on the number of facilities per councilmanic district (*i.e.* 10 per district), and on the maximum area for each facility (*i.e.* the amount of acreage that produces no more than 2 megawatts alternating current (AC) of electricity). BCZR, §4F-102.B.1 and 2.

In addition to the special exception factors, there are 10 requirements set forth in BCZR, §4F-104.A:

> 1. The land on which a solar facility is proposed may not be encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement.
>
> 2. The land on which a solar facility is proposed may not be located in a Baltimore County historic district or on a property that is listed on the Baltimore County Final Landmarks List.
>
> 3. The portion of land on which a solar facility is proposed may not be in a forest conservation easement, or be in a designated conservancy area in an RC 4 or RC 6 Zone.
>
> 4. Above ground components of the solar facility, including solar collector panels, inverters, and similar equipment, must be set back a minimum of 50 feet from the tract boundary. This setback

does not apply to the installation of the associated landscaping, security fencing, wiring, or power lines.

5. A structure may not exceed 20 feet in height.

6. A landscaping buffer shall be provided around the perimeter of any portion of a solar facility that is visible from an adjacent residentially used property or a public street. Screening of state and local scenic routes and scenic views is required in accordance with the Baltimore County Landscape Manual.

7. Security fencing shall be provided between the landscaping buffer and the solar facility.

8. A solar collector panel or combination of solar collector panels shall be designed and located in an arrangement that minimizes glare or reflection onto adjacent properties and adjacent roadways, and does not interfere with traffic or create a safety hazard.

9. A petitioner shall comply with the plan requirements of § 33-3-108 of the County Code.

10. In granting a special exception, the Administrative Law Judge, or Board of Appeals on appeal, may impose conditions or restrictions on the solar facility use as necessary to protect the environment and scenic views, and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities, taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands.

There are also provisions regarding maintenance of the facilities:

§ 4F-106. - Maintenance.

A. All parties having a lease or ownership interest in a solar facility are responsible for the maintenance of the facility.

B. Maintenance shall include painting, structural repairs, landscape buffers and vegetation under and around solar panel structures, and integrity of security measures. Access to the facility shall be maintained in a manner acceptable to the Fire Department. The owner, operator, or lessee are responsible for the cost of maintaining the facility and any access roads.

C. Appropriate vegetation is permitted under and around the solar collector panels, and the tract may be used for accessory

agricultural purposes, including grazing of livestock, apiculture, and similar uses.

D. The provisions on this section shall be enforced in accordance with Article 3, Title 6 of the County Code.

A solar facility which has reached the end of its useful life must be removed in accordance with §4F-107 which states:

§ 4F-107. - Abandonment; removal.

A. A solar facility that has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the County by certified mail of the proposed date of discontinued operations and plans for removal.

B. Removal shall consist of the:
   1. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;
   2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
   3. Stabilization or revegetation of the site as necessary to minimize erosion.

C. If the owner or operator fails to remove the facility within 150 days of abandonment, the County retains the right to enter and remove the facility. As a condition of special exception approval, the petitioner and landowner agree to allow entry to remove an abandoned facility.

D. The Code Official may issue a citation to the owner or operator for removal of a solar facility if:
   1. The Code Official determines that the solar facility has not been in actual and continuous use for 12 consecutive months;
   2. The owner or operator failed to correct an unsafe or hazardous condition or failed to maintain the solar facility under Section 4F-106 within the time prescribed in a correction notice issued by the Code Official; or
   3. The owner or operator has failed to remove the solar facility in accordance with Paragraph C.

In order to grant a request for a special exception under BCZR, §502.1, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air;
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

In *Schultz v. Pritts*, 291 Md. 1, 22-23, 432 A.2d at 1331 (1981), the Court of Appeals held that "the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone."

The Court of Appeals in *People's Counsel for Baltimore County v. Loyola College in Md.* 406 Md. 54, 106, 956 A.2d 166 (2008) upheld that longstanding *Shultz* analysis, explaining that a special exception use has "certain [inherent] adverse effects...[which] are likely to occur". In its analysis, the *Loyola* Court observed that "[t]he special exception adds flexibility to a comprehensive legislative zoning scheme by serving as a 'middle ground' between permitted use and prohibited uses in a particular zone." *Id.*, 406 Md. at 71, 956 A.2d at 176 (2008).

The *Schultz* and *Loyola* Courts, and more recently in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, 285 (2017) have expressly recognized that "[a] special exception is presumed to be in

the interest of the general welfare, and therefore a special exception enjoys a presumption of validity." (See also *Loyola*, 406 Md. at 84, 88; 105 *Schultz*, 291 Md. at 11). Based on this standard, once an applicant puts on its *prima facie* evidence in support of a special exception, the opponents must then "set forth sufficient evidence to indicate that the proposed [use] would have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard." *Attar*, 451 Md. at 287. (*See Montgomery County v. Butler*, 417 Md.271, 276-77 (2010) (opponent must show "non-inherent adverse effects" to "undercut the presumption of compatibility enjoyed by a proposed special exception use"). (*See also*, *Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties*, 453 Md. 516, 543 (2017) ("there is a presumption that the [special exception] use is in the interest of the general welfare, a presumption that may only be overcome by probative evidence of unique adverse effects").

Motions For Judgment

Plan Compliance with BCC, §33-3-108(c).

At the close of the Petitioner's case in chief, Protestants, through counsel, orally moved for judgment on the basis that Article 4F-104.A.9 requires the Site Plan to comply with BCC, §33-3-108, and that the Site Plan failed to list some of the items required in Subsection 33-3-108(c)1-18. We deny this Motion to Judgment for the reasons set forth below.

Evidence

The Petitioner had several witnesses who testified on its behalf in the merits of the case:

1. Marni Carroll – OneEnergy.

Marni Carroll is the Director of Project Development and outreach for OneEnergy Renewable headquartered in Washington D.C. (Pet. Ex. 3) ("Company" or "OneEnergy Renewable"). Trillium Solar Energy, LLC is a wholly-owned subsidiary of OneEnergy

Renewable. OneEnergy Renewable has developed several solar projects throughout Maryland. (T.15-16), Ms. Carroll submitted a PowerPoint presentation that provided information about the Company, the materials and panels that will be installed, and the methods used for potential site locations. (Pet. Ex 4, (T. 29-32); *see also* Pet. Ex 6).

Ms. Carroll testified that the panels are nontoxic, nonflammable, and do not contain any cadmium. (T. 18). Through an industry standard glare study, she provided evidence that the proposed facility will not cause any glare on surrounding roads and properties. (T. 35-38; *see also* Pet Ex 8.) She further testified that the solar panels are mounted on galvanized steel posts and have an aluminum and steel frame. (T. 19). She noted that the supporting posts are driven into the ground without any cement or permanent impact to the land. *Id.* The land beneath the panels will be planted with pollinator habitat that absorbs runoff and provides the possibility for the production of agricultural products such as honey. (T. 21; *see also* Pet. Ex 5). The panels rotate with the sun and are approximately nine feet tall at their highest point. (T. 18). Once installed, the panels will be remotely monitored throughout the life of the 35 year lease. (T. 20). At the end of the lease, OneEnergy is required to remove all equipment to three feet below the ground and to restore the ground to its previous condition. (T. 23). All of the materials can either be recycled or reused by the solar industry. *Id.* A site plan for the proposed facility showed the area in which the solar panel array will encompass. (Pet. Ex. 1).

Maintenance of the solar panel facility will take place once a quarter or as needed if an issue arises.

2. David Martin – Landscape Architect.

David Martin, a landscape architect with Daft, McCune and Walker, was admitted as an expert in the area of landscape architecture and land planning. (Pet. Ex. 10). Mr. Martin prepared

a Schematic Landscape Plan based on information he obtained from the Baltimore County GIS system. (Pet. Ex 2). Mr. Martin provided the Board with a presentation of photographs of the subject area. (Pet. Ex. 11). With regard to landscaping, testimony from David Martin confirmed that Petitioners worked with the Department of Planning and the County's Landscape Architect to develop a landscape plan that satisfies all requirements and provides additional screening to the neighbors that live on the north side of Monkton Road. (T. 145-149; *see also* Pet. Ex 12). Mr. Martin explained that the focus for landscaping is on the northern side of the Property because the southern, western, and eastern sides are all surrounded by natural forests and there are no immediately adjacent residences. (T. 149-50; *see also* Pet. Exs. 1 and 2).

Due to the fact that Monkton Road is a county scenic road, Mr. Martin explained that the Department of Planning asked him to reinforce the existing landscaping and to provide selective views into the Property rather than simply to wall it off with an artificial row of landscaping. (T. 147). Mr. Martin further explained that while many trees and other plants will be added to the site, no trees will be removed as part of this project. (T. 115).

3. Matthew Durette– Mechanical Engineer/Installation of Solar Facilities.

The Petitioners provided the testimony of Matthew Durette, a mechanical engineer with expertise in the installation of solar facilities. Mr. Durette testified that the facility will consist of just under 13 acres of solar panels in a special exception area that is approximately 19 acres in size. (T. 96). Specifically, the facility will consist of: (i) galvanized steel posts driven directly into the ground in a north to south orientation; (ii) an aluminum racking system placed on top of the piles; (iii) photovoltaic solar panels with an antireflective coating that are connected to the racking system; (iv) wiring connecting the panels to an inverter, transformer, and, ultimately, to

external power lines; (v) fencing placed around the facility for security (with no barb wire); and (vi) additional landscaping. (T. 89-93).

With respect to the panels, Mr. Durette explained that the Petitioners are proposing a "single-axis tracker" panel array that is designed to move with (*i.e.*, "track") the position of the sun to provide maximum exposure of the panels to the sun. (T. 88-89). The panels are three feet by six feet in size, are no taller than nine feet when they are tilted towards the sun, and are constructed of an aluminum frame and a glass top that is designed to minimize glare. (T. 88-90). Mr. Durette testified that there are no toxic chemicals in the solar panels, and there are no chemicals or other substances used to clean the panels. (T. 90). He further explained that the solar panels "self-clean" as rainfall in the region is typically sufficient to wash off any dust and dirt from the panels. (T. 100).

Mr. Durette explained that ground disturbance during construction consisted of the driving of piles to form the foundation of the tracker system, and some initial trenching for underground wiring. (T. 97). He further testified that he did not foresee any noise coming from the motors that operate the panel tracker system. (T. 118).

4. Eric Hadaway: Environmental Regulations

Petitioners provided the testimony of Eric Hadaway, an expert in environmental regulations in Baltimore County employed by Daft McCune Walker. Mr. Hadway testified that as there is no development history for the Property, there were no delineated environmental resources or recorded buffers on the Property prior to this request for a special exception. (T. 192). Testimony from Eric Hadaway revealed that Petitioners have performed a fully approved wetland and forest stand delineation and a steep and erodible soils analysis, so that if the special exception is approved, the environmental resources will be protected for the first time with

recorded buffers. (T. 192-193; *see* Pet. Exs. 1 and 21). The majority of the buffers are forested, but portions do extend into a cleared area that has been farmed over time. (T. 197-198). Additionally, all components of the solar facility, including the perimeter fence, are outside of the buffers. (T. 199). Mr. Hadaway opined that there will not be "any negative impact on the wetlands and streams on the property." (T. 202).

5. David Straitman: Real Estate Appraiser

Petitioners provided the testimony of real estate appraiser, David Straitman. Mr. Straitman testified in response to concerns expressed by several Protestants regarding the impact that the proposed solar facility will have on property value. Mr. Straitman presented an economic impact analysis regarding the proposed use generally; a solar facility in Howard County; and (3) examples where homeowners voluntarily put ground mounted solar panels on their properties. *Id.* Based on his economic analysis, Mr. Straitman opined that the proposed use will not have any negative impact on surrounding property values.

6. Mitchell Kellman: Expert Land Planner

Petitioners provided the testimony of Mitchell Kellman, an expert land planner, employed at Daft McCune Walker. Mr. Kellman testified that the proposed facility meets the requirements of BCZR § 502.1, Article 4F of the BCZR, and all legal requirements for obtaining a special exception. (T. 277-278). He testified that, in the Third Council District, the limit of ten (10) solar facilities has not yet been met. (T. 257). Additionally, Mr. Kellman confirmed that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement and that the property is not located in a Baltimore County historic district, nor is the property listed on the Baltimore County Final Landmarks List. (T. 258; *see also* Prot. Ex. 11). .Additionally, Mr. Kellman confirmed that the aboveground components

of the solar facility, including solar collector panels, inverters, and similar equipment, will be set back at least 50 feet from the tract boundary. (T. 259). Finally, Mr. Kellman confirmed that no equipment associated with the solar facility will exceed 20 feet in height. (T. 259). Mr. Kellman also opined that the Site Plan complied with the plan requirements in BCC, §33-3-108. (§4F-104.A.9). Mr. Kellman presented a letter from Department of Environmental Protection and Sustainability ("DEPS") approving the forest stand delineation, wetland delineation and steep slope and erodible soils analysis, delineating forest buffers. (Pet. Ex. 21). Mr. Kellman explained that, in his experience, the Petitioner must first obtain special exception relief before the DEPS will review the plan for the requirements listed in Section 33-3-108(c). Mr. Kellman provided the Board with the Baltimore County Zoning Review checklist which is required to be included in plan submitted for zoning review. (Pet. Ex 20.)

Mr. Kellman also testified about the remaining special exceptions factors and in doing so, he opined that the solar facility use meets all of the factors. He described this use as a "passive" use, in that there is no impact on utilities, county structures, parks, schools. There is no density associated with the use nor is any traffic associated with the use. Nor is there any effects like dust smell, or noise.

As to BCZR, §502.1.F, given that the maximum height of the solar panels when tilted toward the sun is eleven feet, and the facility will be installed in the clear field of the Property away from neighboring residences as shown on Pet. Ex. 1, Mr. Kellman testified that the project would not interfere with adequate light or air or cause congestion.

Mr. Kellman testified that that the Baltimore County Council allowed for solar facility by Special Exception in the RC 2 zone and, therefore, is consistent with the spirit and intent of the zone, and noted the possibility of honey production on the site.

Relying on Mr. Hadaway's testimony as the basis for his opinion, Mr. Kellman noted that the proposed project was consistent with impermeable surface and vegetative retention provisions of §502.1.H, and the environmental and natural resources of the site under BCZR, §502.1.I, Mr. Kellman deferred to.

In summary, Kellman opined that there are no adverse effects from this use above and beyond those inherent in solar facilities and that it would not have any greater impact in this location versus any other location on the RC2 zone.

Protestants' Case

The Protestants had several witnesses who testified in the merits of the case:

1. Timothy Edwards.

Protestants offered the testimony of Timothy Edwards, who owns 1132 Monkton Road, directly across from the entrance to the proposed solar facility. Mr. Edwards, testified that he had lived on the property for most of his life and that the house on the property had been standing since 1852. Mr. Edwards expressed his concerns regarding the impact that the proposed solar facility would have on the scenic view along Monkton Road, and more obviously, the view from his house onto the proposed solar field. Using photo simulations provided by OneEnergy, Mr. Edwards testified that he would like to see some additional landscaping between his property and the proposed facility to try to block his view to the greatest extent possible. (Prot. Ex 7). Mr. Edwards stated that he was pleased that a housing development was not being built on the property, but did not look forward to having to look at the solar field for the next 30 to 35 years.

2. Nicholas Federici.

Protestants provided the testimony of Nicholas Federici, who resides at 1200 Monkton Road. Mr. Federici owns a home remodeling business and provided lay testimony regarding his

concerns with run-off and storm water management. Mr. Federici testified that in his approximation that the proposed solar array would create over 160,000 square feet of new surface area. He further commented that he believed that such a surface area would cause serious problems with storm water management during sustained rain falls. Mr. Federici also shared his concerns that the proposed landscape plan was insufficient to properly screen the solar field from the road.

3. Wendy McIver.

Protestants presented the testimony of Wendy McIver, who lives 23 Manor Brook Road, approximately a mile and a half from the proposed solar facility and has lived in the area for over 39 years. Ms. McIver is the secretary of the Sparks-Glencoe Community Planning Council and is presently a Baltimore County Historic Landmark Commissioner. Ms. McIver testified as to her concerns with the possible adverse effects the proposed solar facility would have on the many surrounding historical sites. Ms. McIver presented an exhibit to the Board, outlining the many historical sites in the area. (Prot. Ex 11).

4. Lynne Jones.

Protestants provided the testimony of Lynne Jones, who lives at 815 State Church Rd., Parkton, MD. Her home is a 150 acre farm where her family has lived for 7 generations beginning in 1745. Ms. Jones testified individually and as President of Sparks-Glencoe Community Planning Council ("Sparks-Glencoe Council"). (Prot. Ex 12 -13). Sparks-Glencoe Council, a party to this case, has 400 members and its boundaries run in a heart-shaped pattern from Hunt Valley in the south, to the Harford County/Baltimore County line in the east, to the Carroll County/Baltimore County line in the west. The proposed solar facility is within these boundaries. (Prot. Ex 14). Sparks Glencoe Council submitted a letter, signed by Ms. Jones, which

described general opposition to solar facilities on farmland in northern Baltimore County. (Prot. Ex. 13).

She expressed her concerns about water runoff, flooding and the negative impact on the agriculture industry created by using farmland for solar facilities. Her testimony centered on her dissatisfaction with the enactment of Bill 37-17 and development in general. Ms. Jones believes that solar facilities should be located in business and manufacturing zones. She is worried that the language in Bill 37-17 is not strong enough with regard to the issuance of a bond for maintenance and dismantling of the facility. Ms. Jones offered a body of exhibits emphasizing the agricultural strengths on this site within the context of the locality. These exhibits included documents, photographs, Master Plan 2020 excerpts and maps of the Agricultural Priority Preservation Areas.

5. Kathleen Pieper.

Protestants provided the testimony of Kathleen Pieper, who lives at 4310 Beckeysville Rd., Hampstead, MD, not in close proximity to the proposed site. Ms. Pieper is the president of the North County Community Group and has been involved as a community activist regarding the issue of solar farms is northern Baltimore county, but testified as a concerned citizen in this proceeding. She has lived in the vicinity for 30 years.

Ms. Pieper, who has been involved in the farming industry in the past, testified as to her concerns regarding the deceasing amount of farmland in Baltimore County which affects the livelihood of those who farm for a living. Ms. Pieper expressed a concern that the proposed special exception area is composed of prime and productive soils, and that solar facilities in general remove available farmland and crop production. She noted that the area where the solar array is proposed consists of Glenelg loam soil types, making it some of the finest prime and

productive farmland. (Prot. Ex. 41). Additionally, Ms. Piper presented evidence illustrating the amount of acreage used for solar arrays in other solar projects in the county and pointed out that it was possible to utilize less acreage and still produced two megawatts of energy. (Prot. Ex 43). Ms. Pieper offered into evidence the Maryland Department of the Environment's storm water guidelines for solar facilities and expressed her concerns that she felt that insufficient evidence had been presented regarding storm water management for the proposed site. (Prot. Ex. 45). Finally, Ms. Pieper provided examples of alternative locations where solar facilities could be located on land that was not prime and productive farmland. (Prot. Exs. 44a-d).

6. Ruth Masacri.

The Protestants presented the testimony of Ruth Mascari, who resides at 17210 Whitely Road, approximately, two miles from the proposed solar facility. Ms. Mascari testified that she has been active in the northern Baltimore county community for the past 45 years. She noted that she serves on Baltimore County's Landmarks Preservation Commission with Mr. Kellman. She expressed her concerns with the project and its impact on the "My Lady's Manor" national register historic district, which is near the proposed site. She is also concerned with the proposed site being near White Acres House, another local landmark. In addition to concerns regarding landmark preservation, Ms. Mascari is also concerned with whether the proposed solar facility will be properly screened from view along Monkton Road, a scenic road.

7. Adam Brown.

Protestants offered the testimony of Adam Brown, who resides at 1146 Monkton Road, where he has lived for 20 years. Mr. Brown provided photographs of the view from Monkton Road looking onto the proposed site. Mr. Brown testified to his displeasure with the speed in which a decision was being reached regarding the proposed project. He expressed his opinion

that he didn't believe farmland was the best place for such facilities and suggested that a landfill may be a more appropriate location. Additionally, Mr. Brown expressed his concern that the presence of the proposed solar facility may have a detrimental effect on surrounding property values. Finally, Mr. Brown expressed his concern that with the rapid development of technology, the technology on the proposed site may in time prove obsolete, leading to the projects abandonment.

8. Greg Volpitta.

Protestant provided the testimony of Greg Volpitta, who resides at 1220 Monkton Road, across the road form where the proposed solar facility will be located. He has lived at that location for 32 years. Mr. Volpitta expressed his concerns about being able to see the proposed facility when the leaves were off the trees in winter months. He also commented that the area was extremely quiet and that noise carried across the field. He worries that the sound of the inverter, even if it is as quiet as a hairdryer, may be heard from his home. Additionally, Mr. Volpitta shared the concerns of other neighbors regarding what effect the proposed site may have on surrounding property values. Finally, Mr. Volpitta expressed his preference that any new power line coming from the proposed site be run underground rather than using an above ground new utility pole, to connect with the line over Monkton Road.

9. Paul Colison.

The Protestants presented the testimony of Paul Colison, who resides at 1152 Monkton Road. Mr. Colison has lived at this address for 32 years. Mr. Colison testified that he is concerned that the present vegetation along Monkton Road is too thin to shield the proposed facility from view. He also expressed his concerns about the possible increased level of run off created by the proposed project. He explained that he currently has problems with water on his

property and fears that the proposed project would exacerbate this problem. Mr. Colison also expressed concerns about how the proposed project may affect local wildlife and shared in his neighbors' concerns regarding possible effects to surrounding real estate values.

Decision

As set forth above in BCZR, §4F-102.A, solar facilities are only permitted by special exception under the factors set forth in BCZR §502.1. The testimony of Mr. Martin, Mr. Kellman, Mr. Durette and Mr. Hadaway support the Petitioner's position that the proposed solar facility would not be detrimental to the health, safety or general welfare of the locality involved. To the contrary, the Protestants' collective concerns are impacts which are inherent with this particular use. It was apparent that the Protestants' complaints center on their dissatisfaction with the County Council's enactment of Bill 37-17 which is codified in BCZR, Article 4F. Understandably, the Protestants want the land in RC zones to remain farm land.

However, it is beyond the jurisdiction of this Board to rewrite Bill 37-17 or Article 4F. Applying the standard in *Shultz*, *Loyola* and *Attar*, the Protestants were required to present evidence that the adverse effects stemming from this solar facility, at this location, are unique and different than the inherent impacts associated with this use in general. We did not have such evidence here.

As described in detail above, Ms. Carroll and Mr. Durette testified that the solar facility would not create congestion in the roads as it is not a use that generates traffic into or out of the Property. (BCZR, §502.1.B.) Further, Ms. Carroll confirmed that there are no flammable materials used in this solar facility. Mr. Durette testified that it was unlikely for there to be a fire at the facility. Mr. Kellman testified that the Hereford Volunteer Fire company was in close proximity to the site. (T. 273; BCZR, §502.1.C.) As with the lack of traffic, Ms. Carroll and Mr.

Kellman explained that this use does not generate people and therefore it would not tend to overcrowd the land or cause an undue concentration of population. (T. 272; BCZR, §502.1.D.) Additionally, Ms. Carroll, Mr. Martin and Mr. Kellman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Durette confirmed that the height of the facility will be nine feet and would therefore not interfere with adequate light or air. (BCZR, §502.1.F.) The facility will stand in the cleared area of the Property, removed from any adjacent homes. Accordingly, the Board finds that shadowing and air circulation are not areas of concern.

As to the consistency of this use with the purposes of the RC zones and with the spirit and intent of the BCZR, solar facilities are consistent uses because they are temporary and are removed at the end of a lease term. There was testimony and argument about removing "prime and productive" soil from the agriculture industry. However, the evidence showed that the soil type remains the same before, during and after removal.

The County Council deemed solar facilities are uses consistent within the RC zone, provided they meet the special exception standard, as explained in *Shultz*, *Loyola* and *Attar*. The Protestants' argument that farming is the primary use and therefore is consistent with the RC zones, is an argument which should be directed to the County Council. This Board is not required to determine whether a solar facility is detrimental to agricultural uses. Our authority to approve this use is contained in Article 4F and §502.1 factors. Moreover, even if this Property contains "prime and productive" soil (an alleged fact which we are not deciding), the owner cannot be compelled to farm, or to lease the Property to a farmer.

Ms. Carroll and Mr. Hadaway explained that the use is consistent with impermeable surface and vegetative retention provisions of the BCZR because there will not be any clearing or grading of land, and no tree removal. Rain will propel off the solar panels and soak into the ground between the rows. Mr. Hadaway testified that the DEPS will determine whether any further storm water management retention measures are needed. (T.209)

Finally, Mr. Hadaway testified that this use, at this location, would not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

Having analyzed the special exception factors, the requirements of BCZR, §4F-102.B.1 and BCZR, §4F-104.A. 1-9 must also be satisfied by the Petitioner. Mr. Durette testified that the 19 acre special exception area and 13 acre solar panel array is the minimum acreage needed to produce approximately 2 megawatts AC of electricity. (BCZR, §4F-102.B.1.) The Protestants, through the testimony of Ms. Pieper, urged us to consider special exception areas and electricity generated in other recently approved solar facility cases and requested that the special exception area here should be restricted to 13 acres.

While Ms. Pieper's testimony was admitted as evidence at the request of Protestants, since this case is heard *de novo*, the ALJ's decisions in prior cases are factually specific to those cases is not part of the record and his analysis is not binding on the Board. Based on the evidence presented to the Board through the expert testimony of Mr. Durette, we find that there was no compelling evidence by the Protestants here, which contradicts the Petitioner's plan that 19 acre special exception area is the minimum area needed to produce less than 2 megawatts AC electricity. The Protestants did not have an expert testify on this issue. Accordingly, we find that the Petitioner has met this burden.

Mr. Kellman testified that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement or rural legacy easement, nor is it in a Baltimore County historic district or on the Baltimore County Final Landmarks list. (BCZR, §§4F-104.A.1 and 2.) In addition, as with the special exception factors, Mr. Kellman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.) There was no evidence by the Protestants which contradicted either of these requirements.

As to the setback and height requirements, Ms. Carroll and Mr. Kellman made clear that the facility at its highest peak will not exceed 9 ft. and will not be located within 50 ft. from the tract boundary. (BCZR, §§4F-104.A.4 and 5.) Accordingly, both the height and setback requirements have been met. There was no evidence by the Protestants which contradicted either of these requirements.

As testified to by Mr. Martin, the Petitioners will provide a landscaping buffer around the perimeter of the Property in areas where the solar facility may be visible from an adjacent residential property or public street. Due to Monkton Road's designation as a Baltimore County scenic route, views from the road will be screened in accordance with the Baltimore County Landscape Manual to the satisfaction of the County's Department of Planning and Landscape Architect. (Pet. Ex. 11). A schematic Landscaping Plan in support of its Petition was reviewed by the County. (Pet. Ex. 12). The Site Plan proposes a chain link fence without barbed wire between the landscape buffer and the solar facility. (BCZR, §4F-104.7). We find that these requirements have been satisfied.

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collisions and safety hazards. (BCZR, §4F-104.8). In this case, the Petitioners'

representative, Marni Carroll testified regarding the findings of a glare study using the a ForgeSolar software tool utilized in the industry which concluded that solar facility was designed to minimize glare and that no glare would interfere with traffic or create a safety hazard. (Pet. Ex. 8). The Protestants did not present an expert to contradict Ms. Carroll. The glare study indicated that there would be no glare produced by the solar panels here. Thus, we find that this requirement is satisfied.

Finally, the Site Plan must comply with BCC, §33-3-108. (BCZR, §4F-104.A.9). The Protestants argued in their Motion for Judgment that the Petition should be denied because the Site Plan failed to list each of the 18 elements in Subsection (c). In our review of BCC, §33-3-108, we find the that language in Subsection (a) is unambiguous. That Subsection requires the DEPS (as defined in §33-3-101(f)), to approve the Site Plan. Further, Subsection (b) directs that the Site Plan shall generally include such information (graphs, charts, etc.) to enable EPS to "make a reasonably informed decision regarding the proposed activity." Additionally, a plan submitted to DEPS for approval must also contain the information listed in Subsection (c).

In our view, the specific items listed in Subsection (c) must be considered by DEPS when it reviews and approves the Site Plan under that Section, not this Board. The testimony of Mr. Kellman was that DEPS' policy is that it will not approve a site plan until after the special exception relief is granted. We find his testimony to be consistent with the language in Section 33-3-105 (1) and (2) which provides that DEPS is "responsible for enforcing the provisions of [Title 33]" and the Director of DEPS "may adopt policies and regulations as necessary to implement the provisions of [Title 33]."

Given the express wording of Section 33-3-108 that DEPS shall approve the Site Plan, and that DEPS is responsible for ensuring that the Site Plan comply with both the general and

specific requirements of Subsections (b) and (c), we find that the appropriate resolution for this Board is to place a condition in the Order reiterating the words of §4F-104.A.9, that the Petitioner shall comply with Section 33-3-108. To do otherwise would be to overstep this Board's statutory authority.

Conclusion

After reviewing all of the testimony and evidence presented, the Board finds that Petition for Special Exception pursuant to BCZR, Article 4F should be granted.

ORDER

THEREFORE, IT IS THIS 16th day of May, 2019, by the Board of Appeals of Baltimore County,

ORDERED that the Protestant's oral Motion for Judgment be and the same is hereby **DENIED** for the reasons set forth herein, and it is further

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F as set forth on the Site Plan (Pet. Ex. 1), be, and the same is hereby **GRANTED**, subject to the following conditions under the Board's authority in §4F-104.A.10:

1. Petitioners shall submit for approval by Baltimore County a landscape plan for the Property demonstrating appropriate screening and vegetation is provided along Middletown Rd, a scenic route, as required by the Landscape Manual and as set forth in the Zoning Advisory Committee Comments dated November 28, 2017 (Pet. Ex. 12) and as under BCZR, §4F-104.A.6.

2. Petitioners shall install a 7 ft. high, security fence, without barbed wire, between the landscaping buffer and the solar facility as required by BCZR, §4F-104.A.7. Attached to the fence in a conspicuous place, while the solar facility is in operation, shall be the current contact information (name, address, 24-hour telephone

number, website and email address) of the operator of the solar facility.

3. Prior to the issuance of a building permit, Petitioner must satisfy the environmental regulations set forth in BCC, §33-3-108 pertaining to the protection of water quality, streams, wetlands and floodplains and obtain approval of the Site Plan from the Department of Environmental Protection and Sustainability as required in that Section.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew M. Belt, Panel Chair

Deborah C. Dopkin

William A. McComas

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

May 16, 2019

Adam M. Rosenblatt, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: *In the Matter of: HHK Farms, LLC – Legal Owner*
OneEnergy Development, LLC – Lessee
Case No.: 18-030-X

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hay

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Attached Distribution List

Stephanie Ann Rexroth, Managing Member/HHK Farms, LLC
Travis Bryan, Chief Operating Officer/OneEnergy Development, LLC
Sparks-Glencoe Community Planning Counsel
Freeland Legacy Alliance, Inc.
Beverly and Salvatore Scavone
Louis Jeanne Bowman
Scott Dykes
Richard Ryan
Wendy McIver
Lynne Jones
Lisa Arthur
Kathleen Pieper
Timothy Edwards
Nicole Earp
Renee Hamidi
Kirsten Burger
Matt Pappas
Lawrence M. Stahl, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

IN RE: PETITION FOR SPECIAL EXCEPTION (1139 Monkton Road) 7th Election District 3rd Council District HHK Farms, LLC *Legal Owner* OneEnergy Development, LLC *Lessee* Petitioners	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY Case No. 2018-0030-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of HHK Farms, LLC, legal owner and OneEnergy Development, LLC, lessee ("Petitioners"). The petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a Solar Facility.

Marni Carroll, landscape architect Edward Tom, professional engineer Matt Durette and planner Mitch Kellman appeared in support of the petition. Adam M. Rosenblatt, Esq. represented the Petitioners. Several citizens attended the hearing and opposed the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS), the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP).

The subject property is approximately 98.49 acres in size and is split-zoned RC-2, RC-4 and RC-7. The proposed solar facility would be situated entirely within the RC-2 zoned portion of the site; a solar facility is permitted in an RC-2 zone by special exception. Representatives of the lessee testified the solar panels would occupy approximately 13 acres of the site, and in response to comments by the DOP the panels were shifted further away from Monkton Road. When originally submitted the plan indicated that at the closest point the panels would be 79 ft.

from Monkton Road, and the revised plan reflects that distance has increased to 125 ft. As Mr. Kellman testified, the law requires only a 50 ft. setback from a road, including a scenic route like Monkton Road. BCZR §4E-104.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Kellman, who was accepted as an expert, opined the plan satisfied all requirements set forth in BCZR §502.1 governing special exceptions. He also opined that any detrimental impacts upon the community at this location would be no worse than at other RC-2 zoned parcels in northern Baltimore County. Having satisfied their burden of proof under Maryland law I believe Petitioners are entitled to the special exception.

I am sympathetic to the concerns expressed by the community, which (as in several previous cases involving solar facilities in RC zones) focused upon the potential environmental impact from the solar panels as well as the detrimental impact the panels will have upon the bucolic country setting. While these are legitimate concerns, they are also inherent in the operation of a solar facility in the RC-2 zone generating two megawatts of electricity. A special exception petition cannot be denied based upon an inherent adverse impact upon the community. *Id.* Petitioners will be required to comply with all County environmental regulations, and a condition to that effect

will be included below. In addition, Petitioners will need to submit for County approval a landscape plan that will mitigate the visual impact of the solar facility upon the scenic route and adjacent homes.

THEREFORE, IT IS ORDERED this 7th day of **May, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to use the property for a Solar Facility be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

2. Petitioners must comply with the ZAC comments submitted by the DEPS and Bureau of DPR, copies of which are attached hereto and incorporated herein.

3. No trees may be removed from the site in connection with the construction of the solar facility.

4. No barbed wire fencing shall be permitted in conjunction with the solar facility.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 4/26/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 18-030 (revised)

INFORMATION:
Property Address: 1139 Monkton Road
Petitioner: HHK Farms, LLC
Zoning: RC 2, RC 4, RC 7
Requested Action: Special Exception

The Department of Planning has reviewed the petition for special exception to use the property for a solar facility.

A site visit was conducted on August 10, 2017. A second site visit was conducted February 26, 2018. The Department observed agricultural practices being conducted on the subject property at the time of these visits. The area for special exception is located entirely upon RC 2 zoned land. The site is located within a resource preservation area as identified in the Baltimore County Master Plan 2020 (MP2020). These areas are *"designated to preserve and protect the historic, cultural, recreational and environmental resources in the rural area"* (MP2020 pgs. 91,92).

Monkton Road is a Baltimore County scenic route and also a State of MD scenic byway. The views into this site are obstructed along much of Monkton Road but there are two primary locations where there are expansive views into the property. MP2020 states, *"the preservation and enhancement of scenic resources in Baltimore County is an essential component of contributing to the quality of life of residents"* and puts forth as an action item, *"for properties along scenic routes or within scenic viewsheds, variances, amendments, and special exceptions should be granted sparingly"* (MP2020 pgs. 99,100). The Department applies the design guidelines established within the Comprehensive Manual of Development Policies (CMDP) when considering development along scenic routes. When developing on a scenic route, the CMDP instructs one to *"maintain a buffer between the road and the new development"* (CMDP pg. 180). The Department supports the efforts of the State in maintaining scenic byways and recommends the petitioners work with the Maryland State Highway Administration in ensuring the proposal fits within the context of the route.

The Department has no objection to granting the petitioned zoning relief based upon the following conditions:

- Submit a landscape plan to the Baltimore County Landscape Architect for review and approval. The Department supports the Baltimore County Landscape Architect in planting requirements deemed necessary to include interior contour screening and other planting schemes that will mitigate the visual impact of the special exception proposal upon the scenic route. The Department recommends such a landscape plan shall:
  - Install a significant buffer of mixed vegetation between the proposed driveway and Monkton Road which may necessitate shifting the panels southward to provide sufficient space.
  - Enhance the existing plantings along Monkton Road with a mixture of deciduous and coniferous trees and shrubs in a naturalistic pattern.
  - Maintain an expansive view into the site along that part of Monkton Road east of 1123 Monkton Road to the point where the existing screening begins.
  - Preserve views into the property as seen looking west, across the site.
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR§4F-102.B.1-4 and §4F-107.
- Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in its respective councilmanic district. If approved, Petitioners shall submit to this Department at the time of building permit application the final fixed location and area of the facility by coordinate data so that an inventory may be kept.
- Lighting shall be limited to what is required for security purposes only and will be sited in such a way as to have minimal spillage onto neighboring properties.
- Signage shall be limited to that which is necessary for safety and security purposes.
- No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 P.M. through 6 A.M.
- Indicate on the plan the means and location by which the solar facility connects to the power grid and whether grading or clearing will be involved.

For further information concerning the matters stated herein, please contact Wally Lippincott at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Deputy Director:

Jeff Mayhew

AVA/KS/LTM/

c: Wally Lippincott
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Adam Rosenblatt
Office of the Administrative Hearings
People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY
Thursday, April 12, 2018 Issue - Jeffersonian

Please forward billing to:
Barbara Lukasevich 410-494-6200
Venable, LLP
210 W. Pennsylvania Avenue, Ste. 500
Towson, MD 21204

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0030-X
1139 Monkton Road
SW/s Monkton Road, SW of Bluemount Road
7th Election District – 3rd Councilmanic District
Legal Owners: HHK Farms, LLC
Contract Purchaser/Lessee: OneEnergy Development, LLC

Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations, for a solar facility.. Also, for such further relief as the Administrative Law Judge may require.

Hearing: Friday, May 4, 2018 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2018-0030-X

Property Address: 1139 Monkton Road, Monkton, MD 21117

Property Description: _____

_____

Legal Owners (Petitioners): HHK Farms, LLC

Contract Purchaser/Lessee: One Energy Development, LLC

PLEASE FORWARD ADVERTISING BILL TO:

Name: Barbara Lukasevich

Company/Firm (if applicable): Venable LLP

Address: 210 W. Pennsylvania Ave.
Ste. 500
Towson, MD 21204

Telephone Number: (410) 494-6200

Revised 7/9/2015

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No 166137

Date: 2/9/18

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	820	0000		6150				250.00

Total: 250.00

Rec From: Adam Rosenbalt

For: Revised Site Plans

2018-0030-X

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

[illegible] RECEIPT
[illegible] BUSINESS ACTUAL TIME USR
[illegible] 2/09/2018 2/09/2018 11:24:51 2
REG NAME: WALTER JEE
RECEIPT # 040502 2/09/2018 OLA
Dept 5 526 ZONING VERIFICATION
CR NO. 166137
Receipt Tot 250.00
250.00 CK 0.00 CA
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 154863

Date: 7/24/17

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				500.00

Total: 500.00

Rec From: Venable

For: 1139 Monkton Rd

2018-0030-X

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!

PAID RECEIPT

BUSINESS	ACTUAL	TIME	TRN
7/25/2017	7/24/2017	09:21:59	1

PED #501 MALKIN CJR
>>RECEIPT # 733787 7/24/2017 05LH
Dept: 35 SSA ZONING VERIFICATION
CR NO. 154863
Receipt Tot 500.00
500.00 CK 0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: March 13, 2018

SUBJECT: DEPS Comment for Zoning Item # 2018-0030-X- *revised*
Address 1139 Monkton Road
(HHK Farms, LLC Property)

Zoning Advisory Committee Meeting of **February 16, 2018**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments: Resource delineations, which have not been submitted for review, are required to make a final determination regarding compliance with the above-referenced regulations. This may result in, but not be limited to, the recordation of Forest Buffer Easement(s) and/or Forest Conservation Easement(s), along with Declarations of Protective Covenants, in the Land Records of Baltimore County.

Reviewer: *Thomas Panzarella, Environmental Impact Review*

1. In order to meet State – mandated stormwater management requirements and minimize water quality impacts, the project must be designed and constructed in accordance with the attached Maryland Department of the Environment solar panel installation guidance document as part of the permit approval process.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
AUG 29 2017
OFFICE OF
ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: August 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0030-X
Address 1139 Monkton Road
(HHK Farms, LLC Property)

Zoning Advisory Committee Meeting of **August 7, 2017**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments: Resource delineations, which have not been submitted for review, are required to make a final determination regarding compliance with the above-referenced regulations. This may result in, but not be limited to, the recordation of Forest Buffer Easement(s) and/or Forest Conservation Easement(s), along with Declarations of Protective Covenants, in the Land Records of Baltimore County.

Reviewer: *Thomas Panzarella* Date: August 29, 2017
Environmental Impact Review

RE:	PETITION FOR SPECIAL EXCEPTION 3900 Milford Mill Road; N/S of intersection Of Milford Mill Road & Washington Avenue* 2nd Election & 2nd Councilmanic Districts Legal Owner(s): Raza-E-Mustafa Islamic Center, Inc.	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR
	Petitioner(s)	*	BALTIMORE COUNTY
		*	2018-030-X

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
AUG 02 2018

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 2018, a copy of the foregoing Entry of Appearance was mailed to J. Neil Lanzi, Esquire, 102 West Pennsylvania Avenue, Suite 406, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE NO. 2018-0030-X

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
3/1/18	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	Comment
3/14/18	DEPS (if not received, date e-mail sent _____)	Comment
_____	FIRE DEPARTMENT	_____
5/2/18	PLANNING (if not received, date e-mail sent _____)	Comment
8/2/17	STATE HIGHWAY ADMINISTRATION	No Obj
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 4/13/18

SIGN POSTING (1st) Date: 4/14/18 by SSG Black

SIGN POSTING (2nd) Date: 4/30/18 by SSG Black

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration

Account Identifier: District - 07 Account Number - 0711089075

Owner Information

Owner Name:	HHK FARMS LLC	**Use:**	AGRICULTURAL
		Principal Residence:	NO
Mailing Address:	25 WOODSVIEW DRIVE RED LION PA 17356-	**Deed Reference:**	/37926/ 00011

Location & Structure Information

Premises Address:	1139 MONKTON RD MONKTON 21111-1106	**Legal Description:**	98.491 AC SWS MONKTON RD 650FT SE BLUEMOUNT RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0022	0016	0148		0000				2017	Plat Ref:

Special Tax Areas:		**Town:**	NONE
		Ad Valorem:	
		Tax Class:	

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1876	896 SF		98.4900 AC	05

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	FRAME	1 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2017	As of 07/01/2018
Land:	138,300	138,300		
Improvements	47,900	68,000		
Total:	186,200	206,300	192,900	199,600
Preferential Land:	21,300			21,300

Transfer Information

Seller: HERMAN KUPISCH, JR	**Date:** 08/26/2016	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /37926/ 00011	**Deed2:**
Seller: KUPISCH HERMAN	**Date:** 06/21/2012	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /32224/ 00124	**Deed2:**
Seller: KUPISCH HERMAN A G USE 83-84	**Date:** 10/10/1984	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /06803/ 00204	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2017	07/01/2018
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt:	**Special Tax Recapture:**
Exempt Class:	AGRICULTURAL TRANSFER TAX

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Board of Appeals

Case No: 18-030-X Case Name: HHK Farms

Exhibit List

Party: One Envy - Petitioners Date: 12/11/18 & 12/12/18

Exhibit No:	Description:
✓ 1	Site Plan Trillium Sola -
✓ 2	Aerial to accompany Speed Excerpt
✓ 3	Marni Leigh Carroll Resume
✓ 4	Trillium Solar LLC - 2 MW Community Sola Powerpoint
✓ 5	Honey JAR
✓ 6	Overview of Site Selection Process
✓ 7	Stephanie Reznoth 5-2-2018
✓ 8	For Gresolar Glare Analysis
✓ 9	Matthew Durette, PE Resume
✓ 10	Daniel Martin Resume
✓ 11 1-12	Site Plan Cover with Photopages
✓ 12	James Thompson letter to ~~Kevin Kitchen~~ Daft McCune Walker & dated 5-3-18
✓ 13	Eric Hathaway Resume
✓ 14	Mitchell Kellman Resume
	VERIFIED BY KC DATE: 12/11/18

page 1

Board of Appeals

Case No: 18-030-V Case Name: Hitle Farms

Exhibit List

Party: ~~Protestants~~ Petitioner's Date: 12/11/18 & 12/12/18

Exhibit No:	Description:
✓ 15	Arnold Jablow Letter to Mitchell Kellman dated 6-15-18
✓ 16	Withdrawn Bills - 2017 Session
✓ 17	~~FAILED~~ Failed Bills - 2017 Session
✓ 18	David Straitiff, SRA - Certified R. E. App
✓ 19	Economic Impact Study - 1139 Monkton Rd
✓ 20	Zoning Checklist - 3/28/18 -
✓ 21	Letter dated 4-12-18 - Glenn Shaffer Dept. Env Protection and Sustainability
	VERIFIED BY KC DATE: 1/9/19

KC 12/11/18

Marni Leigh Carroll

Qualifications Fourteen years of experience in the renewable energy industry as regional director, project developer, and federal policy lead. Deep transactional experience with small and large scale solar and wind projects across the country. Successfully executed greenfields, acquisitions and joint ventures totaling more than 400 MWs (megawatts) of operating wind and solar projects.

Experience

2017-Current **OneEnergy Renewables** Washington, DC
Director, Project Development

- Lead a portfolio of community solar projects in Maryland and utility scale projects in Virginia
- Implement company commitments to pollinator-friendly solar habitat
- Advocate for clean energy policy including testifying at state legislative hearings
- Representative for the company at MDV-SEIA (Solar Energy Industry Association)

2014-2017 **Sun Edison, LLC/ForeFront Power, LLC** Bethesda, MD
Director, PJM and NE-ISO

- Responsible for a portfolio of over 30 solar projects in NE-ISO and PJM regions
- Oversee strategy, budgets and forecasts for rooftop, landfill, ground, and canopy projects
- Managed and trained a team of seven junior project managers and project analysts
- Drove 12 MW of rooftop and ground mounted projects in Maryland from inception to operation

2009-2014 **Avangrid (Iberdrola USA and Iberdrola Renewables)** Washington, DC
Manager, Government Affairs

- Lobbied members of Congress and the Administration to promote clean energy
- Influenced policies of concern to Central Main Power, New York State Gas and Electric and Rochester Gas & Electric, the company's regulated electricity and natural gas distribution utilities
- Represented the company in trade associations including the American Wind Energy Association and the Solar Energy Industry Association

2007-2009 *Lead Developer,* Portland, Oregon

- Created east coast solar market entry strategy and originated portfolios in New Jersey and Maryland
- Led the development of more than 500 megawatts (MW) of wind projects in CA, OR, and WA including the 250 MW Juniper Canyon Wind Farm (WA) and 132 MW Tule Wind Farm (CA)

2004-2006 *Program Manager,* Portland, Oregon

- Managed budgets, and schedules and valuation of a 8,000 MW pipeline of wind and solar projects.
- Evaluated competitive landscape, acquisitions, and financial value of the pipeline

Education

Yale School of Management, Yale School of Forestry and Environmental Studies
Masters of Business Administration (MBA)
Master of Environmental Management (MEM)

University of California at Santa Cruz

- Bachelor of Arts (BA) in Environmental Policy, with Honors

PETITIONER'S EXHIBIT 3

@oneenergyinc

Trillium Solar, LLC

2 MW Community Solar Project

by OneEnergy Renewables

PETITIONER'S EXHIBIT 4

Who We Are

Trillium Solar, LLC is owned by OneEnergy Renewables, a national solar energy developer founded in 2009.

Our Maryland projects include:

- 4.3 MW Cambridge Solar, serving Baltimore National Aquarium
- 13 MW Wye Mills Solar, serving John Hopkins Medicine
- 10 MW Baker Point Solar, serving National Geographic, Hopkins University and Verizon Center
- 2 MW Monarch Solar, serving residents in the Pepco territory

Trillium (Trillium grandiflorum) provides critical habitat to a variety of moths and butterflies and birds native to Baltimore County

OneEnergy projects:

- → **Generate enough power to serve over 6,800 homes with clean, green energy**
- → **Results in 45,000 metric tons of avoided greenhouse gas emissions**
- → **Equivalent to planting 1.1 million seedlings**

OneEnergy RENEWABLES

Why is Community Solar Different?

- Smaller footprint than utility scale solar
  - Our two projects are equivalent to **less than 0.03% of farmed land** in Baltimore County
  - If all ground-mounted pilot projects were built in the County, which is not likely, the developed acreage would be equivalent to less than 1% of the farmed land in the County
  - Utility scale projects use 100-1600 acres – between 5 to 80 times larger than community-scale projects

- Energy for the community
  - **Expected to provide savings on electric bills**
  - Energy can directly benefit up to 700 Baltimore County residents who subscribe
  - Opens solar access for all residents

KEY BENEFITS

Save money

No home installation or maintenance like rooftop solar panels

Support the development of clean energy

OneEnergy RENEWABLES

Solar Panels

Solar is a proven technology that has been tried and tested over decades - even in space!

Photovoltaic (PV) panels are made primarily of glass, aluminum and silicon (referred to as a crystalline solar cell)

PV panels are not considered hazardous to the environment and are nonflammable[1] No cadmium used in the panels.

The panels have a low-profile and rotate throughout the day. At peak rotation, the panels will be no more than 9 feet tall.

PV panels have an anti-reflective coating that prevents glare and are designed absorb 98% of light, reflecting as little as 2% of sunlight. In addition, we conduct glare studies using a FAA created tool to further confirm there will be no glare impacts from our projects.

NREL Report: The Safety of Photovoltaic https://www.nrel.gov/docs/fy99osti/24618.pdf

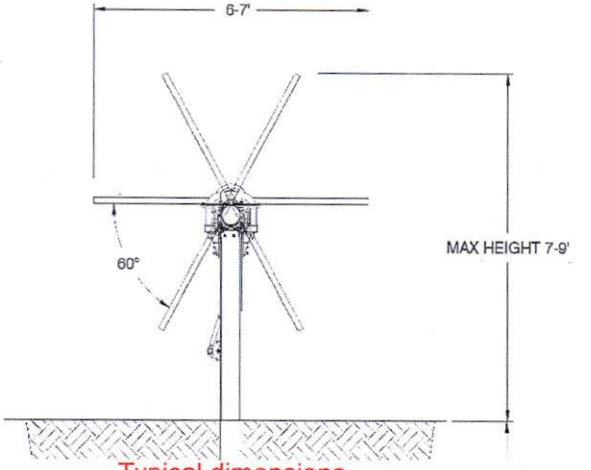
OneEnergy RENEWABLES

Racking System MC7

Solar panels will be mounted on a single-axis tracking system supported by a single post (galvanized steel or aluminum).

The panels slowly rotate throughout the day to track the sun. The bearings for these rotating trackers are maintenance-free and are dry meaning no lubricating oils are utilized.

Single axis tracker racking system



Typical dimensions

OneEnergy RENEWABLES

Inverters and Transformers

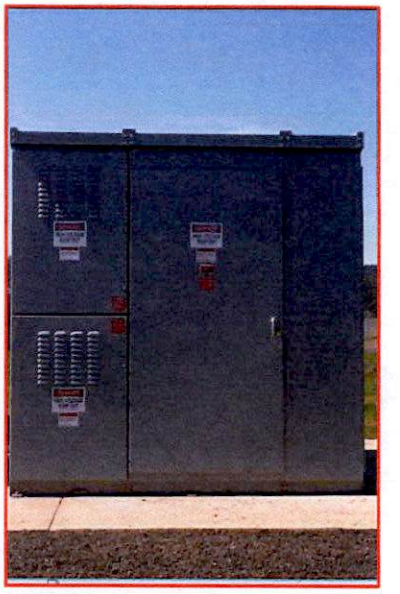
Inverters convert solar energy into a form of electricity that can be used on the electrical grid

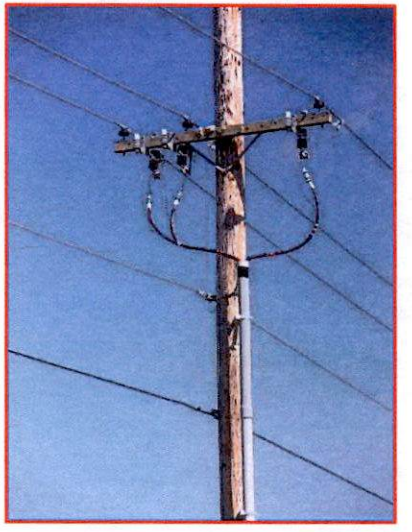
Transformers increase the voltage to that of the utility's electrical lines

The energy generated by the solar farm is distributed away from the project site and increases reliability in the nearby areas

No substation or large, transmission-type utility line construction is required

String-type inverter


Transformer Cabinet


Utility pole

OneEnergy RENEWABLES

Construction

Construction of a solar project typically occurs over 2-3 months, with a majority of the activity in the first four weeks

The construction process consists of the following:

1. Access roads and erosion and sediment controls are installed.
2. Panels are delivered on flat-bed trucks and stored in a designated laydown areas. Truck traffic are minimal after these deliveries.
3. Piles are driven or screwed into the ground by a pile-driving machine.
4. The racking system is assembled on the piles and the panels are mounted
5. Electrical cables are installed and safely enclosed in trays underneath the panels
6. Underground electrical conduit

OneEnergy RENEWABLES

Operation and Safety

During operation, the only onsite activities are quarterly routine maintenance equipment checks.

The system is remotely monitored around the clock.

The site is also mowed two to three times per season to control for invasive species. Once the pollinator species are established, even fewer mowing trips are required.

A chain link or equivalent fence will protect residents from unauthorized access.

In the unlikely case of unauthorized access, PV panels are fully enclosed and electrical wiring is secured.

OneEnergy RENEWABLES

Decommissioning

The project lease agreement with the landowner requires the project to remove all equipment and restore the site area to its previous condition

The area will be reseeded and ready to farm should the landowner chose. All electrical equipment and panels will be recycled or reused

IT'S SAFE

"There is no significant cause for concern about leaking and leaching of toxic material from solar site infrastructure."

- University of NC Clean Energy Technology Center August 2017 Report

"PV electricity generation involves little to no water. That stands in contrast to almost all power plants that make electricity using steam...PV systems, in contrast, require no water to make electricity."

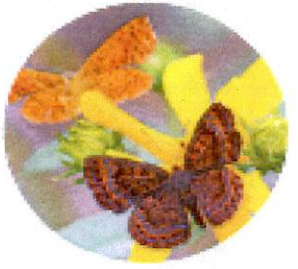
- Union of Concerned Scientists
12/23/2015

OneEnergy RENEWABLES

How Farms Benefit from Solar

"By increasing the ability of pollinators to pollinate adjacent agricultural fields, solar-sited pollinator habitat may boost farmer's crop yields and make solar farms a more welcome neighbor to agricultural farms."

- Argonne National Laboratory, Phys.org, 8/6/18



"Under-panel native plants benefit not just their immediate solar farm surroundings but nearby cropland. Lee Walston, an ecologist at Argonne National Laboratory, says pollinating insects roam beyond solar installations to other agricultural fields, where they help increase production."

- Scientific American, 6/6/18

"The practice of pollinator-friendly solar will hold soils on site and enrich them over time—making an incredibly productive use of the space today and into the future."

- Clare Lindahl, Soil & Water Conservation Society, NYLCV, 6/11/18

OneEnergy RENEWABLES

Baltimore County Benefits

- Savings for nearly 350 residents who subscribe
- Creation of approximately 50 direct jobs in Baltimore County
- Results in over 195,000 metric tons of avoided greenhouse gas emissions supporting the County and State's commitments to climate change adaptation
- Greater local grid resiliency and reduced dependence on out-of-state energy imports
- Supports healthy air, water, and land while benefiting local crops through native and pollinator habitat planting

Local bee keepers can sell Solar Honey at a premium price

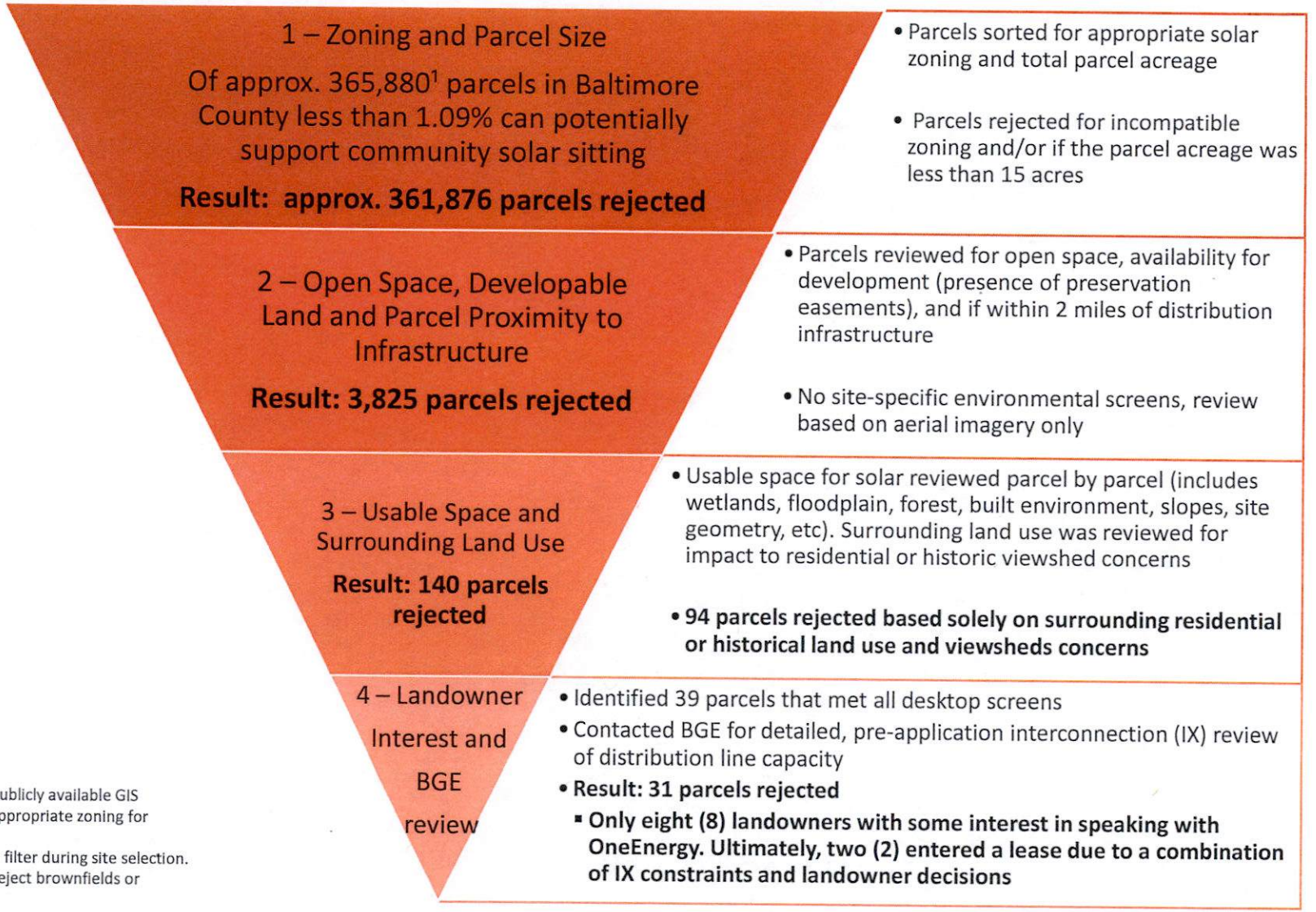
OneEnergy RENEWABLES

Overview of Site Selection Process

and

Detailed Baltimore County Site Selection Results

Prepared by OneEnergy Renewables based on Baltimore County site selection activities completed between Spring 2016 and Winter 2018



Notes:

Parcel sizing and zoning determined from publicly available GIS dataset maintained by Baltimore County. Appropriate zoning for community solar established per Bill 37-17.
Councilmanic districts were never used as a filter during site selection.
This site selection process did not actively reject brownfields or landfills due to their status as such.

PETITIONER'S EXHIBIT 6

May 2, 2018

The Honorable John Beverungen
Administrative Law Judge
Baltimore County
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Townson, Maryland 21204

Dear Judge Beverungen,

My name is Stephanie Rexroth and I am the managing member of HHK Farms, LLC, current owner of the property at 1139 Monkton Road in Monkton, Maryland. HHK Farms, LLC has been the sole owner of the property at 1139 Monkton Road since July of 2016, however, I was personally granted the rights to the property in June 2012 by Herman Kupisch, Jr, a man that I consider family and credit with helping to raise me. Herman taught me, through his property in Monkton, the importance of respecting land and the environment so that the land can continue to provide from generation to generation. The property in Monkton has been in Herman's family since at least 1919, and due to our close relationship and his trust in my ability to care for the land, it was his wish that I own and manage his family's property upon his passing.

I am writing to you with Herman and his legacy of stewardship for land in my thoughts to express my support for the development of the Trillium Solar Project at my property in Monkton, MD. I believe the solar project is a good fit for my family and land, because the solar lease will keep the land in our family while providing a steady revenue source over the next 20 years or so making the farm self-sufficient. The solar project will also allow us to continue farming significant portions of the property and, at the end of the project's useful life, future generations of our family can then choose to return the land to agriculture, as solar has little to no impact on the land.

I also believe the solar project at my property in Monkton is a good fit for our community because the project will provide my neighbors with the opportunity to receive savings on their regular electric bills due to the clean energy produced from the project. In addition, the project will help our local environment by avoiding the addition of air pollution that is typical of traditional electricity generation and will be a site for pollinator habitat, a boon to our local agricultural community. The project also avoids all environmentally sensitive areas, such as floodplains and wetlands, and would be mostly blocked from the view of the few existing neighbors, due to existing vegetation, proposed new landscaping and the general topography of the area.

For these reasons I support the development of a solar energy project on my property and I hope you approve the project's request for Special Exception.

Thank you for your time and consideration.

Warm Regards,

Stephanie Rexroth

Stephanie Rexroth

PETITIONER'S EXHIBIT 7

FORGESOLAR GLARE ANALYSIS

Project: **Trillium**
1139 Monkton Road

Site configuration: **0118 Run**
Analysis conducted by Marni Carroll (nwcarroll@yahoo.com) at 21:05 on 12 Apr, 2018.

U.S. FAA 2013 Policy Adherence

The following table summarizes the policy adherence of the glare analysis based on the 2013 U.S. Federal Aviation Administration Interim Policy 78 FR 63276. This policy requires the following criteria be met for solar energy systems on airport property:

- No "yellow" glare (potential for after-image) for any flight path from threshold to 2 miles
- No glare of any kind for Air Traffic Control Tower(s) ("ATCT") at cab height.
- Default analysis and observer characteristics (see list below)

ForgeSolar does not represent or speak officially for the FAA and cannot approve or deny projects. Results are informational only.

COMPONENT	STATUS	DESCRIPTION
Analysis parameters	PASS	Analysis time interval and eye characteristics used are acceptable
Flight path(s)	N/A	No flight paths analyzed
ATCT(s)	N/A	No ATCT receptors designated

Default glare analysis and observer eye characteristics are as follows:

- Analysis time interval: 1 minute
- Ocular transmission coefficient: 0.5
- Pupil diameter: 0.002 meters
- Eye focal length: 0.017 meters
- Sun subtended angle: 9.3 milliradians

FAA Policy 78 FR 63276 can be read at https://www.federalregister.gov/d/2013-24729

PETITIONER'S EXHIBIT 8

SITE CONFIGURATION

Analysis Parameters

DNI: peaks at 1,000.0 W/m^2
Time interval: 1 min
Ocular transmission coefficient: 0.5
Pupil diameter: 0.002 m
Eye focal length: 0.017 m
Sun subtended angle: 9.3 mrad
Site Config ID: 17190.2701

PV Array(s)

Name: PV array 1
Axis tracking: Single-axis rotation
Tracking axis orientation: 180.0°
Tracking axis tilt: 0.0°
Tracking axis panel offset: 0.0°
Max tracking angle: 60.0°
Resting angle: 60.0°
Rated power: -
Panel material: Light textured glass with AR coating
Reflectivity: Vary with sun
Slope error: correlate with material

Vertex	Latitude (°)	Longitude (°)	Ground elevation (ft)	Height above ground (ft)	Total elevation (ft)
1	39.590129	-76.639315	594.77	7.00	601.77
2	39.588731	-76.638990	603.37	7.00	610.37
3	39.588942	-76.637623	592.00	7.00	599.00
4	39.589314	-76.637719	600.33	7.00	607.33
5	39.589364	-76.637360	603.40	7.00	610.40
6	39.589723	-76.637462	611.86	7.00	618.86
7	39.589661	-76.637816	608.07	7.00	615.07
8	39.590257	-76.637944	628.18	7.00	635.18
9	39.590298	-76.637955	628.47	7.00	635.47

Discrete Observation Receptors

Name	ID	Latitude (°)	Longitude (°)	Elevation (ft)	Height (ft)
OP 1	1	39.591834	-76.641504	651.77	6.00
OP 2	2	39.591797	-76.640082	632.91	6.00
OP 3	3	39.591487	-76.639106	641.25	6.00
OP 4	4	39.591016	-76.638376	636.50	6.00
OP 5	5	39.590131	-76.637330	627.13	6.00
OP 6	6	39.589362	-76.636300	611.80	6.00
OP 7	7	39.588585	-76.635233	600.21	6.00
OP 8	8	39.591446	-76.639669	634.52	12.00
OP 9	9	39.591867	-76.639621	644.12	12.00
OP 10	10	39.591417	-76.638576	637.69	12.00
OP 11	11	39.591136	-76.637903	638.10	12.00
OP 12	12	39.590688	-76.637440	629.90	12.00
OP 13	13	39.591118	-76.636917	625.26	12.00
OP 14	14	39.590486	-76.636144	597.30	12.00
OP 15	15	39.589808	-76.636335	621.40	12.00
OP 16	16	39.589243	-76.635197	597.01	12.00

GLARE ANALYSIS RESULTS

Summary of Glare

PV Array Name	Tilt (°)	Orient (°)	"Green" Glare min	"Yellow" Glare min	Energy kWh
PV array 1	SA tracking	SA tracking	0	0	-

Total annual glare received by each receptor

Receptor	Annual Green Glare (min)	Annual Yellow Glare (min)
1	0	0
2	0	0
3	0	0
4	0	0
5	0	0
6	0	0
7	0	0
8	0	0
9	0	0
10	0	0

Receptor	Annual Green Glare (min)	Annual Yellow Glare (min)
11	0	0
12	0	0
13	0	0
14	0	0
15	0	0
16	0	0

Results for: PV array 1

Receptor	Green Glare (min)	Yellow Glare (min)
OP 1	0	0
OP 2	0	0
OP 3	0	0
OP 4	0	0
OP 5	0	0
OP 6	0	0
OP 7	0	0
OP 8	0	0
OP 9	0	0
OP 10	0	0
OP 11	0	0
OP 12	0	0
OP 13	0	0
OP 14	0	0
OP 15	0	0
OP 16	0	0

Point Receptor: OP 1

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 2

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 3

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 4

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 5

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 6

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 7

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 8

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 9

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 10

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 11

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 12

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 13

0 minutes of yellow glare

0 minutes of green glare

Point Receptor: OP 14

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 15

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 16

0 minutes of yellow glare
0 minutes of green glare

Assumptions

"Green" glare is glare with low potential to cause an after-image (flash blindness) when observed prior to a typical blink response time.
"Yellow" glare is glare with potential to cause an after-image (flash blindness) when observed prior to a typical blink response time.
Times associated with glare are denoted in Standard time. For Daylight Savings, add one hour.
Glare analyses do not account for physical obstructions between reflectors and receptors. This includes buildings, tree cover and geographic obstructions.
The glare hazard determination relies on several approximations including observer eye characteristics, angle of view, and typical blink response time. Actual values may differ.
Hazard zone boundaries shown in the Glare Hazard plot are an approximation and visual aid based on aggregated research data. Actual ocular impact outcomes encompass a continuous, not discrete, spectrum.

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MATTHEW DURETTE, PE

Qualification Summary

Professional Energy Engineer and Project Developer specializing in large solar project development, design, and integration.

Work Experience

Manager, Project Development ~ *OneEnergy Renewables* ~ January 2015 – Present

Engineering lead and Project Developer for the Seattle based, utility-scale, solar energy company. OneEnergy's development focus spans from greenfield to construction phases with up to 2 GWac capacity in a broad range of domestic markets. Specializing in photovoltaic (PV) system design and integration, I bring more than 8 years of experience to my role leading design through for concept, permits, and utility interconnection. Projects are ground mounted and consist of fixed tilt and single-axis tracking PV arrays from 2-80 MWac each in size. *Responsibilities include:*

- Establish company strategy for preliminary design approach and optimization
- Track and forecast industry design trends, select major equipment
- Manage an engineering task queue, with evolving priorities, across the portfolio
- Hire, manage and train an Associate Engineer and intern
- Self-perform generation of the site plan, electrical, and detail drawings
- Manage external Civil and Electrical engineering consultants to support internal efforts
- Oversee, standardize, and execute energy production modeling using PVsyst software
- Serve as key team resource for engineering support of new site selection and permit applications
- Lead technical response for utility interconnection process across all RTO/ISOs and utilities in portfolio
- Develop engineering standards, templates, and tools
- Collaborate with EPC, co-developer, and financing partner technical staff as required
- As a member of the ERCOT regional development team I also contributed to generalist assignments including, but not limited to: new site due diligence, land owner outreach, on-site visits, permit development, and regional development strategy

Project Development Engineer ~ *AMERESCO* ~ May 2009 – January 2015

Solar PV Project Responsibilities:

- Conduct site assessment to evaluate solar resource and project feasibility
- Select system components and architecture to minimize the levelized cost of energy
- Model system energy production
- Manage structural, geotechnical or environmental consultants
- Draft drawing sets in compliance with NEC and local building codes
- Facilitate utility, DEP, and customer approvals and permits
- Provide on-site construction supervision assistance
- Orchestrate project commissioning, startup, and performance testing
- Coordinate with the development team to standardize proposed designs
- Collaborate with the financing entity's technical advisors
- Assist operation and maintenance group to diagnose and execute repairs as required

Energy Efficiency Project Responsibilities:

- Perform all tasks necessary to complete ESCO project M&V Reports
- Utility bill analysis
- Energy audits, savings calculations, grant applications and project proposals

Project Experience: Over 9MW of roof mounted, ground mounted, and carport Solar PV installations now in operation. Several projects are highlighted below.

- City of Lowell – Served as lead engineer in all phases of a city wide solar feasibility study which led to the construction of 348 kW of PV mounted on 4 public schools and 1 historic city auditorium. This PPA project was awarded 2010 renewable project of the year by the Massachusetts AEE.

- Massport Logan Airport – Assisted with development, design, and commissioning of 370 kW of PV mounted on three airport terminal rooftops. Meeting the technical and logistical demands of a major airport proved essential to the success of this PPA project.
- Town of Acton – This 1,596 kW ground mounted PV plant was the first of three for AMERESCO mounted on a closed landfill. A mounting design was optimized to avoid penetrating the landfill cap, minimize required ballast and grading, and maximize PV system efficiency. Collaboration with Electrical, Geotechnical, and Environmental consultants was necessary to plan for the DEP post-closure use permit and medium voltage utility interconnection.

Lead Technician ~ *Atlas Pyrovision Productions* ~ 2003 – 2011

Licensed onsite crew leader for the execution of commercial firework and special effects displays. Responsibilities include spectator and crew safety, management of field labor and schedule, compliance with regulation, aesthetic quality, customer satisfaction and transportation of hazardous materials.

Education

University of Massachusetts Lowell 2009

Bachelor of Science in Mechanical Engineering with Cum Laude honors

Certifications

Professional Engineer in Washington State, Mechanical – December 2015

NCEES License #53328

NABCEP Certified Solar PV Installer – October 2011 (Expired)

NABCEP License #092411-39

Additional Skills Summary

- Intimate knowledge of energy production forecasting using PVsyst and other software models
- Ample AutoCAD experience drafting plan sets from development to construction phases
- Proficient in Microsoft Word, Excel, Outlook, Project and PowerPoint and similar Google docs
- Talented at creating advanced spreadsheet calculation tools
- Experienced navigating a complex mapping database in Google Earth
- Skilled with use solar resource assessment and project commissioning tools
- Relentless attention to detail
- Well-liked by coworkers, easygoing
- Broad perspective of the project life cycle enhanced by experience from development all the way to O&M

Miscellaneous Experience and Interests

- Pi Tau Sigma Mechanical Engineering honor society
- UML Solar Energy Club
- Commercial driver's license, Fork truck operator, and 3D Rapid Prototyping.
- Some personal interests include passive solar design, backcountry skiing and mountain biking.
- Very familiar with Massachusetts, northern Vermont, Washington state and Colorado areas.

PETITIONER'S EXHIBIT 10

DMW

DAVID L. MARTIN, RLA
VICE PRESIDENT

LICENSURE AND ACCREDITATION
Landscape Architect, Maryland, No. 776
Landscape Architect, Pennsylvania, No. 573-E

EDUCATION
The Pennsylvania State University, BS, Landscape Architecture, 1971

PROFESSIONAL SUMMARY
Professional practice includes 47 years of land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has been practicing in the Greater Baltimore Metropolitan region since 1987 and has been qualified as an expert in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County, Howard County, Harford County, Cecil County, Bel Air, Aberdeen, Havre de Grace, Perryville, Port Deposit and Federal District Court of Baltimore.

Prior to his relocation to Maryland, Mr. Martin practiced landscape architecture and land planning in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica. As Vice President of DMW and formerly President of Martin & Phillips Design Associates, Inc. Mr. Martin supervises community planning, site development, subdivision development plans, and master planning efforts, He also offers zoning testimony and interpretation on land planning issues before zoning commissioners, boards of appeals, planning commissions, and elected bodies. Mr. Martin facilitates community input meetings and presents Development Plans in Baltimore County and oversees the preparation of special exception and variance plan requests. He also directs the design of parks, amenity features, lighting plans and landscape plans associated with residential, commercial and institutional projects.

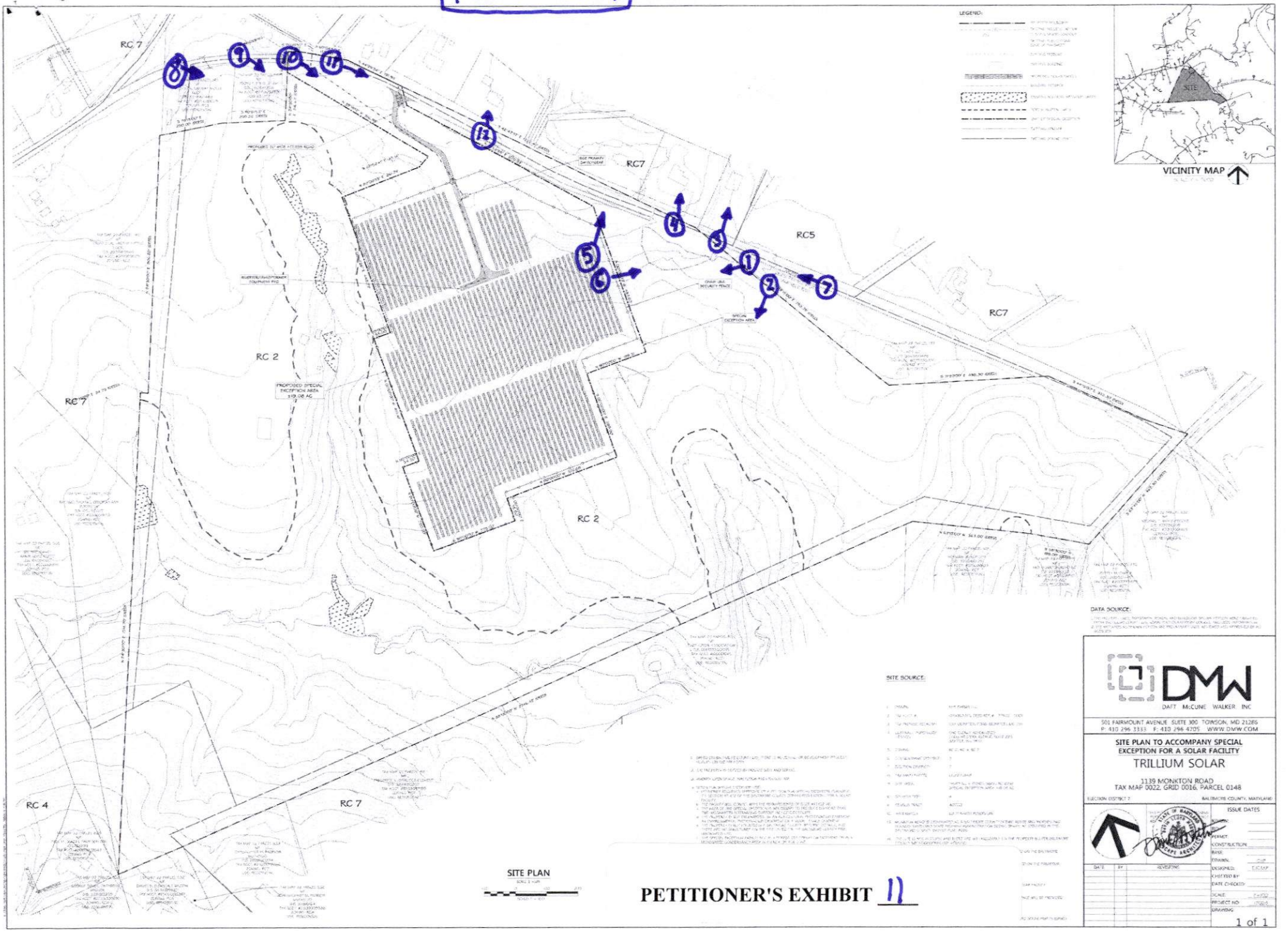
Significant projects include Developments of Regional Impact (DRI) in the State of Florida including; Palm Coast, Florida - 10,000 acre master plan, Beverly Hills, Florida - 6,500 acre master plan, and Doral Park, Florida - 2000 acre master plan. Representative local projects include: Hollywoods, Monmouth Meadows, Greenbriar, Bainbridge Development, Forge Landing, Owings Mills Commerce Center, The Avenue at Whitemarsh, Cedar Lane Farms P.U.D., Westwicke, Beaverbrook, Biddison Property, Bridle Ridge, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Powell Property, and Baker Property, Highlands Corporate Park, Preston Gateway North Industrial Park, Catholic Charities Senior Housing at the Village Crossroads (HUD). Baltimore County planned Unit developments include: Brandywine PUD, Chapel Springs PUD (HUD), The Residences at Soldier's Delight PUD and Loch Raven Commons PUD.

Mr. Martin has prepared numerous comprehensive-zoning petitions in Baltimore County during the quadrennial CZMP processes and has a thorough understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He also served on an ad-hoc committee that authored the Service Employment (SE) Zone of Baltimore County and the Public Affairs Committee for NAIOP. He has extensive experience dealing with all the Baltimore Regional Area County's development regulations.

MEMBERSHIPS AND ASSOCIATIONS
American Society of Landscape Architects, Member
Chairman Baltimore County Design Review Panel – Executive Appointment

PROFESSIONAL EXPERIENCE
Daft-McCune-Walker, Inc., Towson, MD - Martin & Phillips Design Associates, Inc.
Bradshaw, Gill, & Fuster, PA – Greenhorne & O'Mara, Inc. – M. Robert Fenton & Assoc.

PHOTO KEY



PETITIONER'S EXHIBIT 11

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

SITE PLAN TO ACCOMPANY SPECIAL EXCEPTION FOR A SOLAR FACILITY

TRILLIUM SOLAR

1139 MONKTON ROAD
TAX MAP 0022, GRID 0016, PARCEL 0148

ELECTION DISTRICT 7 BALTIMORE COUNTY, MARYLAND

ISSUE DATES
PERMIT
CONSTRUCTION
BASE
DRAWN
DESIGNED EJC/MP
CHECKED BY
DATE CHECKED
SCALE
PROJECT NO
DRAWING

DATE	BY	REVISIONS

4

9

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

May 3, 2018

Daft McCune Walker (DMW)
Mr. Mitch Kellman
501 Fairmount Avenue
Towson, Maryland 21286
Phone: 410-296-3333

Subject: Trillium Solar
Zoning Case # 2018-0030-X
1139 Monkton Road,
Monkton, Maryland 21111

Dear Mr. Kellman:

This is in response to your request for review of the Schematic Landscape Plan dated May 2, 2018. It has been reviewed and there are a number of comments to address landscape screening design, locations, etc. Based on a recent meeting held on May 3, 2018 with the design team, it is anticipated that the comments will be addressed as part of the next Schematic Landscape Plan submission and can be approved, provided the Special Exception is granted.

Sincerely,

James Hermann, RLA.
Landscape Architect, Development Plans Review

cc:

PETITIONER'S EXHIBIT 12

PETITIONER'S EXHIBIT 13

DAFT McCUNE WALKER

ERIC C. HADAWAY

VICE PRESIDENT, DIRECTOR OF ENVIRONMENTAL SERVICES

PROFESSIONAL SUMMARY

As Director of Environmental Services for Daft-McCune-Walker, Inc., Mr. Hadaway collaborates with landowners, land planners, engineers, architects and other design professionals to negotiate compliance with environmental laws and policies, creating environment-sensitive plans for residential, institutional, and commercial development projects that balance client goals with natural resources considerations. Mr. Hadaway also coordinates environmental compliance for public infrastructure projects, stream restoration, and other water quality improvements.

Mr. Hadaway is certified by the U.S. Army Corps of Engineers to perform nontidal wetland delineations and is well-versed in all aspects of Section 404 Permitting and Wetland Mitigation Design. He is also certified as a Maryland Forest Conservation Act Qualified Professional with over 24-years' experience conducting Forest Stand Delineations and preparing Forest Conservation Plans. Mr. Hadaway also conducts feasibility studies, natural resources inventories, and prepares water quality planting plans for bioretention, rain garden, shallow marsh, and other best management practices. His expertise in the area of nontidal wetlands and waterway construction permitting is key to DMW's success in obtaining necessary project approvals.

EDUCATION

Towson University, BS, Biology, 1987
Towson University, Graduate Study, Environmental Sciences

REPRESENTATIVE PROJECTS

Northeast Area (Honeygo) Elementary School, Baltimore County, MD
Water's Landing at Middle River, Baltimore County, MD
Quad Investments Property, Baltimore County, MD
Waterview, Baltimore County, MD
Bonnie View, Baltimore County/City, MD
Broadmead Retirement Community, Baltimore County, MD
Sheppard Pratt Gatehouse Drive, Baltimore County, MD
Delight Quarry, Baltimore County, MD
Lauenstein/Cape May Road, Baltimore County, MD
Crossroads at I-95, Baltimore County, MD
Devonport Community and Chrismar Marina, Baltimore County, MD
Dundee-Saltpeter Natural Area, Baltimore County, MD
Garrison Forest School, Baltimore County, MD

MEMBERSHIPS AND ASSOCIATIONS

American Council of Engineering Companies, Maryland, Member (Environmental Committee)
Baltimore County Engineering Association, Chairman
High Impact Environmental, Inc., Board of Directors
Integrated Vegetation Management Partners, Inc., Board of Directors

PROFESSIONAL EXPERIENCE

Daft-McCune-Walker, Inc., Towson, MD 1994-Present
PMT & Associates, Inc., Baltimore, MD 1991-1994

PETITIONER'S EXHIBIT 14

MITCHELL J. KELLMAN

VICE PRESIDENT - DIRECTOR OF ZONING SERVICES

Education

Towson University, BA, Geography and Environmental Planning, Urban Planning
Towson University, Masters, Geography and Environmental Planning, Urban Planning

Professional Summary

Mr. Kellman has over 30 years of experience working in zoning, subdivision, and development regulations for the public and private sector; 15 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authority. Additionally, he supervised county review staff, met with professionals and the public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, Administrative Law Judges, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings. He is also a member of Baltimore County's Design Review Panel, which formulates design recommendations to the Planning staff and Administrative Law Judges, and the Landmarks Preservation Commission.

Partial List of Projects

Saint Michael's Roman Catholic Church, Howard County, MD
Hunt Valley Towne Centre, Baltimore County, MD
Charlestown Retirement Community, Baltimore County, MD
Goucher College, Baltimore County, MD
Greenspring Quarry, Baltimore County, MD
Norris Acura West, Howard County, MD
Sheppard Pratt Health Systems (Elkridge Campus), Howard County, MD
Towson Town Center, Baltimore County, MD
Corridor 95 Business Park, Howard County, MD

Memberships and Associations

Baltimore County Landmarks Preservation Commission, 2014, 2015, 2016, 2017, 2018
Baltimore County Design Review Panel, 2012, 2013, 2014, 2015, 2016, 2017, 2018
Greater Towson Committee, Planning & Development Sub-Committee, 2012, 2013, 2014, 2015, 2016, 2017, 2018
Greater Towson Committee, Government Relations Sub-Committee Chair, 2013, 2014, 2015
Greater Towson Committee Board of Directors – 2014 (Secretary), 2015, 2016, 2017, 2018
Leadership Baltimore County, 2013
Leadership Baltimore County, Class Interviewer, Member, 2015

Professional Experience

Daft-McCune-Walker, Inc., Towson, MD: 2000-Present
Baltimore County Zoning Review Office, Towson, MD: 1985-2000

Baltimore County Government
Department of Permits Approvals and Inspections
Development Management

111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

June 15, 2018

Daft McCune Walker, Inc.
Mr. Mitchell J. Kellman
501 Fairmount Avenue Suite 300
Towson, MD 21286

RE: Trillium Solar
1139 Monkton Road
Tracking Number: DRC-2018-00085
DRC Number: 061218C; Dist. 7C3

Dear Mr. Kellman:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Sections 32-1-101, 32-3-401, and 32-3-517 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 32-4-106 and Section 32-4-262 of the Baltimore County Code, and to make recommendations to the Director, Department of Permits Approvals and Inspections (PAI).

The DRC has, in fact, met in an open meeting on June 12, 2018, and made the following recommendations:

The DRC has determined, your project provisionally meets the requirements of a **limited exemption** under Section 32-4-106(a)(1)(vi).

Now that you have received this limited exemption, please proceed with building permit application.

PETITIONER'S EXHIBIT 15

A copy of this letter must be presented when submitting engineering/construction plans to this office, and/or when applying for a building permit.

Please note that compliance with subtitles 3, 4 and 5 of Title 4, Article 32, Baltimore County Code, is required, as is compliance with all applicable zoning regulations. Phase 2 review fees may apply, depending on the amount of site disturbance, and/or the requirement of a Public Works Agreement. Also, sidewalks are required whenever the site is within the Metropolitan District.

Herein find a Zoning Review Hearing Checklist that will serve as a guide when preparing plans for building permit applications. Please be advised, plans not meeting minimum checklist requirements will not be accepted for filing. This will consequently delay building permit approval. Please note, the "conceptual" plan required for DRC review, does not necessarily meet the checklist guidelines. Therefore, it should not be assumed that the DRC plan is acceptable for building permit applications. Should you have any questions regarding the above, please contact the Zoning Review Section at 410-887-3391.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 15th day of June 2018, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permit that may be required for this project, your application will be processed subject to the conditions set forth above, and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely,

Arnold Jablon
Director

AJ: JMC: ms

C: File
Adam Rosenblatt; 210 Pennsylvania Ave Suite 500; Towson, MD 21204
Eric Hadaway

BALTIMORE COUNTY, MARYLAND
LEGISLATIVE BRANCH

Withdrawn Bills - 2017 Session

The following links are PDF files and require Adobe Acrobat Reader to view them.

Bill 1-17 Zoning Regulations – Used Motor Vehicles

Bill 7-17 Taxation – Transient Occupancy Tax

Bill 9-17 Solar Facilities

Bill 22-17 Swimming Pools

Bill 24-17 School Bus Safety Cameras

Bill 25-17 Sidewalks

Bill 26-17 Retention of Trees

Bill 27-17 Parking Facilities

Bill 44-17 Medical Cannabis Facilities - Location

Bill 49-17 Medical Cannabis Facilities – Location

Bill 54-17 Parking

Bill 55-17 Zoning Regulations – Agricultural Operations – Air Cannons

Bill 56-17 Wild or Exotic Animals for Public Entertainment or Amusement

Bill 63-17 Zoning Regulations – Indoor Shooting Range

Revised October 30, 2017

PETITIONER'S EXHIBIT 16

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 3

Bill No. 9-17

Councilmembers Kach & Marks

By the County Council, February 6, 2017

A BILL
ENTITLED

AN ACT concerning

Solar Facilities

FOR the purpose of permitting a Solar Facility to be located in certain zones of the County by special exception; defining terms; providing for the requirements for a facility; providing for a required security; providing for the maintenance, abandonment, and removal of a facility; authorizing the Code Official to enforce the provisions of this Act; providing exceptions; providing for the application of the Act; and generally relating to Solar Facilities.

BY adding
Article 4E – Solar Facilities
Sections 4E-101 to 4E-107
Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments
Article 5 – Administration and Enforcement
Section 502.1.I.
Baltimore County Zoning Regulations, as amended

WHEREAS, solar energy is recognized as an abundant, renewable, and environmentally sustainable source of electricity generation that will lead to greater local grid resiliency and security, as well as produce clean, renewable energy and reduce air and water pollution caused by the burning of traditional fossil fuels, and will thereby reduce greenhouse gases that cause climate change; and

WHEREAS, Baltimore County law does not currently regulate solar facilities or any form of commercial enterprise that places solar energy systems or solar collector panels on a parcel of land for the purpose of generating photovoltaic power; and

WHEREAS, the Baltimore County Master Plan 2020 recognizes that the rural portion of the County provides high quality drinking water, agricultural products, timber, scenic open space, wildlife habitat, fisheries, recreation, water sports, and cultural and historic resources; and

WHEREAS, Baltimore County's Rural Land Management Areas are designed to protect resources and rural economies while permitting limited development; and

WHEREAS, the benefits of solar energy production and location must be balanced with the potential impact of solar energy-producing facilities upon the County's land use policies, particularly in resource conservation zones, as well as in business and manufacturing zones; and

WHEREAS, the County Council believes that Solar Facilities should be permitted in some parts of the County's rural and commercial areas so long as sufficient safeguards are provided to protect the County's communities and its agricultural land, forests, waterways and other natural resources; now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:

ARTICLE 4E

SOLAR FACILITIES

§4E-101. DEFINITION.

(A) AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) "SOLAR FACILITY" MEANS A FACILITY THAT INCLUDES A SERIES OF ONE OR MORE SOLAR COLLECTOR PANELS OR SOLAR ENERGY SYSTEMS THAT ARE PLACED IN AN AREA ON A TRACT OF LAND FOR THE PURPOSE OF GENERATING PHOTOVOLTAIC POWER FOR COMMERCIAL USE. THE TERM INCLUDES A SOLAR POWER PLANT OR SOLAR PHOTOVOLTAIC FARM. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SOLAR FACILITY MAY NOT BE CONSIDERED A PUBLIC UTILITY UNDER THE BALTIMORE COUNTY CODE OR THE BALTIMORE COUNTY ZONING REGULATIONS.

(C) "COMMERCIAL USE" MEANS THE TRANSFER TO THE ELECTRICAL POWER GRID OF ENERGY PRODUCED BY A SOLAR FACILITY FOR ENERGY CREDITS TO CONSUMERS.

§4E-102. LOCATION OF SOLAR FACILITIES.

A SOLAR FACILITY IS PERMITTED ONLY BY SPECIAL EXCEPTION IN THE

R.C.2, R.C.3, R.C.4, R.C.5, R.C.6, R.C.7, R.C.8, B.L., B.M., M.R., M.L.R., AND M.H. ZONES OF THE COUNTY.

§4E-103. EXCEPTION.

THIS ARTICLE DOES NOT APPLY TO:

1. A SOLAR FACILITY LOCATED IN A YARD AREA, BUILDING, OR STRUCTURE THAT IS ACCESSORY TO A PRINCIPAL RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR INSTITUTIONAL USE;

2. A SOLAR FACILITY ON FEDERAL, STATE OR LOCAL GOVERNMENT-OWNED OR LEASED LAND THAT PRODUCES ENERGY FOR GOVERNMENT USE; OR

3. A SOLAR FACILITY THAT USES AT LEAST 75% OF THE ENERGY GENERATED FOR AGRICULTURAL USES.

§4E-104. REQUIREMENTS.

A. A SOLAR FACILITY LOCATED IN AN R.C. ZONE IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED MAY NOT BE ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT, AN ENVIRONMENTAL PRESERVATION EASEMENT, OR A RURAL LEGACY EASEMENT.

2. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED MAY NOT BE LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A PROPERTY THAT IS LISTED ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.

3. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED MAY NOT BE LOCATED IN A FOREST CONSERVATION EASEMENT, A FOREST AS DEFINED IN SECTION 33-6-101(O) OF THE COUNTY CODE, OR A DESIGNATED CONSERVANCY AREA IN AN R.C.4 OR R.C.6 ZONE.

4. THE MAXIMUM SIZE OF A SOLAR FACILITY AS MEASURED FROM THE PERIMETER OF THE FACILITY IS:

A. 30 ACRES UNTIL JUNE 30, 2018; AND

B. 40 ACRES BEGINNING ON JULY 1, 2018.

5. ABOVEGROUND COMPONENTS OF THE SOLAR FACILITY, INCLUDING SOLAR COLLECTOR PANELS, INVERTERS, AND SIMILAR EQUIPMENT, MUST BE SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY, SUBJECT TO THE FOLLOWING:

A. THIS SETBACK DOES NOT APPLY TO THE INSTALLATION OF THE ASSOCIATED LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES; AND

B. THE ADMINISTRATIVE LAW JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY INCREASE THE SETBACK BY UP TO 25 FEET BASED ON THE IMPACT OF THE STRUCTURES ON ADJACENT OR SURROUNDING RESIDENTIALLY USED PROPERTIES, AND MAY DECREASE THE SETBACK BY UP TO 25 FEET IF LOCATED NEAR A FOREST OR OTHER SUFFICIENT BUFFER.

6. A STRUCTURE MAY NOT EXCEED 16 FEET IN HEIGHT.

7. A LANDSCAPING BUFFER SHALL BE PROVIDED AROUND THE PERIMETER OF ANY PORTION OF A SOLAR FACILITY THAT IS VISIBLE FROM AN

ADJACENT RESIDENTIALLY USED PROPERTY OR A PUBLIC STREET. SCREENING OF STATE AND LOCAL SCENIC ROUTES AND SCENIC VIEWS IS REQUIRED IN ACCORDANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL.

8. SECURITY FENCING SHALL BE PROVIDED BETWEEN THE LANDSCAPING BUFFER AND THE SOLAR FACILITY.

9. A SOLAR COLLECTOR PANEL OR COMBINATION OF SOLAR COLLECTOR PANELS SHALL BE DESIGNED AND LOCATED IN AN ARRANGEMENT THAT MINIMIZES GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS, AND DOES NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.

10. A PETITIONER SHALL COMPLY WITH THE PLAN REQUIREMENTS OF SECTION 33-3-108 OF THE COUNTY CODE.

11. AT LEAST 60 DAYS PRIOR TO THE PUBLIC HEARING ON THE SPECIAL EXCEPTION, THE PETITIONER SHALL SEND NOTICE VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ADJOINING PROPERTY OWNERS AND COMMUNITY ASSOCIATIONS OF THE ADDRESS OF THE PROPERTY UNDER PETITION OR, IF NOT AVAILABLE, A DESCRIPTION OF THE PROPERTY, THE ACTION REQUESTED BY THE PETITION, AND THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.

12. IN THE R.C.2, R.C.6, R.C.7, AND R.C.8 ZONE, A PETITIONER SHALL DEMONSTRATE AT A HEARING THAT MEASURES ARE BEING TAKEN AT THE LOCATION OF THE SOLAR FACILITY TO MINIMIZE THE IMPACTS OF THE FACILITY ON PRIME AND PRODUCTIVE AGRICULTURAL SOIL.

13. IN GRANTING A SPECIAL EXCEPTION, THE ADMINISTRATIVE LAW

JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY IMPOSE CONDITIONS OR RESTRICTIONS ON THE SOLAR FACILITY USE AS NECESSARY TO PROTECT THE ENVIRONMENT AND SCENIC VIEWS, AND TO LESSEN THE IMPACT OF THE FACILITY ON THE HEALTH, SAFETY, AND GENERAL WELFARE OF SURROUNDING RESIDENTIALLY USED PROPERTIES AND COMMUNITIES.

B. THE REQUIREMENTS OF SUBPARAGRAPHS A.5, A.7. AND A.8. OF THIS SECTION SHALL APPLY TO A SOLAR FACILITY LOCATED IN A BUSINESS OR MANUFACTURING ZONE.

§ 4E-105. SECURITY BOND.

A. AN APPLICANT FOR A BUILDING PERMIT FOR A SOLAR FACILITY SHALL PROVIDE A SECURITY BOND IN THE FORM AND AMOUNT DETERMINED BY THE COUNTY ADMINISTRATIVE OFFICER.

B. THE CODE OFFICIAL MAY USE THE BOND TO PROCURE THE REPAIR OF ANY UNSAFE OR HAZARDOUS CONDITIONS UNDER SECTION 4E-106 OR REMOVAL OF A SOLAR FACILITY UNDER SECTION 4E-107, IN ACCORDANCE WITH SECTION 3-6-402 OF THE COUNTY CODE.

§4E-106. MAINTENANCE.

A. ALL PARTIES HAVING A LEASE OR OWNERSHIP INTEREST IN A SOLAR FACILITY ARE RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITY.

B. MAINTENANCE SHALL INCLUDE PAINTING, STRUCTURAL REPAIRS, LANDSCAPE BUFFERS AND VEGETATION UNDER AND AROUND SOLAR PANEL

STRUCTURES, AND INTEGRITY OF SECURITY MEASURES. ACCESS TO THE FACILITY SHALL BE MAINTAINED IN A MANNER ACCEPTABLE TO THE FIRE DEPARTMENT. THE OWNER, OPERATOR, OR LESSEE ARE RESPONSIBLE FOR THE COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.

C. APPROPRIATE VEGETATION IS PERMITTED UNDER AND AROUND THE SOLAR COLLECTOR PANELS, AND THE TRACT MAY BE USED FOR ACCESSORY AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK, APICULTURE, AND SIMILAR USES.

D. THE PROVISIONS OF THIS SECTION SHALL BE ENFORCED IN ACCORDANCE WITH ARTICLE 3, TITLE 6 OF THE COUNTY CODE.

§4E-107. ABANDONMENT; REMOVAL.

A. A SOLAR FACILITY THAT HAS REACHED THE END OF ITS USEFUL LIFE OR HAS BEEN ABANDONED SHALL BE REMOVED. THE OWNER OR OPERATOR SHALL PHYSICALLY REMOVE THE INSTALLATION NO MORE THAN 150 DAYS AFTER THE DATE OF DISCONTINUED OPERATIONS. THE OWNER OR OPERATOR SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL OF THE PROPOSED DATE OF DISCONTINUED OPERATIONS AND PLANS FOR REMOVAL.

B. REMOVAL SHALL CONSIST OF THE:

1. PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS, STRUCTURES, EQUIPMENT, SECURITY BARRIERS AND TRANSMISSION LINES FROM THE SITE;

2. DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE WITH LOCAL, STATE, AND FEDERAL WASTE DISPOSAL REGULATIONS; AND

3. STABILIZATION OR RE-VEGETATION OF THE SITE AS NECESSARY TO MINIMIZE EROSION.

C. IF THE OWNER OR OPERATOR FAIL TO REMOVE THE FACILITY WITHIN 150 DAYS OF ABANDONMENT, THE COUNTY RETAINS THE RIGHT TO ENTER AND REMOVE THE FACILITY. AS A CONDITION OF SPECIAL EXCEPTION APPROVAL, THE PETITIONER AND LANDOWNER AGREE TO ALLOW ENTRY TO REMOVE AN ABANDONED FACILITY.

D. THE CODE OFFICIAL MAY ISSUE A CITATION TO THE OWNER OR OPERATOR FOR REMOVAL OF A SOLAR FACILITY IF:

1. THE CODE OFFICIAL DETERMINES THAT THE SOLAR FACILTY HAS NOT BEEN IN ACTUAL AND CONTINUOUS USE FOR 12 CONSECUTIVE MONTHS;

2. THE OWNER OR OPERATOR FAILED TO CORRECT AN UNSAFE OR HAZARDOUS CONDITION OR FAILED TO MAINTAIN THE SOLAR FACILITY UNDER SECTION 4E-106 WITHIN THE TIME PRESCRIBED IN A CORRECTION NOTICE ISSUED BY THE CODE OFFICIAL; OR

3. THE OWNER OR OPERATOR HAS FAILED TO REMOVE THE SOLAR FACILITY IN ACCORDANCE WITH PARAGRAPH C.

§502.1. Conditions Determining Granting of Special Exception.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

I. Be detrimental to the environment and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5, or R.C.7 Zone,

AND FOR CONSIDERATION OF A SOLAR FACILITY USE UNDER ARTICLE 4E, THE INCLUSION OF THE R.C.3, R.C.6, AND R.C.8 ZONE.

SECTION 2. AND BE IT FURTHER ENACTED, that the Maryland General Assembly is urged to consider legislation to authorize Baltimore County to exempt solar facility equipment located as an accessory use on buildings or parking facilities from personal property taxation.

SECTION 3. AND BE IT FURTHER ENACTED, that the Departments of Planning and Environmental Protection and Sustainability shall by March 1, 2018 submit recommendations to the County Council in regard to the appropriate size of a solar facility in the R.C. Zones, and any other changes to the solar facility regulations that those Departments deem appropriate.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on March 20, 2017 and shall apply retroactively to any zoning petition filed after October 18, 2016, except that the requirements of subparagraphs A.3, A.5, A.7, A.8, and A.13 of Section 4E-104 shall apply retroactively to any zoning petition filed after July 1, 2016.

BALTIMORE COUNTY, MARYLAND
LEGISLATIVE BRANCH

Tabled/Failed Bills - 2017 Session

The following links are PDF files and require Adobe Acrobat Reader to view them.

Bill 13-17 Solar Facilities

Bill 32-17 Department of Corrections - Duties

Bill 38-17 Solar Facilities

Bill 39-17 County Council

Bill 40-17 County Budget

Bill 41-17 Speed Warning Displays

Revised July 5, 2017

PETITIONER'S EXHIBIT 17

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 6

Bill No. 13-17

Mr. Wade Kach, Councilman

By the County Council, March 20, 2017

A BILL
ENTITLED

AN ACT concerning

Solar Facilities

FOR the purpose of permitting a Solar Facility to be located in certain zones of the County by special exception; defining terms; providing for the requirements for a facility; providing for a required security; providing for the maintenance, abandonment, and removal of a facility; authorizing the Code Official to enforce the provisions of this Act; providing exceptions; providing for the application of the Act; and generally relating to Solar Facilities.

BY adding
Article 4E – Solar Facilities
Sections 4E-101 to 4E-107
Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments
Article 5 – Administration and Enforcement
Section 502.1.I.
Baltimore County Zoning Regulations, as amended

WHEREAS, solar energy is recognized as an abundant, renewable, and environmentally sustainable source of electricity generation that will lead to greater local grid resiliency and security, as well as produce clean, renewable energy and reduce air and water pollution caused by the burning of traditional fossil fuels, and will thereby reduce greenhouse gases that cause climate change; and

WHEREAS, Baltimore County law does not currently regulate solar facilities or any form of commercial enterprise that places solar energy systems or solar collector panels on a parcel of land for the purpose of generating photovoltaic power; and

WHEREAS, the Baltimore County Master Plan 2020 recognizes that the rural portion of the County provides high quality drinking water, agricultural products, timber, scenic open space, wildlife habitat, fisheries, recreation, water sports, and cultural and historic resources; and

WHEREAS, Baltimore County's Rural Land Management Areas are designed to protect resources and rural economies while permitting limited development; and

WHEREAS, the benefits of solar energy production and location must be balanced with the potential impact of solar energy-producing facilities upon the County's land use policies, particularly in resource conservation zones, as well as in business and manufacturing zones; and

WHEREAS, the County Council believes that Solar Facilities should be permitted in some parts of the County's rural and commercial areas so long as sufficient safeguards are provided to protect the County's communities and its agricultural land, forests, waterways and other natural resources; now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:

ARTICLE 4E

SOLAR FACILITIES

§4E-101. DEFINITION.

(A) AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) "SOLAR FACILITY" MEANS A FACILITY THAT INCLUDES A SERIES OF ONE OR MORE SOLAR COLLECTOR PANELS OR SOLAR ENERGY SYSTEMS THAT ARE PLACED IN AN AREA ON A TRACT OF LAND FOR THE PURPOSE OF GENERATING PHOTOVOLTAIC POWER FOR COMMERCIAL USE. THE TERM INCLUDES A SOLAR POWER PLANT OR SOLAR PHOTOVOLTAIC FARM. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SOLAR FACILITY MAY NOT BE CONSIDERED A PUBLIC UTILITY UNDER THE BALTIMORE COUNTY CODE OR THE BALTIMORE COUNTY ZONING REGULATIONS.

(C) "COMMERCIAL USE" MEANS THE TRANSFER TO THE ELECTRICAL POWER GRID OF ENERGY PRODUCED BY A SOLAR FACILITY FOR ENERGY CREDITS TO CONSUMERS.

§4E-102. LOCATION OF SOLAR FACILITIES.

A SOLAR FACILITY IS PERMITTED ONLY BY SPECIAL EXCEPTION IN THE

R.C.2, R.C.3, R.C.4, R.C.5, R.C.6, B.L., B.M., M.R., M.L.R., AND M.H. ZONES OF THE COUNTY.

§4E-103. EXCEPTION.

THIS ARTICLE DOES NOT APPLY TO:

1. A SOLAR FACILITY LOCATED IN A YARD AREA, BUILDING, OR STRUCTURE THAT IS ACCESSORY TO A PRINCIPAL RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR INSTITUTIONAL USE; OR

2. A SOLAR FACILITY ON FEDERAL, STATE OR LOCAL GOVERNMENT-OWNED OR LEASED LAND THAT PRODUCES ENERGY FOR GOVERNMENT USE.

§4E-104. REQUIREMENTS.

A. A SOLAR FACILITY LOCATED IN AN R.C. ZONE IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. ON LAND ZONED R.C.2:

A. THE MAXIMUM SIZE OF A SOLAR FACILITY IS 25% OF THE TOTAL PARCEL ON WHICH A SOLAR FACILITY IS PROPOSED TO BE LOCATED; AND

B. A PROPOSED SOLAR FACILITY MAY PRODUCE UP TO 200% OF THE AVERAGE YEARLY ENERGY REQUIRED FOR THE LAST THREE YEARS FOR A COMMERCIAL AGRICULTURAL OPERATION.

2. ON LAND ZONED R.C.3, R.C.4, R.C.5, AND R.C.6:

A. A PROPOSED SOLAR FACILITY SHALL COUNT AS ONE EASEMENT

AND BE PART OF THE MARYLAND COMMUNITY SOLAR PROGRAM AND PRODUCE NO MORE THAN 2 MW; AND

B. BEFORE A PROPOSED SOLAR FACILITY CAN BE APPROVED, EACH RESIDENTIALLY USED PROPERTY WITHIN 1,000 FEET AND WITH A VIEW OF THE PROPOSED SOLAR FACILITY SHALL GIVE WRITTEN APPROVAL.

3. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT OR AN ENVIRONMENTAL PRESERVATION EASEMENT.

4. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A PROPERTY THAT IS LISTED ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.

5. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE LOCATED IN A FOREST CONSERVATION EASEMENT, A FOREST AS DEFINED IN SECTION 33-6-101(O) OF THE COUNTY CODE, OR A DESIGNATED CONSERVANCY AREA IN AN R.C.4 OR R.C.6 ZONE.

6. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE LOCATED IN THE DESIGNATED COUNTY RURAL LEGACY AREAS.

7. ON LAND ZONED R.C.2 AND R.C.6, THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED SHALL NOT BE PRIME AND PRODUCTIVE AGRICULTURAL LAND, AS CONTAINED IN THE BALTIMORE COUNTY SOIL SURVEY.

8. ABOVEGROUND COMPONENTS OF THE SOLAR FACILITY, INCLUDING SOLAR COLLECTOR PANELS, INVERTERS, AND SIMILAR EQUIPMENT, MUST BE

SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY, SUBJECT TO THE FOLLOWING:

A. THIS SETBACK DOES NOT APPLY TO THE INSTALLATION OF THE ASSOCIATED LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES; AND

B. THE ADMINISTRATIVE LAW JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY INCREASE THE SETBACK BASED ON THE IMPACT OF THE STRUCTURES ON ADJACENT OR SURROUNDING RESIDENTIALLY USED PROPERTIES, AND MAY DECREASE THE SETBACK IF LOCATED NEAR A FOREST OR OTHER SUFFICIENT BUFFER.

9. A STRUCTURE SHALL NOT EXCEED 16 FEET IN HEIGHT.

10. A LANDSCAPING BUFFER SHALL BE PROVIDED AROUND THE PERIMETER OF ANY PORTION OF A SOLAR FACILITY THAT IS VISABLE FROM AN ADJACENT RESIDENTIALLY USED PROPERTY OR A PUBLIC STREET. SCREENING OF STATE AND LOCAL SCENIC ROUTES AND SCENIC VIEWS IS REQUIRED IN ACCORDANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL.

11. SECURITY FENCING SHALL BE PROVIDED BETWEEN THE LANDSCAPING BUFFER AND THE SOLAR FACILITY.

12. A SOLAR COLLECTOR PANEL OR COMBINATION OF SOLAR COLLECTOR PANELS SHALL BE LANDSCAPED TO MINIMIZE THE GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS, AND TO NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.

13. A PETITIONER SHALL COMPLY WITH THE PLAN REQUIREMENTS OF

SECTION 33-3-108 OF THE COUNTY CODE.

14. AT LEAST 60 DAYS PRIOR TO THE PUBLIC HEARING ON THE SPECIAL EXCEPTION, THE PETITIONER SHALL SEND NOTICE VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ADJOINING PROPERTY OWNERS AND COMMUNITY ASSOCIATIONS OF THE ADDRESS OF THE PROPERTY UNDER PETITION OR, IF NOT AVAILABLE, A DESCRIPTION OF THE PROPERTY, THE ACTION REQUESTED BY THE PETITION, AND THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.

15. IN GRANTING A SPECIAL EXCEPTION, THE ADMINISTRATIVE LAW JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY IMPOSE CONDITIONS OR RESTRICTIONS ON THE SOLAR FACILITY USE AS NECESSARY TO PROTECT THE ENVIRONMENT AND SCENIC VIEWS, AND TO LESSEN THE POTENTIAL IMPACT OF THE FACILITY ON THE HEALTH, SAFETY, AND GENERAL WELFARE OF SURROUNDING RESIDENTIALLY USED PROPERTIES AND COMMUNITIES.

B. THE REQUIREMENTS OF SUBPARAGRAPHS A.8, A.9, A.10, A.11, AND A.12. OF THIS SECTION SHALL APPLY TO A SOLAR FACILITY LOCATED IN A BUSINESS OR MANUFACTURING ZONE.

§ 4E-105. SECURITY BOND.

A. AN APPLICANT FOR A BUILDING PERMIT FOR A SOLAR FACILITY SHALL PROVIDE A SECURITY BOND IN THE FORM AND AMOUNT DETERMINED BY THE COUNTY ADMINISTRATIVE OFFICER.

B. THE CODE OFFICIAL MAY USE THE BOND TO PROCURE THE REPAIR OF ANY UNSAFE OR HAZARDOUS CONDITIONS UNDER SECTION 4E-106 OR REMOVAL OF A

SOLAR FACILITY UNDER SECTION 4E-107, IN ACCORDANCE WITH SECTION 3-6-402 OF THE COUNTY CODE.

§4E-106. MAINTENANCE.

A. ALL PARTIES HAVING A LEASE OR OWNERSHIP INTEREST IN A SOLAR FACILITY ARE RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITY.

B. MAINTENANCE SHALL INCLUDE PAINTING, STRUCTURAL REPAIRS, LANDSCAPE BUFFERS AND VEGETATION UNDER AND AROUND SOLAR PANEL STRUCTURES, AND INTEGRITY OF SECURITY MEASURES. ACCESS TO THE FACILITY SHALL BE MAINTAINED IN A MANNER ACCEPTABLE TO THE FIRE DEPARTMENT. THE OWNER, OPERATOR, OR LESSEE ARE RESPONSIBLE FOR THE COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.

C. A LAND MAINTENANCE PLAN SHALL BE PROVIDED BY AN APPLICANT FOR A BUILDING PERMIT OR PROPERTY OWNER USING BEST LONG-TERM SITE MANAGEMENT PRACTICES, AND SHALL BE IMPLEMENTED UPON ACCEPTANCE.

D. THE TRACT ON WHICH A SOLAR FACILITY IS LOCATED MAY BE USED FOR ACCESSORY AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK, APICULTURE, AND SIMILAR USES.

E. THE PROVISIONS ON THIS SECTION SHALL BE ENFORCED IN ACCORDANCE WITH ARTICLE 3, TITLE 6 OF THE COUNTY CODE.

§4E-107. ABANDONMENT; REMOVAL.

A. A SOLAR FACILITY THAT HAS REACHED THE END OF ITS USEFUL LIFE OR HAS

BEEN ABANDONED SHALL BE REMOVED. THE PROPERTY OWNER OR OPERATOR OF THE FACILITY SHALL PHYSICALLY REMOVE THE INSTALLATION NO MORE THAN 150 DAYS AFTER THE DATE OF DISCONTINUED OPERATIONS. THE OWNER OR OPERATOR SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL OF THE PROPOSED DATE OF DISCONTINUED OPERATIONS AND PLANS FOR REMOVAL.

B. REMOVAL SHALL CONSIST OF THE:

1. PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS, STRUCTURES, EQUIPMENT, SECURITY BARRIERS AND TRANSMISSION LINES FROM THE SITE;

2. DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE WITH LOCAL, STATE, AND FEDERAL WASTE DISPOSAL REGULATIONS; AND

3. STABILIZATION OR RE-VEGETATION OF THE SITE AS NECESSARY TO MINIMIZE EROSION.

C. IF THE OWNER OR OPERATOR FAIL TO REMOVE THE FACILITY WITHIN 150 DAYS OF ABANDONMENT, THE COUNTY RETAINS THE RIGHT TO ENTER AND REMOVE THE FACILITY. AS A CONDITION OF SPECIAL EXCEPTION APPROVAL, THE PETITIONER AND LANDOWNER AGREE TO ALLOW ENTRY TO REMOVE AN ABANDONED FACILITY.

D. THE CODE OFFICIAL MAY ISSUE A CITATION TO THE OWNER OR OPERATOR FOR REMOVAL OF A SOLAR FACILITY IF:

1. THE CODE OFFICIAL DETERMINES THAT THE SOLAR FACILTY HAS NOT BEEN IN ACTUAL AND CONTINUOUS USE FOR 12 CONSECUTIVE MONTHS;

2. THE OWNER OR OPERATOR FAILED TO CORRECT AN UNSAFE OR HAZARDOUS CONDITION OR FAILED TO MAINTAIN THE SOLAR FACILITY UNDER

SECTION 4E-106 WITHIN THE TIME PRESCRIBED IN A CORRECTION NOTICE ISSUED BY THE CODE OFFICIAL; OR

3. THE OWNER OR OPERATOR HAS FAILED TO REMOVE THE SOLAR FACILITY IN ACCORDANCE WITH PARAGRAPH C.

§502.1. Conditions Determining Granting of Special Exception.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

I. Be detrimental to the environment and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5, or R.C.7 Zone, AND FOR CONSIDERATION OF A SOLAR FACILITY USE UNDER ARTICLE 4E, THE INCLUSION OF THE R.C.3 AND R.C.6 ZONE.

SECTION 2. AND BE IT FURTHER ENACTED, that the Maryland General Assembly is urged to consider legislation to authorize Baltimore County to exempt solar facility equipment located as an accessory use on buildings or parking facilities from personal property taxation.

SECTION 3. AND BE IT FURTHER ENACTED, that the Departments of Planning and Environmental Protection and Sustainability, with participation of the Baltimore County Farm Bureau, the solar industry, and the Sierra Club's Greater Baltimore Group, shall by July 1, 2018 submit recommendations regarding changes to current laws, incentives for solar development under transmission lines before cropable farmland, an allocation regarding a percentage of the solar energy generated on each large-scale solar project to go to community solar use for the benefit

of low income residents, and an examination of the economic and environmental best practices from other states as to balancing agricultural land use with solar facilities.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on _____, 2017 and shall apply retroactively to any zoning petition filed after October 18, 2016, except that the requirements of subparagraphs A.1, A.2, A.3, A.6, A.8, A.9, A.10, A.11, A.12, and A.13 of Section 4E-104 shall apply retroactively to any zoning petition filed after July 1, 2016.

David Straitman, SRA
2401 Cross Section Road
Westminster, MD 21158
410-848-4833

Certified Residential Real Estate Appraiser
Maryland License #03-20003
Pennsylvania Certified #RL139103

Licensed Real Estate Appraiser with experience in appraising all types of residential properties in the Maryland and Pennsylvania areas, as well as, small commercial properties in Maryland.

BUSINESS AND PROFESSIONAL EXPERIENCE:

Responsible for the research and preparation of appraisal reports and appraisal reviews. Appraisal assignments include: Residential, Single Family, Multi-Family, Condominium properties and Litigation Support, Small Commercial Properties. *Qualified in U.S. District Court, Anne Arundel County, Baltimore City and County, Carroll County, Frederick County Prince George's County, Howard County and York County Circuit Courts as an Expert, as well as, Carroll County Board of Zoning.*

Avalon Appraisers, LLC 2401 Cross Section Road Westminster, MD 21158	October 2003 to Present
Appraisers, Analysts and Advisors, Inc. AAA Appraisers 17 Warren Road, Suite 21A Baltimore, MD 21208	July 1993 to October 2003

EDUCATION:

B.S. Business Administration, Towson University, Major: Finance and Economics	January 1990
Designated SRA Member of the Appraisal Institute	**April 2008**

Appraisal Institute Courses:

Basic Appraisal Principles	February 1994
Basic Appraisal Procedures	February 1994
The Appraiser as Expert Witness	December 1995
Case Studies In Residential Highest and Best Use	September 1999
Residential Appraiser's Toolbox: New Tools to Meet Market	September 1999
Uniform Standards of Professional Appraisal Practice	June 1999
International Symposium – The Globalization of Real Estate	September 1999
Case Studies in Residential Highest and Best Use	September 1999
Introduction to Environmental Issues	November 2001
Narrative Report Writing	October 2002
Professional's Guide to the Uniform Residential Appraisal Report	April 2005
FHA and the New Residential Appraisal Forms	March 2006
Evaluating Residential Construction	June 2006
Business Practices and Ethics	June 2006
Valuation of Detrimental Conditions in Real Estate	July 2006
Advanced Residential Applications & Case Study	January 2007
Advanced Residential Report Writing	January 2007
Attacking and Defending an Appraisal in Litigation	July 2007
The New Residential Market Conditions Form	February 2009
Real Estate Finance Statistics and Valuation Modeling	March 2009
7-Hour National USPAP Update Course	February 2012
General Appraiser Sales Comparison Approach	March 2011
General Appraiser Market Analysis and Highest and Best Use	February 2012
General Appraiser Market Site Valuation & Cost Approach	October 2012
General Appraiser Income Approach/Part 1	February 2013
General Appraiser Income Approach/Part 2	May 2013

PETITIONER'S EXHIBIT 18

General Appraiser Report Writing and Case Studies January 2014

LICENSES:

States of Maryland and Pennsylvania:

MD Certified Residential Real Estate Appraiser #30020003
PA Certified Residential Appraiser #RL139103
FHA Approved Appraiser in MD and PA

Partial List of Appraisal Clients

Southern Trust Mortgage
City of Westminster, MD
Robert Weltchek Esq.
BB&T Wealth Management
Bonnie Butler Esq.
J.P. Morgan Chase
Craig Habicht Esq.
Curtis Coon Esq.
Dawn Nee Esq.
GMAC Mortgage LLC
Adams County National Bank
PNC Bank
Michelle Ostrander Esq.
Debra Thomas Esq.
Presidential Bank
Stacie Dowling Esq.
Suellen Poland Esq.
Capital One Bank
Isaac Menasche Esq.
David Bowersox, Esq.
Bay Bank
Damian Halstad
Weisse Miller Law Offices
George Mason Mortgage
Carroll County Economic Development
Farmers and Merchants Bank

Economic Impact Study

LOCATED AT
1139 Monkton Rd
Monkton, MD 21111
Dist:7,Map:22,

FOR
One Energy
2003 Western Ave
Seattle, WA 98121

AS OF
12/6/2018

PETITIONER'S EXHIBIT 19

BY
David Straitman, SRA
Avalon Appraisers, LLC
2401 Cross Section Rd
Westminster, MD 21158-2611
410-848-4833
dave@avalonappraisers.com

Serial# 699268EB
suredocs.com/validate

Owner	Hhk Farms Llc					File No.	0180267
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						

TABLE OF CONTENTS

Cover Page 1
Economic Impact Study 2
Photograph Addendum 6
Photograph Addendum 7
Proposed Solar Panel Area 8
Parcel Map 9
Subject Zoning Map 10
Subject's Public Record 11
21794 Zip Code Market Statistics 12
Howard County Market Statistics 13
Nixon's Farm Solar Farm 14
Nixon's Farm Solar Farm 15
Nixon's Farm Adjacent Property Map 16
Nixon Farm Solar Panels Distance to 12908 Vistaview Dr 17
Nixon's Farm Photograph Addendum 18
Fox Chase Sale Photograph Addendum 19
Residential Properties with Solar Fields Photograph Addendum 20
Residential Properties with Solar Fields Photograph Addendum 2 21
Supplemental Addendum 22
4111 Wards Chapel Rd Public Record 23
655 Old Westminster Rd Public Record 24
2320 Grapes View Dr Public Record 25
1116 Deer Park Rd Public Record 26
Appraisers Qualifications - Page 1 27
Appraisers Qualifications - Page 2 28
Report Verification 29

Economic Impact Study

File No. 0180267

Owner	Hhk Farms Llc				
Property Address	1139 Monkton Rd				
City	Monkton	County Baltimore	State MD	Zip Code 21111	
Client	One Energy				

SUBJECT INFORMATION:

The subject property is located in the 7th election district. The legal description is as follows: Map 22, Grid 16; Parcel 148, Liber 37926, Folio 11, 08/26/2016. The present owner of Public Record is HHK Farms LLC. The tax account number is 07-0711089075. The site consists of 98.49 acres of land, improved with an 1876 vintage two-story farm house, known as 1139 Monkton Road. The property is located in the RC 2 Zoning designated area of Baltimore County.

Methodology:

1) Evaluation of Typical Valuation Externalities

There are many factors in a general neighborhood environment, which appraisers consider in valuing a residential property. These include positive factors, such as views, parkland, proximity to employment centers and proximity to amenities. Negative external factors, such as noise, hazardous odors, traffic, nuisances and unpleasant views may hurt the value of a home. I have evaluated the current use and the proposed variance to see if any externalities are likely to be present, which may impact values of adjoining properties.

2) Examination of Comparable Situation

Another way to determine the impact of a change on neighboring residential values is to compare the subject's situation to a comparable situation, which has been in place for a number of years to enable an analysis of value trends over time. These value trends are evaluated by comparing arm's-length sale prices for adjoining properties with the neighborhood prices over time.

SCOPE of WORK:

The scope of work in order to accomplish the results of this assignment include the following:

1. Inspection of the subject property from the site and Google aerial photographs.
2. A review of the site plans
3. Review of other ground solar facilities from within the area.
4. Research of the zoning for other solar facilities.
5. Consultation with other solar companies, and owners of other solar properties.
6. Drawn conclusions concerning the subject's impact on the values of adjoining properties.

DESCRIPTION OF IMPROVEMENTS:

The proposed solar farm is located in the central section of the subject's 98.49 acres of land. The property is improved with a 1879 era farm house, which is in poor condition and not occupied. The improvements contain approximately 896 sq. ft. of living area. The property was physically visited by the appraiser on December 6, 2018.

Topography of the overall property is rolling, with the solar farm site sloping from the road grade level downward toward the center of the property. In addition there are several wooded sections surrounding portions of the perimeter, predominately to the south side, creating a good buffer between the properties.

Economic Impact Study File No. 0180267

Owner	Hhk Farms Llc				
Property Address	1139 Monkton Rd				
City	Monkton	County Baltimore	State MD	Zip Code 21111	
Client	One Energy				

ZONING:

The subject is located in the RC 2 (Agricultural) District, as are the adjoining properties.

The following are some principal permitted uses:

Farm, Farmette, Single-Family Detached Dwellings, Farmer's Roadside Stand, Tenant House.

Typical Uses Permitted by Special Exception:

Antique Shop, Animal Boarding Place, Church, Farm Market, Landscape Operation, Agricultural Support Uses and Solar Farms

FACTORS AFFECTING VALUE:

Standard appraisal sources (e.g. Appraising Residential Properties, Fourth Edition, published by the Appraisal Institute, Real Estate Damages Applied Economics and Detrimental Conditions, Second Edition, published by the Appraisal Institute, Applications in Litigation Valuation A Pragmatist's Guide)

Factors to be Evaluated

Relevant to this case, I have evaluated the proposed conditional use to see if any externalities are likely to be present or have been present, which might possibly impact values of adjoining residential properties.

- **Noise** - I have found that the proposed use, which is being asked for in this case will not generate any noise greater than a typical agricultural and residential use.
- **Hazards/Odors** - I have found there are no odors nor potential hazards with running a solar farm.
- **Nuisance Behavior** - I have found based on my site visit and conversations with the owner there is no nuisance behavior, nor any nuisance behavior anticipated with the approval of a solar farm.
- **Traffic** - I have found based on conversation with the solar company, as well as, my personal experience determined the use would not create any increased traffic than a typical agricultural use.
- **Visual** - I have found the proposed use/existing use has limited to no visual impact on the surrounding properties, due to the existing topography, screening, distance and proposed landscaped buffer.

CONCLUSION:

I have found that the current use/prior use/proposed use will NOT have a negative influence on values of adjoining properties. As best I can determine, the typical negative externalities (noise, hazards, odors, nuisance behavior, traffic and visual) which I have identified will be non-existent regarding a solar farm/solar facility.

Economic Impact Study File No. 0180267

Owner	Hhk Farms Llc				
Property Address	1139 Monkton Rd				
City	Monkton	County Baltimore	State MD	Zip Code 21111	
Client	One Energy				

COMPARABLE SITUATION:

I have researched the Baltimore County area, as well as, surrounding counties, for similar solar farms within the agricultural zoning district, in an effort to determine the likely impact the property will have on surrounding residential property values.

In doing so I was able to locate the following solar farm within the agricultural zoning district:

2800 Nixon's Farm Lane, West Friendship, Howard County, MD 21794

The property located at 2800 Nixon's Farm Lane, is considered most similar to the subject site, as it is within close proximity, surrounded by similar properties and in a similar location, with similar equipment.

This is a project by Bithenergy situated on 67 acres and includes a "10MWAC solar photovoltaic facility and a Hybrid Renewable Energy System (HRES) training facility dedicated specifically to green technology training for youths and veterans."

In researching this property we were able to find five sales in the adjacent Fox Chase Estates development, which is located approximately 600' from the solar farm. The following is a list of the properties:

	Sales Price	Sale Date	Lot Size	Living Area	Days on Market	Price/Sq. Ft. Living Area
12905 Vistaview Drive	$771,500	5/31/2013	0.92 Acre	4,198 sf	14	$183.78
12908 Vistaview Drive	$800,000	8/4/2014	0.92 Acre	4,562 sf	82	$175.36
12913 Vistaview Drive	$971,000	8/9/2014	0.99 Acre	4,914 sf	25	$197.60
12909 Vistaview Drive	$775,000	9/12/2014	0.92 Acre	2,692 sf	18	$287.89
12909 Vistaview Drive	$804,000	3/14/2017	.092 Acre	2,692 sf	61	$298.66

All of the properties were arms length transactions with conventional financing, with the exception of the second sale of 12909 Vistaview Drive, which transferred with VA financing.

For comparison to determine any impact on value, the three properties which transferred in 2014 were used.

The three properties market statistics compared to the overall market as follows:

	Average Sale Price	Median Sales Price	Average Days on Market	Median Days on Market
Fox Chase Estates 2014 Sale Statistics	$848,667	$800,000	42	25
21794 Zip Code Statistics 2014	$654,430	$650,000	70	39
Howard County Market Statistics 2014	$431,300	$389,945	58	Not Provided

Economic Impact Study File No. 0180267

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						

The sales neighborhood was compared to the zip code statistics, which included 22 sales from the area and the entire Howard County market for 2014.

The above statistics indicate the adjacent properties sold above the average and median sale prices for the zip code, as well as, the Howard County market area. In addition the average and median days on market were below the zip code and Howard County market. Therefore, since the homes which sold in the Fox Chase Estates Subdivision(within 600+/- feet of solar panels) sold above the median and sales prices of the market area and below the average and median days on market there is no detrimental affect on value or marketability.

Furthermore, the sale of 12905 Vistaview Drive occurred in May of 2013, shortly after construction on the solar farm began, which was September 2012. The property sold in 14 day, indicating no effect on the marketability. 12909 Vistaview sold in September of 2014 for $775,000, the full asking price in 18 days on the market. The property then resold in March of 2017 for $804,000. The property was listed for $800,000, therefore, selling above the asking price in 61 days. This further indicates no detrimental effect on value or marketability adjacent to the commercial solar farm.

CONCLUSION:

Based on the above research and analysis we were able to conclude that there was no external obsolescence or negative impact the solar farm had on neighboring properties.

SUMMARY AND CONCLUSIONS:

I have found the proposed solar farm does not have a negative influence on residential property values or marketability of surrounding properties for the following reasons:

- The site is screened with an existing buffer of foliage, sloping topography and the proposed landscaping will further supplement the existing buffers, obscuring the solar farm from the view of most neighboring properties. In addition its distance from neighboring properties creates a natural distance buffer.
- Neighborhood Environment - The subject's immediate environment is predominately residential and agricultural in character. A solar farm is not dis-similar from a typical agricultural use, such a dairy, hog or beef cattle operation and would fit the conformity to the neighborhood.
- Negative Externalities -

    1) Noise
    2) Hazards
    3) Odors
    4) Nuisance Behavior
    5) Traffic

All of these items, which typically affect property values have not been found to be present on the subject's site, subsequent to the proposed use.

Based on the above observations and analysis, I have found that the proposed solar farm located at 1139 Monkton Road, does NOT have a negative influence on property values for adjoining residential and agricultural properties.

Respectfully Submitted,

David Straitman, SRA

Serial# 55C69553
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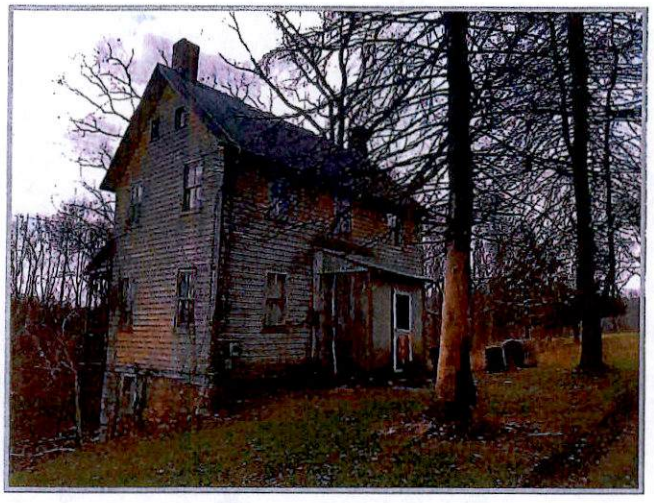
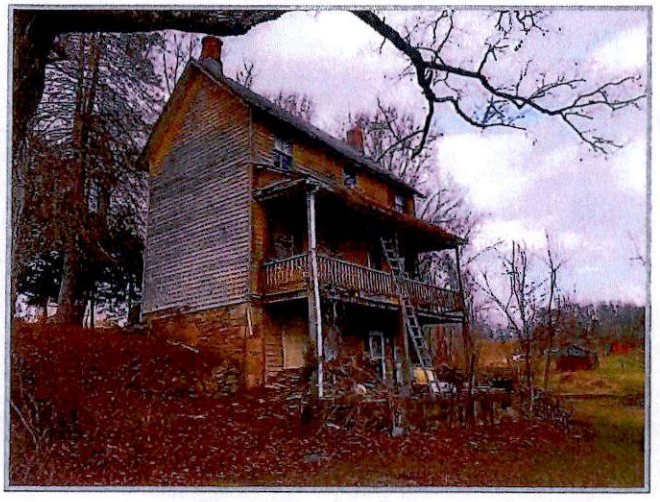
Photograph Addendum

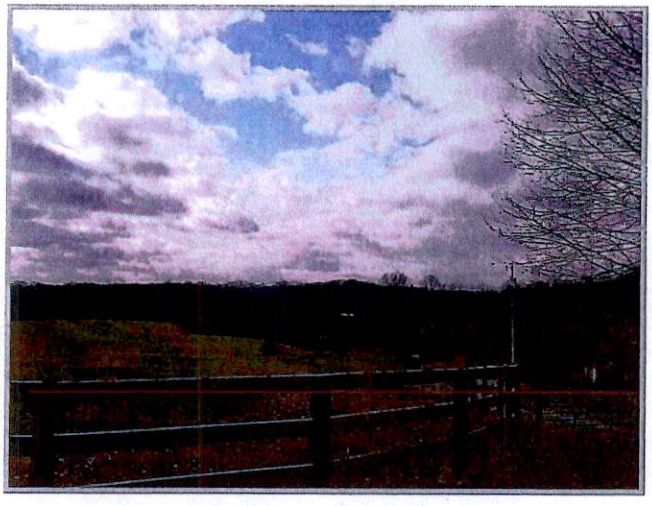
Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						



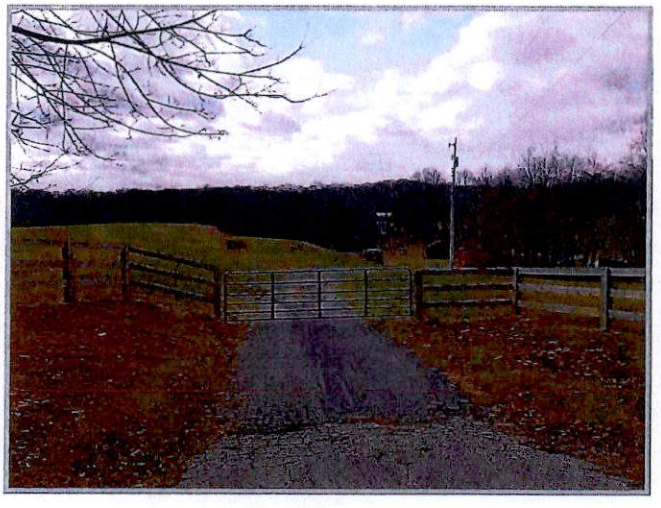
Front of Residence



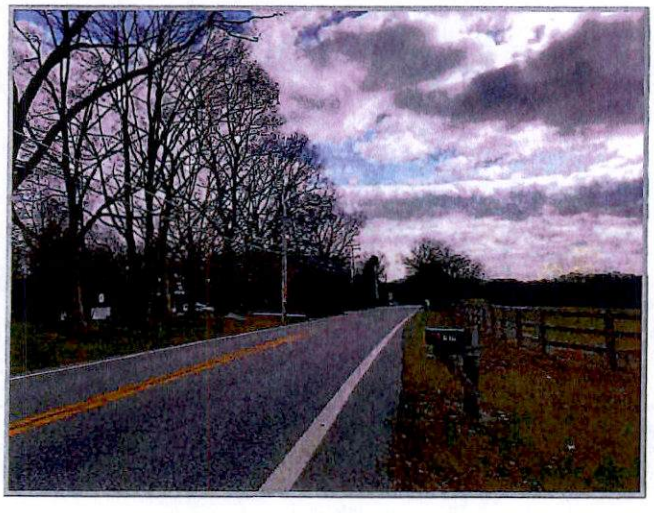
Rear of Residence



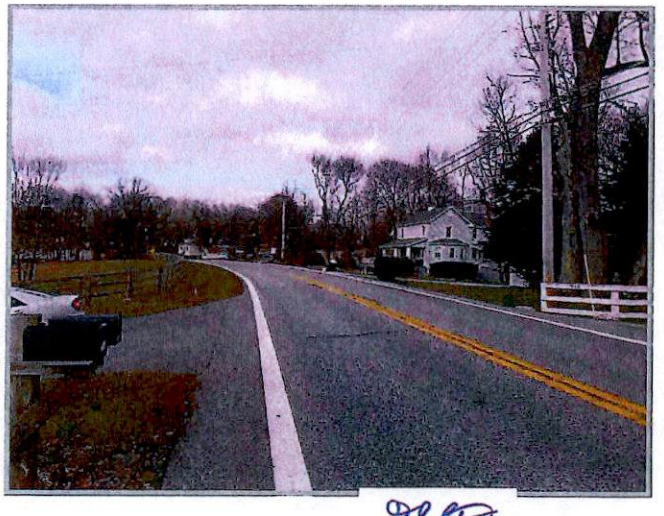
View from Monkton Road



Driveway Entrance



Street Facing East



Street Facin

Serial# 55C69553
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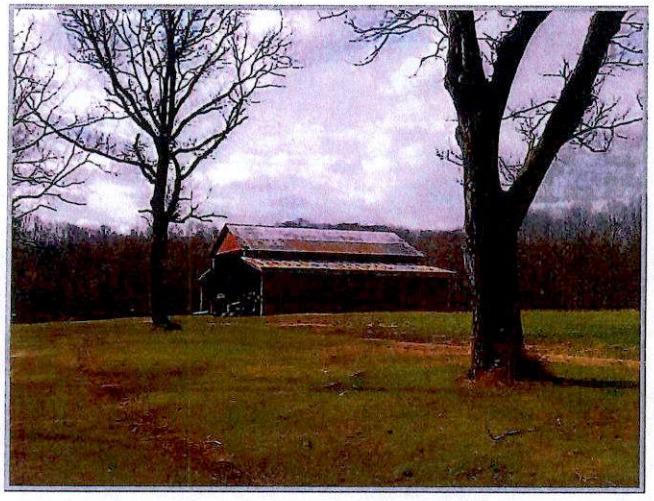
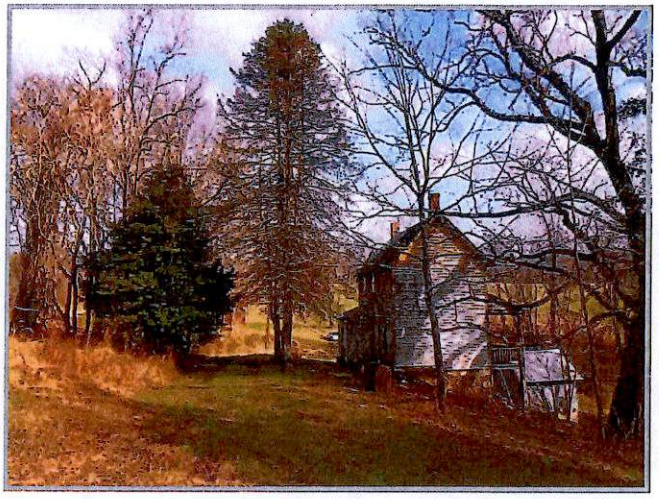
Photograph Addendum

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						



Machine Shed (Outbuilding)



View Toward Monkton Road

View Toward Monkton Road Northeast Direction

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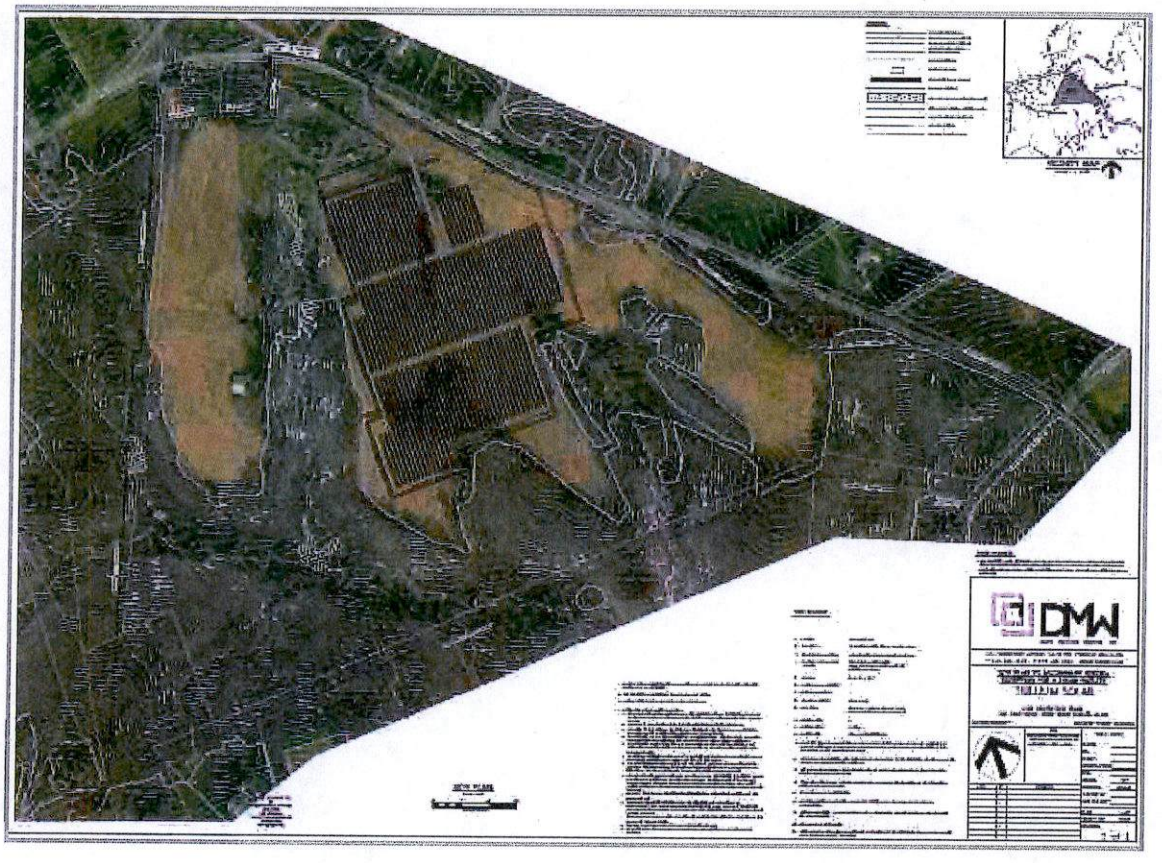
Proposed Solar Panel Area



Aerial Map

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						

Serial# 55C69553
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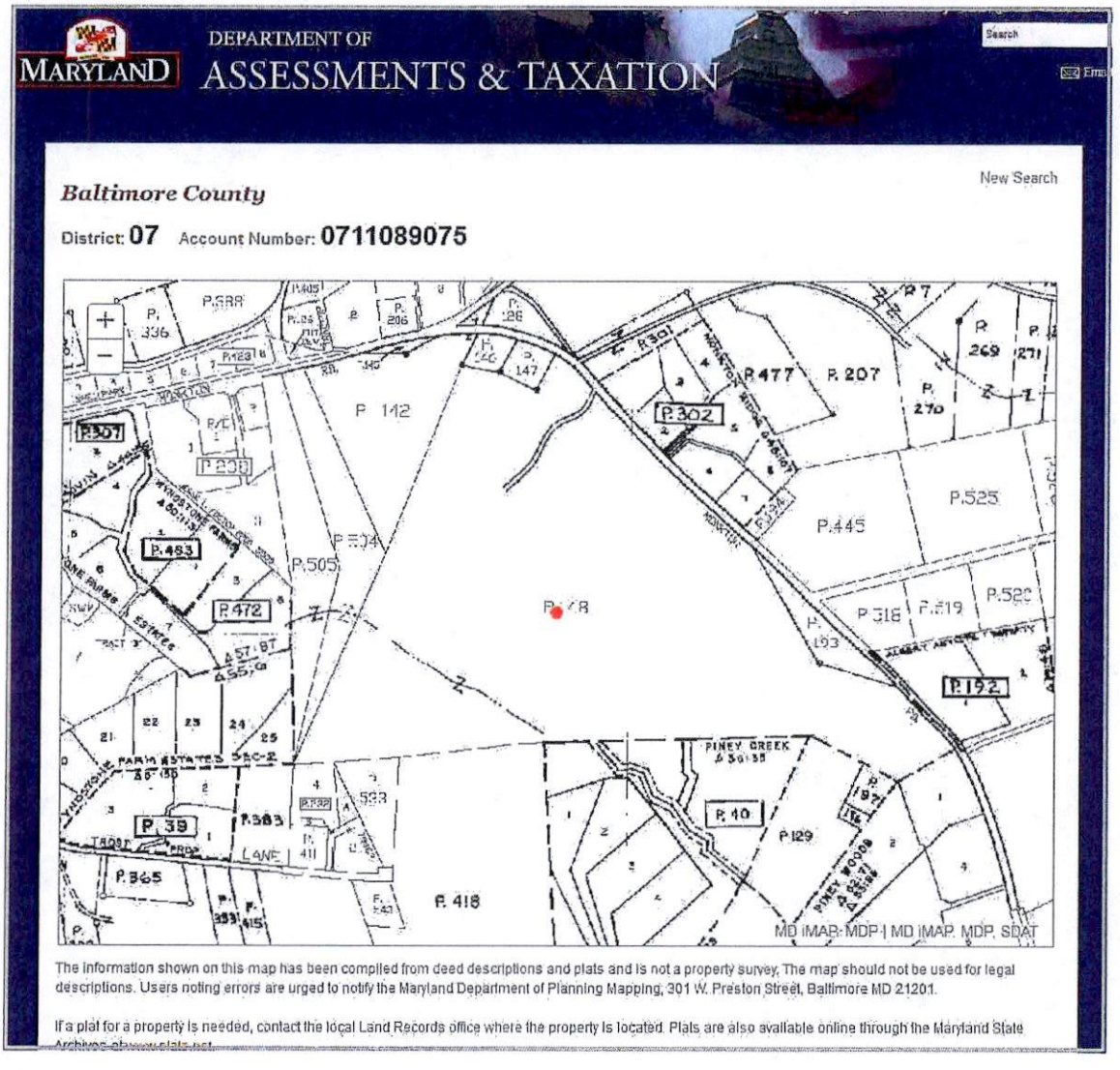
Parcel Map



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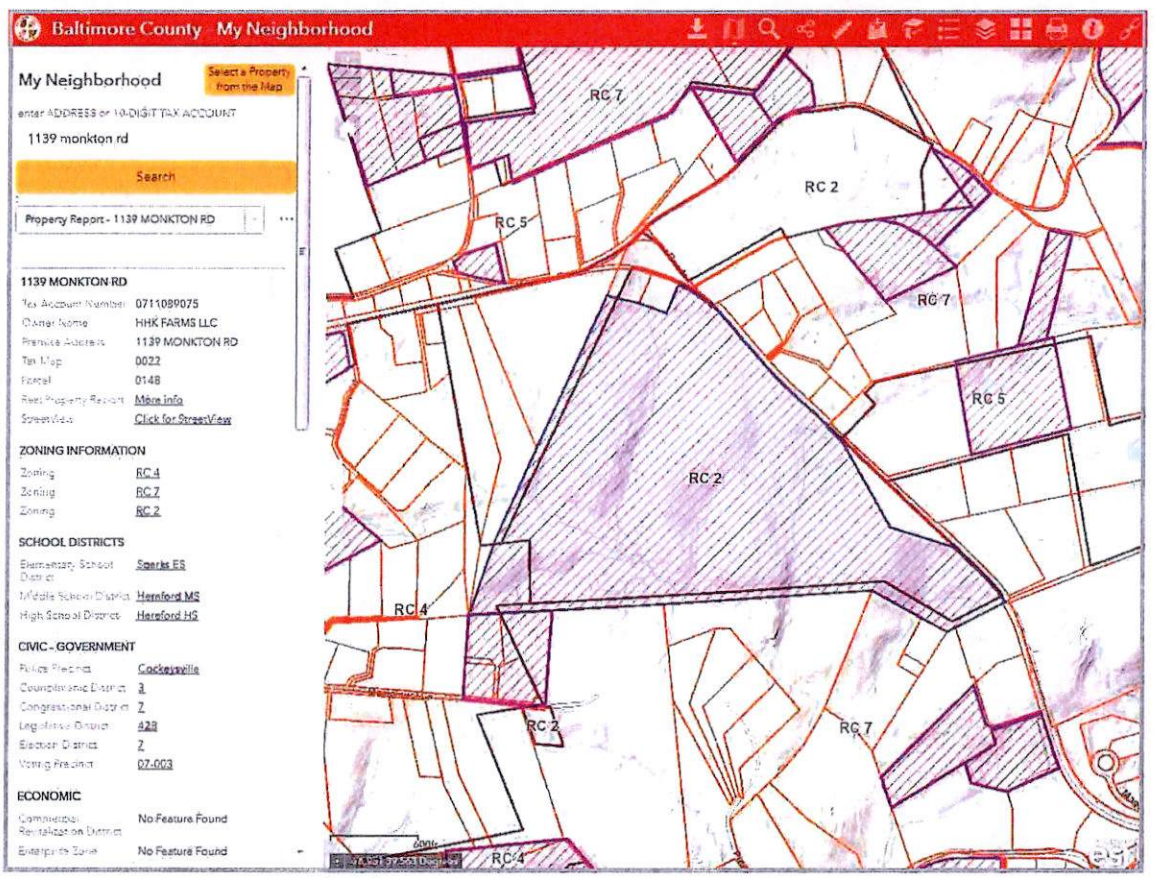
Subject Zoning Map



Serial# 55C69553
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Subject's Public Record

SDAT: Real Property Search http://sdat.dat.maryland.gov/RealProperty/Pages/default.aspx

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: **Special Tax Recapture:**
Exempt Class: AGRICULTURAL TRANSFER TAX

Account Identifier: District - 07 Account Number - 0711089075

Owner Information

Owner Name:	HHK FARMS LLC	**Use:**	AGRICULTURAL
		Principal Residence:	NO
Mailing Address:	25 WOODSVIEW DRIVE RED LION PA 17356-	**Deed Reference:**	/37926/ 00011

Location & Structure Information

Premises Address:	1139 MONKTON RD MONKTON 21111-1106	**Legal Description:**	98.491 AC SWS MONKTON RD 650FT SE BLUEMOUNT RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0022	0016	0148		0000				2017	Plat Ref:

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1878	896 SF		98.4900 AC	05

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	FRAME	1 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2018	As of 07/01/2019
Land:	138,300	138,300		
Improvements	47,900	68,000		
Total:	186,200	206,300	199,600	206,300
Preferential Land:	21,300			21,300

Transfer Information

Seller: HERMAN KUPISCH, JR	**Date:** 08/26/2016	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /37926/ 00011	**Deed2:**
Seller: KUPISCH HERMAN	**Date:** 06/21/2012	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /32224/ 00124	**Deed2:**
Seller: KUPISCH HERMAN A G USE 83-84	**Date:** 10/10/1984	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /06803/ 00204	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2018	07/01/2019
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Serial# 55C69553
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21794 Zip Code Market Statistics

Residential Stats - Analysis Report

MRIS Real Estate in Real Time

17-Jul-2018 2:53:47PM
Page 1 of 1

SOLD **22 LISTINGS**

	Price when initially entered					Price at time of sale							
	Sold Price	Subsidy	Net Price	Orig. Price	% Of	Sold Price	Subsidy	Net Price	List Price	% Of	DOMM	DOMP	Age
Low	$220,000	$0	$220,000	$149,900	77.99	$220,000	$0	$220,000	$149,900	77.99	0	0	4
High	$1,100,000	$22,500	$1,100,000	$1,175,000	146.76	$1,100,000	$22,500	$1,100,000	$1,100,000	146.76	332	444	119
Median	$650,000	$0	$650,000	$687,450	94.17	$650,000	$0	$650,000	$680,000	96.50	39	42	23
Average	$654,430	$3,498	$650,932	$696,567	94.76	$654,430	$3,498	$650,932	$676,321	97.78	70	114	36

Report Totals **Properties: 22**

	List Price:	Orig. List Price:	% of:	Sold Price:	Subsidy:	Net Price:	DOMM:	DOMP:	Age:
Low	$149,900	$149,900	77.99	$220,000	$0	$220,000	0	0	4
High	$1,100,000	$1,175,000	146.76	$1,100,000	$22,500	$1,100,000	332	444	119
Median	$680,000	$687,450	94.17	$650,000	$0	$650,000	39	42	23
Average	$676,321	$696,567	94.76	$654,430	$3,498	$650,932	70	114	36

Copyright (c) 2018 Metropolitan Regional Information Systems, Inc.
Information is believed to be accurate, but should not be relied upon without verification.
Accuracy of square footage, lot size, schools, and other information is not guaranteed.

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Howard County Market Statistics

Market Statistics – Detailed Report

SmartCharts

2014
Howard County, MD

Sold Summary

	2014	2013	% Change
Sold Dollar Volume	$1,497,474,759	$1,460,374,125	2.54%
Avg Sold Price	$431,300	$419,407	2.84%
Median Sold Price	$389,945	$385,000	1.28%
Units Sold	3,472	3,482	-0.29%
Avg Days on Market	58	55	5.45%
Avg List Price for Solds	$439,516	$426,092	3.15%
Avg SP to OLP Ratio	96.3%	97.1%	-0.77%
Ratio of Avg SP to Avg OLP	95.8%	96.7%	-0.86%
Attached Avg Sold Price	$299,780	$291,187	2.95%
Detached Avg Sold Price	$531,341	$519,907	2.20%
Attached Units Sold	1,500	1,530	-1.96%
Detached Units Sold	1,972	1,952	1.02%

Financing (Sold)

Assumption	1
Cash	456
Conventional	2,260
FHA	365
Other	83
Owner	4
VA	275

Days on Market (Sold)

0	142
1 to 10	814
11 to 20	437
21 to 30	320
31 to 60	646
61 to 90	394
91 to 120	262
121 to 180	247
181 to 360	175
361 to 720	30
721+	5

Notes:
- SP = Sold Price
- OLP = Original List Price
- LP = List Price (at time of sale)
- Garage/Parking Spaces are not included in Detached/Attached section totals.

Sold Detail

	Residential						Condo/Coop
	2 or Less BR		3 BR		4 or More BR		All
Price Ranges	Detached	Attached/TH	Detached	Attached/TH	Detached	Attached/TH	Attached
< $50,000	1	0	1	0	0	0	1
$50K to $99,999	3	0	5	0	0	0	36
$100K to $149,999	4	0	3	3	4	1	67
$150K to $199,999	4	9	17	30	2	2	111
$200K to $299,999	18	38	69	253	48	44	221
$300K to $399,999	8	2	185	216	198	77	120
$400K to $499,999	2	0	118	97	328	16	68
$500K to $599,999	3	0	24	37	322	13	20
$600K to $799,999	0	0	12	3	410	13	0
$800K to $999,999	0	0	1	0	126	1	0
$1M to $2,499,999	0	0	0	0	54	1	0
$2.5M to $4,999,999	0	0	0	0	2	0	0
$5,000,000+	0	0	0	0	0	0	0
Total	43	49	435	639	1,494	168	644
Avg Sold Price	$261,822	$238,470	$367,499	$327,501	$586,803	$369,674	$258,706
Prev Year - Avg Sold Price	$280,073	$245,583	$365,188	$311,402	$571,099	$354,041	$256,919
Avg Sold % Change	-6.52%	-2.90%	0.63%	5.17%	2.75%	4.42%	0.70%
Prev Year - # of Solds	37	66	433	632	1,482	193	639

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Data Source: MRIS. Statistics calculated January 06, 2018

MarketStats

Nixon Farms Solar

Nixon Farms Solar - Howard County, MD

BITHENERGY is developing a renewable energy project in Howard County, Maryland on 67 acres, known to many as Nixon Farms. This solar array is expected to be the largest in Maryland. The project includes a 10MWAC solar photovoltaic facility and a Hybrid Renewable Energy System (HRES) training facility dedicated specifically to green technology training for youths and veterans. By providing this green training we will encourage a low carbon economy, and prepare an emerging workforce for green jobs across a portfolio of diverse renewable energy technologies like wind, solar (PV and thermal), biomass, bio-gas, and geothermal technologies.

The facility will be developed as an integrated project with separate financing and ownership agreements. Additionally, the Nixon Farm HRES™ will create approximately 400-500 green construction jobs and 37 permanent positions once all phases have been completed. Solar PV generation is the most advanced component of the Nixon Farm HRES™. By fully utilizing both federal and state incentives associated with the project, the BITHENERGY team will site, permit, develop, design, finance and construct this state of the art facility. The terms of the Power Purchase Agreement (PPA) will be host-specific, and the solar design will be fully optimized for this Howard County location and its associated solar irradiance. Grid interconnection is underway and construction began Summer, 2012.

Nixon's Farm Solar Farm

Bithenergy

HOME + ABOUT + RENEWABLE ENERGY SYSTEMS + ENERGY SERVICES NEWS BLOG CONTACT + ENGAGE OUR SERVICES

Serial# 55C69553
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Nixon's Farm Adjacent Property Map

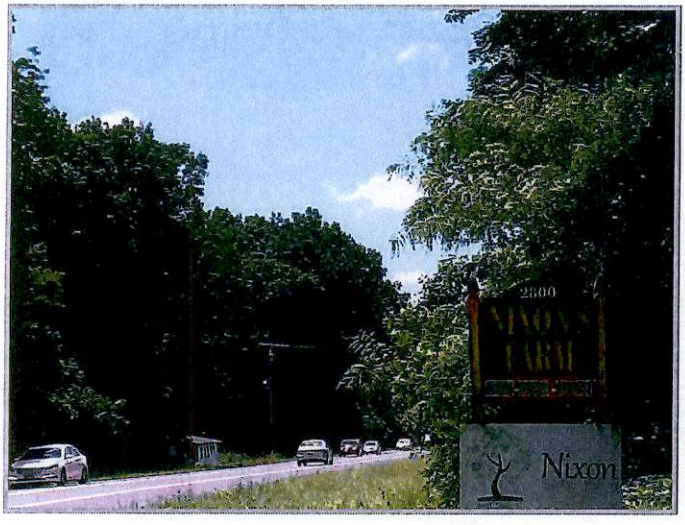
Serial# 55C69553
suredocs.com/validate

Nixon Farm Solar Panels Distance to 12908 Vistaview Dr (627 Feet)

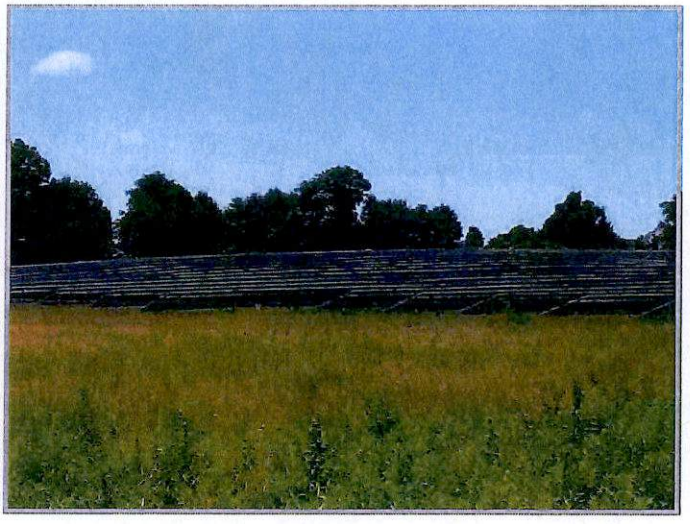
Serial# 55C69553
suredocs.com/validate

Nixon's Farm Photograph Addendum

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						



Route 32 Entrance and Signage



Solar Farm

Solar Farm

Solar Farm

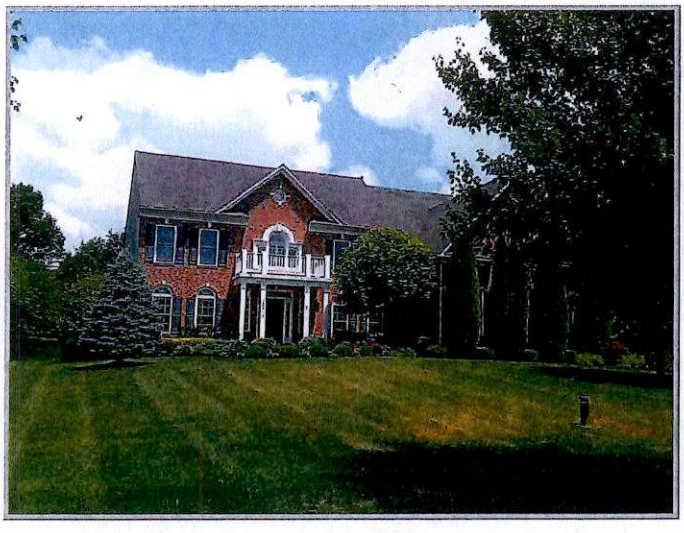
Serial# 55C69553
suredocs.com/validate

Fox Chase Sale Photograph Addendum

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						

12905 Vistaview Drive

12909 Vistaview Drive



12913 Vistaview Drive

12908 Vistaview Drive

Serial# 55C69553
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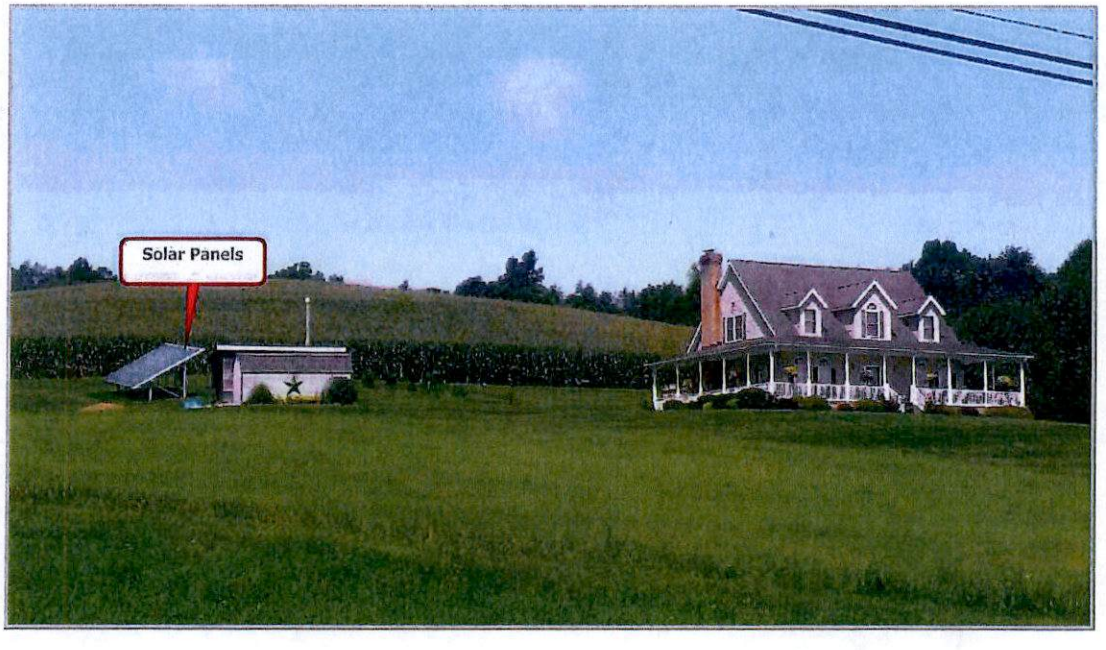
Residential Properties with Solar Fields Photograph Addendum

4111 Wards Chapel Road, Marriottsville, Baltimore County, MD 21104



655 Old Westminster Road

Serial# 55C69553
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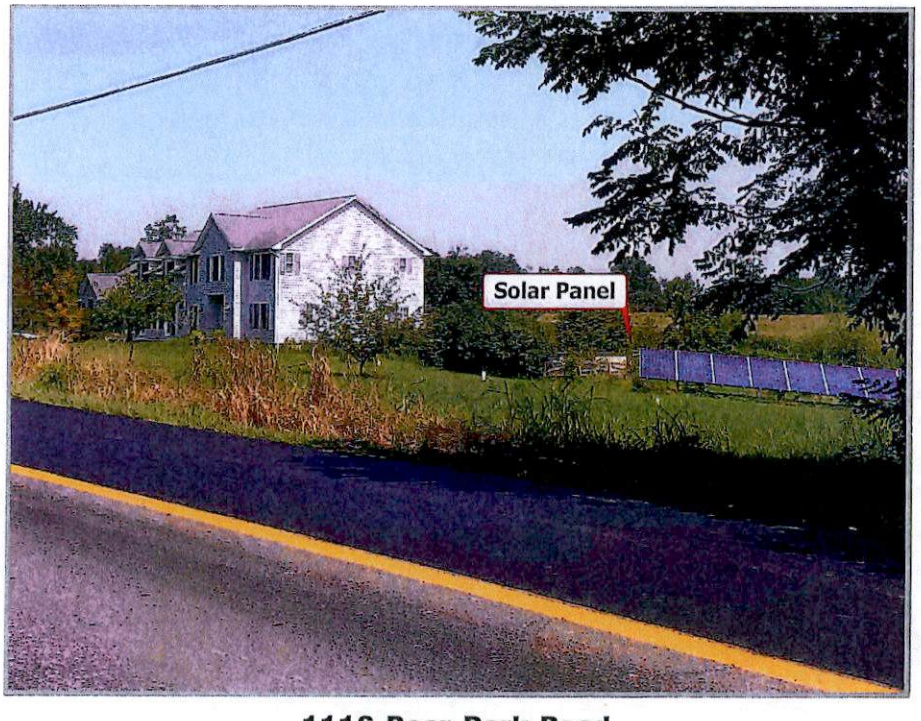
Residential Properties with Solar Fields Photograph Addendum 2

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						

2320 Grapes View Ct



1116 Deer Park Road

Supplemental Addendum

File No. 0180267

Owner	Hhk Farms Llc						
Property Address	1139 Monkton Rd						
City	Monkton	County	Baltimore	State	MD	Zip Code	21111
Client	One Energy						

Market Analysis and Owner Behavior:

As the market is changing toward green energy, energy efficiency and independence, we have found four properties, which the owners have voluntarily installed ground mount solar panels adjacent to their homes. Of the four properties, one is located in Baltimore County and the other three are located in Carroll County. Their public record assessment sheets have been attached on the following pages, however, have been summarized below:

1) 4111 Wards Chapel Road, Marriottsville, Baltimore County Maryland, 21104

Assessed Value = $357,400

2) 655 Old Westminster Road, Westminster, Carroll County Maryland, 21157

Assessed Value = $388,600

3) 2320 Grapes View Court, New Windsor, Carroll County, MD, 21776

Assessed Value = $599,300

4) 1116 Deer Park Road, Westminster, Carroll County, MD 21157

Assessed Value = $575,500

As evidenced by the above four properties, these homeowners, have voluntarily installed ground mount solar panes within close proximity to their residential dwellings. These panels are in plain view from the subject, as well as, neighboring properties. It is implied the owners were not concerned with the look and view of the panels. Solar panels are becoming more acceptable to the marketplace, as the desire for green energy increases and becomes more common. We have all seen this throughout the real estate market by the increasing number of solar panels located in the community, which include both roof and ground mount systems.

4111 Wards Chapel Rd Public Record

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: | **Special Tax Recapture:**
Exempt Class: | AGRICULTURAL TRANSFER TAX

Account Identifier: District - 02 Account Number - 2400004556

Owner Information

Owner Name:	LAW SCOTT LAW JUDITH K	**Use:**	AGRICULTURAL
		Principal Residence:	YES
Mailing Address:	4111 WARDS CHAPEL RD MARRIOTTSVILLE MD 21104-1207	**Deed Reference:**	/23802/ 00568

Location & Structure Information

Premises Address:	4111 WARDS CHAPEL RD 0-0000	**Legal Description:**	11.3527 AC 4111 WARDS CHAPEL RD 3400 FT S LIBERTY RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	MS
0066	0019	0684		0000			1	2019	Plat Ref:	

Special Tax Areas: | **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2006	3,282 SF		11.3500 AC	05

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	SIDING	4 full/ 1 half	1 Attached	2006

Value Information

	Base Value	Value As of 01/01/2016	Phase-in Assessments As of 07/01/2018	As of 07/01/2019
Land:	88,100	88,100		
Improvements:	269,300	269,300		
Total:	357,400	357,400	357,400	
Preferential Land:	1,900			

Transfer Information

Seller: FITCH RICHARD	**Date:** 05/09/2006	**Price:** $327,500
Type: ARMS LENGTH IMPROVED	**Deed1:** /23802/ 00568	**Deed2:**
Seller: FEEZER JOHN F JR TRUSTEE	**Date:** 11/28/2003	**Price:** $200,000
Type: ARMS LENGTH VACANT	**Deed1:** /19221/ 00693	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2018	07/01/2019
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

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655 Old Westminster Rd Public Record

Real Property Data Search

Search Result for CARROLL COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: **Special Tax Recapture:**
Exempt Class: AGRICULTURAL TRANSFER TAX

Account Identifier: District - 07 Account Number - 143966

Owner Information

Owner Name:	ROOP DANIEL E JR CROWL ANNA M	**Use:** **Principal Residence:**	AGRICULTURAL YES
Mailing Address:	655 OLD WESTMINSTER RD WESTMINSTER MD 21157-7744	**Deed Reference:**	/07194/ 00473

Location & Structure Information

Premises Address:	655 OLD WESTMINSTER RD WESTMINSTER 21157-7744	**Legal Description:**	OFF CONV #2-6.34 AC OLD WESTMINSTER RD W/S OF RIDGE RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0045	0023	0719		0000			CONV2	2018	

Plat Ref:

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2001	2,663 SF		6.3400 AC	000000

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
1 1/2	YES	STANDARD UNIT	SIDING	3 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2018	Phase-in Assessments As of 07/01/2018	As of 07/01/2019
Land:	130,900	130,900		
Improvements	227,100	257,700		
Total:	358,000	388,600	383,200	378,400
Preferential Land:	900			900

Transfer Information

Seller: ROOP DANIEL E JR	**Date:** 01/23/2013	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /07194/ 00473	**Deed2:**
Seller: ROOP DANIEL E JR	**Date:** 01/23/2013	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /07194/ 00467	**Deed2:**
Seller: ROOP DANIEL E JR	**Date:** 02/28/2008	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /05468/ 00380	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2018	07/01/2019
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: AGRICULTURAL TRANSFER TAX

Homestead Application Information

Serial# 55C69553
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2320 Grapes View Dr Public Record

Real Property Data Search

Search Result for CARROLL COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: | **Special Tax Recapture:**
Exempt Class: NONE

Account Identifier: District - 09 Account Number - 027998

Owner Information

Owner Name:	MACARI LAUREN MACARI PAUL	**Use:** **Principal Residence:**	RESIDENTIAL YES
Mailing Address:	2320 GRAPES VIEW DR NEW WINDSOR MD 21776-8510	**Deed Reference:**	/09003/ 00407

Location & Structure Information

Premises Address:	2320 GRAPES VIEW DR NEW WINDSOR 21776-8510	**Legal Description:**	LT - 3.21 ACS 2320 GRAPES VIEW DR W/S RIDGE RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0057	0002	0398		0000				2019	Plat Ref:

Special Tax Areas: | **Town:** NONE | **Ad Valorem:** | **Tax Class:**

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2004	4,633 SF	1800 SF	3.2100 AC	

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	SIDING	4 full	1 Attached	

Value Information

	Base Value	Value As of 01/01/2016	Phase-in Assessments As of 07/01/2018	As of 07/01/2019
Land:	161,000	161,000		
Improvements	438,300	438,300		
Total:	599,300	599,300	599,300	
Preferential Land:	0			

Transfer Information

Seller: PAIGE JOSEPH D JR	**Date:** 05/03/2018	**Price:** $595,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /09003/ 00407	**Deed2:**
Seller: CHRISTIAN HOMES & BUILDING	**Date:** 09/07/2004	**Price:** $667,480
Type: ARMS LENGTH IMPROVED	**Deed1:** /04132/ 00034	**Deed2:**
Seller: GRAPE RICHARD LLOYD	**Date:** 12/23/2003	**Price:** $195,000
Type: ARMS LENGTH VACANT	**Deed1:** /03793/ 00022	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2018	07/01/2019
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Serial# 55C69553
suredocs.com/validate

1116 Deer Park Rd Public Record

Real Property Data Search

Search Result for CARROLL COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: **Special Tax Recapture:**

Exempt Class: NONE

Account Identifier: District - 04 Account Number - 076737

Owner Information

Owner Name:	SPECK WALTER G SPECK KAREN B	**Use:** **Principal Residence:**	RESIDENTIAL YES
Mailing Address:	1116 DEER PARK RD WESTMINSTER MD 21157-8324	**Deed Reference:**	/02956/ 00629

Location & Structure Information

Premises Address:	1116 DEER PARK RD WESTMINSTER 21157-8324	**Legal Description:**	3.00 AC NE/S DEER PARK RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0058	0005	0735		0000				2017	Plat Ref:

Special Tax Areas: **Town:** NONE

Ad Valorem:

Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2003	5,355 SF		3.0000 AC	000000

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	SIDING	6 full	1 Attached	

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2018	As of 07/01/2019
Land:	160,000	160,000		
Improvements	422,500	415,500		
Total:	582,500	575,500	575,500	575,500
Preferential Land:	0			0

Transfer Information

Seller: ROSENBERGER JOHN H	**Date:** 07/03/2002	**Price:** $101,000
Type: ARMS LENGTH VACANT	**Deed1:** /02956/ 00629	**Deed2:**
Seller: ROSENBERGER	**Date:** 07/02/2001	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /00151/ 00521	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2018	07/01/2019
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt: **Special Tax Recapture:**

Exempt Class: NONE

Appraisers Qualifications - Page 1

David Straitman, SRA
2401 Cross Section Road
Westminster, MD 21158
410-848-4833

Certified Residential Real Estate Appraiser
Maryland License #03-20003
Pennsylvania Certified #RL139103

Licensed Real Estate Appraiser with experience in appraising all types of residential properties in the Maryland and Pennsylvania areas, as well as, small commercial properties in Maryland.

BUSINESS AND PROFESSIONAL EXPERIENCE:

Responsible for the research and preparation of appraisal reports and appraisal reviews. Appraisal assignments include: Residential, Single Family, Multi-Family, Condominium properties and Litigation Support, Small Commercial Properties. *Qualified in U.S. District Court, Anne Arundel County, Baltimore City and County, Carroll County, Frederick County Prince George's County, Howard County and York County Circuit Courts as an Expert, as well as, Carroll County Board of Zoning.*

Avalon Appraisers, LLC 2401 Cross Section Road Westminster, MD 21158	October 2003 to Present
Appraisers, Analysts and Advisors, Inc. AAA Appraisers 17 Warren Road, Suite 21A Baltimore, MD 21208	July 1993 to October 2003

EDUCATION:

B.S. Business Administration, Towson University, Major: Finance and Economics	January 1990
Designated SRA Member of the Appraisal Institute	**April 2008**

Appraisal Institute Courses:

Basic Appraisal Principles	February 1994
Basic Appraisal Procedures	February 1994
The Appraiser as Expert Witness	December 1995
Case Studies In Residential Highest and Best Use	September 1999
Residential Appraiser's Toolbox: New Tools to Meet Market	September 1999
Uniform Standards of Professional Appraisal Practice	June 1999
International Symposium – The Globalization of Real Estate	September 1999
Case Studies in Residential Highest and Best Use	September 1999
Introduction to Environmental Issues	November 2001
Narrative Report Writing	October 2002
Professional's Guide to the Uniform Residential Appraisal Report	April 2005
FHA and the New Residential Appraisal Forms	March 2006
Evaluating Residential Construction	June 2006
Business Practices and Ethics	June 2006
Valuation of Detrimental Conditions in Real Estate	July 2006
Advanced Residential Applications & Case Study	January 2007
Advanced Residential Report Writing	January 2007
Attacking and Defending an Appraisal in Litigation	July 2007
The New Residential Market Conditions Form	February 2009
Real Estate Finance Statistics and Valuation Modeling	March 2009
7-Hour National USPAP Update Course	February 2012
General Appraiser Sales Comparison Approach	March 2011
General Appraiser Market Analysis and Highest and Best Use	February 2012
General Appraiser Market Site Valuation & Cost Approach	October 2012
General Appraiser Income Approach/Part 1	February 2013
General Appraiser Income Approach/Part 2	May 2013

Appraisers Qualifications - Page 2

General Appraiser Report Writing and Case Studies January 2014
LICENSES:
States of Maryland and Pennsylvania:

MD Certified Residential Real Estate Appraiser #30020003
PA Certified Residential Appraiser #RL139103
FHA Approved Appraiser in MD and PA

Partial List of Appraisal Clients

Southern Trust Mortgage
City of Westminster, MD
Robert Weltchek Esq.
BB&T Wealth Management
Bonnie Butler Esq.
J.P. Morgan Chase
Craig Habicht Esq.
Curtis Coon Esq.
Dawn Nee Esq.
GMAC Mortgage LLC
Adams County National Bank
PNC Bank
Michelle Ostrander Esq.
Debra Thomas Esq.
Presidential Bank
Stacie Dowling Esq.
Suellen Poland Esq.
Capital One Bank
Isaac Meinasche Esq.
David Bowersox, Esq.
Bay Bank
Damian Halstad
Weisse Miller Law Offices
George Mason Mortgage
Carroll County Economic Development
Farmers and Merchants Bank

Report Verification

This appraisal report has been electronically signed. It is as valid and legally enforceable as a wet ink signature on paper. In addition, advanced third party identify verification from Equifax has been used to ensure that the appraiser signing this report is really who they say they are. You can also verify that the salient data points of the report have not been altered in any way.

To verify the integrity of this document:

1. Visit esign.alamode.com/verify
2. Enter the Serial Number and Signer Name for this document listed below and click Verify.
3. A verification report will be generated showing the profile of the appraiser(s) who signed the report, the date and time the signature were applied, and the salient data from the report at the time of signing.
4. Verify the salient data matches the data in this report to quickly reveal if any tampering has taken place.
5. Optionally, upload the PDF version of this report to confirm it exactly matches the report when it was signed.

The report below is an example of what you would see when verifying the report.

Salient Data:

Date of Sale:	Condition:
Borrower:	Total Rooms:
Lender: One Energy	Bedrooms:
Size (Sq.Ft):	Baths:
Price Per Square Foot:	Appraiser: David Straitman, SRA
Location:	Effective Date of Value ('as of'):
Age:	Final Opinion of Value:

Signer 1:

David Straitman, SRA
2401 Cross Section Rd, Westminster, MD 21158-2611

Signature:
Serial #: 55C69553
Date Signed: 12/12/2018

Signer 2:

Signature:
Serial #:
Date Signed:

Form SDVERIFY2 - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Serial# 55C69553
suredocs.com/validate

Zoning Review
Department of Permits, Approvals and Inspections
Baltimore County Office Building
Towson, MD 21204

ZONING CHECKLIST

PART I: NON-RESIDENTIAL BUILDING PERMITS AND/OR PART II: ZONING PUBLIC HEARING APPLICATIONS

Please be aware that this checklist is for your information only and **it is not intended to offer, or to be considered, legal advice.**

Revised 3/28/18

This checklist is a guide in preparing plans and information for building permit (PART I) and/or zoning public hearing (PARTS I and II) applications. Ten (10) copies of the site plan must accompany an application for a building permit, while for zoning hearings twelve (12), or fourteen (14) if in or near a floodplain, are needed. TO AVOID TIME-CONSUMING AND COSTLY DELAYS, ALL CHECKLIST INFORMATION MUST BE INCLUDED ON THE PLAN AND/OR IN THE HEARING APPLICATION.

1. ____ NORTH ARROW, ELECTION DISTRICT, COUNTY COUNCIL DISTRICT, ZONING MAP NUMBER(S) AND TITLE PLAN "PLAN TO ACCOMPANY _____ PERMIT", (OR HEARING TYPE(S) AS APPLICABLE) AND THE DATE. **Zoning Hearing Plans and Descriptions must be sealed by a MD registered Professional Engineer, Surveyor or Landscape Architect.**

2. ____ SCALE OF DRAWING: Use Engineers Scale of 1" = 10', 1" = 20', 1" = 30', 1" = 40', 1" = 50', or 1" = 60'. If acreage exceeds 40 acres, use 1" = 100' scale.

3. ____ OUTLINE OF PROPERTY: Indicated by a **heavy bold line** and bearings, distances, gross and net area (acres and square feet) of parcel(s). This also applies to zoning hearing areas on the site with the POB and intersecting street name and distance shown and matching the sealed zoning description(s) required for all zoning hearing applications.

4. ____ VICINITY MAP: A vicinity map must be included on all site plans with the scales of 1" = 200', 1" = 500', or 1" = 1,000' WITH THE SITE AND HEARING LOCATIONS CLEARLY AND ACCURATELY OUTLINED AND LABELED.

5. ____ PREVIOUS COMMERCIAL PERMIT: Number(s) and the work on the same property and the approximate date of the last improvement listed on the plan or if very old, age of building and parking spaces.

6. ____ ZONING HEARINGS, CRG, DRC, WAIVERS: The case number(s), date of the order(s), what was granted or denied, and any restrictions must be listed and addressed in detail on the plan.List any CRG, DRC, or waiver approval dates and file numbers and dates on the plan, along with the type granted. Also reference any authorized changes on a previously approved plan. State if or not the property is under active zoning violation(s), state the reason for citation, and add the case number and the inspectors name.

PETITIONER'S EXHIBIT 20

7. ____ ZONING: Zone lines on and adjacent to the site must be clearly shown and labeled on the plan. Copies of the GIS zoning map may be obtained from PAI, room 111, County Office Building.

8. ____ OWNERSHIP: Of parcel(s) and relation of parcel(s) to adjacent property including tax account number (10 digits), deed reference numbers, lot numbers, and subdivision name.

9. ____ LOCATION: Street address and name of adjoining street(s) and distance from property corner to the nearest intersecting public street centerline. For hearing plans, match it to zoning description.

10. ____ STREETS, WIDENING, RIGHT-OF-WAY, EASEMENTS: Include all existing public boundary streets with the existing right-of-way width and paving width. ALSO INCLUDE ANY RIGHT-OF-WAY WIDENING REQUIRED, EITHER BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS OR THE STATE OF MARYLAND. Include any existing or proposed easements or right(s)-of-way and indicate public or private. (For Baltimore County roads, Room 200 and Room 206, County Office Building; State Highways: phone number 410-545-5600.)

11. ____ USES, BUILDINGS: Existing location and proposed use of all buildings (or additions) and property, show building locations, orientations and uses on adjacent properties. Note height and number of stories.

12. ____ DIMENSIONS, SETBACKS: Dimensions and orientation of buildings and setbacks from property lines, include all setbacks between buildings.

13. ____ STREET SETBACKS: And use of all permanent commercial buildings within 100 feet of each side property line to establish average street setbacks an BL, BM, and BR zones per Section 303.2, BCZR, and Policy 3-2.1. Also see average setback requirements if in a CR District in 259.3.C.2.

14. ____ ENTRANCES: Location and width of existing and/or proposed entrances (traffic channelization) and their relation to entrances on adjacent properties and properties across the street. Indicate method - curbing, R/R ties. (For County requirements, Developers Engineering at 887-3751 or State Highways at 410-545-5600.)

15. ____ SIGNS: All existing and proposed, location, height, square footage, illumination, setback from existing or proposed right-of-way, and note if single or double-faced. See Permit Drawing/Detail Checklist on the County Website at the Zoning Forms Summary under Permits, Approvals and Inspections. Note all signs will comply with Section 450 BCZR or list the required relief and BCZR Section references for the zoning hearing.

16. ____ UTILITIES: Show location and size of public utilities and the right-of-way both adjacent to and on-site. In the event that no public water or sewer exist, the means for providing proper well and septic system must be indicated. (Public utilities, room 206, County Office Building.)

17. ____ FEATURES: Location of streams, storm water management systems, drainage, and pipe systems on or within 50 feet of the property and the 100-year floodplain, if any. State flood plain status.

18. ____ FLOOR AREA, GROSS (Floor Area Ratio) CALCULATIONS: . (Used for parking calculations.)The floor area ratio is the total gross floor area of all the floor areas of all the buildings on a site, divided by the gross site area. The gross site area includes up to one-half of the boundary streets to which the property has right of access, up to a maximum of 30 feet.

19. ____ HEIGHT DETERMINATION: Tent must be included for buildings above 40 feet (see Section 231, BCZR). Where a building height determination is required and Section 231 does not apply, use Zoning Policy 1-8 and show a scaled detailed drawing on the plan.

20. ____ AMENITY OPEN SPACE (AOS): Location and square foot calculations in the following zones: R.A.E.-1, R.A.E.-2, R.O., OR-1, OR-2, O.T., S-E, B.L.-C.C.C., B.L.-C.T., B.M.-C.C.C., B.M.-C.T., B.R.-C.C.C., and B.R.-C.T. The qualifying AOS areas within the net lot area must be shaded, dimensioned and separate areas subtotaled in square feet on the plan print and included in the AOS calculations in the notes.

21. ____ FIRE HYDRANTS: Location of fire hydrants and distance to the property.

22. ____ SITE PLANS: Must be trimmed to a neat 8-1/2" x 11" or, where larger prints are necessary, they shall be folded to that size with the title block showing. THEY MUST BE LEGIBLE. AND NO LARGER THAN 24" X 36" (unless authorized by the intake review Planner).

23. ____ REQUIRED OFF-STREET PARKING AND CALCULATIONS: On the site plan for all uses on the property pursuant to Section 409, BCZR, and the attached standards and samples.

24. ____ SPECIAL USE REQUIREMENTS: Must show compliance on the plan with the applicable zoning regulations and BCZR Sections, to include, but not limited to the following: Farm and agricultural operations (S. 404); waterfront construction / facilities (S. 417); car wash (S. 419 and 409.10); amusement devices (S. 422 and 423); child care (S. 424); assisted living (S. 432); truck facilities (S. 410, also see online chklst.) ; service stations (S. 405); damaged or disabled vehicles and parts (S. 405.A); uses with automotive stacking such as banks, drive-through restaurants, etc. (S. 409.10); business / industrial parking in a residential zone (S. 409.8.B.2); In DR zones, RTA requirements (1B01.1.B.1).

25. ____ BASIC SERVICES MAPS: State if the site is, or is not, in any failed Basic Services Map areas. If in a failed area, identify it and state what action is being taken to resolve the issue.

26. ____ ZERO SETBACK BUILDINGS: Must meet building code, as well as fire code requirements, with regard to type of construction, windows, etc.

27. ____ FEES: For the permit filing fees contact Permits and Licenses at (410-887-3900). For all required development review fees contact Development Management at (410-887- 3335). Zoning Hearing fees vary; contact Zoning Review at (410-887-3391) to confirm filing costs.

RESERVED SPACE FOR FUTURE REVISIONS

REQUIRED NUMBER OF OFF-STREET PARKING SPACES

THIS CHART IS ONLY A GUIDE AND IT DOES NOT SUPERCEDE SECTION 409 BCZR

RETAIL/BEAUTY OR BARBER SHOP/SKATING RINK.....5/1,000

SHOPPING CENTER 100,000 SQ. FT. G.L.A. **.....5/1,000

HOTEL/MOTEL/ROOMING&BOARDING/TOURIST HOME...1/RM / SUITE

NURSING HOME OR ASSISTED LIVING FACILITY (ALF)*.....1/3 BEDS

MANUFACTURING/WAREHOUSE.....1/EMP

POOL(community).....1/7 PERSONS (capacity per Health Dept.)

RESTAURANT (standard, ie; with seating (no CLASS "D" LIC).....16/1,000

TAVERN/NIGHT CLUB/DANCE HALL/CATERING HALL.....20/1,000

ATHLETIC CLUB/HEALTH SPA (3/COURT) OTHERWISE.....10/1,000

HOUSING FOR THE ELDERLY.. CLASS A..1/1.5DWU,,CLASS B.. 1/DWU

BOWLING ALLEY.....4/LANE

AUTO SALES..DISPLAY/OFFICES/PARTS..5/1,000.. SERVICE..3.3/1,000

FURNITURE/CARPET STORE..RESEARCH & LAB USES.....2.5/1,000

DORMITORY...1/4BEDS...FRAT OR SORORITY HOUSE.....1/2BEDS

CAR WASH.....SEE SECTION 419

TOWSON (C.T.) DISTRICT PARKING**,..... SEE SECTION 409

OFFICE (GENERAL) / PERSONAL SERVICE.....3.3/1,000

GROUP CHILD CARE/NURSERY SCHOOL...1/Emp. (Minimum 2)

HOSPITAL 1.5/BED

MARINA/BOAT YD.....0.5/SLIP / STORAGE SPACE ON LAND

POOL HALL/ARCADE.....4/1.000

SCHOOLS (ALL)...1/EMP ..VISITOR/STUDENT.....PER REVIEW

POOL (commercial).....1/4 PERSONS (capacity per Health Dept.)

RESTAURANT (carry-out only).....5/1,000

CLASS "D" LIQUOR. LIC. USES (ALL) 20/1000

CONTINUING CARE FACILITY.....1/DWU..ALF/NURSING SEE*

GOLF COURSE..8/HOLE...DRIVE RANGE/MINI GOLF...1.5/TEE

RELIGIOUS ASSEMBLY/THEATRE/AUDITORIUM.....1/4SEATS

SERVICE GARAGE (no fuel sales).....3.3/1,000

FUNERAL HOME..... 10/1,000...1/2EMP...1/BUSINESS VEHICLE

FUEL (AUTO) SERVICE STATION.....SEE SECTION 405

TRUCKING FACILITIES**...SEE SECTIONS 410 /409/TF CHKLST

HISTORIC BUILDINGS**.....SEE SECTION 409

OFFICE (MED)/CLINIC..VETS OFFICE/VETERINARIUM..4.5/1,000

NOTES:

CONTACT ZONING REVIEW FOR PARKING CALCULATIONS NOT LISTED
MIXED USES MEANS MIXED CALCULATIONS SUBTOTALED AND OVERALL ROUND EACH FRACTIONAL CALCULATION TO THE HIGHER WHOLE NUMBER
Example: 5 parking space per 1,000 sq, ft. of gross floor area is written as 5/1,000
Employee: 1 parking space per employee is written as 1/Emp.
** = see Section 409 for details/exceptions/special regulations
DWU = Dwelling Unit

Sample: required / provided parking space calculations:

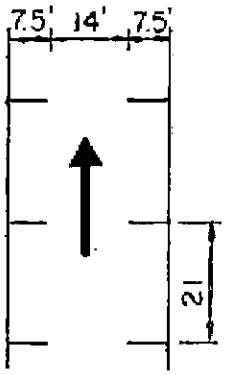
Proposed general office: 6,000 sq. ft. @ 3.3/1.000 =	19.8 or 20
Proposed retail space: 3,500 sq. ft @ 5/1,000 =	17.5 or 18
Total required parking spaces =	38
Total parking provided (on-site parking spaces) =	##

RESERVED SPACE FOR FUTURE REVISIONS

SEE SECTION 409.4.C
B.C.Z.R.

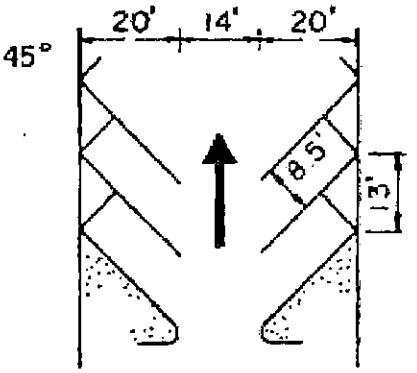
Sample Parking Layouts

NOT TO SCALE

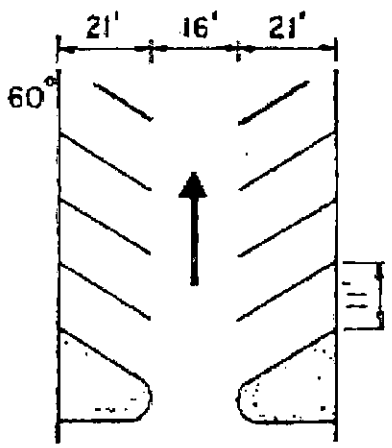


AISLE WIDTH
1 WAY - 14'
2 WAY - 20'

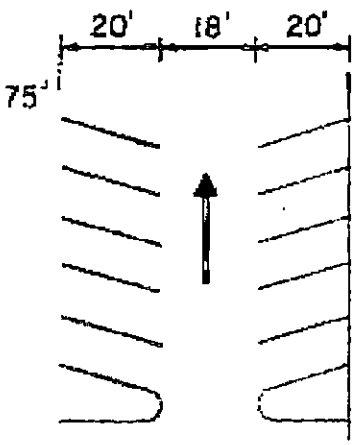
30°
NOT SHOWN
AISLE WIDTH
1 WAY - 14'
2 WAY - 20'



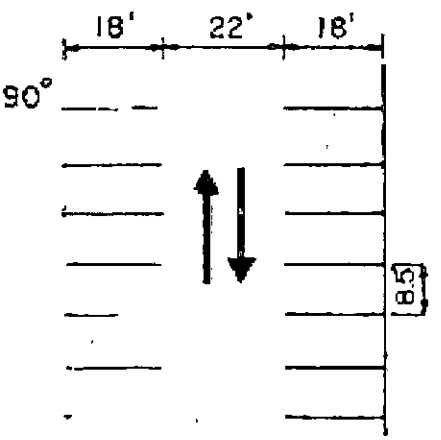
AISLE WIDTH
1 WAY - 14'
2 WAY - 20'



AISLE WIDTH
1 WAY - 16'
2 WAY - 20'

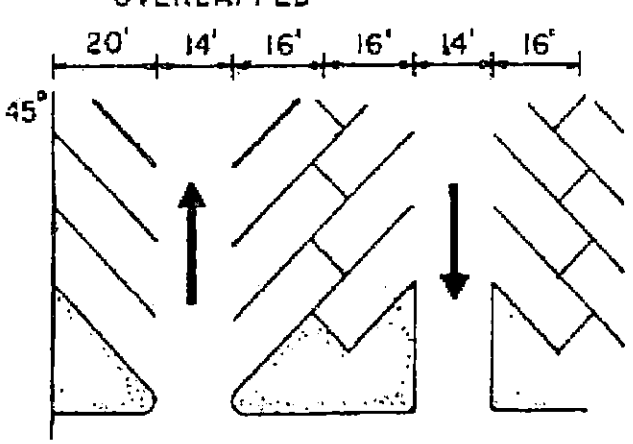


AISLE WIDTH
1 WAY - 18'
2 WAY - 20'

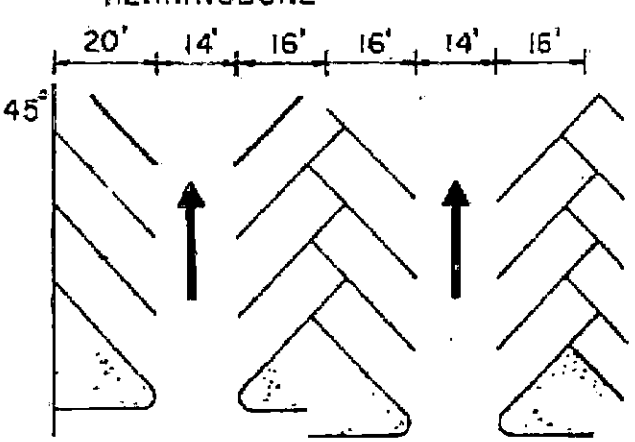


AISLE WIDTH
1 WAY - 22'
2 WAY - 22'

OVERLAPPED



HERRINGBONE



* ALL PARKING, MANEUVERING, ACCESS, AISLES ARE REQUIRED TO BE PAVED AND STRIPED PER SECTION 409.8 (B.C.Z.R.)

OFF-STREET PARKING REQUIREMENTS

1. ____ PAVING (type and extent), STRIPING, AND 10-FOOT SETBACK TO A STREET R/W (8 feet if existing on 5/26/88 and documented) and must be clearly indicated on the plan and notes.

2. ____ DESIGN STANDARDS, SCREENING, AND LANDSCAPING must be provided in accordance with the Landscape Manual and all other manuals adopted pursuant to Section 32-4-404 of the Baltimore County Code. (See Section 409.8.A.1, BCZR.) Contact County Landscape Architect at 410-887-3751.

3. ____ CURBING or anchored wheel stops must be provided around parking lots and must be located not to interfere with the required landscaping and screening. Show a detail for wheel stops.

4. ____ DEAD-END PARKING BAYS require a back-around or turn-around. Traffic circulation must be shown by the use of arrows on the plan. (See Section 409.8.A.5, BCZR.)

5. ____ LIGHTING: Add note: "Any fixture used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjacent residential site and public streets." Indicate placement, height, and direction on the plan and show protected by curbing or landscaping. If no lighting, state so. (See Section 409.8.A.3, BCZR.)

6. ____ ENTRANCES on County roads for one-way traffic; 17 feet wide. Two-way traffic; not less than 24 feet nor more than 30 feet wide. Monumental entrances shall be provided with a minimum 2-foot wide median. Traffic lanes; not less than 17 feet nor more than 24 feet wide. Inbound lane not less than 18 feet the nor more than 36 feet wide for outbound. Entrances minimum 7.5 ft to property line. (Contact Developers Engineering, 410-887-3751)

7. ____ ENTRANCES on State roads are subject to the approval of the State Highway Administration. (Contact: Bureau of Access Permits at 410-545-5600.)

8. ____ DRIVE-THROUGH STACKING REQUIRED: BANK - 5 for first station, 2 for each additional station; RESTAURANT - 7 per station and 5 behind order board; CAR WASH - see Section 419, BCZR; OTHER USES - as determined by Zoning Review. *NOTE:* Do not count the space(s) at the service window(s). Drive-through lanes must be clearly marked by striping or pavement markings, may not block parking spaces, manuevering aisles or cross the (clearly shown) principal pedestrian access.

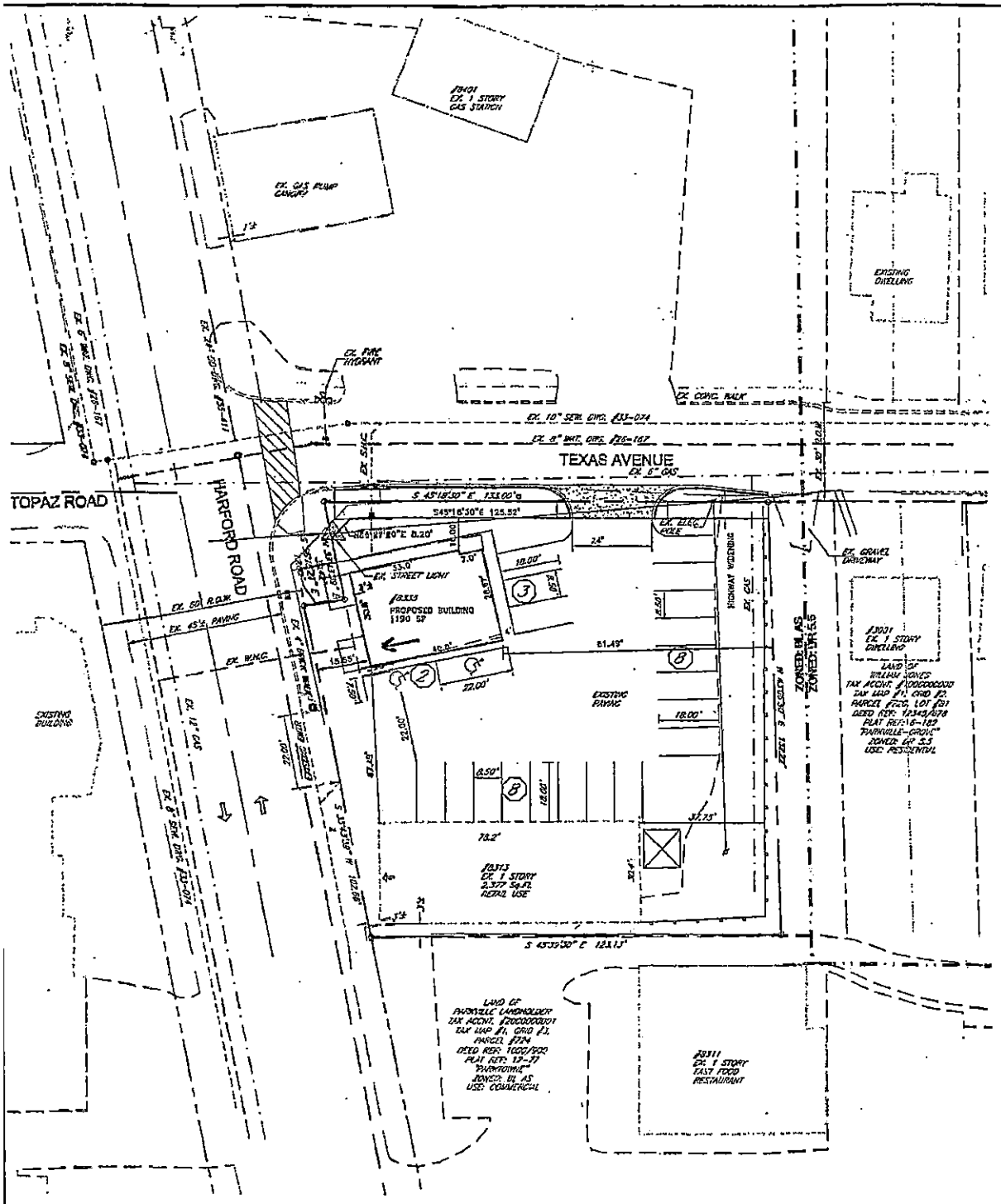
9. ____ COMPACT OR SMALL CAR SPACES: When more than 50 spaces are provided in office and industrial uses and parking structures for residential and lodging uses only. Space size 7.5 x 16 feet (angled) and 7.5 x 18 feet (parallel) are permitted up to 40% maximum of the required spaces. All dimensions, calculations, and typical spaces must be on the plan.(Section 409.5)

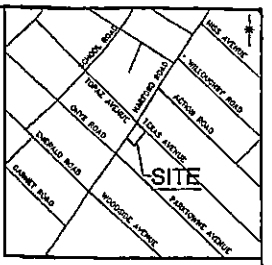
10. ____ LOADING: (commercial or industrial) must be shown on the plan and be adequate to accommodate the size and use of the building in addition to all other parking requirements. Loading spaces may not impede normal vehicle circulation or block required spaces.

11. ____ HANDICAPPED: For parking space requirements, (Contact: Plans Review 410-887-3987).

12. ____ ADJUSTMENTS (allowed in office and industrial): TRANSIT - 5% reduction; RIDESHARING - 10% reduction; SHARED PARKING - see Section 409.6.B.3, BCZR.

13. ____ BUSINESS OR INDUSTRIAL PARKING IN A RESIDENTIAL ZONE may be granted by the Office Of Administrative Law after a 15 day posting procedure. If a request for a public hearing is filed within this time period, a Special Hearing is required (see Section 409.8.B, BCZR). *NOTE:* In the D.R.zone,within a residential transition area, all RTA requirements must be met or a variance must be granted. (see Section 1B01.1.B.1, BCZR)





LOCATION MAP

SCALE: 1" = 200'

GENERAL NOTES:

1. OWNER:
   JOHN DOE
   108 MASON STREET
   ESSEX, MARYLAND
2. SITE AREA:
   GROSS: 23,609 Sq.Ft. or 0.542 Ac.±
   NET: 17,021 Sq.Ft. or 0.391 Ac.±
3. BUILDING AREA:
   EXISTING: 3,132 Sq.Ft.
   PROPOSED ADDITION: 81 Sq.Ft.
   TOTAL PROPOSED: 3,213 Sq.Ft.
4. UTILITIES
   PUBLIC WATER.
   PUBLIC SEPTIC.
5. THE SITE DOES NOT LIE WITHIN THE FLOODPLAIN AS SHOWN ON F.I.R.M. #24005C0270F, PANEL # 270 OF 580 DATED SEPTEMBER 26, 2008.
6. PARKING CALCULATIONS:
   RESTAURANT (CARRY-OUT ONLY)
   REQUIRED: 1190 Sq.Ft. @ 5 PER 1,000 = 6 SPACES
   RETAIL STORE
   REQUIRED: 2,377 Sq.Ft. @ 5 PER 1,000 = 12 SPACES
   TOTAL REQUIRED = 18 SPACES
   PROVIDED: 21 SPACES
   SPACES (2 HANDICAPPED, 19 REGULAR)
7. SETBACKS:

	REQUIRED	PROVIDED
FRONT	2'*	3'±
SIDE	10'	10'±
REAR	20'	81'±

8. HEIGHT OF STRUCTURE:
   MAX. PERMITTED: 40'
   PROVIDED: EXISTING: 16' PROPOSED: 16'
9. DEED REF: 12690/43
10. TAX ACCOUNT: #1402068610-1402068612 & 1402069310
11. COUNCILMANIC DISTRICT: 6th
12. REGIONAL PLANNING DISTRICT: 318
13. CENSUS TRACT: 4921.01
14. WATERSHED: BACK RIVER
15. ZONING: BL-AS
    (PER 1"=200' ZONING MAP 051A1)
16. TAX MAP #81, PARCEL #720, LOT #'S 1-5
17. NO KNOWN PREVIOUS ZONING CASES ON FILE.
18. PERMITS ON FILE: B733121 INTERIOR ALTERATIONS AND ADDITION
    B746552 FRONT AND REAR ADDITIONS
19. FLOOR AREA FOR BL:
    MAXIMUM PERMITTED: 3.0
    EXISTING: 3,132 ÷ 23,609 = 0.133
    PROPOSED: 3,165 ÷ 23,609 = 0.134
20. EXISTING FREE STANDING SIGN MUST CONFORM WITH SECTION 450 OF THE BCZR AND IS LIMITED TO ONE SIGN PER ROAD FRONTAGE.
21. THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
22. THERE ARE NO HISTORIC FEATURES ON SITE NOR IS THE SITE ITSELF HISTORIC.
23. PREVIOUS DRC MEETINGS:
    021810C FOR THE ADDITION ON THE SIDE
    061010C FOR THE ADDITION TO THE REAR
    122110B FOR THE RECONSTRUCTION OF THE BUILDING

* AVERAGING PROVISION OF NEAREST BUILDINGS TO THE NORTH AND SOUTH OF THE PROPOSED BUILDING. PER DISCUSSIONS WITH THE ZONING OFFICE THIS SETBACK WILL SATISFY THE AVERAGING PROVISION FOR FRONT SETBACK IN ACCORDANCE WITH BCZR SECTION 303.2. THE BUILDING IS BEING CONSTRUCTED IN THE SAME LOCATION AS THE EXISTING BUILDING EQUAL WITH THE PREVIOUS FRONT BUILDING LINE.

Mainstreet Engineering, Inc.
123 Stanley Avenue
Towson, Maryland 21204
Phone: 410-555-1234

PLAN TO ACCOMPANY
BUILDING PERMIT
FOR THE

RESTAURANT

8335 HARFORD ROAD

14TH ELECTION DISTRICT — BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	EBJ	PCR	1" = 20'
	DATE: 01-27-11	JOB NO.: 11001	SHEET NO.: 1 OF 1

ZONING CHECKLIST PART II:

ADDITIONAL INFORMATION FOR NON-RESIDENTIAL ZONING PUBLIC HEARING APPLICATIONS (to be included with PART I / Checklist site plans when filing a petition)

FOR NON- RESIDENTIAL VARIANCES, SPECIAL HEARINGS, SPECIAL EXCEPTIONS, WAIVERS AND USE PERMITS

First, and most importantly: You must understand that the relief you have requested is a quasi-judicial decision and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (BCZR). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence, and cross-examine witnesses. The Office of Administrative Law will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that if a hearing is required, you are permitted to have representation by an attorney of your choice. Unless incorporated, you are not required to have an attorney, but it is strongly recommended that you consider obtaining legal representation. If you are incorporated, it is a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the BCZR.

Fourth: No employee of the Department of Permits, Approvals and Inspections (PAI) may provide legal advice to anyone. The representations and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Administrative Law Judge rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the BCZR. Even though there may not be opposition in a given case, your request may be denied.

YOU MUST MAKE AN APPOINTMENT TO FILE A PETITION

When you have completed the following steps, call 410-887-3391 to make an appointment. Due to the exacting review necessary for petition filing, **petitions or revisions will not be processed or accepted if they are just delivered or mailed. Revisions must be filed with the original intake Planner.**

AUTHORITY AND PETITIONER'S BURDEN:

INFORMATION ONLY, NOT LEGAL ADVICE

All requests for non-residential variances, special hearings, special exceptions, and use permits are handled by the Department of Permits, Approvals and Inspections (PAI). *Applications are obtained from and filed with the Zoning Review section of PAI* and all hearings are scheduled before an Office of Administrative Law Judge (**ALJ**). The enabling legislation providing the Administrative Law Judge (**ALJ**) with this authority is in Sections 307 and 500 of the Baltimore County Zoning Regulations (BCZR). The Director of PAI interprets and enforces the BCZR. Any disagreement with said interpretation may be taken to the Office of Administrative Law per Section 500.7 (BCZR). If the site in question is to be approved by the Administrative Law Judge (**ALJ**) as part of the development process, the public zoning requests will be considered concurrently with the development proposal.

Legal representation is recommended in all cases, but in the case of a corporation, it is a requirement. The information that proceeds is provided to give the petitioner a basic understanding of the legal burden of proof that must be satisfied prior to the granting of the petition. It is not a substitute for private legal counsel nor should it be construed as legal advice.

VARIANCES:

Under the authority of Section 307.1 (BCZR), the Administrative Law Judge, (**ALJ**) applying the two-step test set forth in Cromwell v. Ward, 100 Md. App. 691 (1995), has the authority to grant variance from the height, area, parking, and sign regulations.

A. The first step requires the petitioner to prove, to the satisfaction of the ALJ, that the property whereon structures are to be placed (or uses conducted) is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties.

B. The second step of the test requires that the petitoner must demonstrate that strict compliance with the BCZR would result in either practical difficulty or unreasonable hardship. The Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, stated:

1. "To prove undue hardship for a use variance, the following three criteria must be met:
   (i) Applicant must be unable to secure a reasonable return or make any reasonable use of his property (mere financial hardship or opportunity for greater profit is not enough).
   (ii) The difficulties or hardship is peculiar to the subject property in contrast with other properties in the zoning district.
   (iii) Hardship was not the result of applican'ts own actions.

To provide practical difficulty for an area variance, the following criteria must be met:

Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome.
(i) Whether the grant would be substanial injustice to applicant, as well as other property owners in district, or whether a lesser realization than that applied for would give substantial relief.
(ii) Whether relief can be granted in such fashion that the spirit of the ordiance will be observed and public safety and welfare secured."

C. No increase in residential density beyond that allowed by the zoning regulations shall be permitted.

D. The relief requested must be in strict harmony with the spirit and intent of height, area, off-street parking, or sign regulations.

E. And only in such manner as to grant relief without substantial injury to public health, safety, and general welfare.

SPECIAL HEARINGS:

Under the authority of Section 500.6 (BCZR), the Office of Administrative Law has the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order regarding this matter.

Under the authority of Section 500.7 (BCZR), any person can petition the Office of Administrative Law to hold a public hearing to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such a person in any property insofar as they are effected by the BCZR.

USE PERMITS AND WAIVERS:

Certain uses have singular, individual characteristics which make it necessary, in the public interest (even though other County permits may not be required), to specify regulations for each zoning classification. Under the authority of Section 500.4 (BCZR), the Director of PAI has the power to issue certain use permits (certain others are issued under the authority of the Office of Administrative Law) provided that all of the conditions for that particular use specified in the BCZR are met. Under the authority of Section 500.7 (BCZR), the Director has the right to require a public hearing whenever the Director deems it in the public interest. Waivers, such as for flood plain construction also require a public hearing and must follow the zoning hearing intake and filing procedures.

SPECIAL EXCEPTIONS:

Because not all uses fit neatly into permitted categories or zones, and under certain conditions various uses could be detrimental; the uses listed as special exceptions in the BCZR are permitted only if granted by the Office of Administrative Law, under the authority of Section 500.5 (BCZR). In cases of petitions for special exceptions under Section 502 of these regulations, the Office of Administrative Law shall hold a public hearing. After the hearing, the ALJ shall pass his order granting or refusing the special exception. In granting any special exception, the Administrative Law Judge must find that the use for which the special exception is requested will not:

A. be detrimental to the health, safety, or general welfare of the area;
B. create congestion in roads, streets, or alleys;
C. create a potential hazard from fire, panic, or other dangers;
D. overcrowd land and cause undue concentration of population;
E. interfere with adequate provisions for schools, parks, water, sewerage, transporation, or other public requirements, conveniences, or improvements;
F. interfere with adequate light and air;
G. be inconsistent with the spirit and intent of the BCZR;
H. be inconsistent with the impermeable surface and vegetative retention provisions of the BCZR.

In granting any special exception, the ALJ may impose such conditions, restrictions, or regulations as he deems necessary or advisable for the protection of surrounding and neighboring properties.

GENERAL APPLICATION PROCEDURE:

A zoning hearing can only address issues as regulated by the BCZR. (Certain hearings, such as flood plain waiver public hearings are an exception to this.) You must contact other county/state agencies to determine if your plan meets their requirements!

Normally before granting any relief, the Office of Administrative Law shall require advertising and posting of the property and shall require, as applicable, a public hearing. All orders of an ALJ shall contain a finding of fact specifying the reason or reasons for granting or denying each request.

The normal time period from time of filing a petition until the time of receipt of the written order is usually somewhere between 45 and 90 days. Also, in addition to filing fees, costs are incurred for posting the property and advertising the hearing in area newspapers.

At the time of petition filing, petitioners will pay the filing costs. The petitioner will also receive a list of approved sign posters and the petitioner is responsible for hiring one of these approved posters to properly post the subject property with two (2) signs. The two (2) posting signs must remain *visible* on the property for a period of at least 20 days before the hearing and/ or closing date.

Zoning petitions may be filed with PAI by appointment only. Applications/forms are available from Zoning Review or online. All information on the forms must be typed or printed and they must be signed by the legal owner(s) or a corporate officer, with his/her title, the address, zip code, work and home telephone numbers and Email address provided. While the planner will assist the petitioner in interpreting those provisions of the BCZR applicable to the particular case, the final wording of the request and other information submitted, as set forth in the application, shall be the sole responsibility of the petitioner(s).**

** http://www.baltimorecountymd.gov/Agencies/permits/pdm_zoning/zonforms.html#forms

THE APPLICATION MUST CONTAIN:

- **Petition --** 3 (three) original petition forms signed and filled out as indicated. Any person signing as an authorized agent of the petitioner or contract purchaser must be able to bind the petitioner or contract purchaser to a legal contract. Their position must be indicated and where any doubt as to the person's authority may exist, a letter of authorization is required.

- **Plats --** 12 (twelve) or 14 (fourteen) for flood zone properties, copies of a **sealed** hearing plan with all information as indicated in this checklist.

- **Description --** 3 (three) separate copies of a **sealed description** of the property, beginning with the distance to the nearest improved intersecting street centerline, **as indicated in this checklist.**

- **Zoning Map** -- 1 (one) copy of the GIS zoning map with the location and boundaries of the property accurately depicted (matching the sealed description) and the official 5 digit zoning map number (example: 070A2). Obtain map from the Zoning Review Counter **or** obtain map from the following web address: **bcgis.baltimorecountymd.gov/myneighborhood** and click on the "Map Views" button and then the "Development & Permits" tab. (See Example 4 on Page 13).

- **Fee** -- 1 (one) filing fee of $500.00 for each separate request of a variance, special hearing or special exception (maximum charge of $1200.00 for one property/lot). Checks must be made payable to Baltimore County, Maryland. (Be aware that fees are subject to change without notice)

- **Advertising Form --** 1 (one) completed copy of the advertising form. You will be billed directly by the newspapers.

- **Posting --** Applicant is responsible for the posting (securing and paying an approved sign poster). The current list of approved sign posters is available in the Zoning Review Office.

REVIEW AGENCIES:

Prior to preparing the required plans, the petitioner or the engineer should contact the following agencies for pertinent data that may be required.

1.	Assessments (SDAT)	410-512-4906
2.	Development Plans Review (traffic issues)	410-887-3751
3.	Fire Department	410-887-3998
4.	State Highway Administration	410-545-5600
5.	County Roads	410-887-3739
6.	Planning (design, screening, landscaping, historic)	410-887-3211
7.	Plans Review (construction/fire/floodplain plans)	410-887-3987
8.	Department of Environmental Protection and Sustainability (DEPS) (see note)	410-887-3980
9.	If *floodplain*, Department of Natural Resources	410-631-3902
10.	If *critical area*, Maryland Office of Planning	410-767-4485

NOTE: For CBCA (Critical Area) sites: Without **DEPS comments** the ALJ will not write an order. **Floodplains and historic buildings should be identified and addressed as needed.** **Flood Plain** determination/issues call the Dept. of Public Works at 410-887-3300. **Historic** issues/questions call the Office of Planning at 410-887-3480

THE ZONING HEARING PROPERTY DESCRIPTION:

Three (3) typed copies (separate pages) of the **zoning description of the property** is required. Standard 8-1/2" x 11" sheets are acceptable. Most property descriptions, as stated on a deed, are too wordy but some of the information must be used. (Note: Old deed information such as perches or a stone, etc. cannot be used as is.) Read your deed, your location survey and your State Assessment record to determine which of the three options you should use. **DO NOT PHOTOCOPY THE DESCRIPTION IN THE DEED.** The zoning property description must comply with Part A **and** Part B:

PART A (START DESCRIPTION WITH THE FOLLOWING):

ZONING PROPERTY DESCRIPTION FOR_____
(address or location)

*Beginning at a point on the (north, south, east or west) side of (name of street on which property fronts) which is (number of feet of right-of-way width) wide at the distance of (number of feet) (north, south, east or west) of the centerline of the nearest improved intersecting street (name of street) which is (number of feet of right-of-way width) wide.

ALERT!

*Be aware that the Beginning Point and the distance in feet to the street centerline intersection, as stated in the zoning property description, must be shown and labeled on the hearing plan. The lot area (total square feet or acres) on the hearing plan **and** the zoning description must agree.

PART B (CONTINUE DESCRIPTION WITH ONE OF THE FOLLOWING 3 OPTIONS):

OPTION 1 (Metes and Bounds Sample – lot not part of record plat or minor subdivision):

THIS IS A SAMPLE ONLY: Thence the following courses and distances: (1st Point of Call-"POC") N.87 12' 13" E. 321.1', (2nd POC) S.18 27' 03" E. 87.2', (3rd POC) S.62 19' 00" W. 318', and (4th POC) N.08 15' 22" W. 80', back to the point of beginning as recorded in Deed Liber (__), Folio (____), containing (number of total square feet or acres in lot). Located in the (__) Election District and (___) Council District.

OPTION 2 (Subdivision Lot – lot is part of record plat):

Being Lot #(__), Block (__), Section #(__) in the subdivision of (name of subdivision) as recorded in Baltimore County Plat Book #(__), Folio #(__), containing (number of total square feet or acres in lot). Located in the (__) Election District and (___) Council District.

OPTION 3 (Minor Subdivision Lot Sample):

THIS IS A SAMPLE ONLY: Thence the following courses and distances: (1st Point of Call-"POC") N.87 12' 13" E. 321.1', (2nd POC) S.18 27' 03" E. 87.2', (3rd POC) S.62 19' 00" W. 318', and (4th POC) N.08 15' 22" W. 80' back to the point of beginning, as recorded in Deed Liber (____), Folio (____), containing (number of total square feet or acres in lot). Located in the (__) Election District and (___) Council District. Also known as Lot #(___) in the minor subdivision of (name of minor subdivision), minor subdivision # (_ _--_ _ _--M), as maintained by the Development Management Division of the Department of Permits, Approvals and Inspections.

EXAMPLE 4 – ZONING MAP

This is available from the Zoning Review Counter. or from the following web address: bcgis.baltimorecountymd.gov/myneighborhood
A GIS System color copy zoning map is required for filing a petition.
This black and white sample is keyed to the map information.
Mark your site clearly on the map.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: _____

Property Address: _____

Property Description: _____

_____

Legal Owners (Petitioners): _____

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: _____

Company/Firm (if applicable): _____

Address: _____

_____

_____

Telephone Number: _____

17078
FILE

KEVIN KAMENETZ
County Executive

VINCENT J. GARDINA, *Director*
Department of Environmental Protection and Sustainability

April 12, 2018

Mr. Zachary Tyszkiewicz
Daft McCune Walker, Inc.
501 Fairmount Avenue
Suite 300
Towson, MD 21286

RE: Trillium Solar at 1139 Monkton Road
Resource Delineations

Dear Mr. Tyszkiewicz:

Environmental Impact Review (EIR) received a steep slopes and erodible soils analysis for the above referenced property on March 23, 2018, in addition to a revised forest stand delineation (FSD) and wetland delineation received on March 26, 2018.

The FSD indicates that 45.1 acres of forest onsite, 15.6 of which exists outside the proposed Forest Buffer Limit. The FSD focuses on the 15.6 acres outside the Forest Buffer, which consists of 17 stands and 16 specimen trees. The FSD was reviewed by EIR and is approved.

The wetland delineation indicates that six wetland areas comprising 0.7 acre exist onsite. The wetland delineation has been revised to include the area of Wetland 6 that was recently illegally filled by the landowner. The wetland delineation was reviewed by EIR and is approved.

The slope analysis and its resulting Forest Buffer Limit based on the revised wetland delineation have been reviewed by EIR and are approved.

If there are any questions regarding this review, please contact Libby Errickson at (410) 887-3980.

Sincerely,

Glenn Shaffer, Supervisor
Environmental Impact Review

PETITIONER'S EXHIBIT 21

Trillium Solar @ 1139 Monkton Rd FSD WDV SS 4.11.18.docx/libby/S

Board of Appeals

Case No: 18-030-X Case Name: HHK Fences

Exhibit List

Party: Protestant Date: 12/11/18 & 12/12/18

Exhibit No:	Description:
✓ 1	SDAT on One Energy Dr. LLC
✓ 2	SDAT - Annual Report / Personal Property
~~3~~	~~One Energy Website~~
✓ 3	Photo of Fence and Panel Area
✓ 4	Photo without fence and Panel Area
✓ 5	Photo without fence - Shrubs and Panel Area
✓ 6	Photo - Panel Area in foreground Trees in Back
✓ 7	Color Photo with computer ~~created~~ ~~graphic~~ from Mr Edwards House, Panel Area with white cover in foreground
✓ 8	Letter from Kate Lawton - One Energy dated
✓ 9	Color Photo with Computer Generated look after 3 years Aug 22, 18
✓ 10	Letter - Angelo Offenbecker to Whom it may Concern dated 12-11-18
✓ 11	Historic Preservation Map.
✓ 12	Letter to Board of Appeal 12-3-18
✓ 13	The Speeds Glencoe Community Planning Council Rules
	VERIFIED BY KC DATE: 12/13/18

KC 12/11/18

Computer trees are slightly Bigger

Board of Appeals

Case No: 18-030-X Case Name: HHK Trenca

Exhibit List

Party: Protestant Date: 12/11/18 & 12/12/18

Exhibit No:	Description:
✓ M	Spring Glen Community Planning Council Inc
✓ 15 a-b-c	Three Photo Photos taken 12-6-2018 Lynne Jr
✓ 16	My Neighborhood. subject area plus surrounding area 1139 Monk Rd in Blue Shaded area
✓ 17	My Neighborhood depicting Subject Property
✓ 18	My Neighborhood surrounding area homes
✓ 19	My Neighborhood Map - Maryland Register Historic Dist.
✓ 20	Master Plan w. Mt Scenic Road & Boat House Keys BBC
✓ 21	Scenic View Map
✓ 22	Vibrant Communities Section of Master Plan. P98-101
✓ 23	Citizen's Guide to Zoning in Balt County
✓ 24	Soil + Waterways of My Neighborhood
✓ 25	Soils Map with Map Unit Symbol
✓ 26	Letter from Andrea Van Arsdale to Julian Jones dated 8-1-18
✓ 27	Letter from Balt County from Barbara to Whom it may concern dated Aug 2018
	VERIFIED BY KC DATE: 12/13/18

Board of Appeals

Case No: 18-030-X Case Name: HHK Farms

Exhibit List

Party: Protestant Date: 12/11/18 & 12/12/18

Exhibit No:	Description:
✓ 28	Opinion and Order for Petition for Special Exception
✓ 29	(A) Enlargement of Site Plan - ID only (B) Admitted.
✓ 30 (A) (B)	Site Plan 5-4-18 - overlay of Excerpts ~~of~~ Excerpts
✓ 31	Three Aerial Photographs
✓ 32	Aerial Photo 12-11-18 - My Neighborhood Brown green yellow
✓ 33	Photo with Kids Riding Dirt bike
✓ 34	MD. PSC - Community Solar Pilot Program
✓ 35	Boburrie Fenced - Project Statistics
✓ 36	The Photovoltaic Heat Island Effect - Larger Solar Power Plants
✓ 37	Heat Island Impacts
✓ 38	MD ~~Boo~~ Brook Trout from DNR
✓ 39	Brook Trout Life Cycle
✓ 40	Site Plan with Slopes
✓ 41	Web soil Survey - Color Coded Soil types
✓ 42	DNR - Site MAP - 4 pictures - Color Coded Soil Types

VERIFIED BY KC DATE: 1/9/19

A ID only

Limited Demonstrative ✓

ID only

ID only

KC 12/13/18

Board of Appeals

Case No: 18-030-X Case Name: Hilltop Farms

Exhibit List

Party: Protestant Date: _____

Exhibit No:	Description:
✓ 43	Baltimore County Community Solar Projects - List of projects
✓ 44 a b c d	Potential Agricultural Community Solar Sites N. Balto. County
✓ 45	MDE - Maryland Dept of the Env. - Stormwater Design Guidance - Solar Panel
	VERIFIED BY KC DATE: 1/9/19

Rel 8.6.1 24/7 Support More Online Services

MARYLAND BUSINESS EXPRESS

PLAN START MANAGE GROW
HERE

Maryland Business Express

ONEENERGY DEVELOPMENT, LLC: Z15685829

General Information | Filing History | Annual Report/Personal Property

General Information

Department ID Number:	Z15685829
Business Name:	ONEENERGY DEVELOPMENT, LLC
Principal Office:	STE 401 101 YESLER WAY SEATTLE WA 98104
Resident Agent:	CSC-LAWYERS INCORPORATING SERVICE COMPAN 7 ST. PAUL STREET SUITE 820 BALTIMORE MD 21202
Status:	ACTIVE
Good Standing:	THIS BUSINESS IS IN GOOD STANDING » Order Certificate of Status
Business Type:	FOREIGN LLC
Business Code:	20 ENTITIES OTHER THAN CORPORATIONS
Date of Formation/ Registration:	02/12/2014
State of Formation:	WA
Stock Status:	N/A
Close Status:	N/A

New Search | Order Documents

Privacy and Security Policy | Accessibility Policy

FOR FILING AND BUSINESS RELATED QUESTIONS

Protestant
CBA Exhibit
1

Rel 0.8.1 24/7 Support More Online Services
MARYLAND BUSINESSEXPRESS
PLAN START MANAGE GROW HERE

Maryland Business Express

ONEENERGY DEVELOPMENT, LLC: Z15685829

General Information | Filing History | Annual Report/Personal Property

Annual Report/Personal Property

Mailing Address: ONEENERGY DEVELOPMENT, LLC
2003 WESTERN AVENUE
SUITE 225
SEATTLE WA 98121

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2018	04/24/2018	No		
2017	04/13/2017	No		
2016	08/18/2016	No		
2015	04/15/2015	No		
2014		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2018	0	0	04/25/2018
2017	0	0	04/17/2017
2016	0	0	08/19/2016
2015	0	0	12/28/2015
2014	0	0	

New Search | Order Documents

Protestant
CBA Exhibit
2

Protestant
CBA Exhibit
3

Protestant
CBA Exhibit
4

Petitioner
CBA Exhibit
5

Protestant
CBA Exhibit
6

OneEnergy RENEWABLES

@oneenergyinc

2003 WESTERN AVE.
SUITE 225
SEATTLE, WA 98121
206.922.7072

oneenergy renewables .com

August 22, 2018

Tim and Lindy Edwards
1132 Monkton Road
Monkton, MD 21111

RE: TRILLIUM SOLAR – LANDSCAPING PHOTO SIMULATIONS

DEAR TIM AND LINDY:

Please find enclosed with this letter two images for your review (with a copy of each image). We hope these images will help you visualize what the solar project will look like once installed and how the proposed landscaping will help block your views of the project. We are also sharing these photos to ensure that you feel your views are being adequately blocked. Please review this letter and the photos and call me with your questions or comments!

The images included were created by a computer to simulate what the solar project will look like from your front porch. The images show the solar panels, project fence and other project components at their approximate locations, height and distance from your front porch. Please keep in mind that the panels will rotate slowly throughout the day to track the sun from east to west, but the images only illustrate the panels in one position (in late afternoon or evening).

The images also show the landscaping we have currently proposed. The landscaping, in accordance with Baltimore County code, must be a certain maturity to be appropriate for installation. For all deciduous trees we plant, they must be roughly 10 feet tall, and for all evergreen trees, they must be roughly 6 feet tall at installation. In the "At Installation" photo, both types of trees are being shown at the approximate height they would be at installation. This image should give you an idea what you may see immediately following construction of the project.

In the second photo, marked as "Three Years Growth", we are showing what that same landscaping would look like after only three years of growth. Both deciduous and evergreen trees should grow at an approximate growth rate of one foot per year so in this photo you can see even less of the solar panels.

We are sharing these photos so that we can identify any concerns or issues you may have with the current landscaping plan. We are open to making sensible changes to our current landscaping plan that help better block your view. Please give me a call at 206-900-9930 once you've had a chance to review these photos.

My best,

KATE LARKIN
MANAGER AND PROJECT DEVELOPMENT
206.900.9930 | D

kate@oneenergyrenewables.com

Protestant
CBA Exhibit
8

December 11, 2018

Angelo Otterbein
16706 Remare Road
Monkton, MD 21111

Owner, Monkton Hotel
1900 Monkton Road

To whom it may concern:

I moved from Baltimore City to Monkton in 2014 with my wife and young children to enjoy the peaceful country and rural landscape that Northern Baltimore County affords. I live on Remare Road, just before Monkton Station and drive up and down Monkton Road every day, multiple times. It is hard for me to understand why fields of solar panels make sense on a scenic bypass that includes prime and productive land, and would like to formally voice my objection to its installation.

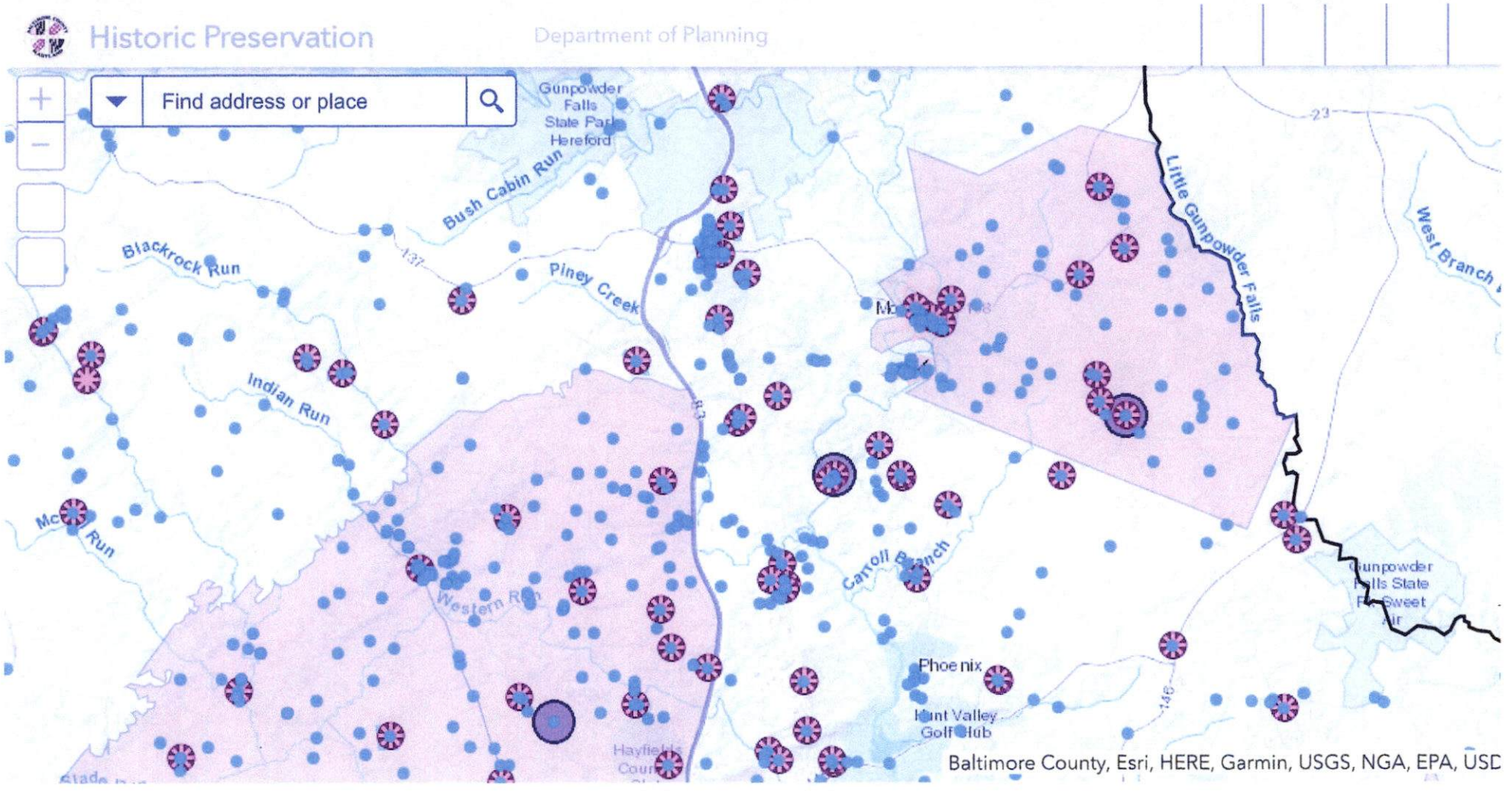
Additionally, and perhaps more importantly, I recently took ownership of the Monkton Hotel, which sits on the NCR trail and is a registered historic landmark with both the County and the Federal Government. I purchased the property to support the Monkton Village and ensure it continues as an anchor for Monkton, and a symbol for people wanting a break from city and suburban life. The addition of fields of solar panels within minutes of the Hotel is upsetting and will surely degrade the experience for anyone visiting for a lifetime, no less.

I also should say that I am a firm believer in renewable energy and likewise committed to support alternative fuel sources; I am owner of solar panels myself. But I worked hard to locate my panels in a concealed place that does not disrupt the landscape for others. I would hope and assume that my corporate counterparts would do the same.

Sincerely,

Angelo Otterbein

Protestant
CBA Exhibit
10



Protestant
CBA Exhibit
11

Sparks-Glencoe Community Planning Council
P.O. Box 937, Sparks, MD 21152

December 3, 2018

The Board of Appeals
The Jefferson Building
Second Floor
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

Re: 1139 Monkton Road
3rd Councilmanic District
Legal Owner: HHK Farms, LLC
Lessee: OneEnergy Development, LLC

To the Board of Appeals:

The Sparks-Glencoe Community Planning Council (SGCPC) is submitting yet one more letter regarding a request for a special exception for a commercial solar facility in the Third Councilmanic District. This is one of a string of such special exception hearings in this District in the past eight months. It is frustrating because we cautioned the County Council that the solar bill would primarily impact this District, and we specifically raised the possibility of a Third District land rush. We now see it happening in real time.

Our general opposition continues. These facilities remove prime and productive farmland from both agriculture and preservation; drive up the cost of leased agricultural land; diminish the property values of for contiguous landholders; and impair the viewshed. We note that even the Department of Planning is beginning to understand the growing problem for agriculture that this development represents. In this context, it has noted the Master Plan's warning of "incremental development" as a threat to the agricultural industry. We expressly request that the question of continued viability of commercial agriculture be included in the calculation of any special exception petition. In this regard, and as stated above, there is a dramatically unequal and unfair distribution of these facilities in the Third District which is the District with the vast majority of agricultural land in Baltimore County. **Even more, the Planning Board has recently voted to recommend a moratorium on all new projects. This project falls into the category.**

In the event that the special exception is granted, we have several specific concerns. First, we request that the contract lessee purchase an irrevocable bond in an adequate amount to pay for removal of the facility and remediation of the land once the useful life of the facility has expired. This is not presently a requirement, only a condition that can be imposed as part of the special exception. We do not believe the property owners understand that
regardless of the contract that is signed, the promise by an LLC to address remediation is only as good as the continued existence and financial wellbeing of the contracting LLC. Once the LLC is gone, the costs fall to the lessor or its successors (though it is doubtful that any rational individual will want to buy land that is encumbered with a solar facility). It is even possible that the cost will be passed on to the taxpayers.

Protestant
CBA Exhibit
12

Second, the SGCPC is concerned about the impact on neighboring landowners. The prospect of diminished land values for the surrounding area is real. It is certainly foreseeable that the viewshed of the larger resource conservation area will also be significantly impaired. It is for that reason any special exception must include significant natural buffers which not only protect the view from the adjoining roadways, the adjacent property owners, and also the wider vista. It is our suggestion that the landowner and his lessees be required to install buffers which are designed in accordance with the directives of the Baltimore County landscape architect. It would also be useful and appropriate to provide for input from the immediately impacted property owners whose own land values are at issue.

We have many concerns about the rapid advance of commercial solar facilities in conservation areas. **When the legislation was passed, it included time for a study. That study is essentially completed, and the Planning Board has recommended a moratorium, at least as to all unapproved projects. That certainly includes this one.** Accordingly, it should be denied. If, however, the special exception is granted, there must obviously be many limitations designed to protect the public in general, and the citizens of the Third District in particular. We sincerely request that the limitations and concerns outlined in this letter be among those incorporated into any such grant.

Thank you for your patience and consideration in this matter.

Sincerely,

Lynne Jones

Lynne Jones, President

THE SPARKS GLENCOE COMMUNITY PLANNING COUNCIL, INC.

RESOLVED: That the position of the Sparks Glencoe Community Planning Council, Inc. as adopted by the Board of Directors on the zoning matter related to a solar array at:

1139 Monkton Road

The Sparks-Glencoe Community Planning Council ("Sparks-Glencoe" or "SGCPC") is a community organization dedicated to preserving the rural character and natural resources of northern Baltimore County.

Sparks-Glencoe is opposed to the special exception in this matter for the following reasons:

1. The development removes productive land from agricultural production and preservation easements; drives up the cost of leased agricultural land; diminishes the property values of contiguous landowners; and impairs the viewshed of the larger resource conservation area.
2. There is no adequate program for remediation of the site at the end of the useful life of the facility.
3. Constructing large commercial energy facilities of any sort in resource conservation areas is inconsistent with the Baltimore County Master Plan goal of maintaining the rural character of the area and is a prime example of "incremental development" which the Master Plan identifies as a threat to the agriculture industry.

Therefore, we ask the Board of Appeals to uphold the spirit and intent of the Zoning Regulations and the Master Plan, which are to protect natural resources and maintain the character of the rural area, by denying this special exception.

Protestant
CBA Exhibit
13

THE SPARKS GLENCOE COMMUNITY PLANNING COUNCIL, INC.

BE IT RESOLVED: That at the ANNUAL MEETING of The Sparks Glencoe Community Planning Council, Inc. held on April 18, 2018, it was decided that responsibility for review and action on all zoning and development matters for the period 2018-2019 be placed on the Board of Directors and/or members of the duly elected Zoning Committee.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

Lynne Jones
President
Lynne Jones

Wendy McIver
Reporting Secretary
Wendy McIver

AS WITNESS OUR HANDS AND SEAL THIS 6th DAY OF December 2018.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

Wendy McIver, Reporting Secretary

Lynne Jones, President

AFFIDAVIT

STATE OF MARYLAND

BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I, Lynne Jones, am currently a duly elected member of the Board of Directors of The Sparks Glencoe Community Planning Council, Inc.

AS WITNESS OUR HANDS AND SEAL THIS 6th DAY OF December 2018.

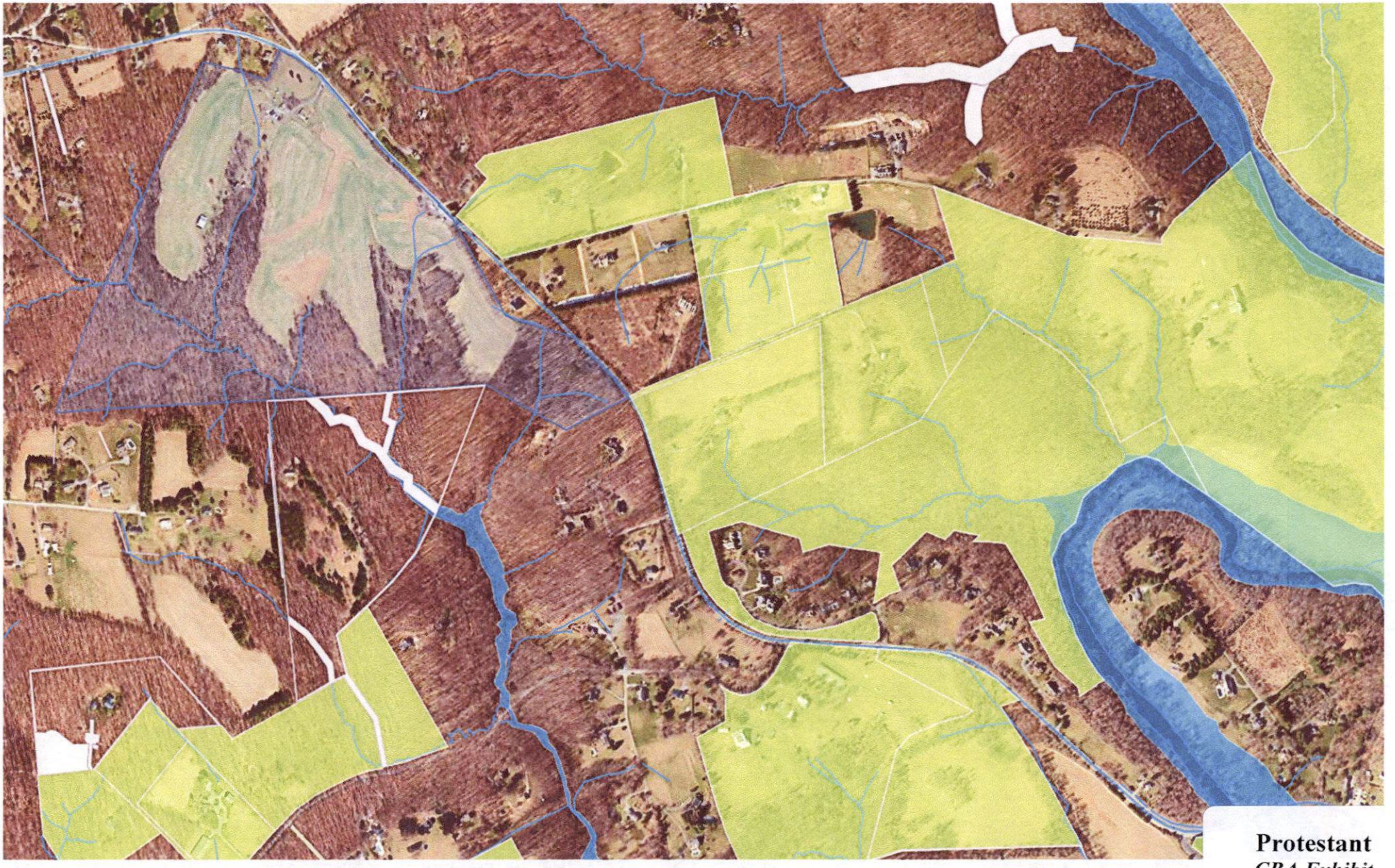
ATTEST: The Sparks Glencoe Community Planning Council, Inc.

Wendy McIver, Reporting Secretary

Lynne Jones, President

Sparks Glencoe Community Planning Council Boundaries

Protestant
CBA Exhibit
14



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16

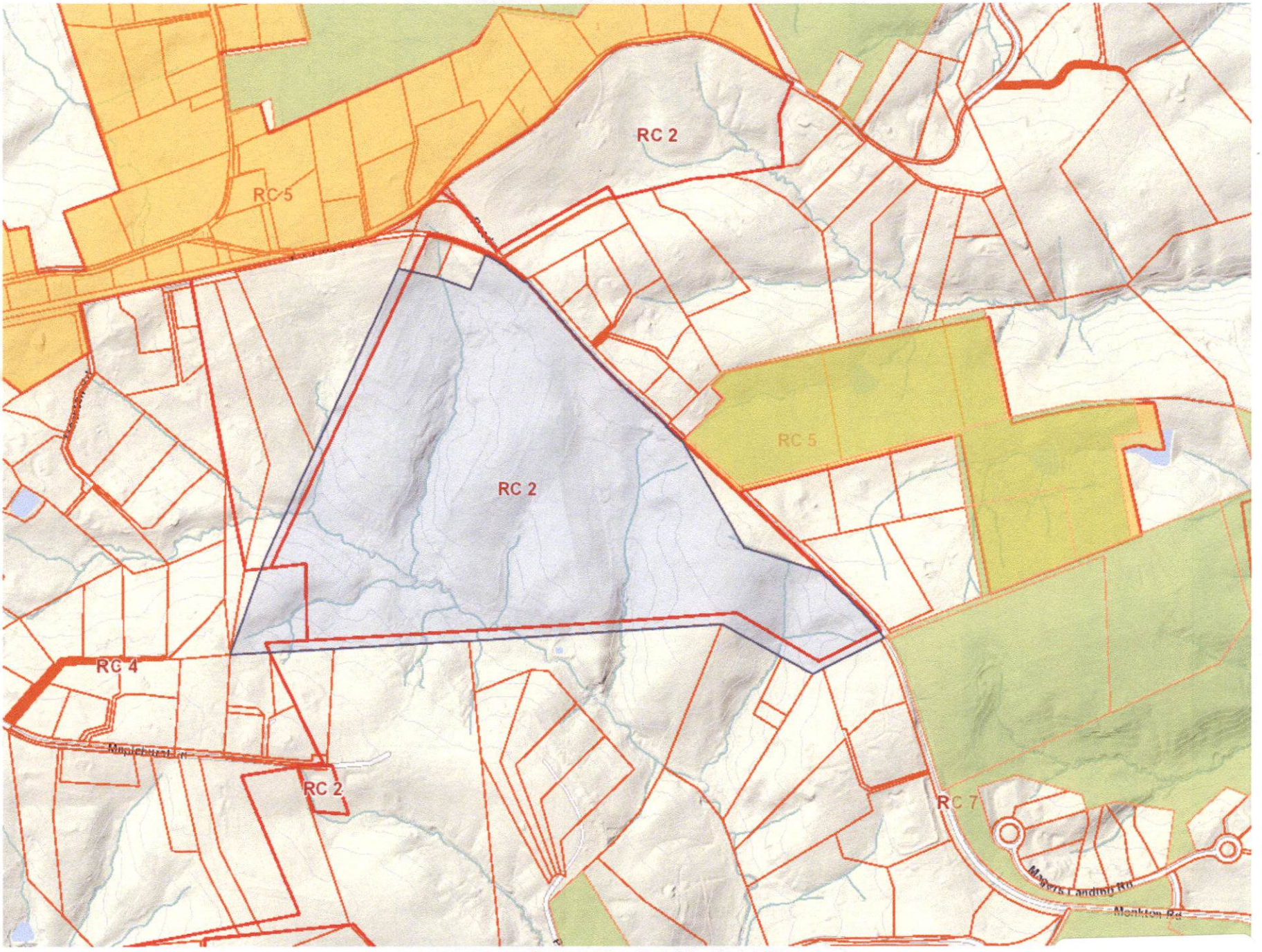
1139 Monkton Rd, in blue shaded area, upper left corner.

Monkton Rd is a Scenic Road, 'Horses and Hounds' Bottom right corner: Historic Town of Monkton

Wavy Thin Blue lines: Waterways Wider blue lines: Floodplain Areas White lined areas: Easements (south of site is in Floodplain Easement)

Green Shaded Areas: Preserved Land

My Neighborhood Map



1139 Monkton Rd, My Neighborhood Map

Yellow areas: Rural Village designation, North and East of site

Green areas: Preserved agricultural land, including Rural Village area on East side

Watershed: Streams flow into the Gunpowder River and downstream into Loch Raven Reservoir.

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17

Dates of surrounding area homes (addresses in black, dates built in red) from SDAT website.
These homes were built 29 – 215 years ago; the site residence dates to 1876 (143 years old). Map: myneighborhood

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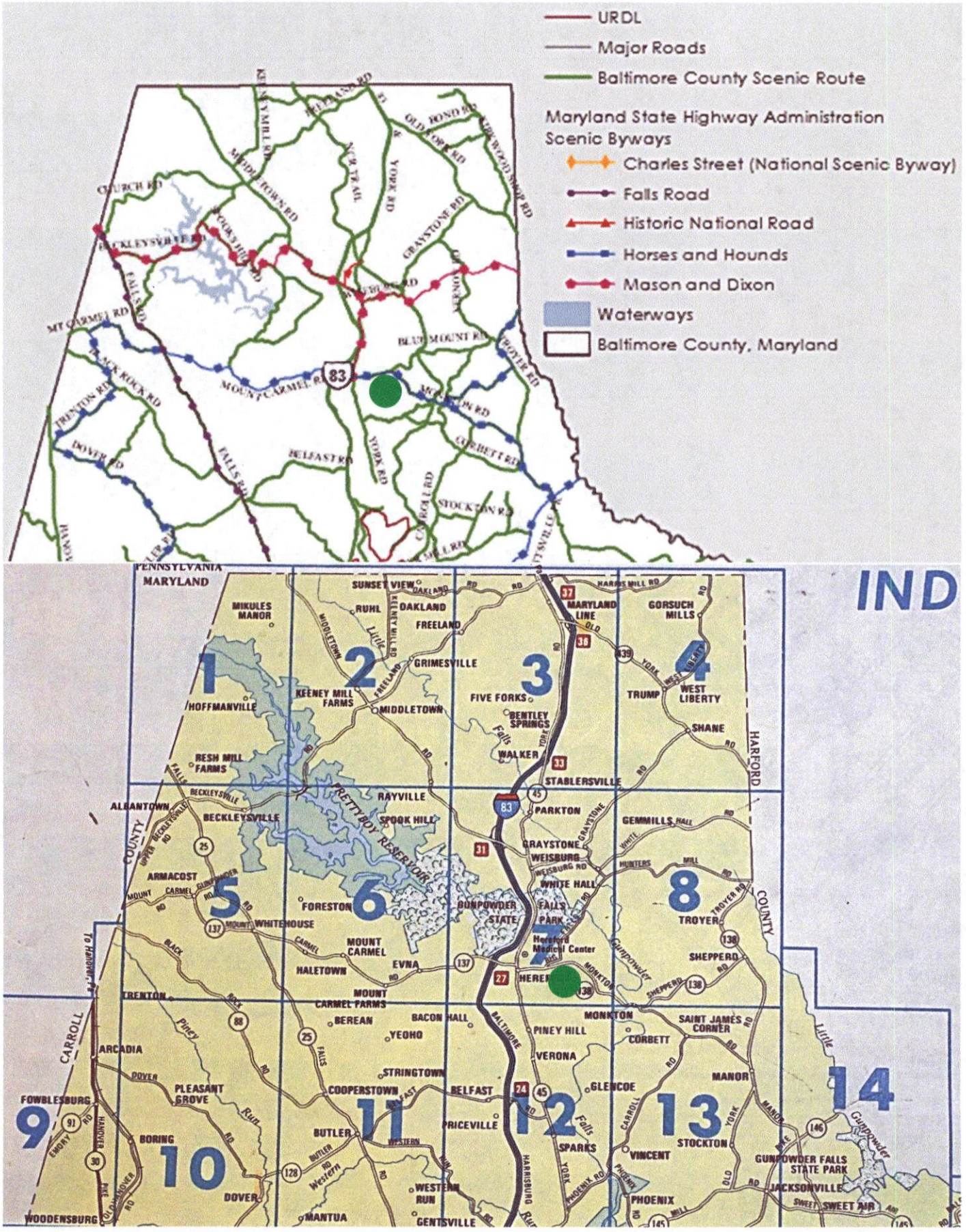
18

Area surrounding 1139 Monkton Rd (blue shaded area in center)

Blue lines: waterways, streams & Gunpowder River, on right Green shaded areas: preserved farmlands Pink shaded area: National Register Historic District

Yellow outlined area (bottom right): Baltimore County Historic District myneighborhood map



Scenic Roads and Byways in this section of Baltimore County: 53
All roads (not including Lanes or Courts) in this section: 301
Percentage of Scenic Roads and Byways to Regular roads: 17.6%

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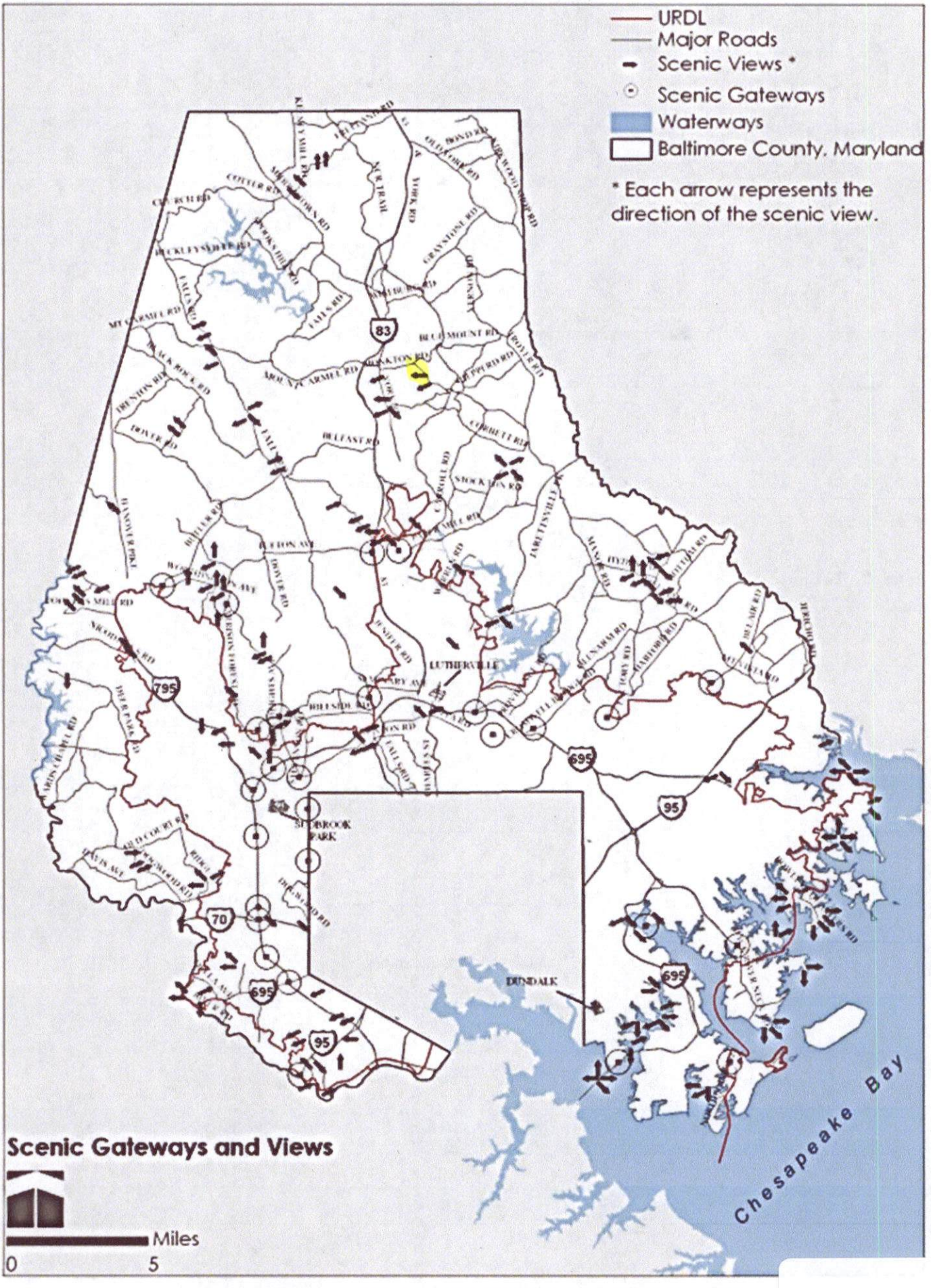
20



Scenic Gateways and Views, Map #27, Master Plan 2020, page 102

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21

last 20 years to enhance the quality of life in these communities, some are still in need of assistance. This Master Plan builds upon previous efforts to acknowledge that Baltimore County's diversity is greatly enriched by its historically African-American communities, and recognizes the important of continuing to protect and enhance these valuable cultural resources.

Actions:

(1) Incorporate a list of cultural resources in community plans and explore the best methods to preserve them.

(2) Continue to work cooperatively with the Department of Public Works, the Office of Community Conservation and the communities to support improvements to preserve and enhance Historic African-American Communities.

Policy: Increase awareness about the importance of archeological resources.

Baltimore County needs to strengthen the preservation of archeological resources, as much of the County's history is buried in the ground. Greater attention should be paid to archeological resources in cases where there has been little previous disturbance associated with redevelopment or road projects.

Action:

(1) Educate the public and other agencies about the importance of archeological resources.

Policy: Coordinate historic preservation with the County's rural strategy.

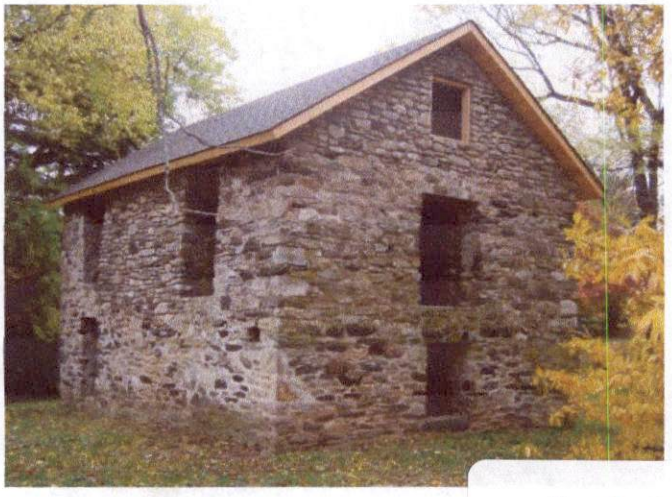
In rural agricultural areas, the preservation of historic resources presents a unique opportunity. Historic structures in the countryside tend to derive part of their historic significance from their bucolic setting, which is frequently tied to its economic function. Typically, the historic resource is composed of the primary structure along with a cluster of functionally and visually related outbuildings, such as barns, springhouses, and stables, set in a pastoral landscape of fields, streams and woodlands.

Rural areas that have retained their historic character, continue to be among the County's most desirable places of residence. Historic structures tend to be more compatible in design, scale and massing with the rural landscape than modern housing. However, sustaining the bucolic beauty of the rural landscape is challenging because maintaining a historic home can be expensive, and many property owners prefer newer and larger homes. Generally, rural subdivisions change the character by flatly grading the landscape with larger homes that are visible for miles. Even a single inappropriately designed or poorly sited new dwelling can dramatically alter the rural character.

Historic preservation goals coincide with agricultural preservation goals, environmental protection objectives and scenic preservation aims of the Master Plan in several ways. Historic properties tend to be smaller and thus create less impervious surface. Historic preservationists support the retention of a property's traditional agricultural use, thereby preserving scenic resources. Finally, saving and restoring structures, instead of replacing them with new structures, is in itself an act of sustainability that preserves historic resources.

Actions:

(1) Encourage owners of rural historic resources to place their property on the Landmarks List – particularly properties that



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22

are important to the agricultural history of Baltimore County and which are located along scenic routes.

(2) Continue to protect designated "view sheds" of historic resources , either by limiting new development within view of the historic resource, or by buffering new development from the view of such resources.

SCENIC RESOURCES

The preservation and enhancement of the scenic resources in Baltimore County is an essential component contributing to the quality of life of residents. Scenic resources consist of scenic corridors, scenic views, and gateways. In 1991, the County adopted a set of development guidelines that have raised awareness and recommended development alternatives for protecting scenic resources.

Scenic Corridors and Views

Most of the scenic corridors and views are located in rural areas. The scenic view map provides the beginning of a list of the views for establishing a comprehensive inventory in the near future. Following the adoption of the 1989 Master Plan, the County produced a series of scenic route maps for each council district, which combined the significant visual and historical elements into self-guided scenic tours. The protection of the Interstate 83 (I-83) corridor in northern Baltimore County is a showcase of the inter-governmental efforts on scenic views preservation.

The endeavor for preserving scenic corridors and views ought to emphasize lands zoned for resource protection including RC 2, RC 4, and RC 7. The County will continue to maintain coordination with the State Highway Administration (SHA) and seek available state and federal funds for protection of scenic corridors and views.

Policy: Preserve scenic corridors and views through proper zoning and coordination with federal and state governments.

Actions:

(1) Coordinate scenic resource management practices with the national and state Scenic Byways Programs.

(2) Continue to preserve properties within the I-83 scenic view shed through easement purchases, as funds are available and through RC4 clustering.

(3) Evaluate proposed improvements to state and county roads and bridges regarding their impact on scenic resources in compliance with the adopted *Rural Roads Standards*. Where public safety allows, the narrow and/or winding character of roads is part of the scenic experience and ought to be preserved.

(4) Assess proposed development impacts on scenic resources.

(5) Clarify language regarding scenic corridors and views protection and make it consistent amongst the Master Plan, Comprehensive Manual of Development Policies, Baltimore County Zoning Regulations, Baltimore County Code, and SHA Context Sensitive Solutions for work on scenic byways.

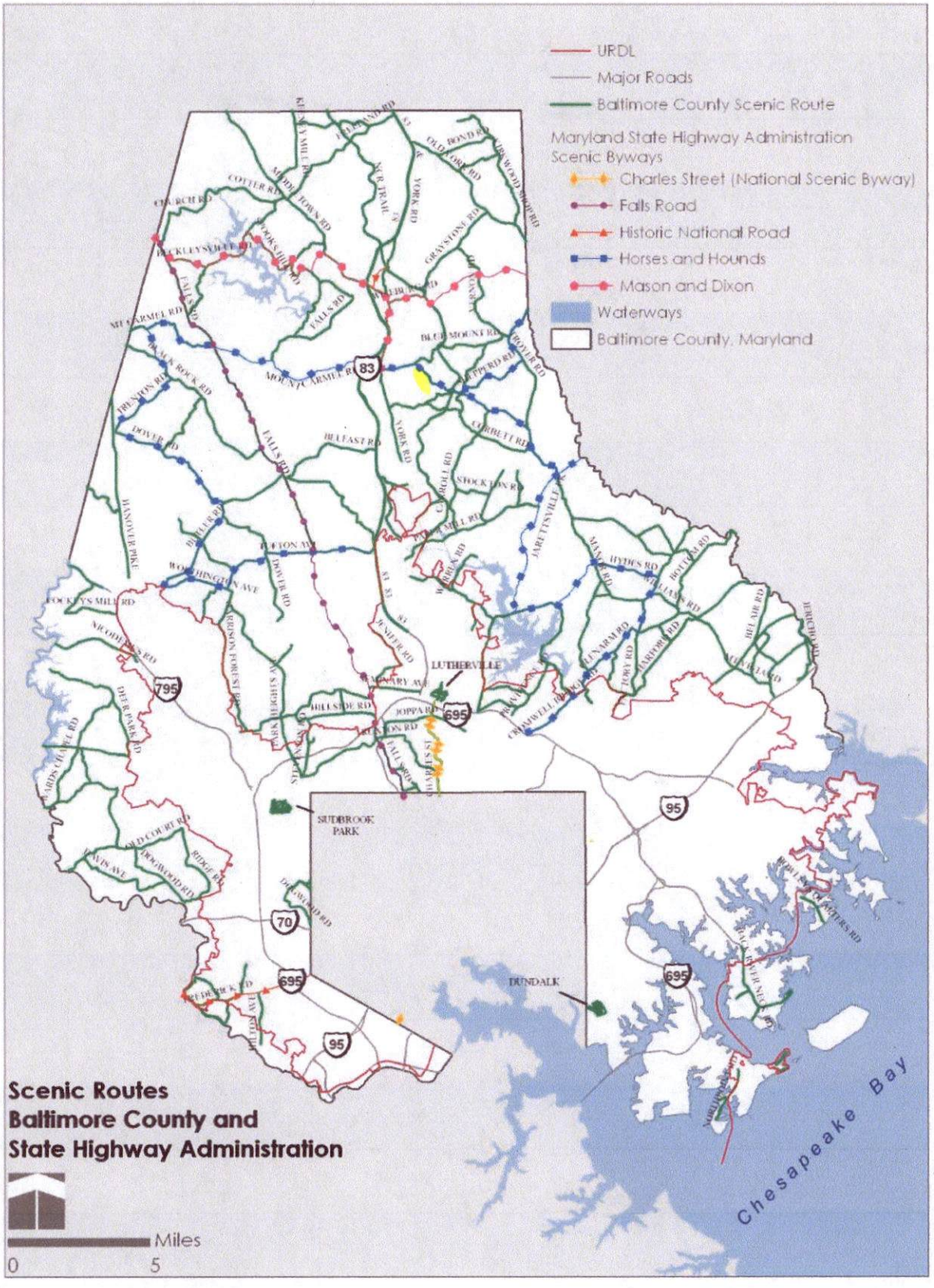
(6) Establish criteria for identifying significant views and geocode them on maps.

(7) Apply a systematic methodology for evaluation of scenic routes and preservation techniques.

(8) Update scenic resources map in accordance

The County has emphasized its efforts on preserving the scenic view shed of I-83 between the Thornton Mill overpass and the Pennsylvania line, which runs through one of the most scenic piedmont areas in the County. Farms, forests, streams and rural homesteads feature both sides of I-83 in northern county. Many properties adjacent to I-83 have been preserved either as parkland or through various easement programs, including donations and purchase of development rights. There has been significant progress in this effort: between Belfast Road and the Gunpowder River, more than half of the scenic corridor has been protected.

Map 26: Scenic Routes



with the most recently adopted state scenic byways.

(9) For properties along scenic routes or within scenic viewsheds, variances, amendments, and special exceptions should be granted sparingly.

Charles Street National Scenic Byway

Charles Street is a main thoroughfare stretching from downtown in the City of Baltimore to Towson in Baltimore County. The County and the City of Baltimore collaborated with interested citizens, civic groups, and state agencies, developing a byway management plan for Charles Street. The purpose of this plan was to prepare for the nomination of Charles Street as a National Scenic Byway. In autumn 2009, the U.S. Secretary of Transportation Ray LaHood designated Charles Street a National Scenic Byway, together with 41 other designations in the nation to the America's Byways® collection. This designation allows the City of Baltimore and Baltimore County to apply for grants for preserving and enhancing scenic characteristics of Charles Street.

Policy: Preserve and enhance the Charles Street National Scenic Byway characteristics.

Actions:

(1) Apply for grants to implement actions outlined in the Baltimore County portion of the Charles Street Byway Management Plan.

(2) Collaborate with the Baltimore County Office of Tourism to prioritize activities in compliance with the Byway Management Plan

County Gateway Designations

Gateways are important elements of the County's visual fabric contributing to the community identity and the sense of transition between urban and rural development. Gateways can be located within either urban or rural areas, and mostly at the boundary between urban and rural areas. The specific design treatment of development for these gateways may vary, depending upon the location and structural type of gateways. In addition, the County worked with the State Highways Administration (SHA) to develop bridge designs along the 695 Beltway that strengthen the sense of arrival into the adjacent communities and promote the community uniqueness.

The National Scenic Byways Program is part of the U.S. Department of Transportation, Federal Highway Administration. The program is a grass-roots collaborative effort established to help recognize, preserve and enhance selected roads throughout the United States. Since 1992, the National Scenic Byways Program has funded 2,832 projects for state and nationally designated byway routes in 50 states, Puerto Rico and the District of Columbia. The U.S. Secretary of Transportation recognizes certain roads as All-American Roads or National Scenic Byways based on one or more archeological, cultural, historic, natural, recreational and scenic qualities.

Policy: Enhance gateway designations through evaluation, design, and construction.

Actions:

(1) Evaluate existing gateways and identify additional gateways.

(2) Formulate appropriate design guidelines as part of community plans and streetscape projects.

(3) Examine the design aspects of proposed development as part of the development review process.

(4) Develop general guidelines for gateways in the Comprehensive Manual of Development Policies.

(5) Continue to work with SHA to develop bridge designs at gateway locations.

There are numerous gateways in Baltimore County. Prime examples include:
(1) The entry to the Cromwell Valley from Towson north of the I-695 Beltway; (2) Crossing the bridge northbound on I-83 passing Shawan Road; (3) The bridge designs over the I-695 Beltway entering Towson at York and Dulaney Valley Roads, Reisterstown at Reisterstown Road, Catonsville at Frederick Road, and on Charles Street; (4) The community logo, landscaping, and old railroad bridge abutment in Towson; and (5) The continuous streetscape along Eastern Avenue, from Route 702 to the bridge at Middle River Road leading to the waterfront communities.

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23

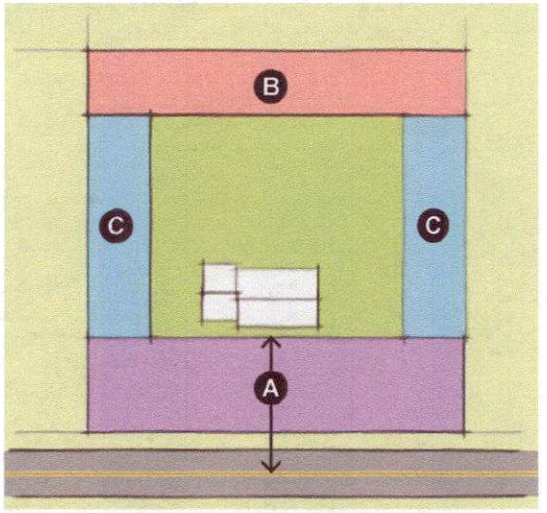
Resource Conservation Zones Comparison Chart

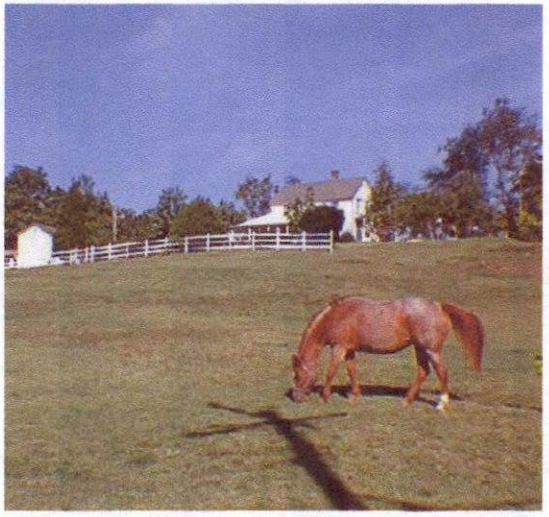
	RC-2 Agricultural Protection	RC-3 Deferral of Planning and Development	RC-4 Watershed Protection	RC-5 Rural Residential	RC-6 Rural Conservation and Residential	RC-7 Resource Preservation	RC-8 Environmental Enhancement	RC-20 Critical Area	RC-50 Critical Area Agricultural	RCC Resource Conservation, Commercial
Purpose	To foster and protect agriculture	To defer substantial development pending future planning and utilities	To protect the watersheds of the three regional reservoirs	To provide for residential development in appropriate rural areas	Greater protection for resource areas	To protect cultural, historical, recreational and environmental resources	To protect reservoir watersheds and extensive natural areas	To protect the natural resources of the Chesapeake Bay Critical Area	To protect water quality consistent with the Chesapeake Bay Critical Area	To provide small areas of commercial development for rural needs
Permitted Uses	Preferred use agriculture; limited residential development	Agriculture; low density residential	Agriculture; low density residential	Low density residential; agriculture uses	Agriculture; low density residential	Agriculture; low density residential	Agriculture; low density residential	Agriculture Aquaculture; low density residential; fish & wildlife preservation	Agriculture Aquaculture; low density residential; fish & wildlife preservation	Agricultural - related retail, general retail, office, and service use.
Special Exceptions	Antique shop, animal boarding, church, farm market	Animal boarding, camp, farm market, golf course	Antique shop, church, golf course	Antique shop, golf course	Antique shop, bed and breakfast, camp, golf course	Antique shop, bed and breakfast, winery	Antique shop, bed and breakfast, winery	Agricultural support services, specific recreational uses	Agricultural support services, specific recreational uses	Agricultural machine repair, landscape service operations
Lot Area	1 acre (min.)	1 acre (min.)	3 acres (min.), or 1 acre for clustered subdivisions	1.5 acres (min.)	1 acre (min.) 1.5 acres (max.)	1 acre (min.)	3 acres (min.)	Clustering encouraged[4]	Clustering encouraged[4]	2 acres (max.)
Maximum Number of Lots and/or Maximum Density	For a lot of record between 2 and 100 acres: 2 lots; lot of record over 100 acres: one lot for each 50 acres of gross area	Maximum tract density: 0.3 units per acre Minimum diametral dimension[1]: 150 feet	Maximum tract density: 0.2 dwelling units per acre; a tract between 6 and 10 acres may be subdivided into 2 lots total[2]	Maximum tract density 0.5 dwellings per acre	Maximum tract density: 0.2 lot per acre Primary and secondary conservancy areas are required	Maximum density: 0.04 lot per acre for tracts ≥50 acres Tracts <50 acres cannot be subdivided	Maximum density: 0.02 lot per acre for tracts ≥51 acres[3]	A lot of record with a gross area of 20 or more acres may be subdivided at a rate of 1 lot for each 20 acres	A lot of record with gross area between 20 and 100 acres may be subdivided once if the average density is at least 1 unit per 20 acres[5]	Gross floor area of all proposed buildings on the lot shall not exceed 3000 square feet

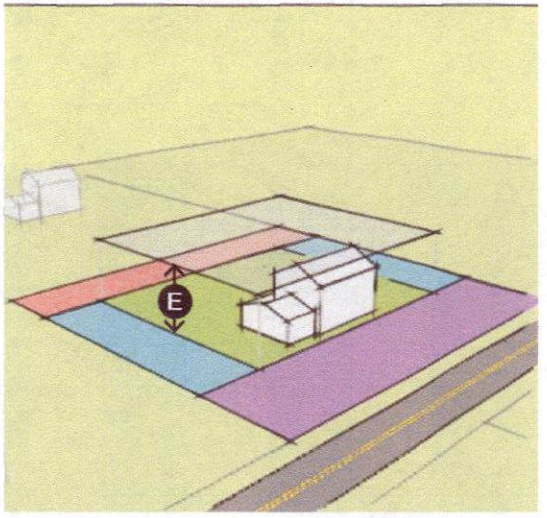
[1] Diametral dimension is the diameter of the largest circle that may be inscribed within a lot
[2] Rural clustering standards apply to development of tracts more than 10 acres, unless an alternative, non-clustering development alternative is followed at a density of 0.1 dwelling units per acre.
[3] Maximum number of lots for tracts ≤10 acres is one; 10 to 30 acres is two; 30 to 50 acres is three
[4] Will be determined in accordance with the county health and Department of Environmental Protection and Sustainability regulations.
[5] A lot of record over 100 acres may be subdivided at a rate of 1 lot per 50 acres

RC-2
Agriculture

Height and Area Requirements		
A	Minimum front setback from centerline of road	75 feet
B	Minimum rear setback	35 feet
C	Minimum side setback	35 feet
E	Maximum building height	35 feet





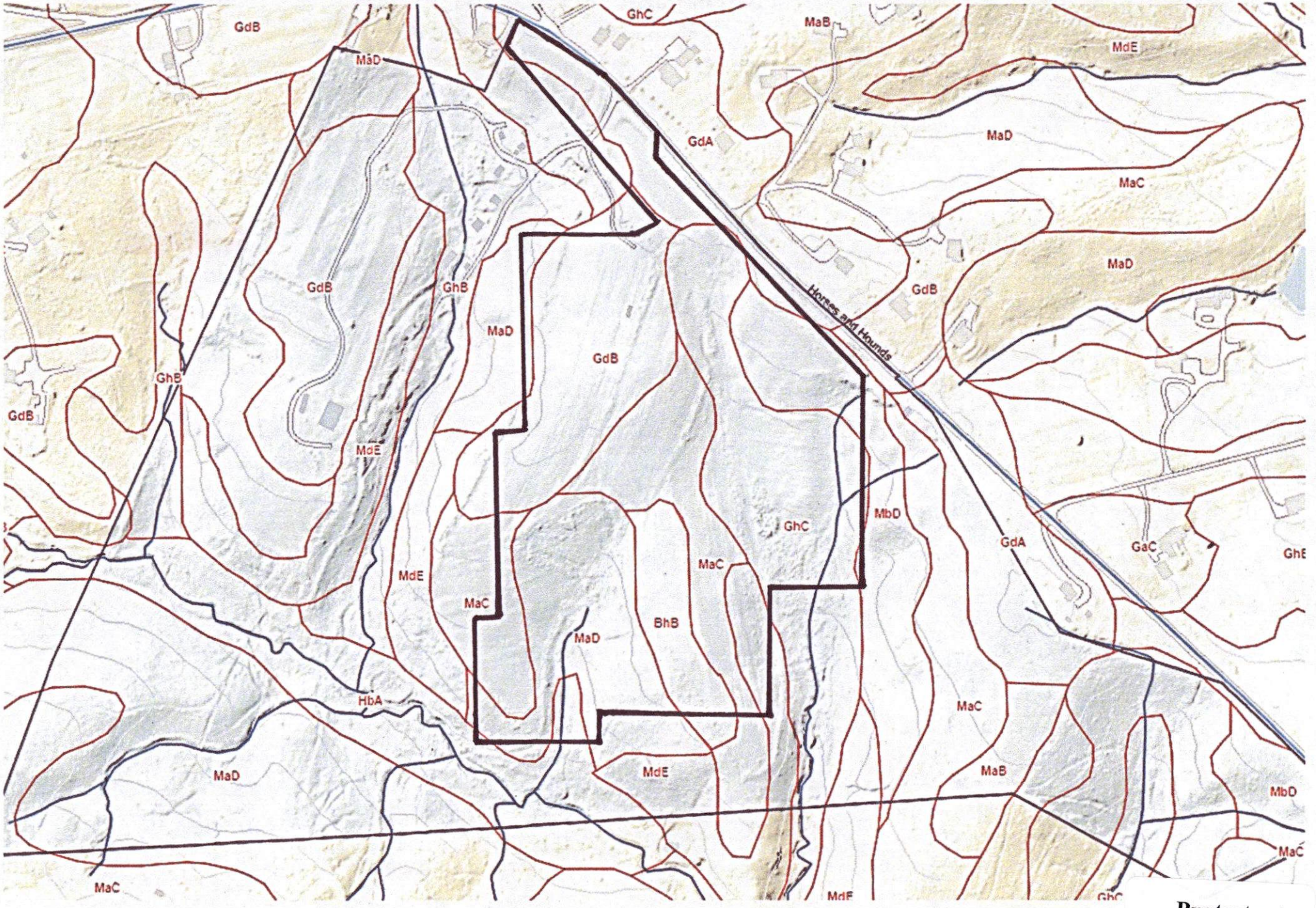


Intent: To foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses.

Typical Uses Permitted by Right: Farm, farmette, single-family detached dwelling, farmer's roadside stand, tenant house.

Typical Uses Permitted by Special Exception: Antique shop, animal boarding place, church, farm market, landscape operation, agricultural support uses.

Note: The minimum lot size is one acre.



Soils and waterways of 1139 Monkton Rd
Black Line: Special Exception Area

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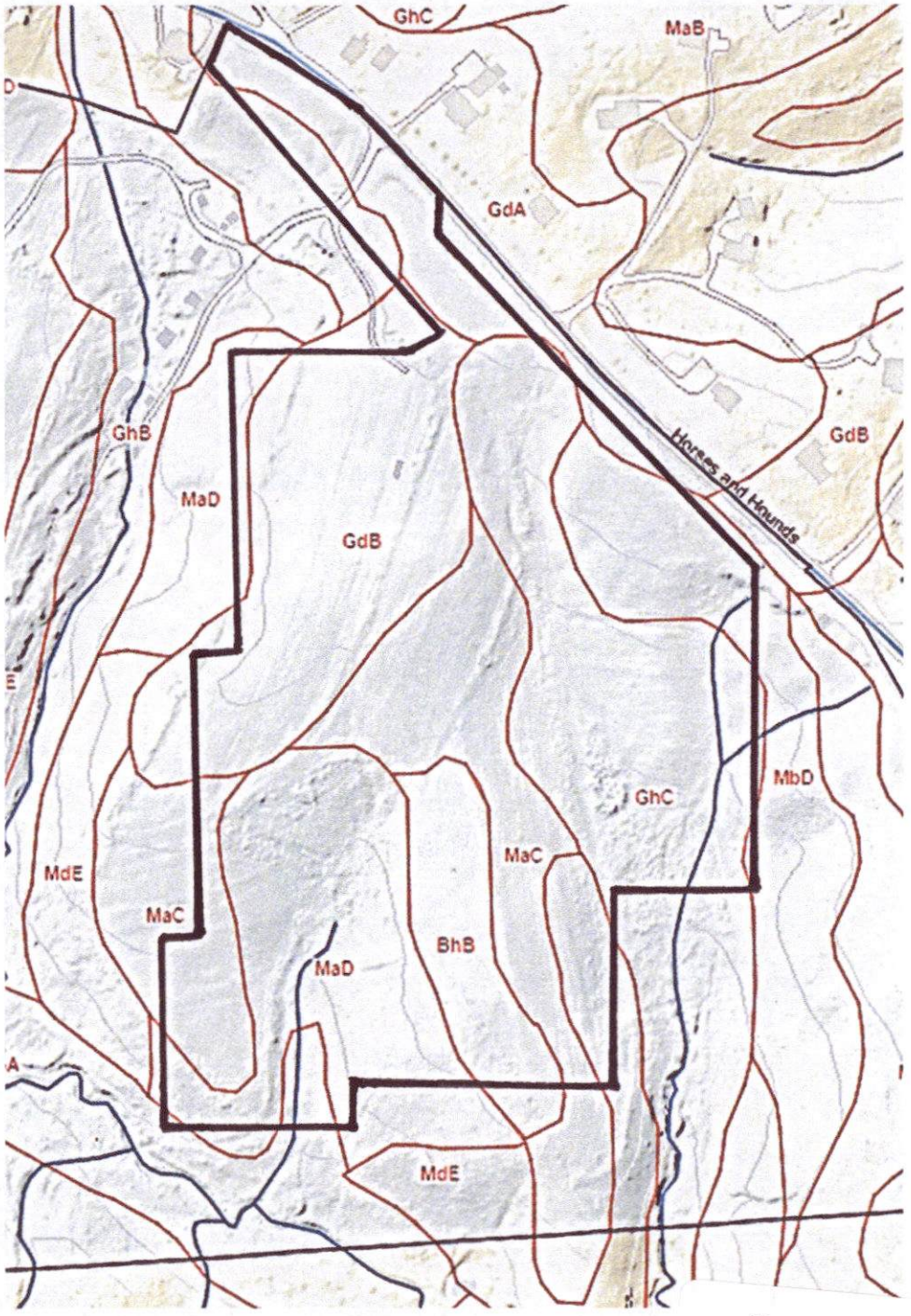
24

The majority of soils within this special exception area are:
GdB: Glenelg loam, 3-8% slopes: Prime farmland
GdA: Glenelg loam, 0-3% slopes, Prime farmland
BhB: Brinklow channery loam, 3-8% slopes, Prime farmland
MaC: Manor loam, 8-15% slopes: Statewide importance
GhC: Glenville silt loam, 8-15% slopes: Statewide importance
MbD: Manor channery loam, 15-25%, not prime
MaD: Manor loam, 15-25% slopes, not prime

Map Unit Symbol	Map Unit Name
BhB	Brinklow channery loam, 3 to 8 percent slopes
GdA	Glenelg loam, 0 to 3 percent slopes
GdB	Glenelg loam, 3 to 8 percent slopes
GhB	Glenville silt loam, 3 to 8 percent slopes
GhC	Glenville silt loam, 8 to 15 percent slopes
HbA	Hatboro silt loams, 0 to 3 percent slopes
MaB	Manor loam, 3 to 8 percent slopes
MaC	Manor loam, 8 to 15 percent slopes
MaD	Manor loam, 15 to 25 percent slopes
MbD	Manor channery loam, 15 to 25 percent slopes
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky



Soil map unit symbols and special exception area (black outline) of 1139 Monkton Rd

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25

DONALD I. MOHLER III
County Executive

ANDREA VAN ARSDALE, *Director*
Department of Planning

August 1, 2018

The Honorable Julian E. Jones, Jr.
Chairman, Baltimore County Council
Historic Courthouse
400 Washington Avenue
Towson, MD 21204

RE: County Council Bill 37-17: Solar Facilities

Dear Chairman Jones:

At the May 17, 2018 meeting of the Baltimore County Planning Board, an evaluation of the impacts of solar facilities in Baltimore County pursuant to County Council Bill 37-17 was presented by Department of Planning staff. A Public Hearing followed on June 7, 2018 and was well attended by the community. At its July 19, 2018 meeting, the Planning Board voted to forward these recommendations on solar facilities to the Baltimore County Council and to the County Executive.

The following recommendations are now offered by the Planning Board:

The Planning Board recognizes that the development of solar power and other renewable sources of energy is critical for our future, however;

- Solar facilities should not be permitted on prime and productive soils;
- Solar facilities should be directed into business and manufacturing zones, brownfields, rooftops and parking lots where financially feasible;
- Further in-depth study of how other similar jurisdictions have responded to the use should be considered in a review of the current law;
- The feasibility of establishing locational criteria to determine appropriate siting of solar facilities should be investigated;
- Solar facilities should not be detrimental to scenic views or routes; and
- Participation in future studies should be broadened to include stakeholders from each Councilmanic District.

105 West Chesapeake Avenue, Suite 101 | Towson, Maryland 21204 | Phone: 410-887-3211 | Fax: 410-887-5862
planning@baltimorecountymd.gov | www.baltimorecountymd.gov/planning

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26

If you have any questions regarding these recommendations please contact me at 410-887-3211.

Sincerely,

Andrea J. Van Arsdale

Andrea Van Arsdale
Secretary to the Planning Board

AVA:jdd

Enclosures

c: Members, Baltimore County Council
Members, Baltimore County Planning Board
Thomas Peddicord, Jr., Legislative Counsel/Secretary
Lauren M. Smelkinson, County Auditor
Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrative Officer and Director, Permits, Approvals, and Inspections
Donna Morrison, Deputy Administrative Officer
Mike Field, County Attorney

Baltimore County Farm Bureau
1114 Shawan Road
Suite 2
Cockeysville, Maryland 21030
www.baltimore.mdfarmbureau.com
BCFB@hotmail.com

April 2018

To whom it may concern:

Baltimore County Farm Bureau supports the following Maryland Farm Bureau Policy for 2018 on 'Other Alternative Energy Sources' as found on page 23.

- **We encourage research, development, and utilization of alternative energy sources from methane, biomass, wind, nuclear, solar, hydrogen, hydro, and clean natural gas. '08 Additionally, we urge that this process be aided by appropriate government tax incentives. '07**
- **We support the use of on-farm wind and solar energy production to provide electric energy for the farm and to be sold to the energy grid. We encourage state and county governments to provide regulatory support and encouragement for wind generators and turbines to help offset farm energy costs. '16**
- **We oppose commercial solar energy facilities being considered as an agricultural activity and receiving the same exemptions as an agricultural structure or agland. This would also include receiving the agricultural tax assessment. '16**
- **We oppose the use of "farm" when referring to an alternative energy generation facility. '14**
- **We oppose the State of Maryland preemption of local and county land use policy for renewable energy generation projects. '15**
- **We support removing large scale commercial solar energy generating facilities from the RPS carve-out for solar energy. '16**
- **We do not support commercial solar energy facilities being built on prime and productive farmland. '16**
- **Commercial energy facilities should have appropriate riparian buffer and setback requirements. '16**

Thank you for your consideration, I welcome further discussion at your convenience.

Sincerely,

Jo-Ann Chason

Jo-Ann Chason
Baltimore County Farm Bureau
President
443-807-1007
bc.fb@aol.com

Protestant
CBA Exhibit
27

IN RE: PETITION FOR SPECIAL EXCEPTION (1139 Monkton Road) 7th Election District 3rd Council District HHK Farms, LLC *Legal Owner* OneEnergy Development, LLC *Lessee* Petitioners	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY Case No. 2018-0030-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of HHK Farms, LLC, legal owner and OneEnergy Development, LLC, lessee ("Petitioners"). The petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a Solar Facility.

Marni Carroll, landscape architect Edward Tom, professional engineer Matt Durette and planner Mitch Kellman appeared in support of the petition. Adam M. Rosenblatt, Esq. represented the Petitioners. Several citizens attended the hearing and opposed the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS), the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP).

The subject property is approximately 98.49 acres in size and is split-zoned RC-2, RC-4 and RC-7. The proposed solar facility would be situated entirely within the RC-2 zoned portion of the site; a solar facility is permitted in an RC-2 zone by special exception. Representatives of the lessee testified the solar panels would occupy approximately 13 acres of the site, and in response to comments by the DOP the panels were shifted further away from Monkton Road. When originally submitted the plan indicated that at the closest point the panels would be 79 ft. from Monkton Road, and the revised plan reflects that distance has increased to 125 ft. As Mr. Kellman testified, the law requires only a 50 ft. setback from a road, including a scenic route like Monkton Road. BCZR §4E-104.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Kellman, who was accepted as an expert, opined the plan satisfied all requirements set forth in BCZR §502.1 governing special exceptions. He also opined that any detrimental impacts upon the community at this location would be no worse than at other RC-2 zoned parcels in northern Baltimore County. Having satisfied their burden of proof under Maryland law I believe Petitioners are entitled to the special exception.

I am sympathetic to the concerns expressed by the community, which (as in several previous cases involving solar facilities in RC zones) focused upon the potential environmental impact from the solar panels as well as the detrimental impact the panels will have upon the bucolic country setting. While these are legitimate concerns, they are also inherent in the operation of a solar facility in the RC-2 zone generating two megawatts of electricity. A special exception petition cannot be denied based upon an inherent adverse impact upon the community. *Id.* Petitioners will be required to comply with all County environmental regulations, and a condition to that effect

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28

will be included below. In addition, Petitioners will need to submit for County approval a landscape plan that will mitigate the visual impact of the solar facility upon the scenic route and adjacent homes.

THEREFORE, IT IS ORDERED this 7th day of May, 2018, by this Administrative Law Judge, that the Petition for Special Exception to use the property for a Solar Facility be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

2. Petitioners must comply with the ZAC comments submitted by the DEPS and Bureau of DPR, copies of which are attached hereto and incorporated herein.

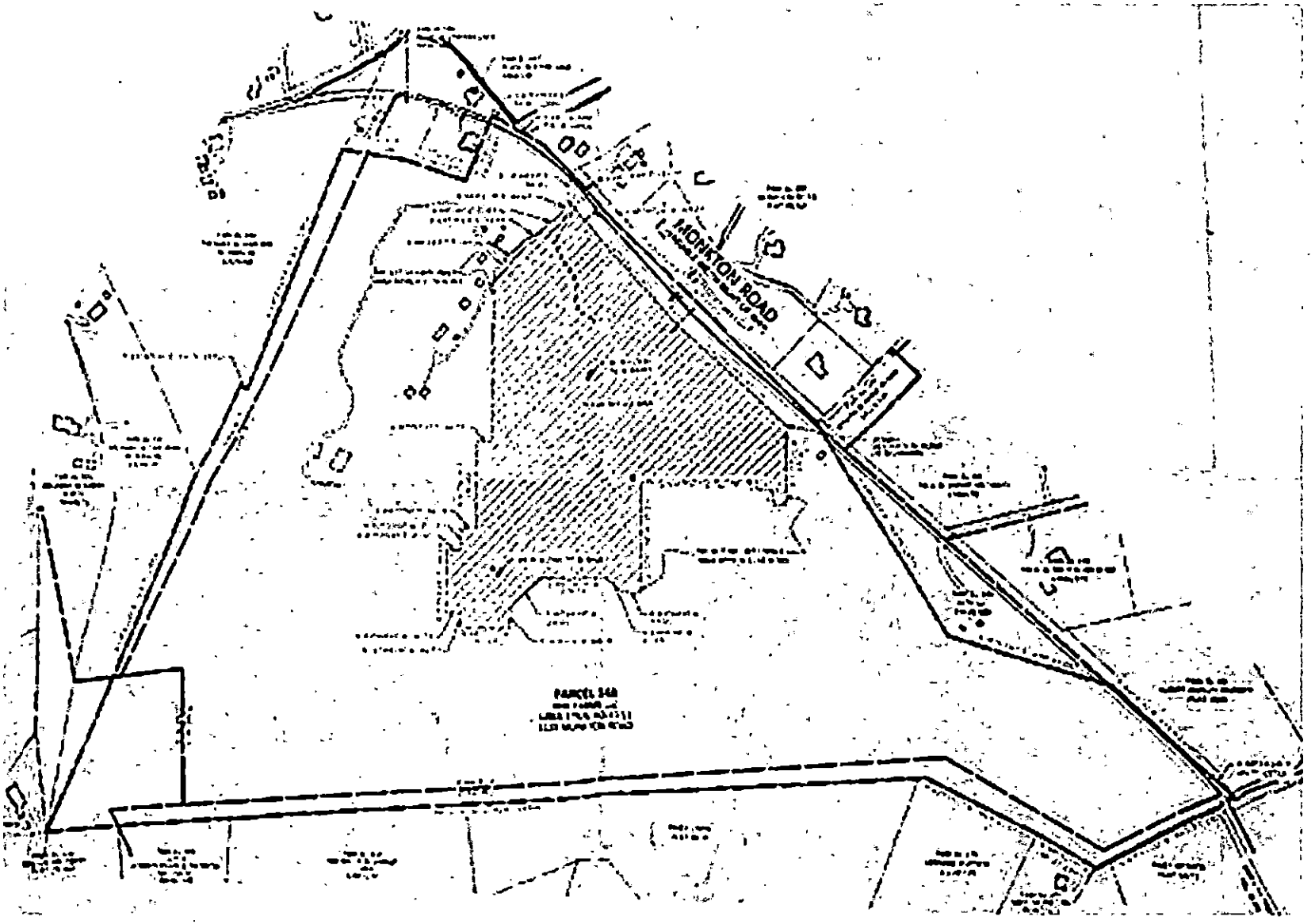
3. No trees may be removed from the site in connection with the construction of the solar facility.

4. No barbed wire fencing shall be permitted in conjunction with the solar facility.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln



1139 Monkton Rd Solar Case #2018-30-X

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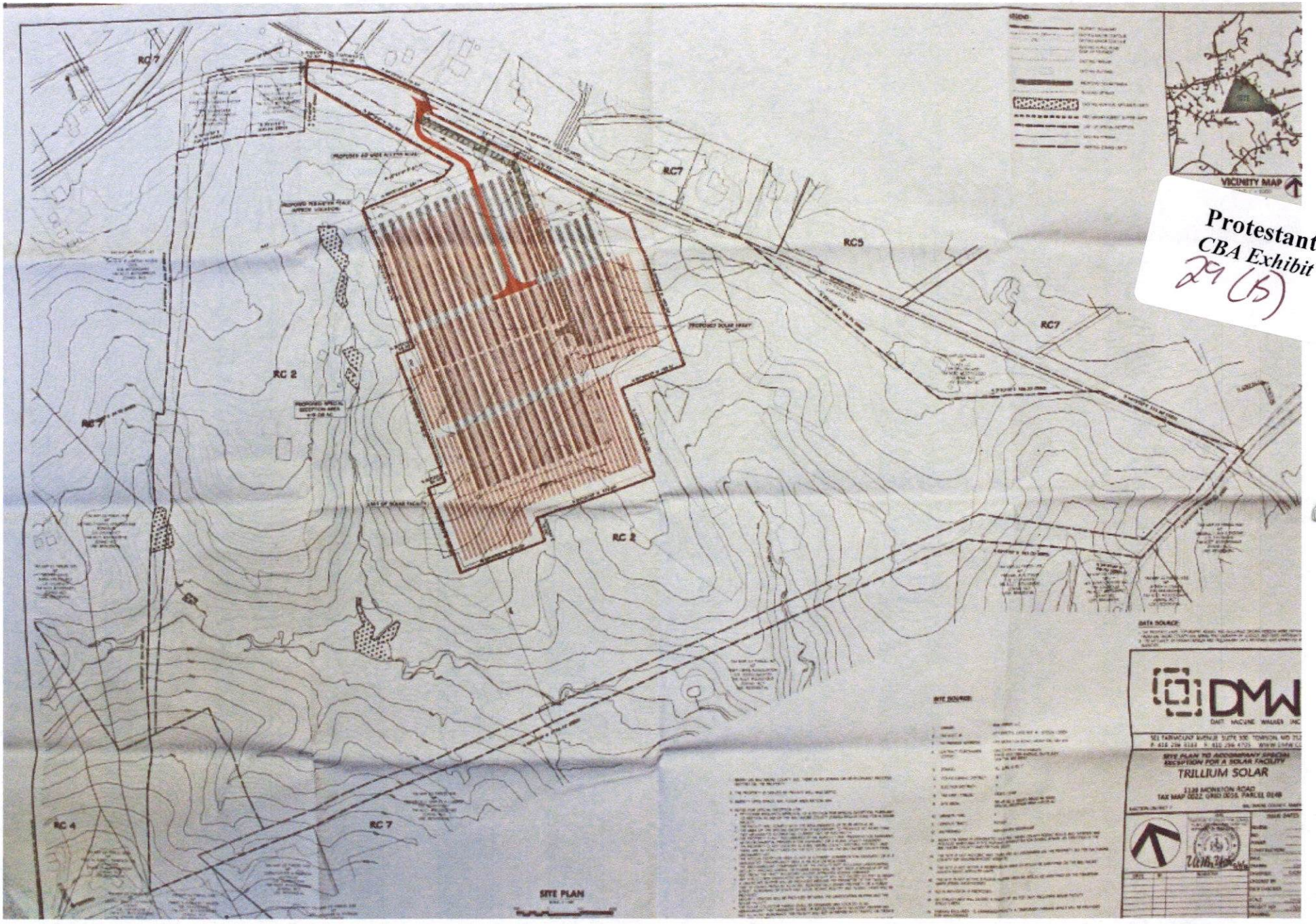
ZD only 29(A)



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29 (b)

DATED 5/4/18

1139 MONKTON ROAD
TAX MAP 0022, GRID 0016, PARCEL 0148

ELECTION DISTRICT 7 — BALTIMORE COUNTY, MARYLAND

SEAL

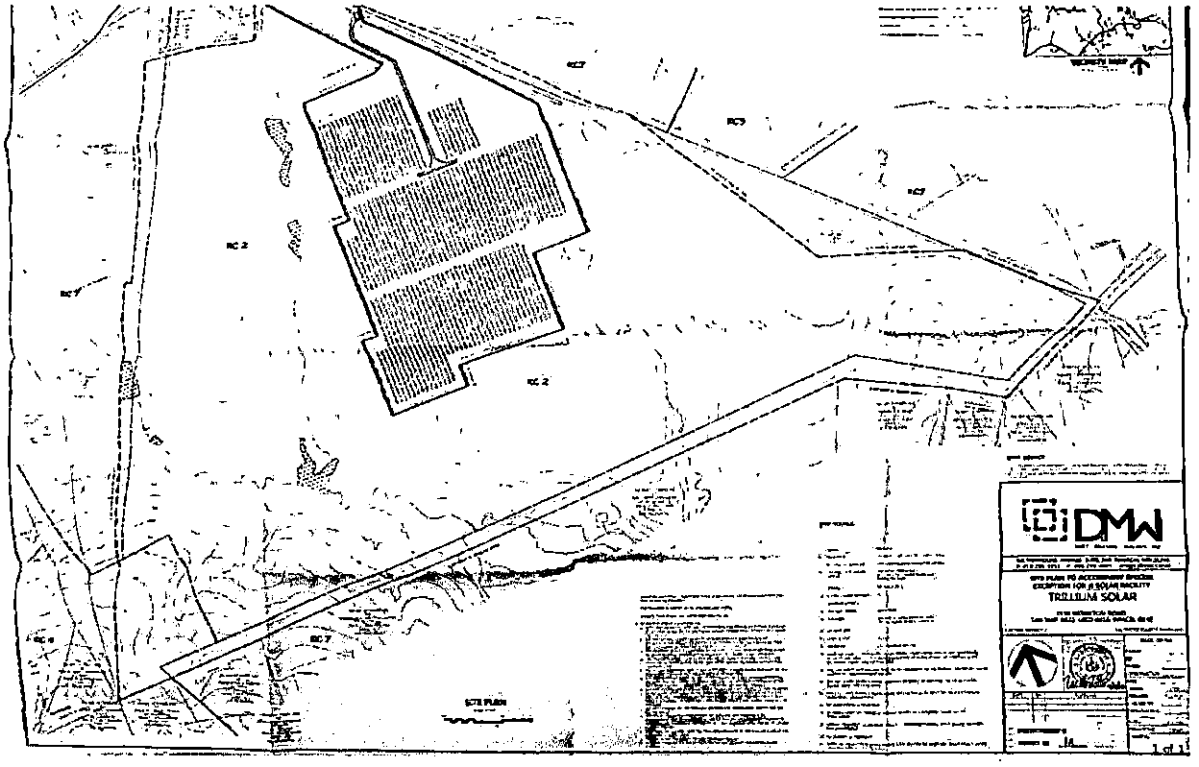
ISSUE DATES

REVIEW:
SID:
PERMIT:
CONSTRUCTION:
BASE:
DRAWN: CHP
DESIGNED: RJCM/JR
CHECKED BY:
DATE CHECKED:
SCALE: 1"=200'
PROJECT NO. 17029
DRAWING:
1 of 1

DATE	BY	REVISIONS

PETITIONER'S
EXHIBIT NO. 1A

Plan is dated 5/4/2018. The green satellite image site plan was attached to this plan.



Photos of site plan taken on 12/4/18 in the Board of Appeals office.

Protestant
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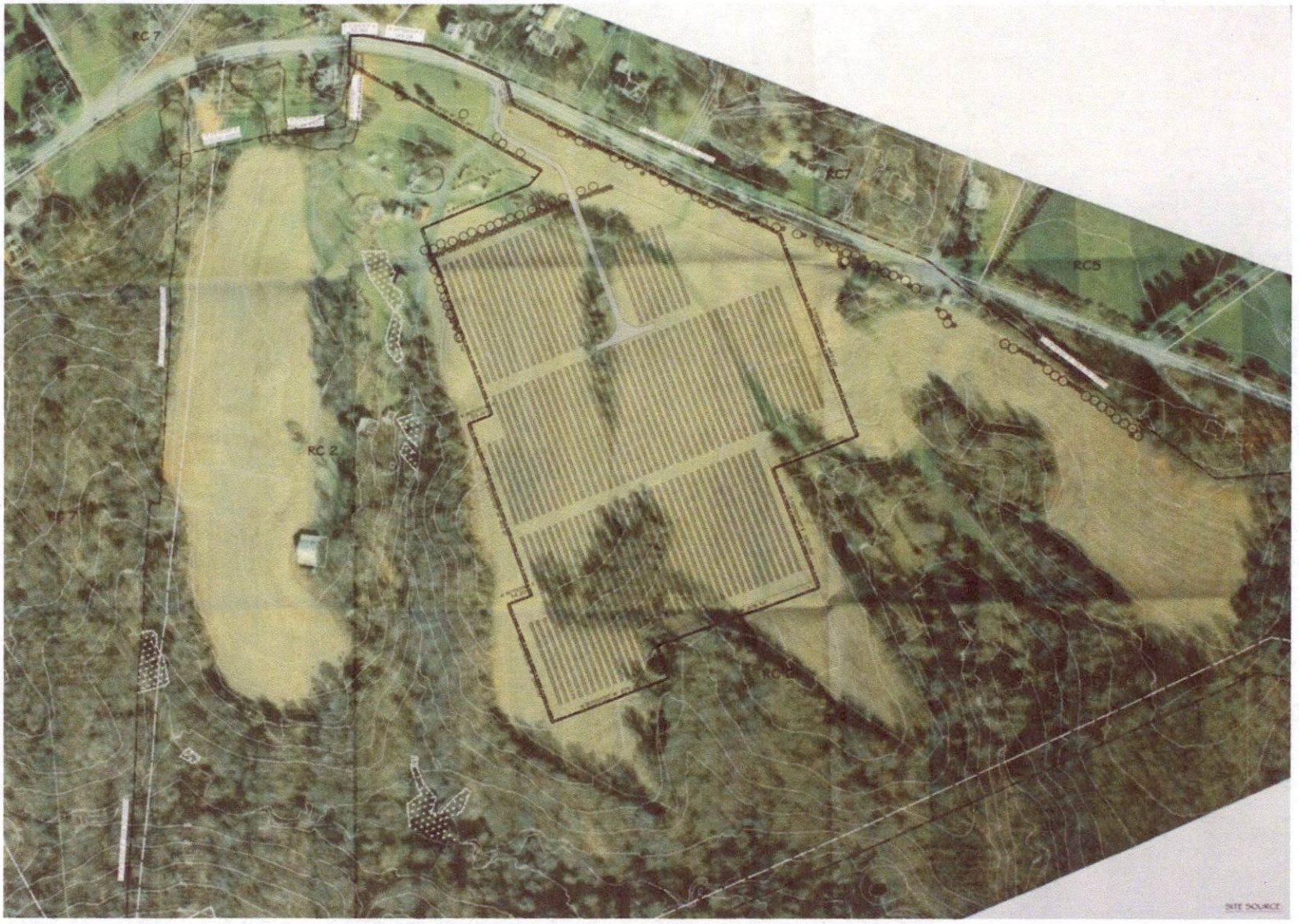
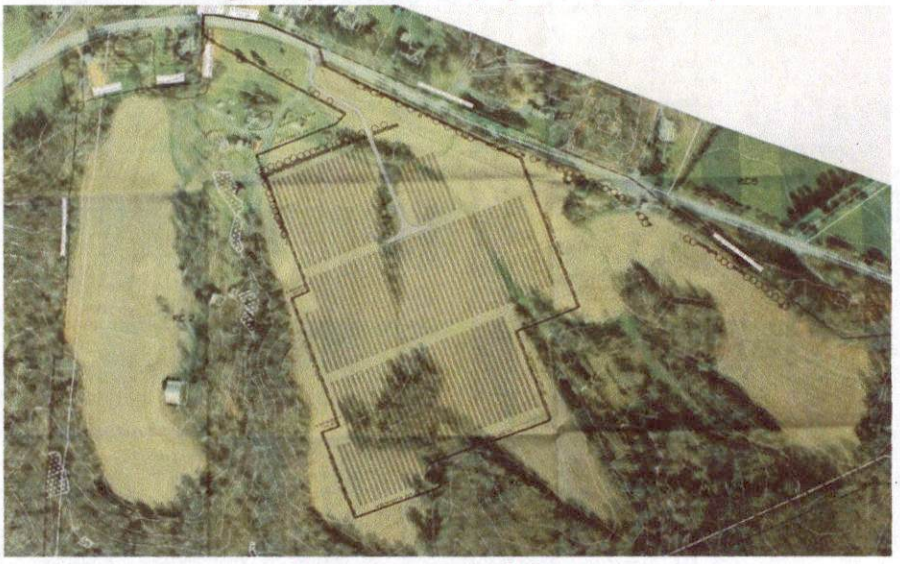
30 (A) (B)



1139 Monkton Rd Petitioner's Site Plan with satellite imaging and special exception overlay.

PHOTO TAKEN: 12/4/18

Google Map dated 2018 (copied 12/11/2018)



Site plan dated 5/4/2018

Site plan dated 12/10/2018

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31

Areas where trees were removed (lighter areas of disturbed soils), image from myneighborhood website, 12/11/2018.

Commentary will be stricken and Photo will be admitted

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32

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33

4/21/10

https://www.psc.state.md.us/electricity/community-solar-pilot-program/

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Human Trafficking
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National Human Trafficking Hotline -- 24/7 Confidential
1-888-373-7888
233733
For more information on human trafficking in Maryland click here.

Community Solar Pilot Program

The Maryland Public Service Commission has adopted regulations for a community solar pilot program in Maryland, with an emphasis on providing renewable energy benefits for low and moderate income customers. Community solar customers are expected to see some savings on their electric bills and all Marylanders will benefit from more clean energy options. How community solar works.

In addition, the program will encourage private investment in Maryland's solar industry and diversify the state's energy resource mix to meet Renewable Portfolio Standard and Greenhouse Gas Emissions Reduction Act goals.

Links to utility community solar programs and interconnection applications:

- BGE Community Solar Pilot Program
- Delmarva Power & Light Green Power Connection
- Potomac Edison Company (MD) Community Solar
- Potomac Electric Power Company (Pepco) Green Power Connection

The three-year community solar pilot program will:

- Provide access to solar-generated electricity – in a manner similar to rooftop solar and net metering – for all Maryland customers without requiring property ownership;
- Incentivize solar companies to provide service to low- and moderate-income customers;
- Set aside program capacity for each area of the state with a statewide cap at about 193 MW. **About 60 MW is set aside for projects focused on low and moderate income customers**;
- Attract new investment in Maryland's renewable infrastructure and green economy;
- Allow renters to contract for solar energy with the same benefits as rooftop owners;
- Create separate program capacity for small systems and systems built on brownfields, parking lots, or industrial areas;
- Allow smaller and rural service territories to make use of existing solar facilities while encouraging construction of new systems in the urban and suburban areas of Maryland;
- Include significant consumer protections, including prohibition against unreasonable fees and clear contract disclosure requirements; and
- Allow the Commission Staff to collect necessary data to study the impact on Maryland's electricity grid over the three-year pilot program.

Individual community solar projects will be operated by subscriber organizations (which can include utilities, retail electricity suppliers, solar developers, etc.) that are approved by the Public Service Commission **(application form here)** and the electric company serving the location of each project. **The template for the community solar contract disclosure form (along with instructions), can be found here.**

The Maryland Energy Administration offers grants for residential and commercial community solar subscriptions. More information can be found on MEA's web site.

Google Custom Se

Alerts
Administrative Meeting
Weds, Dec. 5 at 10am

Featured Topics
Community Solar Subscriber Organization Application Form
Community Solar Contract Disclosure Form/Instructions
MEA Community Solar Grant Program

Quick Links
Electric Utility Tariffs
Shop for Electricity
Save Energy and Money
Electric Choice FAQ
Electric Choice Glossary

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All these animals are indigenous to Baltimore County.

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35

Chain link fencing that is less harmful to wildlife: Top bar is situated above the top of chain link. Wire ends are bent downward so no exposed spikes can harm animals and birds.

The Photovoltaic Heat Island Effect: Larger solar power plants increase local temperatures

Greg A. Barron-Gafford✉, Rebecca L. Minor, Nathan A. Allen, Alex D. Cronin, Adria E. Brooks & Mitchell A. Pavao-Zuckerman

Scientific Reports 6, Article number: 35070 (2016)
doi:10.1038/srep35070
Download Citation

Environmental impact

Renewable energy

Received: 26 May 2016
Accepted: 23 September 2016
Published: 13 October 2016

Abstract

While photovoltaic (PV) renewable energy production has surged, concerns remain about whether or not PV power plants induce a "heat island" (PVHI) effect, much like the increase in ambient temperatures relative to wildlands generates an Urban Heat Island effect in cities. Transitions to PV plants alter the way that incoming energy is reflected back to the atmosphere or absorbed, stored, and reradiated because PV plants change the albedo, vegetation, and structure of the terrain. Prior work on the PVHI has been mostly theoretical or based upon simulated models. Furthermore, past empirical work has been limited in scope to a single biome. Because there are still large uncertainties surrounding the potential for a PHVI effect, we examined the PVHI empirically with experiments that spanned three biomes. We found temperatures over a PV plant were regularly 3–4 °C warmer than wildlands at night, which is in direct contrast to other studies based on models that suggested that PV systems should decrease ambient temperatures. Deducing the underlying cause and scale of the PVHI effect and identifying mitigation strategies are key in supporting decision-making regarding PV development, particularly in semiarid landscapes, which are among the most likely for large-scale PV installations.

OneDrive/Documents/SOLAR/Solar%20Studies%20Articles/The%20Photovoltai%20Heat%20Island%20Effect_%20Larger%20solar%20power%20plants%20increase%20local%20temperatures%20_%20Scientific%20Reports.html

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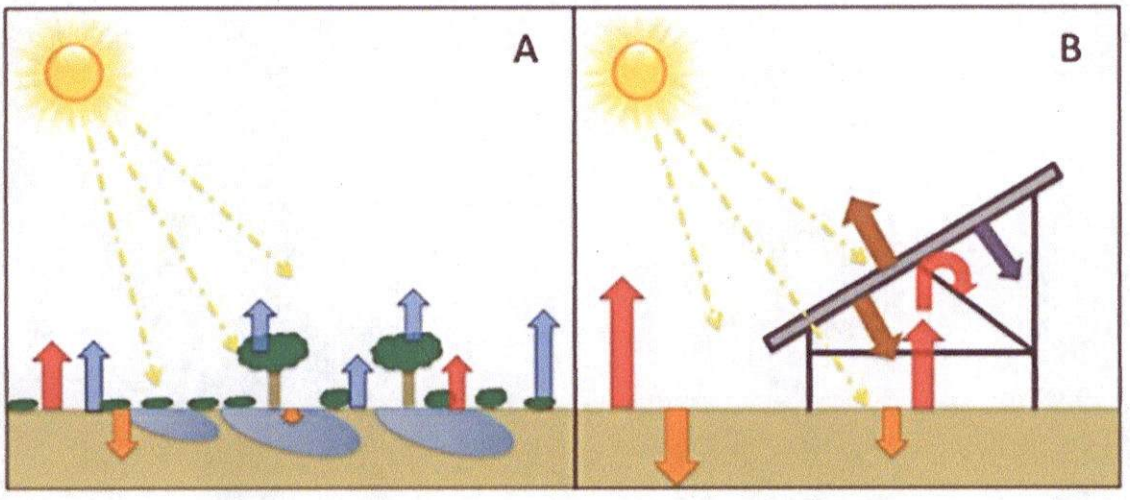
36 10 only

Figure 1: Illustration of midday energy exchange.



Assuming equal rates of incoming energy from the sun, a transition from (**A**) a vegetated ecosystem to (**B**) a photovoltaic (PV) power plant installation will significantly alter the energy flux dynamics of the area. Within natural ecosystems, vegetation reduces heat capture and storage in soils (orange arrows), and infiltrated water and vegetation release heat-dissipating latent energy fluxes in the transition of water-to-water vapor to the atmosphere through evapotranspiration (blue arrows). These latent heat fluxes are dramatically reduced in typical PV installations, leading to greater sensible heat fluxes (red arrows). Energy re-radiation from PV panels (brown arrow) and energy transferred to electricity (purple arrow) are also shown.

An official website of the United States government.

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

Close

EPA United States Environmental Protection Agency

Heat Island Impacts

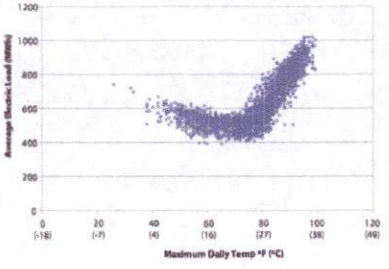
On this page:

- Increased Energy Consumption
- Elevated Emissions of Air Pollutants and Greenhouse Gases
- Compromised Human Health and Comfort
- Impaired Water Quality

On a hot, sunny summer day, roof and pavement surface temperatures can be 50–90°F (27–50°C) hotter than the air, while shaded or moist surfaces—often in more rural surroundings—remain close to air temperatures.[1] These surface urban heat islands, particularly during the summer, have multiple impacts and contribute to atmospheric urban heat islands. Air temperatures in cities, particularly after sunset, can be as much as 22°F (12°C) warmer than the air in neighboring, less developed regions.[2]

Elevated temperatures from urban heat islands, particularly during the summer, can affect a community's environment and quality of life. While some impacts may be beneficial, such as lengthening the plant-growing season, the majority of them are negative. These impacts include:

- Increased energy consumption;
- Elevated emissions of air pollutants and greenhouse gases;
- Compromised human health and comfort; and
- Impaired water quality.



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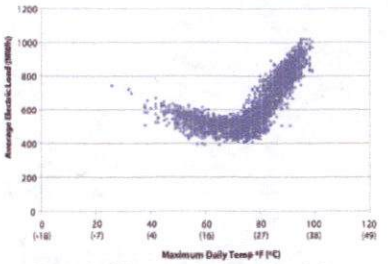

As shown in this example from New Orleans, electrical load can increase steadily once temperatures begin to exceed about 68–77°F (20–25°C). Other areas of the country show similar demand curves as temperature increases.

Credit:Sailor, D. J. 2002. Urban Heat Islands, Opportunities and Challenges for Mitigation and Adaptation. Sample Electric Load Data for New Orleans, LA (NOPSI, 1995). North American Urban Heat Island Summit. Toronto, Canada. 1–4 May 2002. Data courtesy Entergy Corporation.

Increased Energy Consumption

Elevated summertime temperatures in cities increase energy demand for cooling. Research shows that electricity demand for cooling increases 1.5–2.0% for every 1°F (0.6°C) increase in air temperatures, starting from 68 to 77°F (20 to 25°C), suggesting that 5–10% of community-wide demand for electricity is used to compensate for the heat island effect.[2]

Urban heat islands increase overall electricity demand, as well as peak demand, which generally occurs on hot summer weekday afternoons, when offices and homes are running cooling systems, lights, and appliances. During extreme heat events, which are exacerbated by urban heat islands, the resulting demand for cooling can overload systems and require a utility to institute controlled, rolling brownouts or blackouts to avoid power outages.

Elevated Emissions of Air Pollutants and Greenhouse Gases

As described above, urban heat islands raise demand for electrical energy in summer. Companies that supply electricity typically rely on fossil fuel power plants to meet much of this demand, which in turn leads to an increase in air pollutant and greenhouse gas emissions. The primary pollutants from power plants include:

- sulfur dioxide (SO2)
- nitrogen oxides (NOx)
- particulate matter (PM)
- carbon monoxide (CO) and

- mercury (Hg).

These pollutants are harmful to human health and also contribute to complex air quality problems such as the formation of ground-level ozone (smog), fine particulate matter, and acid rain. Increased use of fossil-fuel-powered plants also increases emissions of greenhouse gases, such as carbon dioxide (CO_2), which contribute to global climate change.

In addition to their impact on energy-related emissions, elevated temperatures can directly increase the rate of ground-level ozone formation. Ground-level ozone is formed when NOx and volatile organic compounds (VOCs) react in the presence of sunlight and hot weather. If all other variables are equal, such as the level of precursor emissions in the air and wind speed and direction, more ground-level ozone will form as the environment becomes sunnier and hotter.

Compromised Human Health and Comfort

Increased daytime temperatures, reduced nighttime cooling, and higher air pollution levels associated with urban heat islands can affect human health by contributing to general discomfort, respiratory difficulties, heat cramps and exhaustion, non-fatal heat stroke, and heat-related mortality.

Heat islands can also exacerbate the impact of heat waves, which are periods of abnormally hot, and often humid, weather. Sensitive populations, such as children, older adults, and those with existing health conditions, are at particular risk from these events.

Excessive heat events, or abrupt and dramatic temperature increases, are particularly dangerous and can result in above-average rates of mortality. The Centers for Disease Control and Prevention estimates that from 1979–2003, excessive heat exposure contributed to more than 8,000 premature deaths in the United States.[3] This figure exceeds the number of mortalities resulting from hurricanes, lightning, tornadoes, floods, and earthquakes combined.

Impaired Water Quality

High pavement and rooftop surface temperatures can heat stormwater runoff. Tests have shown that pavements that are 100°F (38°C) can elevate initial rainwater temperature from roughly 70°F (21°C) to over 95°F (35°C).[4] This heated stormwater generally becomes runoff, which drains into storm sewers and raises water temperatures as it is released into streams, rivers, ponds, and lakes.

Water temperature affects all aspects of aquatic life, especially the metabolism and reproduction of many aquatic species. Rapid temperature changes in aquatic ecosystems resulting from warm stormwater runoff can be particularly stressful, even fatal to aquatic life.

References

1. Berdahl P. and S. Bretz. 1997. Preliminary survey of the solar reflectance of cool roofing materials. *Energy and Buildings* 25:149-158.

2. Akbari, H. 2005. Energy Saving Potentials and Air Quality Benefits of Urban Heat Island Mitigation (PDF) (19 pp, 251K). Lawrence Berkeley National Laboratory.
3. Center for Disease Control and Prevention. 2006. Extreme Heat: A Prevention Guide to Promote Your Personal Health and Safety.
4. James, W. 2002. Green roads: research into permeable pavers. *Stormwater* 3(2):48-40.

More Information on Heat Island Impacts

- Adapting to Heat
- EPA's Heat Island Guide: Basics
- Webcasts
- Related Links

Resources

- Outreach Materials
- Glossary
- Science Corner
- Newsroom
- Calendar
- Related Links
- Newsletter Signup

LAST UPDATED ON JUNE 20, 2017

2006
Maryland Brook Trout
Fisheries Management Plan

Photo by Matt Kline

Prepared by
Maryland Department of Natural Resources
Fisheries Service
Inland Fisheries Management Division

Edited by Alan A. Heft

Contributors:

Maryland DNR Fisheries Service:
Nancy Butowski, Don Cosden, Steve Early, Charlie Gougeon, Todd Heerd, Alan Heft, Jody Johnson, Alan Klotz, Karen Knotts, H. Robert Lunsford, John Mullican, Ken Pavol, Susan Rivers, Mark Staley, Mark Toms

Maryland DNR Biological Stream Survey:
Paul Kazyak, Ron Klauda, Scott Stranko

University of Maryland Appalachian Laboratory:
Ray Morgan, Matt Kline, Bob Hilderbrand

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38

EXECUTIVE SUMMARY

Brook trout are Maryland's only native freshwater trout species and have been a popular recreational angling resource since European colonization of North America. Brook trout require relatively pristine conditions for survival and typically cannot survive when water temperatures exceed 68^0F. Anthropogenic alterations to Maryland's environment over the last several centuries including clear cutting of forests, establishing large agricultural areas, and urbanization have resulted in the extirpation of brook trout from 62% of their historic habitat in Maryland. Of the remaining 151 streams where brook trout populations are found, over half are in westernmost Garrett County, the least developed area of Maryland. The vast majority (82%) of the remaining populations are classified as "greatly reduced", meaning that within the subwatersheds where they occur they occupy only 1% to 10% of the area that was historically inhabited. A major difficulty in managing the brook trout resource is that only 11% of all brook trout streams and stream miles are fully within state lands, the vast majority of habitat is on private land and a mix of private/public lands. Of the more immediate threats to brook trout populations in Maryland, urbanization is the most serious. In watersheds where human land use exceeds 18% brook trout populations cannot survive. If impervious surface area is greater than 0.5% in a watershed brook trout will typically be extirpated. There are also long-term threats to brook trout populations such as global warming. Current predictions indicate that warming water temperatures over the next 100 years could eliminate brook trout populations statewide except for western Maryland (Garrett County) by approximately 2100.

The Maryland DNR has listed brook trout as a "Species of Greatest Need of Conservation" in its federally mandated Wildlife Diversity Conservation Plan. Concern for the status of the brook trout resource prompted the Maryland Department of Natural Resources (MD DNR) Inland Fisheries Management Division, which is responsible for management of statewide freshwater sport fish species, to develop a brook trout Fisheries Management Plan (FMP). Partners in this effort include researchers from the University of Maryland Center for Environmental Studies Appalachian Laboratory (UMCES-AL), MD DNR Fisheries Service, and the MD DNR Biological Stream Survey (MBSS).

Brook trout in Maryland are valuable for aesthetic, recreational, economic, and biological reasons. Because of their habitat and life history requirements brook trout are typically found in the more pristine, aesthetically pleasant areas of Maryland. While there is no commercial fishery for brook trout, recreational angling has been occurring for centuries. There is increasing local and national recognition of the uniqueness and quality of fishing for native brook trout. This recognition is highlighted by the creation of the multi-state Eastern Brook Trout Joint Venture (EBTJV) and the formation of the Maryland Brook Trout Alliance, a citizen-based Maryland brook trout advocacy group. While no economic valuation of the recreational fishery has been done in Maryland, findings from Pennsylvania, which has a similar wild brook trout fishery, has shown significant economic impact from the resource. Wild trout anglers in Pennsylvania contribute more than $2 million annually to local economies. Brook trout are considered a biological indicator species because they represent a whole suite of unique aquatic and

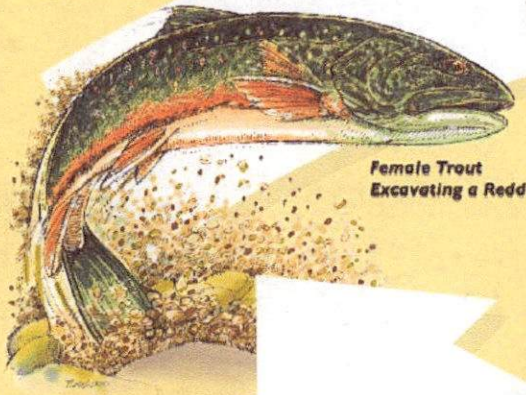
terrestrial organisms that occupy and share the same habitat. Loss of brook trout from a system indicates negative changes to the habitat and overall system.

The goal of the Brook Trout FMP is to *"restore and maintain healthy brook trout populations in Maryland's freshwater streams and provide long-term social and economic benefits from a recreational fishery"*. Management objectives were developed to support the goal based on a thorough review and analysis of the problems affecting the status and survival of the brook trout resource in Maryland. The management framework to meet the objectives, including the work necessary to implement the plan is provided in the Management Recommendations and Research Needs sections of the FMP. Implementation will require a committed work plan that extends over many years in order to be successful.

Brook Trout Life Cycle

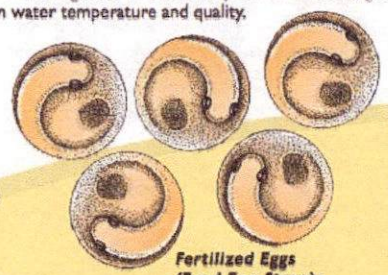
Brook trout, members of the Char Family, live in small, clean, coldwater streams within Pennsylvania and many other eastern states. Their presence indicates a healthy stream.

FALL: Adult females (2 to 5 years of age) select a spot for a nest, called a redd. A gravel stream bottom with a steady flow from underneath is an ideal location. Using her tail, the female clears a pit to lay the eggs. Female trout ranging between 5 to 10 inches in length will lay between 20 and 400 eggs. The male brook trout fertilizes the eggs as they sink to the stream bottom. After being fertilized, the eggs are then covered with gravel by the female. About 1 to 2 percent of the eggs will survive to adulthood.



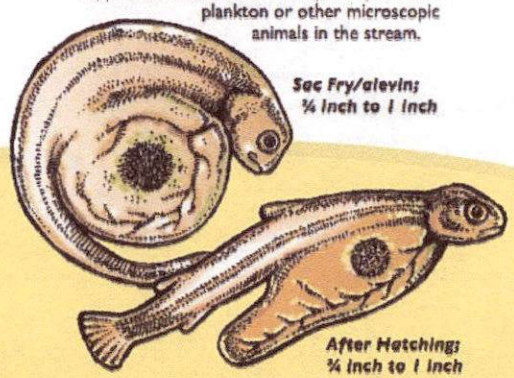
Female Trout Excavating a Redd

WINTER: Fertilized eggs develop. Within about two weeks, the egg develops eyes (eyed egg-stage). The egg gets oxygen from the water flow around it. Nutrition for the trout comes from the egg yolk. Water temperatures must stay within the 35 to 55 degree range for brook trout. At this stage, the trout are very sensitive to changes in water temperature and quality.



Fertilized Eggs (Eyed Egg-Stage); ¼ inch or less in diameter

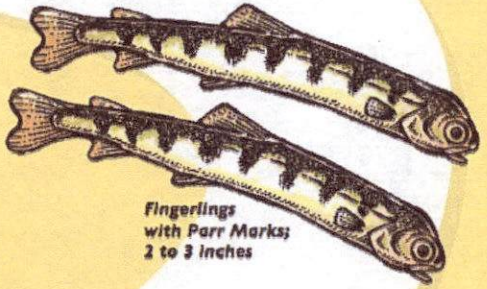
SPRING: Developing eggs, still in the redd, hatch from February to March. Hatch date depends on stream temperature and quality. Fry, still living in the gravel, live off the yolk sac (sac fry or alevin). When the sac is used up, the fry emerge from the gravel to begin eating. This usually happens between March and April. Fry will eat plankton or other microscopic animals in the stream.



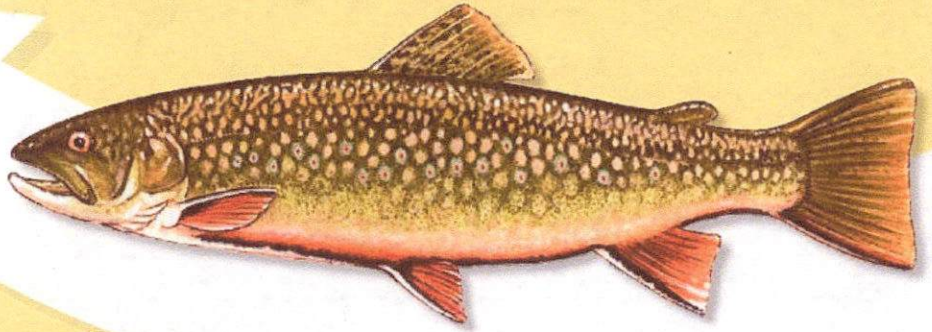
Sac Fry/alevin; ¼ inch to 1 inch

After Hatching; ¼ inch to 1 inch

SUMMER: To hide from predators, young trout spend time in shallow water hiding under and around rocks. They eat small insects and plankton. Young trout grow quickly and reach 2 to 3 inches long by the end of the summer. As the fry continue to develop, vertical lines called parr marks begin appearing along their body. These bars help camouflage the young trout and protect them from predators. When the trout have parr marks, they are called fingerlings or parr.



Fingerlings with Parr Marks; 2 to 3 inches



BROOK TROUT ADULT: They are Pennsylvania's state fish and only native trout. A brook trout's body is dark green with light "wormy" lines across the top. Their fins are orange with white edges. Red spots with bluish halos dot the body, and their belly appears orange in color. The tail is nearly square.

Adult; 5 to 10 inches

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39

www.patroutintheclassroom.org

pennsylvania
DEPARTMENT OF EDUCATION

Farmland Classification—Baltimore County, Maryland
(1139 Monkton Road)

Map Scale: 1:2,830 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 40 80 160 240

Feet: 0 100 200 400 600

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

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41

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils

Soil Rating Polygons
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
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- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

MAP INFORMATION

- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Baltimore County, Maryland
Survey Area Data: Version 13, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jun 29, 2011—Oct 20, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Farmland Classification

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	All areas are prime farmland	0.7	3.7%
GdA	Glenelg loam, 0 to 3 percent slopes	All areas are prime farmland	1.8	9.1%
GdB	Glenelg loam, 3 to 8 percent slopes	All areas are prime farmland	5.7	29.4%
GhB	Glenville silt loam, 3 to 8 percent slopes	All areas are prime farmland	0.4	2.3%
GhC	Glenville silt loam, 8 to 15 percent slopes	Farmland of statewide importance	2.9	15.1%
MaC	Manor loam, 8 to 15 percent slopes	Farmland of statewide importance	3.4	17.4%
MaD	Manor loam, 15 to 25 percent slopes	Not prime farmland	3.4	17.5%
MbD	Manor channery loam, 15 to 25 percent slopes	Not prime farmland	1.1	5.5%
Totals for Area of Interest			**19.3**	**100.0%**

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

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42

1139 Monkton Road

98.49 acres

~36 acres tillable

19.08 acres requested for special exception

~23.8 acres removed from agriculture

http://dnrweb.dnr.state.md.us/MERLIN/
K. Pieper 1/5/2019

Protestant
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4/3

Baltimore County Community Solar Projects

Case	Address	Power (MW)	SE (Acres)	SE Acres/MW
2017-0107-X	5298 Frye Road	1.75	19	10.9
2017-0108-X	20450 Middletown Rd	1.9	16.71	8.8
2017-0344-X	14503 Green Rd	2	13.6	6.8
2018-0030-X	1139 Monkton Rd	2	19.08	9.5
2018-0047-X	15637 York Rd	2	9	4.5
2018-0052-X	Hanover Road	1	6.4	6.4
2018-0072-X	19735 Graystone Rd	0.84	6	7.1
2018-0078-X	9155 Old Court Rd	2	9.81	4.9
2018-0095-SPHXA	11956 Philadelphia Rd	2	16	8.0
2018-0123-SPHX	9203 Dogwood Rd	0.9	5	5.6
2018-0124-SPHX	10021 Old Court Rd	2	10	5.0
2018-0127-X	10790 Raphel Rd	2	16.64	8.3
2018-0194-X	632 Freeland Rd	2	19	9.5
2019-0057-X	20920 Old York Road	0.825	19	23.0

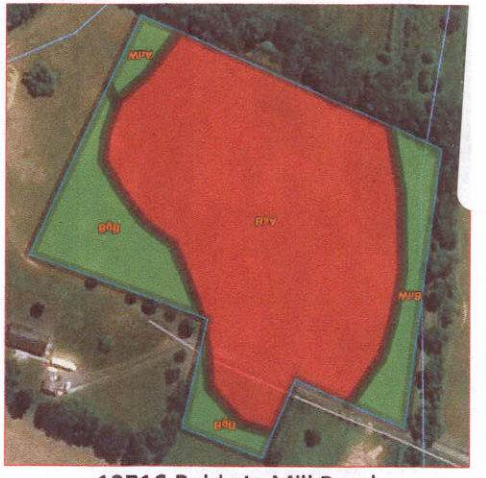
K. Pieper 1/5/2019

Potential Alternate Community Solar Sites in Northern Baltimore County, Maryland

Protestant
CBA Exhibit
14-8,9.

16729 Miller Road
Parkton, MD
8.4 / 73 acres

	1139 Monkton Road Special Exception Area	Alternatives
Zoning	RC-2	RC-2
Farmland Class	Prime farmland	**Not prime farmland**
Sufficient Area *(ALJ Chart)*	Yes	Yes
Along a scenic road or bi-way	Yes	**No**
Road Access	Yes	Yes



13716 Baldwin Mill Road
Baldwin, MD
6.3 / 28.12 acres

1338 Harris Mill Road
Parkton, MD
6.3 / 102 acres

13220 Long Green Pike
Hydes, MD
7.9 / 25 acres

Kathleen Pieper 1/5/2019

Farmland Classification—Baltimore County, Maryland
(1338 Harris Mill Road Parkton, MD)

Map Scale: 1:1,990 if printed on A landscape (11" x 8.5") sheet.

N

Meters: 0 25 50 100 150

Feet: 0 50 100 200 300

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

USDA **Natural Resources Conservation Service**

Web Soil Survey
National Cooperative Soil Survey

11/25/2018
Page 1 of 4

Protestant
CBA Exhibit
4 4 A

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils

Soil Rating Polygons
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

Farmland Classification—Baltimore County, Maryland
(1338 Harris Mill Road Parkton, MD)

MAP INFORMATION

- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Baltimore County, Maryland
Survey Area Data: Version 13, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jun 16, 2014—Oct 20, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Farmland Classification

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BhD	Brinklow channery loam, 15 to 25 percent slopes	Not prime farmland	0.1	1.1%
HbA	Hatboro silt loams, 0 to 3 percent slopes	Not prime farmland	6.3	94.7%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	Not prime farmland	0.3	4.2%
Totals for Area of Interest			6.6	100.0%

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

Farmland Classification—Baltimore County, Maryland
(13220 Long Green Pike Hydes, MD)

USDA **Natural Resources Conservation Service**

Web Soil Survey
National Cooperative Soil Survey

Protestant
CBA Exhibit
44B

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils

Soil Rating Polygons
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

MAP INFORMATION

- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

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Soil Survey Area: Baltimore County, Maryland
Survey Area Data: Version 13, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jun 16, 2014—Oct 20, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Farmland Classification

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BaA	Baile silt loam, 0 to 3 percent slopes	Not prime farmland	7.9	66.4%
BaB	Baile silt loam, 3 to 8 percent slopes	Not prime farmland	0.0	0.1%
BcB	Baltimore gravelly loam, 3 to 8 percent slopes	All areas are prime farmland	0.5	4.4%
LsA	Lindside silt loam, 0 to 3 percent slopes	Prime farmland if protected from flooding or not frequently flooded during the growing season	0.6	5.4%
MmA	Melvin silt loam, 0 to 3 percent slopes	Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season	1.2	9.8%
WhA	Wiltshire silt loam, 0 to 3 percent slopes	All areas are prime farmland	1.0	8.2%
WhB	Wiltshire silt loam, 3 to 8 percent slopes	All areas are prime farmland	0.7	5.8%
Totals for Area of Interest			11.9	100.0%

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

Farmland Classification—Baltimore County, Maryland
(13716 Baldwin Mill Road Baldwin, MD)

Map Scale: 1:1,850 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 25 50 100 150

Feet: 0 50 100 200 300

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

Protestant
CBA Exhibit
44 c

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils

Soil Rating Polygons
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

Farmland Classification—Baltimore County, Maryland
(13716 Baldwin Mill Road Baldwin, MD)

MAP INFORMATION

- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

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Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

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Survey Area Data: Version 13, Sep 10, 2018

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Date(s) aerial images were photographed: Jun 16, 2014—Oct 20, 2017

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Farmland Classification

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BaA	Baile silt loam, 0 to 3 percent slopes	Not prime farmland	6.3	72.1%
BgB	Benevola silt loam, 3 to 8 percent slopes	All areas are prime farmland	1.4	16.2%
WhA	Wiltshire silt loam, 0 to 3 percent slopes	All areas are prime farmland	0.2	2.5%
WhB	Wiltshire silt loam, 3 to 8 percent slopes	All areas are prime farmland	0.8	9.2%
Totals for Area of Interest			8.7	100.0%

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

Farmland Classification—Baltimore County, Maryland
(16729 Miller Lane Parkton, MD)

76° 40' 56" W

76° 40' 40" W

39° 35' 14" N

39° 34' 57" N

76° 40' 56" W

Map Scale: 1:2,480 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 35 70 140 210

Feet: 0 100 200 400 600

Map projection: Web Mercator Corner coordinates: WGS84

Protestant
CBA Exhibit
44-d

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils

Soil Rating Polygons
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
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- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points
- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

MAP INFORMATION

- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:12,000.

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Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

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Soil Survey Area: Baltimore County, Maryland
Survey Area Data: Version 13, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 23, 2013—Feb 22, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Farmland Classification

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BaA	Baile silt loam, 0 to 3 percent slopes	Not prime farmland	8.4	84.5%
GhB	Glenville silt loam, 3 to 8 percent slopes	All areas are prime farmland	0.5	4.6%
GhC	Glenville silt loam, 8 to 15 percent slopes	Farmland of statewide importance	0.0	0.0%
MaD	Manor loam, 15 to 25 percent slopes	Not prime farmland	0.5	5.4%
MbD	Manor channery loam, 15 to 25 percent slopes	Not prime farmland	0.5	4.8%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	Not prime farmland	0.1	0.7%
Totals for Area of Interest			10.0	100.0%

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

MDE **Maryland Department of the Environment**

Stormwater Design Guidance – Solar Panel Installations

Revisions to Maryland's stormwater management regulations in 2010 require that environmental site design (ESD) be used to the maximum extent practicable (MEP) to mimic natural hydrology, reduce runoff to reflect forested wooded conditions, and minimize the impact of land development on water resources. This applies to any residential, commercial, industrial, or institutional development where more than 5,000 square feet of land area is disturbed. Consequently, stormwater management must be addressed even when permeable features like solar panel installations exceed 5,000 square feet of land disturbance.

Depending on local soil conditions and proposed imperviousness, the amount of rainfall that stormwater requirements are based on varies from 1.0 to 2.6 inches. However, addressing stormwater management does not mean that structural or micro-scale practices must be constructed to capture and treat large volumes of runoff. Using nonstructural techniques like disconnecting impervious cover reduces runoff by promoting overland filtering and infiltration. Commonly used with smaller or narrower impervious areas like driveways or open roads, the Disconnection of Non-Rooftop Runoff technique (see pp. 5.61 to 5.65 of the **2000 Maryland Stormwater Design Manual**[1]) is a low cost alternative for treating runoff in situations like rows of solar panels.

When non-rooftop disconnection is used to treat runoff, the following factors should be considered:

- The vegetated area receiving runoff must be equal to or greater in length than the disconnected surface (e.g., width of the row of solar panels)
- Runoff must sheet flow onto and across vegetated areas to maintain the disconnection
- Disconnections should be located on gradual slopes (≤ 5%) to maintain sheetflow. Level spreaders, terraces, or berms may be used to maintain sheetflow conditions if the average slope is steeper than 5%. However, installations on slopes greater than 10% will require an engineered plan that ensures adequate treatment and the safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice.
- Disconnecting impervious surfaces works best in undisturbed soils. To minimize disturbance and compaction, construction vehicles and equipment should avoid areas used for disconnection during installation of the solar panels.
- Groundcover vegetation must be maintained in good condition in those areas receiving disconnected runoff. Typically this maintenance is no different than other lawn or landscaped areas. However, areas receiving runoff should be protected (e.g., planting shrubs or trees along the perimeter) from future compaction.

Depending on the layout and number of panels installed, the disconnection of non-rooftop runoff technique may address some or all of the stormwater management requirements for an individual project. Where the imperviousness is high or there is other infrastructure (e.g., access roads, transformers), additional runoff may need to be treated. In these situations, other ESD techniques or micro-scale practices may be needed to provide stormwater management for these features.

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CBA Exhibit
45

Example 1 – Using Non-Rooftop Disconnection Where the Average Slope ≤ 5%

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope does not exceed 5%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed according to Figure 1 below. In this scenario, the disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). Therefore, each row of panels is adequately disconnected and the runoff from 1.0 inch of rainfall is treated.

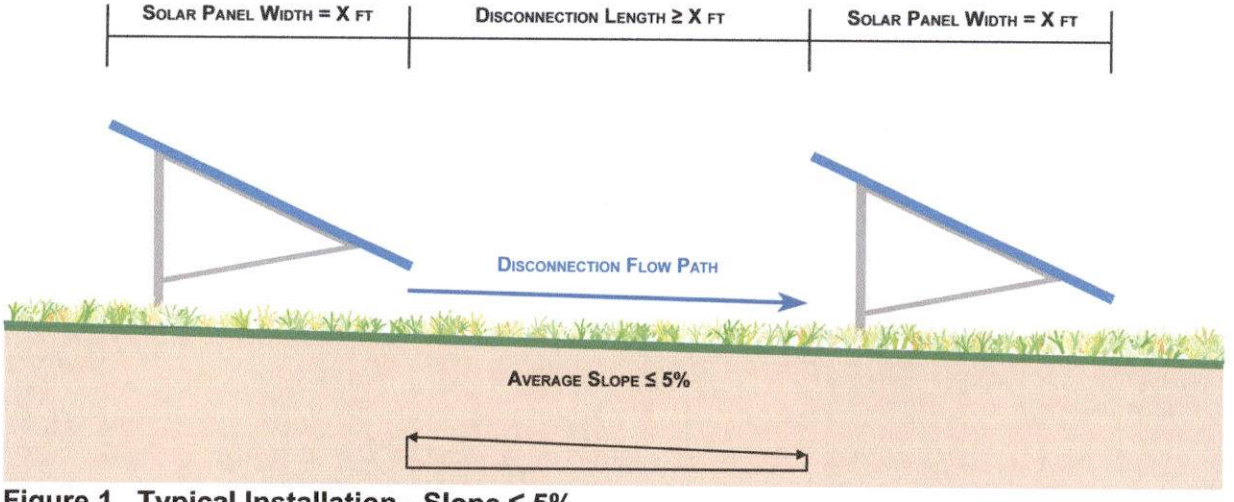


Figure 1. Typical Installation - Slope ≤ 5%

Example 2 – Using Non-Rooftop Disconnection Where the Average Slope ≥ 5% but ≤ 10%

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope is greater than 5% but less than 10%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed as shown in Figure 2 below. The disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). However, in this example, a level spreader (typically 1 to 2-foot wide and 1 foot deep) has been located at the drip edge of each row of panels to dissipate energy and maintain sheetflow.

Discussion

To meet State and local stormwater management requirements, ESD must be used to the MEP to reduce runoff to reflect forested conditions. While all reasonable options for implementing ESD must be investigated, minimally, the runoff from 1 inch of rainfall must be treated. In each of the examples above, there may be additional opportunities to implement ESD techniques or practices and reduce runoff that should be explored. However, simply disconnecting the runoff from the solar panel arrays captures and treats the runoff from 1.0 inch of rainfall. Where imperviousness is low and soil conditions less optimal (e.g., HSG C or D), this may be sufficient to completely address stormwater management requirements. In more dense applications or in sandy soils, additional stormwater management may be required.

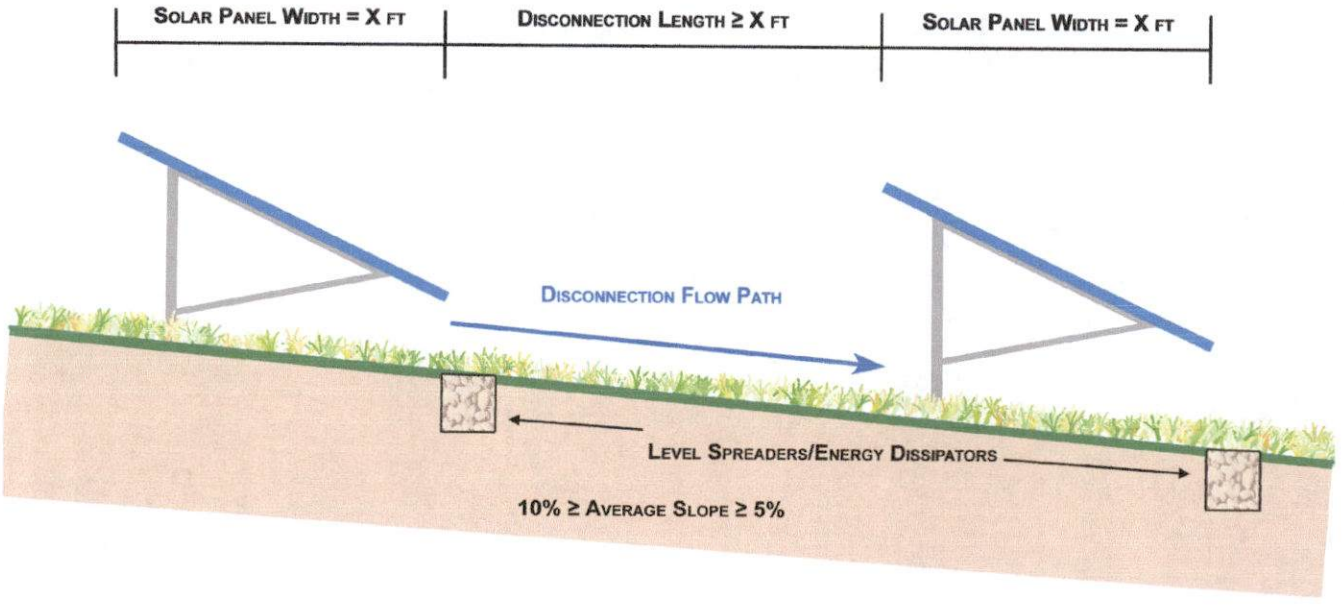


Figure 2. Typical Installation – Slope ≥ 5% but ≤ 10%

Conclusion

The primary purpose of Maryland's stormwater management program is to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Any land development project that exceeds 5,000 square feet of disturbance, including solar panel projects, must address stormwater management. However, for solar panels, stormwater management may be provided in a cost-effective manner by disconnecting each row of panels and directing runoff over the vegetated areas between the individual rows.

Resources

[1] 2000 Maryland Stormwater Design Manual, Volumes I and II, MDE, October 2000 (http://www.mde.state.md.us/programs/Water/StormwaterManagementProgram/MarylandStormwaterDesignManual/Pages/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/index.aspx)

Board of Appeals

Case No: 18-030-X Case Name: HHK Farms

Exhibit List

Party: People Council Date: 12-11-12

KC 12/13/18

Exhibit No:	Description:
✓ 1	USDA NRCS - Soil Doc
✓ 2	Aerial ~~Atom~~ Photo
	VERIFIED BY 1/9/19 DATE: KC

USDA NRCS Natural Resources Conservation Service

28577 Mary's Court, Suite 3
Easton, Md 21601

Nov. 13, 2018

Peter Max Zimmerman
People's Counsel for Baltimore County
Jefferson Building
105 West Chesapeake Ave. Room 204
Towson, Maryland 21204

Re: 1139 Monkton Road Farm property
USDA Soils Configuration, USDA Soils Delineation
Baltimore County Board of Appeals Zoning

Dear Mr. Zimmerman,

Enclosed is the USDA-NRCS Official Soils map and report (containing soils information and several interpretation tables) of the farm property located at 1139 Monkton Road Hereford, Maryland. This Soils Report was generated at the web site known as the USDA- NRCS Web Soil Survey (https://websoilsurvey.nrcs.usda.gov/app/). **As stated at the bottom of page 2, this is the site for official soil survey information.**

In your email dated Oct. 30, 2018, you asked me to provide you with my observations on several statements as related to the soils and soil survey for 1139 Monkton Road.

1) NRCS assists in the implementation of the USDA Farmland Protection Policy Act of 1981. As stated in Part 523.2B of the Farmland Protection Policy Act Manual:

B. General Role

Under FPPA, NRCS will provide technical assistance to Federal agencies, State and local governments, Tribes, and nonprofit organizations that receive Federal funds or technical assistance. Examples of technical assistance include the following:

(i) Responding to requests for technical assistance in developing programs or policies that limit the conversion of productive farmland to nonagricultural uses
(ii) Advising agencies when a change in law, regulation, administrative rule, or other type of policy may affect the agency's compliance with FPPA
(iii) Providing site assessment criteria to governmental agencies and nonprofit organizations;
(iv) Developing important farmland maps
(v) Providing technical assistance during alternative site considerations, upon request by another Federal agency

The Farmland Protection Policy Act (FPPA) applies only to Federal assistance and actions that would convert important farmland to nonagricultural uses. It does not authorize the Federal Government in any way to regulate the use of private or non-Federal land or in any way affect the private property rights of owners of private land.

Provisions of FPPA apply to USDA programs that provide financial assistance as well as to programs that provide technical assistance.

Lands Subject to Provisions of FPPA are important farmlands, including lands identified with soils that are prime, unique, or statewide or locally important farmland, are subject to the provisions of the Farmland Protection Policy Act.

NRCS also provides technical soils assistance to several Maryland State land preservation programs along with assistance to the Farm and Ranch Lands Protection Program (FRPP).

1) I have a Bachelor's Degree from the University of Maryland in Soil Science. I have worked with the USDA Soil Conservation Service, now known as the Natural Resources Conservation Service for over 40 years. My role as a Resource Soil Scientist is to provide guidance to internal and external customers on the interpretation and application of soil survey information related to specific soil, water, air, plant, and animal resource concerns. And providing direction and guidance for natural resource management, farm bill compliance, conducting information and education activities related to soils. I work closely with producers and landowners to provide technical expertise for USDA conservation programs.

2) The Glenelg, Glenville, and Manor soils found on site are considered Prime Farmland soils (GdA, GdB, GhB, and MaB) and statewide importance soils (MaC and GhC). As stated in the report document (page 31) these soils are best suited to food, feed, fiber, forage, and oilseed crops. The Glenelg, Glenville, and Manor soils have some of the highest ratings for crop productivity on the site (page 44).

If you have any questions about this letter or document, you may contact me at 443-746-4319.

Sincerely,

James E. Brewer

James E. Brewer, CPSS/SC
NRCS Resource Soil Scientist
Easton, Maryland

People's Counsel
CBA Exhibit
1

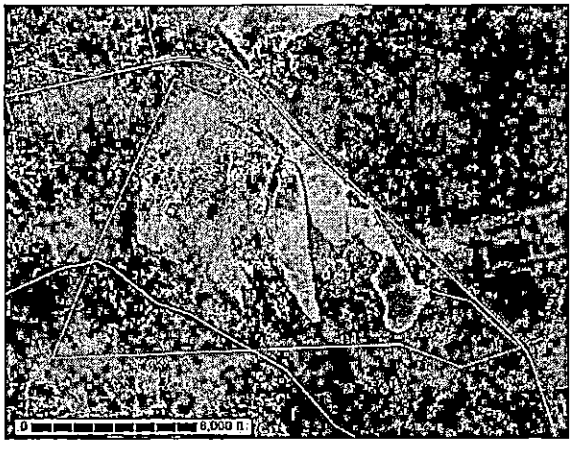
United States Department of Agriculture

NRCS Natural Resources Conservation Service

A product of the National Cooperative Soil Survey, a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local participants

Custom Soil Resource Report for Baltimore County, Maryland

1139 Monkton Road



November 13, 2018

alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

The following format is suggested for citing Web Soil Survey:

Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at the following link: https://websoilsurvey.sc.egov.usda.gov/. Accessed [month/day/year].

Last Modified: 08/21/2017

Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (https://offices.sc.egov.usda.gov/locator/app?agency=nrcs) or your NRCS State Soil Scientist (http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Web Soil Survey, the site for official soil survey information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require

Contents

Preface 2
How Soil Surveys Are Made 5
Soil Map 8
Soil Map (1139 Monkton Road) 9
Legend 10
Map Unit Legend (1139 Monkton Road) 11
Map Unit Descriptions (1139 Monkton Road) 11
Baltimore County, Maryland 14
BhB—Brinklow channery loam, 3 to 8 percent slopes 14
GdA—Glenelg loam, 0 to 3 percent slopes 15
GdB—Glenelg loam, 3 to 8 percent slopes 16
GhB—Glenville silt loam, 3 to 8 percent slopes 18
GhC—Glenville silt loam, 8 to 15 percent slopes 19
HbA—Hatboro silt loams, 0 to 3 percent slopes 20
MaB—Manor loam, 3 to 8 percent slopes 21
MaC—Manor loam, 8 to 15 percent slopes 23
MaD—Manor loam, 15 to 25 percent slopes 24
MbD—Manor channery loam, 15 to 25 percent slopes 26
MdE—Manor-Brinklow complex, 25 to 45 percent slopes, very rocky 28
Soil Information for All Uses 31
Suitabilities and Limitations for Use 31
Land Classifications 31
Farmland Classification (1139 Monkton Road) 31
Hydric Rating by Map Unit (1139 Monkton Road) 35
National Commodity Crop Productivity Index (1139 Monkton Road) 39
Soil Properties and Qualities 46
Soil Qualities and Features 46
Drainage Class (1139 Monkton Road) 46
Soil Reports 50
AQI Inventory 50
Map Unit Description (Brief, Generated) (1139 Monkton Road) 50
References 56

How Soil Surveys Are Made

Soil surveys are made to provide information about the soils and miscellaneous areas in a specific area. They include a description of the soils and miscellaneous areas and their location on the landscape and tables that show soil properties and limitations affecting various uses. Soil scientists observed the steepness, length, and shape of the slopes; the general pattern of drainage; the kinds of crops and native plants; and the kinds of bedrock. They observed and described many soil profiles. A soil profile is the sequence of natural layers, or horizons, in a soil. The profile extends from the surface down into the unconsolidated material in which the soil formed or from the surface down to bedrock. The unconsolidated material is devoid of roots and other living organisms and has not been changed by other biological activity.

Currently, soils are mapped according to the boundaries of major land resource areas (MLRAs). MLRAs are geographically associated land resource units that share common characteristics related to physiography, geology, climate, water resources, soils, biological resources, and land uses (USDA, 2006). Soil survey areas typically consist of parts of one or more MLRA.

The soils and miscellaneous areas in a survey area occur in an orderly pattern that is related to the geology, landforms, relief, climate, and natural vegetation of the area. Each kind of soil and miscellaneous area is associated with a particular kind of landform or with a segment of the landform. By observing the soils and miscellaneous areas in the survey area and relating their position to specific segments of the landform, a soil scientist develops a concept, or model, of how they were formed. Thus, during mapping, this model enables the soil scientist to predict with a considerable degree of accuracy the kind of soil or miscellaneous area at a specific location on the landscape.

Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. To construct an accurate soil map, however, soil scientists must determine the boundaries between the soils. They can observe only a limited number of soil profiles. Nevertheless, these observations, supplemented by an understanding of the soil-vegetation-landscape relationship, are sufficient to verify predictions of the kinds of soil in an area and to determine the boundaries.

Soil scientists recorded the characteristics of the soil profiles that they studied. They noted soil color, texture, size and shape of soil aggregates, kind and amount of rock fragments, distribution of plant roots, reaction, and other features that enable them to identify soils. After describing the soils in the survey area and determining their properties, the soil scientists assigned the soils to taxonomic classes (units). Taxonomic classes are concepts. Each taxonomic class has a set of soil characteristics with precisely defined limits. The classes are used as a basis for comparison to classify soils systematically. Soil taxonomy, the system of taxonomic classification used in the United States, is based mainly on the kind and character of soil properties and the arrangement of horizons within the profile. After the soil

scientists classified and named the soils in the survey area, they compared the individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research.

The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements. Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, onsite investigation is needed to define and locate the soils and miscellaneous areas.

Soil scientists make many field observations in the process of producing a soil map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations. Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components. Properties of each soil typically vary from one point to another across the landscape.

Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties.

While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil.

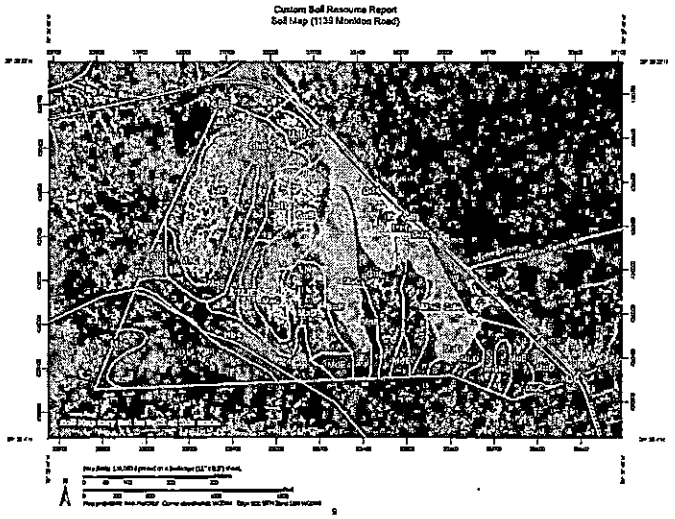
Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date.

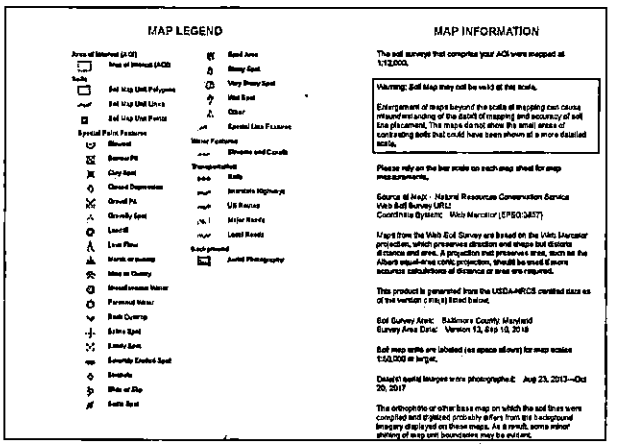
After soil scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs and

identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately.

Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.





Map Unit Legend (1139 Monkton Road)

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	6.7	6.8%
GhC	Glenville silt loam, 8 to 15 percent slopes	9.1	9.3%
HbA	Hatboro silt loams, 0 to 3 percent slopes	7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	21.1	21.5%
MbD	Manor channery loam, 15 to 25 percent slopes	7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	13.0	13.3%
Totals for Area of Interest		97.8	100.0%

Map Unit Descriptions (1139 Monkton Road)

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion

of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Baltimore County, Maryland

BhB—Brinklow channery loam, 3 to 8 percent slopes

Map Unit Setting
National map unit symbol: 2lp66
Elevation: 250 to 1,050 feet
Mean annual precipitation: 35 to 55 inches
Mean annual air temperature: 48 to 61 degrees F
Frost-free period: 110 to 235 days
Farmland classification: All areas are prime farmland

Map Unit Composition
Brinklow and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Brinklow

Setting
Landform: Hillslopes, interfluves
Landform position (two-dimensional): Shoulder, backslope, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex, linear
Across-slope shape: Convex

Typical profile
Ap - 0 to 10 inches: channery loam
BLBC - 10 to 25 inches: channery loam
Cr - 25 to 35 inches: weathered bedrock
R - 35 to 80 inches: bedrock

Properties and qualities
Slope: 3 to 8 percent
Depth to restrictive feature: 24 to 33 inches to paralithic bedrock; 33 to 39 inches to lithic bedrock
Natural drainage class: Well drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Low (about 4.7 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 2e
Hydrologic Soil Group: C
Hydric soil rating: No

Minor Components

Glenelg
Percent of map unit: 15 percent
Landform: Hillslopes, interfluves
Landform position (two-dimensional): Shoulder, backslope, summit

Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Hydric soil rating: No

GdA—Glenelg loam, 0 to 3 percent slopes

Map Unit Setting
National map unit symbol: 2w062
Elevation: 30 to 1,200 feet
Mean annual precipitation: 40 to 55 inches
Mean annual air temperature: 48 to 57 degrees F
Frost-free period: 150 to 192 days
Farmland classification: All areas are prime farmland

Map Unit Composition
Glenelg and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Glenelg

Setting
Landform: Hillslopes
Landform position (two-dimensional): Backslope, summit, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Linear
Across-slope shape: Convex, linear, concave
Parent material: Residuum weathered from mica schist

Typical profile
Ap1 - 0 to 6 inches: loam
Ap2 - 6 to 10 inches: clay loam
Bt1 - 10 to 18 inches: clay loam
Bt2 - 18 to 25 inches: clay loam
Bt3 - 25 to 30 inches: clay loam
BCt - 30 to 42 inches: loam
CBt - 42 to 54 inches: loam
C - 54 to 76 inches: very channery fine sandy loam

Properties and qualities
Slope: 0 to 3 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Well drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.20 to 1.98 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None

Available water storage in profile: High (about 10.9 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 1
Hydrologic Soil Group: B
Hydric soil rating: No

Minor Components

Brinklow
Percent of map unit: 10 percent
Landform: Hillslopes
Landform position (two-dimensional): Backslope, shoulder, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

Glenville
Percent of map unit: 5 percent
Landform: Swales, drainageways
Landform position (two-dimensional): Footslope, backslope
Landform position (three-dimensional): Head slope, interfluve, base slope
Down-slope shape: Linear, concave
Across-slope shape: Concave, linear
Hydric soil rating: No

GdB—Glenelg loam, 3 to 8 percent slopes

Map Unit Setting
National map unit symbol: 2v7gp
Elevation: 30 to 1,200 feet
Mean annual precipitation: 40 to 55 inches
Mean annual air temperature: 48 to 57 degrees F
Frost-free period: 150 to 192 days
Farmland classification: All areas are prime farmland

Map Unit Composition
Glenelg and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Glenelg

Setting
Landform: Interfluves, hillslopes
Landform position (two-dimensional): Summit, backslope, shoulder
Landform position (three-dimensional): Interfluve, side slope
Down-slope shape: Linear
Across-slope shape: Convex, linear, concave

Parent material: Residuum weathered from mica schist

Typical profile
Ap1 - 0 to 6 inches: loam
Ap2 - 6 to 10 inches: clay loam
Bt1 - 10 to 18 inches: clay loam
Bt2 - 18 to 25 inches: clay loam
Bt3 - 25 to 30 inches: clay loam
BCt - 30 to 42 inches: loam
CBt - 42 to 54 inches: loam
C - 54 to 76 inches: channery fine sandy loam

Properties and qualities
Slope: 3 to 8 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Well drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.20 to 1.98 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: High (about 10.4 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 2e
Hydrologic Soil Group: B
Hydric soil rating: No

Minor Components

Galla
Percent of map unit: 10 percent
Landform: Hillslopes, ridges
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Hydric soil rating: No

Glenville
Percent of map unit: 5 percent
Landform: Drainageways, swales
Landform position (two-dimensional): Shoulder, backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Concave
Across-slope shape: Linear
Hydric soil rating: No

GhB—Glenville silt loam, 3 to 8 percent slopes

Map Unit Setting
National map unit symbol: 2tmch
Elevation: 20 to 1,080 feet
Mean annual precipitation: 40 to 55 inches
Mean annual air temperature: 46 to 57 degrees F
Frost-free period: 150 to 192 days
Farmland classification: All areas are prime farmland

Map Unit Composition
Glenville and similar soils: 75 percent
Minor components: 25 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Glenville

Setting
Landform: Drainageways, swales
Landform position (two-dimensional): Footslope, backslope
Landform position (three-dimensional): Base slope, head slope, interfluve
Down-slope shape: Linear, concave
Across-slope shape: Concave, linear
Parent material: Colluvium derived from metamorphic rock over schist, gneiss or phyllite residuum

Typical profile
Ap - 0 to 11 inches: silt loam
Bt1 - 11 to 20 inches: channery silt loam
Bt2 - 20 to 30 inches: silt loam
Btx - 30 to 40 inches: silt loam
C1 - 40 to 59 inches: loam
C2 - 59 to 82 inches: loam

Properties and qualities
Slope: 3 to 8 percent
Depth to restrictive feature: 29 to 31 inches to fragipan
Natural drainage class: Moderately well drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Moderately low (0.03 to 0.11 in/hr)
Depth to water table: About 18 to 22 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Low (about 5.1 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 2e
Hydrologic Soil Group: C/D

Hydric soil rating: No

Minor Components

Unnamed
Percent of map unit: 15 percent
Landform: Drainageways
Landform position (two-dimensional): Footslope
Landform position (three-dimensional): Base slope
Down-slope shape: Linear, concave
Across-slope shape: Concave, linear
Hydric soil rating: No

Balle
Percent of map unit: 10 percent
Landform: Swales, drainageways
Landform position (two-dimensional): Footslope
Landform position (three-dimensional): Base slope
Down-slope shape: Concave, linear
Across-slope shape: Linear, concave
Hydric soil rating: Yes

GhC—Glenville silt loam, 8 to 15 percent slopes

Map Unit Setting
National map unit symbol: 2p8wp
Elevation: 250 to 1,050 feet
Mean annual precipitation: 40 to 55 inches
Mean annual air temperature: 46 to 57 degrees F
Frost-free period: 110 to 235 days
Farmland classification: Farmland of statewide importance

Map Unit Composition
Glenville and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Glenville

Setting
Landform: Drainageways, swales
Landform position (three-dimensional): Base slope, head slope
Down-slope shape: Concave
Across-slope shape: Linear
Parent material: Loamy colluvium derived from phyllite and/or loamy colluvium derived from schist

Typical profile
Ap - 0 to 8 inches: silt loam
Bt1, Bt2 - 8 to 30 inches: silt loam
Btx - 30 to 40 inches: loam

C1, C2 - 40 to 70 inches: loam

Properties and qualities
Slope: 8 to 15 percent
Depth to restrictive feature: 24 to 39 inches to fragipan
Natural drainage class: Moderately well drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.06 to 0.57 in/hr)
Depth to water table: About 20 to 40 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Low (about 4.5 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3e
Hydrologic Soil Group: C
Hydric soil rating: No

Minor Components

Glenelg
Percent of map unit: 15 percent
Landform: Hillslopes, interfluves
Landform position (two-dimensional): Shoulder, backslope, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Hydric soil rating: No

HbA—Hatboro silt loams, 0 to 3 percent slopes

Map Unit Setting
National map unit symbol: 2lp74
Elevation: 200 to 600 feet
Mean annual precipitation: 38 to 46 inches
Mean annual air temperature: 54 to 57 degrees F
Frost-free period: 140 to 200 days
Farmland classification: Not prime farmland

Map Unit Composition
Hatboro and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Hatboro

Setting
Landform: Flood plains
Down-slope shape: Concave

Across-slope shape: Linear
Parent material: Loamy alluvium derived from greenstone, quartzite, phyllite, schist and/or diabase

Typical profile
A - 0 to 11 inches: silt loam
Bg1,Bg2,BCg - 11 to 44 inches: silt loam
Cg1 - 44 to 55 inches: silty clay loam
Cg2 - 55 to 80 inches: sandy loam

Properties and qualities
Slope: 0 to 3 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Poorly drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.06 to 0.20 in/hr)
Depth to water table: About 0 to 6 inches
Frequency of flooding: Frequent
Frequency of ponding: Frequent
Available water storage in profile: High (about 10.4 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 4w
Hydrologic Soil Group: B/D
Hydric soil rating: Yes

Minor Components

Codorus
Percent of map unit: 15 percent
Landform: Flood plains
Down-slope shape: Linear
Across-slope shape: Linear
Hydric soil rating: No

MaB—Manor loam, 3 to 8 percent slopes

Map Unit Setting
National map unit symbol: 2lp7g
Elevation: 250 to 1,050 feet
Mean annual precipitation: 37 to 55 inches
Mean annual air temperature: 45 to 61 degrees F
Frost-free period: 110 to 255 days
Farmland classification: All areas are prime farmland

Map Unit Composition
Manor and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Manor

Setting
Landform: Hillslopes, interfluves, ridges
Landform position (two-dimensional): Shoulder, backslope, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Parent material: Loamy residuum derived from phyllite and/or loamy residuum derived from schist

Typical profile
A1, A2 - 0 to 6 inches: loam
Bw1, Bw2 - 6 to 22 inches: sandy loam
C1,C2,C3,C4 - 22 to 72 inches: channery loamy sand

Properties and qualities
Slope: 3 to 8 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Well drained
Runoff class: Medium
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.57 to 1.98 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Moderate (about 8.8 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 2e
Hydrologic Soil Group: B
Hydric soil rating: No

Minor Components

Galfa
Percent of map unit: 10 percent
Landform: Hillslopes, interfluves
Landform position (two-dimensional): Shoulder, backslope, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Hydric soil rating: No

Glenelg
Percent of map unit: 5 percent
Landform: Hillslopes, interfluves
Landform position (two-dimensional): Shoulder, backslope, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Hydric soil rating: No

MaC—Manor loam, 8 to 15 percent slopes

Map Unit Setting
National map unit symbol: 2tkpw
Elevation: 50 to 1,080 feet
Mean annual precipitation: 35 to 50 inches
Mean annual air temperature: 48 to 57 degrees F
Frost-free period: 150 to 220 days
Farmland classification: Farmland of statewide importance

Map Unit Composition
Manor and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Manor

Setting
Landform: Hills
Landform position (two-dimensional): Summit, shoulder, backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Residuum weathered from mica schist

Typical profile
A1 - 0 to 2 inches: loam
A2 - 2 to 6 inches: sandy loam
Bw1 - 6 to 13 inches: fine sandy loam
Bw2 - 13 to 22 inches: fine sandy loam
C1 - 22 to 30 inches: fine sandy loam
C2 - 30 to 44 inches: channery coarse sand
C3 - 44 to 53 inches: loamy sand
C4 - 53 to 83 inches: channery loamy sand
Cr - 83 to 108 inches: bedrock
R - 108 to 138 inches: bedrock

Properties and qualities
Slope: 8 to 15 percent
Percent of area covered with surface fragments: 0.0 percent
Depth to restrictive feature: 59 to 100 inches to paralithic bedrock; 100 to 128 inches to lithic bedrock
Natural drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately low (0.01 to 0.07 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Moderate (about 8.8 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3e
Hydrologic Soil Group: B
Hydric soil rating: No

Minor Components

Blocktown
Percent of map unit: 5 percent
Landform: Hillslopes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope, interfluve, nose slope
Down-slope shape: Convex, linear
Across-slope shape: Convex, linear
Hydric soil rating: No

Glenville
Percent of map unit: 5 percent
Landform: Swales, drainageways
Landform position (two-dimensional): Footslope, toeslope
Landform position (three-dimensional): Base slope, head slope
Down-slope shape: Concave
Across-slope shape: Linear
Hydric soil rating: No

Mt. airy
Percent of map unit: 5 percent
Landform: Hillslopes
Landform position (two-dimensional): Summit, shoulder
Landform position (three-dimensional): Nose slope
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

MaD—Manor loam, 15 to 25 percent slopes

Map Unit Setting
National map unit symbol: 2tmcg
Elevation: 250 to 1,000 feet
Mean annual precipitation: 40 to 55 inches
Mean annual air temperature: 48 to 57 degrees F
Frost-free period: 150 to 192 days
Farmland classification: Not prime farmland

Map Unit Composition
Manor and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Manor

Setting
Landform: Hillslopes
Landform position (two-dimensional): Shoulder, backslope, summit
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Residuum weathered from mica schist

Typical profile
A1 - 0 to 2 inches: loam
A2 - 2 to 8 inches: sandy loam
Bw1 - 8 to 13 inches: fine sandy loam
Bw2 - 13 to 22 inches: fine sandy loam
C1 - 22 to 30 inches: fine sandy loam
C2 - 30 to 44 inches: channery coarse sand
C3 - 44 to 53 inches: loamy sand
C4 - 53 to 83 inches: channery loamy sand
Cr - 83 to 108 inches: bedrock
R - 108 to 138 inches: bedrock

Properties and qualities
Slope: 15 to 25 percent
Percent of area covered with surface fragments: 0.0 percent
Depth to restrictive feature: 59 to 100 inches to paralithic bedrock; 100 to 128 inches to lithic bedrock
Natural drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately low (0.01 to 0.07 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Moderate (about 8.0 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 4e
Hydrologic Soil Group: B
Hydric soil rating: No

Minor Components

Mt. airy
Percent of map unit: 6 percent
Landform: Hillslopes
Landform position (two-dimensional): Backslope, summit, shoulder
Landform position (three-dimensional): Nose slope
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

Glenville
Percent of map unit: 5 percent
Landform: Drainageways, swales
Landform position (two-dimensional): Footslope, backslope

Landform position (three-dimensional): Base slope, head slope, interfluve
Down-slope shape: Linear
Across-slope shape: Concave
Hydric soil rating: No

Blocktown
Percent of map unit: 5 percent
Landform: Hillslopes
Landform position (two-dimensional): Backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

MbD—Manor channery loam, 15 to 25 percent slopes

Map Unit Setting
National map unit symbol: 2lp79
Elevation: 250 to 1,050 feet
Mean annual precipitation: 35 to 46 inches
Mean annual air temperature: 45 to 57 degrees F
Frost-free period: 145 to 255 days
Farmland classification: Not prime farmland

Map Unit Composition
Manor and similar soils: 85 percent
Brinklow and similar soils: 10 percent
Minor components: 5 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Manor

Setting
Landform: Hillslopes, ridges
Landform position (two-dimensional): Shoulder, backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Parent material: Loamy residuum derived from phyllite and/or loamy residuum derived from schist

Typical profile
A1, A2 - 0 to 8 inches: channery loam
Bw1, Bw2 - 8 to 22 inches: channery sandy loam
C1,C2,C3,C4 - 22 to 72 inches: channery loamy sand

Properties and qualities
Slope: 15 to 25 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Well drained
Runoff class: High

Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.57 to 1.98 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Moderate (about 8.8 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 4e
Hydrologic Soil Group: B
Hydric soil rating: No

Description of Brinklow

Setting
Landform: Hillslopes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope
Parent material: Gravelly residuum weathered from schist and/or gravelly residuum weathered from phyllite

Typical profile
Ap - 0 to 10 inches: channery loam
Bt,BC - 10 to 25 inches: channery loam
Cr - 25 to 35 inches: weathered bedrock
R - 35 to 80 inches: bedrock

Properties and qualities
Slope: 15 to 25 percent
Depth to restrictive feature: 20 to 36 inches to paralithic bedrock; 28 to 40 inches to lithic bedrock
Natural drainage class: Well drained
Runoff class: High
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Low (about 4.7 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 4e
Hydrologic Soil Group: C
Hydric soil rating: No

Minor Components

Galla
Percent of map unit: 5 percent
Landform: Hillslopes
Landform position (two-dimensional): Shoulder, backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Hydric soil rating: No

MdE—Manor-Brinklow complex, 25 to 45 percent slopes, very rocky

Map Unit Setting
National map unit symbol: 2lplp
Elevation: 250 to 4,000 feet
Mean annual precipitation: 8 to 46 inches
Mean annual air temperature: 45 to 57 degrees F
Frost-free period: 110 to 200 days
Farmland classification: Not prime farmland

Map Unit Composition
Manor and similar soils: 55 percent
Brinklow and similar soils: 30 percent
Rock outcrop: 5 percent
Minor components: 10 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Manor

Setting
Landform: Hillslopes, ridges
Landform position (two-dimensional): Shoulder, backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Linear
Parent material: Loamy residuum derived from phyllite and/or loamy residuum derived from schist

Typical profile
A1, A2 - 0 to 6 inches: loam
Bw1, Bw2 - 6 to 22 inches: sandy loam
C1,C2,C3,C4 - 22 to 72 inches: channery loamy sand

Properties and qualities
Slope: 25 to 45 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.57 to 1.98 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Moderate (about 8.8 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 7s
Hydrologic Soil Group: B

Hydric soil rating: No

Description of Brinklow

Setting
Landform: Hillslopes, hillslopes
Landform position (two-dimensional): Backslope, shoulder
Landform position (three-dimensional): Side slope, free face
Parent material: Gravelly residuum weathered from schist and/or gravelly residuum weathered from phyllite

Typical profile
Ap - 0 to 10 inches: channery loam
Bt,BC - 10 to 25 inches: channery loam
Cr - 25 to 35 inches: weathered bedrock
R - 35 to 80 inches: bedrock

Properties and qualities
Slope: 25 to 45 percent
Depth to restrictive feature: 20 to 33 inches to paralithic bedrock; 33 to 80 inches to lithic bedrock
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Low (about 4.7 inches)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 7s
Hydrologic Soil Group: C
Hydric soil rating: No

Description of Rock Outcrop

Typical profile
H1 - 0 to 60 inches: bedrock

Properties and qualities
Slope: 25 to 45 percent
Depth to restrictive feature: 0 inches to lithic bedrock
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to high (0.06 to 5.95 in/hr)

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 8s
Hydrologic Soil Group: D
Hydric soil rating: No

Minor Components

Blocktown
Percent of map unit: 10 percent
Landform: Hillslopes

Landform position (two-dimensional): Backslope
Landform position (three-dimensional): Side slope, interfluve, nose slope
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

Soil Information for All Uses

Suitabilities and Limitations for Use

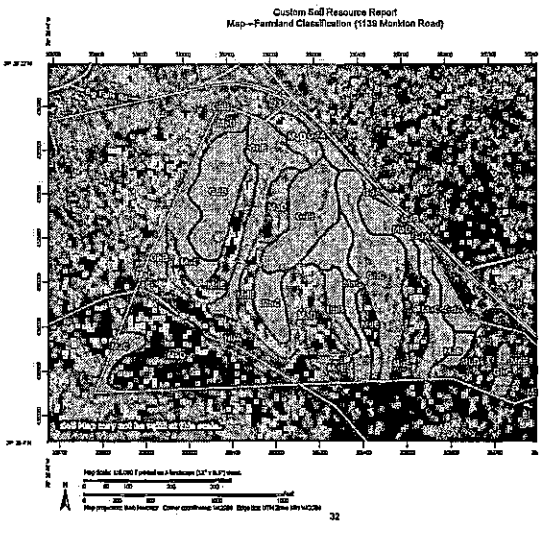
The Suitabilities and Limitations for Use section includes various soil interpretations displayed as thematic maps with a summary table for the soil map units in the selected area of interest. A single value or rating for each map unit is generated by aggregating the interpretive ratings of individual map unit components. This aggregation process is defined for each interpretation.

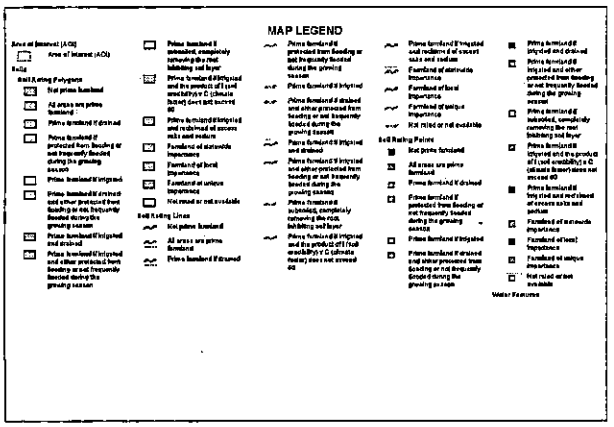
Land Classifications

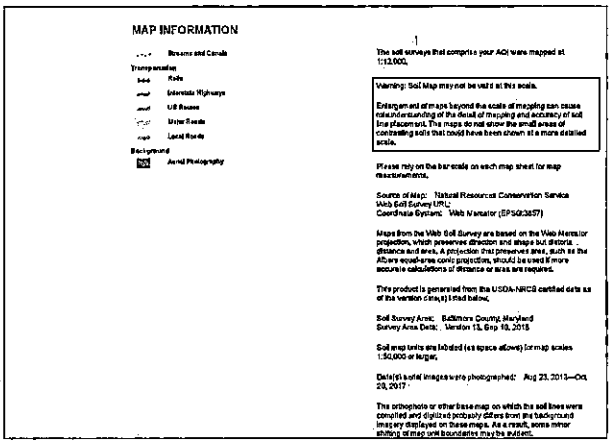
Land Classifications are specified land use and management groupings that are assigned to soil areas because combinations of soil have similar behavior for specified practices. Most are based on soil properties and other factors that directly influence the specific use of the soil. Example classifications include ecological site classification, farmland classification, irrigated and nonirrigated land capability classification, and hydric rating.

Farmland Classification (1139 Monkton Road)

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.







Table—Farmland Classification (1139 Monkton Road)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	All areas are prime farmland	2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	All areas are prime farmland	3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	All areas are prime farmland	12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	All areas are prime farmland	6.7	6.9%
GhC	Glenville silt loam, 8 to 15 percent slopes	Farmland of statewide importance	9.1	9.3%
HbA	Hatboro silt loams, 0 to 3 percent slopes	Not prime farmland	7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	All areas are prime farmland	1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	Farmland of statewide importance	14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	Not prime farmland	21.1	21.5%
MbD	Manor channery loam, 15 to 25 percent slopes	Not prime farmland	7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	Not prime farmland	13.0	13.3%
Totals for Area of Interest			97.9	100.0%

Rating Options—Farmland Classification (1139 Monkton Road)

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

Hydric Rating by Map Unit (1139 Monkton Road)

This rating indicates the percentage of map units that meets the criteria for hydric soils. Map units are composed of one or more map unit components or soil types, each of which is rated as hydric soil or not hydric. Map units that are made up dominantly of hydric soils may have small areas of minor nonhydric components in the higher positions on the landform, and map units that are made up dominantly of nonhydric soils may have small areas of minor hydric components in the lower positions on the landform. Each map unit is rated based on its respective components and the percentage of each component within the map unit.

The thematic map is color coded based on the composition of hydric components. The five color classes are separated as 100 percent hydric components, 66 to 99 percent hydric components, 33 to 65 percent hydric components, 1 to 32 percent hydric components, and less than one percent hydric components.

In Web Soil Survey, the Summary by Map Unit table that is displayed below the map pane contains a column named 'Rating'. In this column the percentage of each map unit that is classified as hydric is displayed.

Hydric soils are defined by the National Technical Committee for Hydric Soils (NTCHS) as soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (Federal Register, 1994). Under natural conditions, these soils are either saturated or inundated long enough during the growing season to support the growth and reproduction of hydrophytic vegetation.

The NTCHS definition identifies general soil properties that are associated with wetness. In order to determine whether a specific soil is a hydric soil or nonhydric soil, however, more specific information, such as information about the depth and duration of the water table, is needed. Thus, criteria that identify those estimated soil properties unique to hydric soils have been established (Federal Register, 2002). These criteria are used to identify map unit components that normally are associated with wetlands. The criteria used are selected estimated soil properties that are described in "Soil Taxonomy" (Soil Survey Staff, 1999) and "Keys to Soil Taxonomy" (Soil Survey Staff, 2006) and in the "Soil Survey Manual" (Soil Survey Division Staff, 1993).

If soils are wet enough for a long enough period of time to be considered hydric, they should exhibit certain properties that can be easily observed in the field. These visible properties are indicators of hydric soils. The indicators used to make onsite determinations of hydric soils are specified in "Field Indicators of Hydric Soils in the United States" (Hurt and Vasilas, 2006).

References:

Federal Register. July 13, 1994. Changes in hydric soils of the United States.

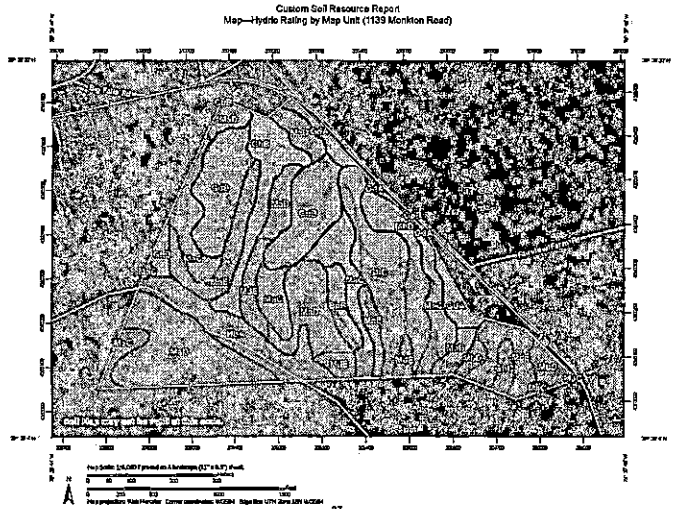
Federal Register. September 18, 2002. Hydric soils of the United States.

Hurt, G.W., and L.M. Vasilas, editors. Version 6.0, 2006. Field indicators of hydric soils in the United States.

Soil Survey Division Staff. 1993. Soil survey manual. Soil Conservation Service. U.S. Department of Agriculture Handbook 18.

Soil Survey Staff, 1999. Soil taxonomy: A basic system of soil classification for making and interpreting soil surveys. 2nd edition. Natural Resources Conservation Service, U.S. Department of Agriculture Handbook 436.

Soil Survey Staff, 2006. Keys to soil taxonomy. 10th edition. U.S. Department of Agriculture, Natural Resources Conservation Service.



MAP LEGEND

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil data may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Baltimore County, Maryland
Survey Area Data: Version 13, Sep 19, 2016

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 20, 2013—Oct 20, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Table—Hydric Rating by Map Unit (1139 Monkton Road)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BnB	Brinklow channery loam, 3 to 8 percent slopes	0	2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	0	3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	0	12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	10	6.7	6.9%
GhC	Glenville silt loam, 8 to 15 percent slopes	0	9.1	9.3%
HbA	Hatboro silt loams, 0 to 3 percent slopes	85	7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	0	1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	0	14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	0	21.1	21.5%
MbD	Manor channery loam, 15 to 25 percent slopes	0	7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	0	13.0	13.3%
Totals for Area of Interest			97.3	100.0%

Rating Options—Hydric Rating by Map Unit (1139 Monkton Road)

Aggregation Method: Percent Present

Component Percent Cutoff: None Specified

Tie-break Rule: Lower

National Commodity Crop Productivity Index (1139 Monkton Road)

National Commodity Crop Productivity Index is a method of arraying the soils of the United States for non-irrigated commodity crop production based on their inherent soil properties. This version features a separate index for soybeans. In the past, soybeans and corn were considered together. The rating a soil is assigned is the highest one of four basic crop group indices, which are based on the climate where the crop is typically grown. Cooler climates are represented by winter wheat, moderate climates are represented by corn and soybeans, and warmer climates are

represented by cotton. (http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_050734.pdf)

The interpretation is applicable to both heavily populated and sparsely populated areas. Ratings are for soils in their present condition. The present land use is not considered in the ratings.

Ratings are based on properties and qualities to the depth normally observed during soil mapping (approximately 6 feet). Soil, site, and climate properties that influence the growth of crops are major considerations. Soil productivity is influenced by many soil properties. An ideal soil will store adequate amounts of water to nurture the crop between rains. This soil will have a near-neutral pH, will store nutrients, and lack toxic materials. The soil will have no barriers, either physical or chemical, to root growth. Water and gas transmission through the soil will be sufficient to maintain both water and oxygen at sufficient levels in the root zone. The soil will not be saturated with water during the growing season to the point that root growth is inhibited. The soil will not be subject to excessive flooding or ponding during the growing season. Slope is an important consideration because it affects erosion by water, runoff, and the operation of equipment. The climate must provide adequate water and heat to allow the desired crop to mature. A soil that differs from the ideal in any of these features will have lower inherent productivity for a particular crop. The further a soil differs from ideality in any one or all of the factors that determine inherent productivity, the lower its inherent productivity will be.

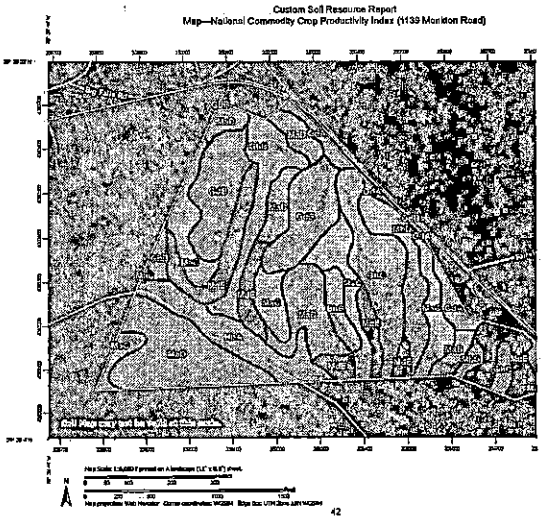
The ratings are both verbal and numerical. Rating class terms indicate the estimated productivity which is determined by all of the soil, site, and climatic features that affect crop productivity. "High inherent productivity" indicates that the soil, site, and climate have features that are very favorable for crop production. High yields and low risk of crop failure can be expected if a high level of management is employed. "Moderately high inherent productivity" indicates that the soil has features that are generally quite favorable for crop production. Good yields and moderately low risk of crop failure can be expected. "Moderate inherent productivity" indicates that the soil has features that are generally favorable for crop production. Good yields and moderate risk of crop failure can be expected. "Moderately low inherent productivity" indicates that the soil has features that are generally not favorable for crop production. Low yields and moderately high risk of crop failure can be expected. "Low inherent productivity" indicates that the soil has one or more features that are unfavorable for crop production. Low yields and high risk of crop failure can be expected.

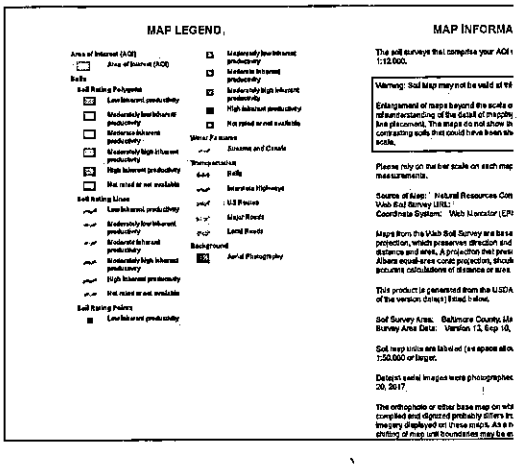
Numerical ratings indicate the overall productivity of the soil. The ratings are shown in decimal fractions ranging from 1.00 to 0.01. They indicate gradations between the point at which the combination of soil, site, and climate features has the greatest positive impact on inherent productivity (1.00) and the point at which the soil features are very unfavorable (0.01).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition

of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.





Tables—National Commodity Crop Productivity Index (1139 Monkton Road)

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric value)	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	0.475			2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	0.683			3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	0.693			12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	0.553			6.7	6.9%
GhC	Glenville silt loam, 8 to 15 percent slopes	0.502			9.1	9.3%
HbA	Helboro silt loams, 0 to 3 percent slopes	0.268			7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	0.625			1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	0.499			14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	0.386			21.1	21.6%
MbD	Manor channery loam, 15 to 25 percent slopes	0.480			7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	0.100			13.0	13.3%
Totals for Area of Interest					97.9	100.0%

Rating	Acres in AOI	Percent of AOI
0.386	21.1	21.6%
0.499	14.8	15.1%
0.100	13.0	13.3%
0.693	12.6	12.9%
0.502	9.1	9.3%

Rating	Acres in AOI	Percent of AOI
0.480	7.2	7.4%
0.265	7.0	7.2%
0.553	6.7	6.9%
0.683	3.0	3.1%
0.478	2.0	2.0%
0.525	1.3	1.3%
Totals for Area of Interest	97.9	100.0%

Rating Options—National Commodity Crop Productivity Index (1139 Monkton Road)

Aggregation Method: Weighted Average

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

Soil Properties and Qualities

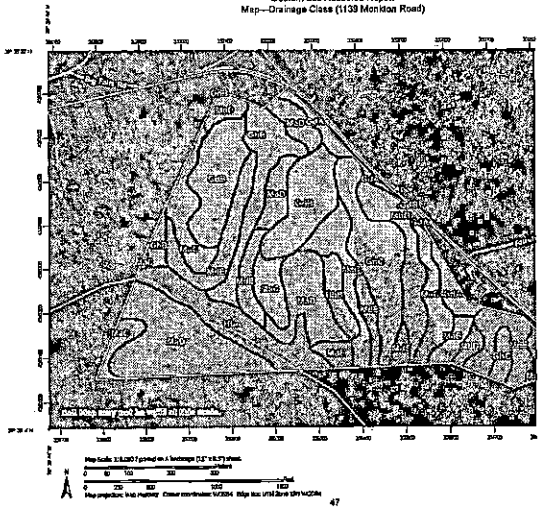
The Soil Properties and Qualities section includes various soil properties and qualities displayed as thematic maps with a summary table for the soil map units in the selected area of interest. A single value or rating for each map unit is generated by aggregating the interpretive ratings of individual map unit components. This aggregation process is defined for each property or quality.

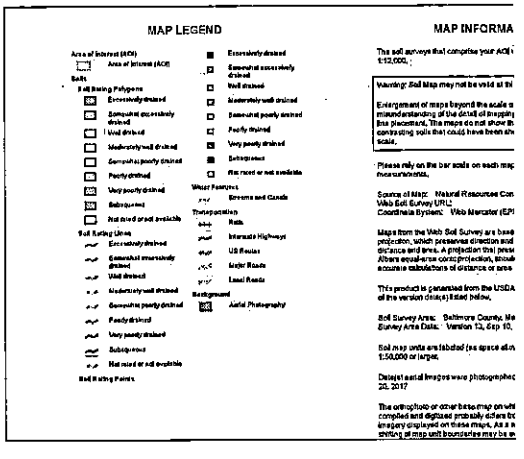
Soil Qualities and Features

Soil qualities are behavior and performance attributes that are not directly measured, but are inferred from observations of dynamic conditions and from soil properties. Example soil qualities include natural drainage, and frost action. Soil features are attributes that are not directly part of the soil. Example soil features include slope and depth to restrictive layer. These features can greatly impact the use and management of the soil.

Drainage Class (1139 Monkton Road)

"Drainage class (natural)" refers to the frequency and duration of wet periods under conditions similar to those under which the soil formed. Alterations of the water regime by human activities, either through drainage or irrigation, are not a consideration unless they have significantly changed the morphology of the soil. Seven classes of natural soil drainage are recognized-excessively drained, somewhat excessively drained, well drained, moderately well drained, somewhat poorly drained, poorly drained, and very poorly drained. These classes are defined in the "Soil Survey Manual."





Table—Drainage Class (1139 Monkton Road)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BhB	Brinklow channery loam, 3 to 8 percent slopes	Well drained	2.0	2.0%
GdA	Glenelg loam, 0 to 3 percent slopes	Well drained	3.0	3.1%
GdB	Glenelg loam, 3 to 8 percent slopes	Well drained	12.6	12.9%
GhB	Glenville silt loam, 3 to 8 percent slopes	Moderately well drained	6.7	6.9%
GhC	Glenville silt loam, 8 to 15 percent slopes	Moderately well drained	9.1	9.3%
HbA	Hatboro silt loams, 0 to 3 percent slopes	Poorly drained	7.0	7.2%
MaB	Manor loam, 3 to 8 percent slopes	Well drained	1.3	1.3%
MaC	Manor loam, 8 to 15 percent slopes	Well drained	14.8	15.1%
MaD	Manor loam, 15 to 25 percent slopes	Well drained	21.1	21.6%
MbD	Manor channery loam, 15 to 25 percent slopes	Well drained	7.2	7.4%
MdE	Manor-Brinklow complex, 25 to 45 percent slopes, very rocky	Well drained	13.0	13.3%
Totals for Area of Interest			97.9	100.0%

Rating Options—Drainage Class (1139 Monkton Road)

Aggregation Method: Dominant Component

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

Soil Reports

The Soil Reports section includes various formatted tabular and narrative reports (tables) containing data for each selected soil map unit and each component of each unit. No aggregation of data has occurred as is done in reports in the Soil Properties and Qualities and Suitabilities and Limitations sections.

The reports contain soil interpretive information as well as basic soil properties and qualities. A description of each report (table) is included.

AOI Inventory

This folder contains a collection of tabular reports that present a variety of soil information. Included are various map unit description reports, special soil interpretation reports, and data summary reports.

Map Unit Description (Brief, Generated) (1139 Monkton Road)

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions in this report, along with the maps, provide information on the composition of map units and properties of their components.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

The Map Unit Description (Brief, Generated) report displays a generated description of the major soils that occur in a map unit. Descriptions of non-soil (miscellaneous areas) and minor map unit components are not included. This description is generated from the underlying soil attribute data.

Additional information about the map units described in this report is available in other Soil Data Mart reports, which give properties of the soils and the limitations, capabilities, and potentials for many uses. Also, the narratives that accompany the Soil Data Mart reports define some of the properties included in the map unit descriptions.

Report—Map Unit Description (Brief, Generated) (1139 Monkton Road)

Baltimore County, Maryland

Map Unit: BhB—Brinklow channery loam, 3 to 8 percent slopes

Component: Brinklow (85%)

The Brinklow component makes up 85 percent of the map unit. Slopes are 3 to 8 percent. This component is on hillslopes, piedmonts, interfluves. The parent material consists of gravelly residuum weathered from phyllite and/or gravelly residuum weathered from schist. Depth to a root restrictive layer, bedrock, paralithic, is 24 to 33 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is very low. Available water to a depth of 60 inches (or restricted depth) is low. Shrink-swell potential is moderate. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. Nonirrigated land capability classification is 2e. This soil does not meet hydric criteria.

Component: Glenelg (15%)

Generated brief soil descriptions are created for major soil components. The Glenelg soil is a minor component.

Map Unit: GdA—Glenelg loam, 0 to 3 percent slopes

Component: Glenelg (85%)

The Glenelg component makes up 85 percent of the map unit. Slopes are 0 to 3 percent. This component is on upland piedmonts, nearly level to steeply dissected hillslopes. The parent material consists of residuum weathered from mica schist. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is high. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 1. This soil does not meet hydric criteria.

Component: Brinklow (10%)

Generated brief soil descriptions are created for major soil components. The Brinklow soil is a minor component.

Component: Glenville (5%)

Generated brief soil descriptions are created for major soil components. The Glenville soil is a minor component.

Map Unit: GdB—Glenelg loam, 3 to 8 percent slopes

Component: Glenelg (85%)

The Glenelg component makes up 85 percent of the map unit. Slopes are 3 to 8 percent. This component is on nearly level to steeply dissected hillslopes, upland piedmonts. The parent material consists of residuum weathered from mica schist. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is high. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 2e. This soil does not meet hydric criteria.

Component: Gaila (10%)

Generated brief soil descriptions are created for major soil components. The Gaila soil is a minor component.

Component: Glenville (5%)

Generated brief soil descriptions are created for major soil components. The Glenville soil is a minor component.

Map Unit: GhB—Glenville silt loam, 3 to 8 percent slopes

Component: Glenville (75%)

The Glenville component makes up 75 percent of the map unit. Slopes are 3 to 8 percent. This component is on drainageways, piedmonts. The parent material consists of colluvium derived from metamorphic rock over schist, gneiss or phyllite residuum. Depth to a root restrictive layer, fragipan, is 29 to 31 inches. The natural drainage class is moderately well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches (or restricted depth) is moderate. Shrink-swell potential is low. This soil is not flooded. It is not ponded. A seasonal zone of water saturation is at 20 inches during January, February, March, April, November, December. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 2e. This soil does not meet hydric criteria.

Component: Unnamed (15%)

Generated brief soil descriptions are created for major soil components. The Unnamed soil is a minor component.

Component: Baile (10%)

Generated brief soil descriptions are created for major soil components. The Baile soil is a minor component.

Map Unit: GhC—Glenville silt loam, 8 to 15 percent slopes

Component: Glenville (85%)

The Glenville component makes up 85 percent of the map unit. Slopes are 8 to 15 percent. This component is on drainageways, swales, piedmonts. The parent material consists of loamy colluvium derived from phyllite and/or loamy colluvium derived from schist. Depth to a root restrictive layer, fragipan, is 24 to 39 inches. The natural drainage class is moderately well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches (or restricted depth) is low. Shrink-swell potential is low. This soil is not flooded. It is not ponded. A seasonal zone of water saturation is at 30 inches during January, February, March, April, November, December. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 3e. This soil does not meet hydric criteria.

Component: Glenelg (15%)

Generated brief soil descriptions are created for major soil components. The Glenelg soil is a minor component.

Map Unit: HbA—Hatboro silt loams, 0 to 3 percent slopes

Component: Hatboro (85%)

The Hatboro component makes up 85 percent of the map unit. Slopes are 0 to 3 percent. This component is on flood plains, river valleys. The parent material consists of loamy alluvium derived from greenstone, quartzite, phyllite, schist and/or diabase. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is poorly drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches (or restricted depth) is high. Shrink-swell potential is low. This soil is frequently flooded. It is frequently ponded. A seasonal zone of water saturation is at 3 inches during January, February, March, April, May, October, November, December. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 4w. This soil meets hydric criteria.

Component: Codorus (15%)

Generated brief soil descriptions are created for major soil components. The Codorus soil is a minor component.

Map Unit: MaB—Manor loam, 3 to 8 percent slopes

Component: Manor (85%)

The Manor component makes up 85 percent of the map unit. Slopes are 3 to 8 percent. This component is on hillslopes, piedmonts. The parent material consists of loamy residuum derived from phyllite and/or loamy residuum derived from schist. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is moderate. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. Nonirrigated land capability classification is 2e. This soil does not meet hydric criteria.

Component: Gaila (10%)

Generated brief soil descriptions are created for major soil components. The Gaila soil is a minor component.

Component: Glenelg (5%)

Generated brief soil descriptions are created for major soil components. The Glenelg soil is a minor component.

Map Unit: MaC—Manor loam, 8 to 15 percent slopes

Component: Manor (85%)

The Manor component makes up 85 percent of the map unit. Slopes are 8 to 15 percent. This component is on piedmonts, hills. The parent material consists of residuum weathered from mica schist. Depth to a root restrictive layer, bedrock, paralithic, is 59 to 100 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is moderate. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 3e. This soil does not meet hydric criteria.

Component: Glenville (5%)

Generated brief soil descriptions are created for major soil components. The Glenville soil is a minor component.

Component: Blocktown (5%)

Generated brief soil descriptions are created for major soil components. The Blocktown soil is a minor component.

Component: Mt. Airy (5%)

Generated brief soil descriptions are created for major soil components. The Mt. Airy soil is a minor component.

Map Unit: MaD—Manor loam, 15 to 25 percent slopes

Component: Manor (85%)

The Manor component makes up 85 percent of the map unit. Slopes are 15 to 25 percent. This component is on hillslopes on upland piedmonts. The parent material consists of residuum weathered from mica schist. Depth to a root restrictive layer, bedrock, paralithic, is 59 to 100 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is moderate. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 3 percent. Nonirrigated land capability classification is 4e. This soil does not meet hydric criteria.

Component: Glenville (5%)

Generated brief soil descriptions are created for major soil components. The Glenville soil is a minor component.

Component: Blocktown (5%)

Generated brief soil descriptions are created for major soil components. The Blocktown soil is a minor component.

Component: Mt. Airy (5%)

Generated brief soil descriptions are created for major soil components. The Mt. Airy soil is a minor component.

Map Unit: MbD—Manor channery loam, 15 to 25 percent slopes

Component: Manor (85%)

The Manor component makes up 85 percent of the map unit. Slopes are 15 to 25 percent. This component is on hillslopes, piedmonts. The parent material consists of loamy residuum derived from phyllite and/or loamy residuum derived from schist. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is moderate. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. Nonirrigated land capability classification is 4e. This soil does not meet hydric criteria.

Component: Brinkiow (10%)

The Brinkiow component makes up 10 percent of the map unit. Slopes are 15 to 25 percent. This component is on hillslopes, piedmonts. The parent material consists of gravelly residuum weathered from schist and/or gravelly residuum weathered from phyllite. Depth to a root restrictive layer, bedrock, paralithic, is 20 to 35 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is very low. Available water to a depth of 60 inches (or restricted depth) is low. Shrink-swell potential is moderate. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. Nonirrigated land capability classification is 4e. This soil does not meet hydric criteria.

Component: Gaila (5%)

Generated brief soil descriptions are created for major soil components. The Gaila soil is a minor component.

Map Unit: MdE—Manor-Brinkiow complex, 25 to 45 percent slopes, very rocky

Component: Manor (55%)

The Manor component makes up 55 percent of the map unit. Slopes are 25 to 45 percent. This component is on hillslopes, piedmonts. The parent material consists of loamy residuum derived from phyllite and/or loamy residuum derived from schist. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is moderate. Shrink-swell potential is low. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. Nonirrigated land capability classification is 7e. This soil does not meet hydric criteria.

Component: Brinkiow (30%)

The Brinkiow component makes up 30 percent of the map unit. Slopes are 25 to 45 percent. This component is on hillslopes, piedmonts, hillslopes. The parent material consists of gravelly residuum weathered from schist and/or gravelly residuum weathered from phyllite. Depth to a root restrictive layer, bedrock, paralithic, is 20 to 33 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is very low. Available water to a depth of 60 inches (or restricted depth) is low. Shrink-swell potential is moderate. This soil is not flooded. It is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. Nonirrigated land capability classification is 7s. This soil does not meet hydric criteria.

Component: Blocktown (10%)

Generated brief soil descriptions are created for major soil components. The Blocktown soil is a minor component.

Component: Rock outcrop (5%)

Generated brief soil descriptions are created for major soil components. The Rock outcrop is a miscellaneous area.

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United States Department of Agriculture, Natural Resources Conservation Service. 2006. Land resource regions and major land resource areas of the United States, the Caribbean, and the Pacific Basin. U.S. Department of Agriculture Handbook 296. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_053624

United States Department of Agriculture, Soil Conservation Service. 1961. Land capability classification. U.S. Department of Agriculture Handbook 210. http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_052290.pdf

Case No.: 2018-0030-X

Exhibit Sheet

SLN 5-4-18

Petitioner/Developer | Protestants

No. 1	Site plan (revised) 2 sheet	
No. 2	Aerial photo	
No. 3	Carroll CV	
No. 4	Letter from S. Rexroth	
No. 5	May 1, 2018 letter Sierra Club	
No. 6	May 1, 2018 Letter Baltimore 350	
No. 7	Glare Analysis	
No. 8	Duretta CV	
No. 9	Edward Tom - CV	
No. 10	10 A-J Photos	
No. 11	May 3, 2018 letter from J. Hermann	
No. 12	Kellman CV	

Marni Leigh Carroll

Qualifications Fourteen years of experience in the renewable energy industry as regional director, project developer, and federal policy lead. Deep transactional experience with small and large scale solar and wind projects across the country. Successfully executed greenfields, acquisitions and joint ventures totaling more than 400 MWs (megawatts) of operating wind and solar projects.

Experience

2017-Current **OneEnergy Renewables** Washington, DC
Director, Project Development

- Lead a portfolio of community solar projects in Maryland and utility scale projects in Virginia
- Implement company commitments to pollinator-friendly solar habitat
- Advocate for clean energy policy including testifying at state legislative hearings
- Representative for the company at MDV-SEIA (Solar Energy Industry Association)

2014-2017 **Sun Edison, LLC/ForeFront Power, LLC** Bethesda, MD
Director, PJM and NE-ISO

- Responsible for a portfolio of over 30 solar projects in NE-ISO and PJM regions
- Oversee strategy, budgets and forecasts for rooftop, landfill, ground, and canopy projects
- Managed and trained a team of seven junior project managers and project analysts
- Drove 12 MW of rooftop and ground mounted projects in Maryland from inception to operation

2009-2014 **Avangrid (Iberdrola USA and Iberdrola Renewables)** Washington, DC
Manager, Government Affairs

- Lobbied members of Congress and the Administration to promote clean energy
- Influenced policies of concern to Central Main Power, New York State Gas and Electric and Rochester Gas & Electric, the company's regulated electricity and natural gas distribution utilities
- Represented the company in trade associations including the American Wind Energy Association and the Solar Energy Industry Association

2007-2009 *Lead Developer,* Portland, Oregon

- Created east coast solar market entry strategy and originated portfolios in New Jersey and Maryland
- Led the development of more than 500 megawatts (MW) of wind projects in CA, OR, and WA including the 250 MW Juniper Canyon Wind Farm (WA) and 132 MW Tule Wind Farm (CA)

2004-2006 *Program Manager,* Portland, Oregon

- Managed budgets, and schedules and valuation of a 8,000 MW pipeline of wind and solar projects.
- Evaluated competitive landscape, acquisitions, and financial value of the pipeline

Education

Yale School of Management, Yale School of Forestry and Environmental Studies
Masters of Business Administration (MBA)
Master of Environmental Management (MEM)

University of California at Santa Cruz

- Bachelor of Arts (BA) in Environmental Policy, with Honors

PETITIONER'S
EXHIBIT NO. 3

May 2, 2018

The Honorable John Beverungen
Administrative Law Judge
Baltimore County
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Townson, Maryland 21204

Dear Judge Beverungen,

My name is Stephanie Rexroth and I am the managing member of HHK Farms, LLC, current owner of the property at 1139 Monkton Road in Monkton, Maryland. HHK Farms, LLC has been the sole owner of the property at 1139 Monkton Road since July of 2016, however, I was personally granted the rights to the property in June 2012 by Herman Kupisch, Jr, a man that I consider family and credit with helping to raise me. Herman taught me, through his property in Monkton, the importance of respecting land and the environment so that the land can continue to provide from generation to generation. The property in Monkton has been in Herman's family since at least 1919, and due to our close relationship and his trust in my ability to care for the land, it was his wish that I own and manage his family's property upon his passing.

I am writing to you with Herman and his legacy of stewardship for land in my thoughts to express my support for the development of the Trillium Solar Project at my property in Monkton, MD. I believe the solar project is a good fit for my family and land, because the solar lease will keep the land in our family while providing a steady revenue source over the next 20 years or so making the farm self-sufficient. The solar project will also allow us to continue farming significant portions of the property and, at the end of the project's useful life, future generations of our family can then choose to return the land to agriculture, as solar has little to no impact on the land.

I also believe the solar project at my property in Monkton is a good fit for our community because the project will provide my neighbors with the opportunity to receive savings on their regular electric bills due to the clean energy produced from the project. In addition, the project will help our local environment by avoiding the addition of air pollution that is typical of traditional electricity generation and will be a site for pollinator habitat, a boon to our local agricultural community. The project also avoids all environmentally sensitive areas, such as floodplains and wetlands, and would be mostly blocked from the view of the few existing neighbors, due to existing vegetation, proposed new landscaping and the general topography of the area.

For these reasons I support the development of a solar energy project on my property and I hope you approve the project's request for Special Exception.

Thank you for your time and consideration.

Warm Regards,

Stephanie Rexroth

Stephanie Rexroth

PETITIONER'S

EXHIBIT NO. 4

PETITIONER'S

EXHIBIT NO. 5

May 1, 2018

The Honorable John Beverungen
Administrative Law Judge
Baltimore County
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson, Maryland 21204

Dear Judge Beverungen:

The Greater Baltimore Sierra Club wishes to express its support for community solar projects in Baltimore County.

On May 4th, you will consider Case No. 2018-0030-X, a community solar project proposed by OneEnergy Renewables, LLC. This project is expected to avoid nearly 100,000 tons of air pollution over its lifetime and provide renewable solar power to our community.

As you know, Baltimore County underwent an extensive public dialogue in 2017 to determine appropriate standards for ground-mounted solar. Policymakers took into consideration the views of citizens and organizations across the county in a public forum. The result of this lengthy public discussion was Bill No. 37-17, which the County Council and County Executive enacted into law.

Nearly half of all Americans currently cannot access the benefits of solar energy, according to the National Renewable Energy Laboratory. That is why Maryland created the Pilot Program - a new way for residents to access clean energy without having to put solar panels on rooftops. Best of all, it gives them a chance to save money on their electric bills.

In addition to the environmental and energy benefits associated with this project, it will also provide participating landowners in Baltimore County a source of new revenue to help ensure their farms remain farms.

The Sierra Club's mission statement includes the commitment to, *"practice and promote the responsible use of the earth's ecosystems and resources."* Community solar projects in Baltimore County bring us one step closer to fulfilling this mission.

Please approve this project and all community solar projects that comply with county regulations.

Thank you for your consideration.

Very truly yours,

Deborah Kleinmann (Deborah Kleinmann)
Chair of the Greater Baltimore Group of Sierra Club

PETITIONER'S

EXHIBIT NO. 6

May 1, 2018

The Honorable John Beverungen
Administrative Law Judge
Baltimore County
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson, Maryland 21204

Dear Judge Beverungen:

Baltimore350.org is the local chapter of 350.org, a grassroots movement dedicated to moving away from fossil fuels and creating solutions by building 100% clean energy solutions that work for all.

We strongly support Maryland's Community Solar Pilot Program and believe Baltimore County can be a model for the state and the nation for responsible implementation of community solar projects.

We ask that you approve community solar projects proposed in Baltimore County that meet county regulations for solar as outlined Bill No. 37-17 enacted in 2017.

The project you will consider on May 4th will avoid nearly 100,000 tons of air pollution over its lifetime. The project will also incorporate native pollinator habitats and may employ a local beekeeper to produce honey. Not only are pollinator habitats beautiful to the eye, but they also help protect vital pollinator species that are responsible for one in every three bites of food we eat.

Citizens in Baltimore County had ample opportunity to make their views known about ground-mounted solar last year as Bill No. 37-17 was considered. The bill is now law. Our focus must turn to approving projects that meet the regulations.

Community solar solves a big societal problem. Too many Americans cannot access solar because they do not own their home, cannot afford solar panels, or do not have roofs that support solar. Community solar projects like the one you will consider May 4th are designed to ensure these residents can access clean solar power and also have a chance to save on their electric bills.

We urge you to approve community solar projects that comply with county regulations.

Sincerely,

Dave Neun
Vishnu Laalitha Surapaneni *Vishnu Laalitha Surapaneni*

Members of Baltimore 350

FORGESOLAR GLARE ANALYSIS

Project: **Trillium**
1139 Monkton Road

Site configuration: **0118 Run**
Analysis conducted by Marni Carroll (nwcarroll@yahoo.com) at 21:05 on 12 Apr, 2018.

U.S. FAA 2013 Policy Adherence

The following table summarizes the policy adherence of the glare analysis based on the 2013 U.S. Federal Aviation Administration Interim Policy 78 FR 63276. This policy requires the following criteria be met for solar energy systems on airport property:

- No "yellow" glare (potential for after-image) for any flight path from threshold to 2 miles
- No glare of any kind for Air Traffic Control Tower(s) ("ATCT") at cab height.
- Default analysis and observer characteristics (see list below)

ForgeSolar does not represent or speak officially for the FAA and cannot approve or deny projects. Results are informational only.

COMPONENT	STATUS	DESCRIPTION
Analysis parameters	PASS	Analysis time interval and eye characteristics used are acceptable
Flight path(s)	N/A	No flight paths analyzed
ATCT(s)	N/A	No ATCT receptors designated

Default glare analysis and observer eye characteristics are as follows:

- Analysis time interval: 1 minute
- Ocular transmission coefficient: 0.5
- Pupil diameter: 0.002 meters
- Eye focal length: 0.017 meters
- Sun subtended angle: 9.3 milliradians

FAA Policy 78 FR 63276 can be read at https://www.federalregister.gov/d/2013-24729

PETITIONER'S

EXHIBIT NO. 7

SITE CONFIGURATION

Analysis Parameters

DNI: peaks at 1,000.0 W/m^2
Time interval: 1 min
Ocular transmission coefficient: 0.5
Pupil diameter: 0.002 m
Eye focal length: 0.017 m
Sun subtended angle: 9.3 mrad
Site Config ID: 17190.2701

PV Array(s)

Name: PV array 1
Axis tracking: Single-axis rotation
Tracking axis orientation: 180.0°
Tracking axis tilt: 0.0°
Tracking axis panel offset: 0.0°
Max tracking angle: 60.0°
Resting angle: 60.0°
Rated power: -
Panel material: Light textured glass with AR coating
Reflectivity: Vary with sun
Slope error: correlate with material

Vertex	Latitude (°)	Longitude (°)	Ground elevation (ft)	Height above ground (ft)	Total elevation (ft)
1	39.590129	-76.639315	594.77	7.00	601.77
2	39.588731	-76.638990	603.37	7.00	610.37
3	39.588942	-76.637623	592.00	7.00	599.00
4	39.589314	-76.637719	600.33	7.00	607.33
5	39.589364	-76.637360	603.40	7.00	610.40
6	39.589723	-76.637462	611.86	7.00	618.86
7	39.589661	-76.637816	608.07	7.00	615.07
8	39.590257	-76.637944	628.18	7.00	635.18
9	39.590298	-76.637955	628.47	7.00	635.47

Discrete Observation Receptors

Name	ID	Latitude (°)	Longitude (°)	Elevation (ft)	Height (ft)
OP 1	1	39.591834	-76.641504	651.77	6.00
OP 2	2	39.591797	-76.640082	632.91	6.00
OP 3	3	39.591487	-76.639106	641.25	6.00
OP 4	4	39.591016	-76.638376	636.50	6.00
OP 5	5	39.590131	-76.637330	627.13	6.00
OP 6	6	39.589362	-76.636300	611.80	6.00
OP 7	7	39.588585	-76.635233	600.21	6.00
OP 8	8	39.591446	-76.639669	634.52	12.00
OP 9	9	39.591867	-76.639621	644.12	12.00
OP 10	10	39.591417	-76.638576	637.69	12.00
OP 11	11	39.591136	-76.637903	638.10	12.00
OP 12	12	39.590688	-76.637440	629.90	12.00
OP 13	13	39.591118	-76.636917	625.26	12.00
OP 14	14	39.590486	-76.636144	597.30	12.00
OP 15	15	39.589808	-76.636335	621.40	12.00
OP 16	16	39.589243	-76.635197	597.01	12.00

GLARE ANALYSIS RESULTS

Summary of Glare

PV Array Name	Tilt (°)	Orient (°)	"Green" Glare min	"Yellow" Glare min	Energy kWh
PV array 1	SA tracking	SA tracking	0	0	-

Total annual glare received by each receptor

Receptor	Annual Green Glare (min)	Annual Yellow Glare (min)
1	0	0
2	0	0
3	0	0
4	0	0
5	0	0
6	0	0
7	0	0
8	0	0
9	0	0
10	0	0

Receptor	Annual Green Glare (min)	Annual Yellow Glare (min)
11	0	0
12	0	0
13	0	0
14	0	0
15	0	0
16	0	0

Results for: PV array 1

Receptor	Green Glare (min)	Yellow Glare (min)
OP 1	0	0
OP 2	0	0
OP 3	0	0
OP 4	0	0
OP 5	0	0
OP 6	0	0
OP 7	0	0
OP 8	0	0
OP 9	0	0
OP 10	0	0
OP 11	0	0
OP 12	0	0
OP 13	0	0
OP 14	0	0
OP 15	0	0
OP 16	0	0

Point Receptor: OP 1

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 2

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 3

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 4

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 5

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 6

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 7

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 8

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 9

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 10

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 11

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 12

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 13

0 minutes of yellow glare

0 minutes of green glare

Point Receptor: OP 14

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 15

0 minutes of yellow glare
0 minutes of green glare

Point Receptor: OP 16

0 minutes of yellow glare
0 minutes of green glare

Assumptions

"Green" glare is glare with low potential to cause an after-image (flash blindness) when observed prior to a typical blink response time.
"Yellow" glare is glare with potential to cause an after-image (flash blindness) when observed prior to a typical blink response time.
Times associated with glare are denoted in Standard time. For Daylight Savings, add one hour.
Glare analyses do not account for physical obstructions between reflectors and receptors. This includes buildings, tree cover and geographic obstructions.
The glare hazard determination relies on several approximations including observer eye characteristics, angle of view, and typical blink response time. Actual values may differ.
Hazard zone boundaries shown in the Glare Hazard plot are an approximation and visual aid based on aggregated research data. Actual ocular impact outcomes encompass a continuous, not discrete, spectrum.

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PETITIONER'S

EXHIBIT NO. 8

MATTHEW DURETTE, PE

Qualification Summary

Professional Energy Engineer and Project Developer specializing in large solar project development, design, and integration.

Work Experience

Manager, Project Development ~ *OneEnergy Renewables* ~ January 2015 – Present

Engineering lead and Project Developer for the Seattle based, utility-scale, solar energy company. OneEnergy's development focus spans from greenfield to construction phases with up to 2 GWac capacity in a broad range of domestic markets. Specializing in photovoltaic (PV) system design and integration, I bring more than 8 years of experience to my role leading design through for concept, permits, and utility interconnection. Projects are ground mounted and consist of fixed tilt and single-axis tracking PV arrays from 2-80 MWac each in size. *Responsibilities include:*

- Establish company strategy for preliminary design approach and optimization
- Track and forecast industry design trends, select major equipment
- Manage an engineering task queue, with evolving priorities, across the portfolio
- Hire, manage and train an Associate Engineer and intern
- Self-perform generation of the site plan, electrical, and detail drawings
- Manage external Civil and Electrical engineering consultants to support internal efforts
- Oversee, standardize, and execute energy production modeling using PVsyst software
- Serve as key team resource for engineering support of new site selection and permit applications
- Lead technical response for utility interconnection process across all RTO/ISOs and utilities in portfolio
- Develop engineering standards, templates, and tools
- Collaborate with EPC, co-developer, and financing partner technical staff as required
- As a member of the ERCOT regional development team I also contributed to generalist assignments including, but not limited to: new site due diligence, land owner outreach, on-site visits, permit development, and regional development strategy

Project Development Engineer ~ *AMERESCO* ~ May 2009 – January 2015

Solar PV Project Responsibilities:

- Conduct site assessment to evaluate solar resource and project feasibility
- Select system components and architecture to minimize the levelized cost of energy
- Model system energy production
- Manage structural, geotechnical or environmental consultants
- Draft drawing sets in compliance with NEC and local building codes
- Facilitate utility, DEP, and customer approvals and permits
- Provide on-site construction supervision assistance
- Orchestrate project commissioning, startup, and performance testing
- Coordinate with the development team to standardize proposed designs
- Collaborate with the financing entity's technical advisors
- Assist operation and maintenance group to diagnose and execute repairs as required

Energy Efficiency Project Responsibilities:

- Perform all tasks necessary to complete ESCO project M&V Reports
- Utility bill analysis
- Energy audits, savings calculations, grant applications and project proposals

Project Experience: Over 9MW of roof mounted, ground mounted, and carport Solar PV installations now in operation. Several projects are highlighted below.

- City of Lowell – Served as lead engineer in all phases of a city wide solar feasibility study which led to the construction of 348 kW of PV mounted on 4 public schools and 1 historic city auditorium. This PPA project was awarded 2010 renewable project of the year by the Massachusetts AEE.

- Massport Logan Airport – Assisted with development, design, and commissioning of 370 kW of PV mounted on three airport terminal rooftops. Meeting the technical and logistical demands of a major airport proved essential to the success of this PPA project.
- Town of Acton – This 1,596 kW ground mounted PV plant was the first of three for AMERESCO mounted on a closed landfill. A mounting design was optimized to avoid penetrating the landfill cap, minimize required ballast and grading, and maximize PV system efficiency. Collaboration with Electrical, Geotechnical, and Environmental consultants was necessary to plan for the DEP post-closure use permit and medium voltage utility interconnection.

Lead Technician ~ *Atlas Pyrovision Productions* ~ 2003 – 2011

Licensed onsite crew leader for the execution of commercial firework and special effects displays. Responsibilities include spectator and crew safety, management of field labor and schedule, compliance with regulation, aesthetic quality, customer satisfaction and transportation of hazardous materials.

Education

University of Massachusetts Lowell 2009

Bachelor of Science in Mechanical Engineering with Cum Laude honors

Certifications

Professional Engineer in Washington State, Mechanical – December 2015

NCEES License #53328

NABCEP Certified Solar PV Installer – October 2011 (Expired)

NABCEP License #092411-39

Additional Skills Summary

- Intimate knowledge of energy production forecasting using PVsyst and other software models
- Ample AutoCAD experience drafting plan sets from development to construction phases
- Proficient in Microsoft Word, Excel, Outlook, Project and PowerPoint and similar Google docs
- Talented at creating advanced spreadsheet calculation tools
- Experienced navigating a complex mapping database in Google Earth
- Skilled with use solar resource assessment and project commissioning tools
- Relentless attention to detail
- Well-liked by coworkers, easygoing
- Broad perspective of the project life cycle enhanced by experience from development all the way to O&M

Miscellaneous Experience and Interests

- Pi Tau Sigma Mechanical Engineering honor society
- UML Solar Energy Club
- Commercial driver's license, Fork truck operator, and 3D Rapid Prototyping.
- Some personal interests include passive solar design, backcountry skiing and mountain biking.
- Very familiar with Massachusetts, northern Vermont, Washington state and Colorado areas.

DAFT McCUNE WALKER

EDWARD W. TOM, RLA-PLA

PROJECT MANAGER, LANDSCAPE ARCHITECT

LICENSURE AND ACCREDITATION

1979 Maryland Registered Landscape Architect #412

EDUCATION

1976 Cornell University, BS, Landscape Architecture

PROFESSIONAL SUMMARY

Edward Tom has master-planned, designed, and coordinated numerous commercial, institutional, healthcare, senior living, residential, and recreation projects throughout his 41-year career.

Mr. Tom is responsible for all phases of land development and project management, master-planning and feasibility studies, coordination of architecture and engineering teams, schematic, preliminary and final site design, government reviews and approvals, preparation of construction documents, contract administration, coordination of construction, site inspection and as-built certifications.

SELECTED LIST OF PROJECTS

Admiral's Landing Townhomes, Baltimore County, MD
Greenspring Quarry Community, Baltimore County, MD
Hunt Valley Towne Centre, Baltimore County, MD
Hunt Valley Avalon Apartments, Baltimore County, MD
Devonport Townhomes, Baltimore County, MD
Towson Mews Townhomes, Baltimore County, MD
Villages at Woodholme Community, Baltimore County, MD
Grantleigh Station Community, Baltimore County, MD
Vincent Farm, Baltimore County, MD
Piney Orchard Community, Anne Arundel County, MD
The Palisades, Baltimore County, MD
The Promenade, Baltimore County, MD
Towson Square, Baltimore County, MD
Rolling Run Technology Park, Baltimore County, MD
Piers 5 and 6, Inner Harbor, Baltimore, MD
Double Rock Park, Baltimore County, MD
Gwynn Oak Park, Baltimore County, MD
Hammonds Park, Anne Arundel County, MD

MEMBERSHIPS, ASSOCIATIONS, AWARDS, PUBLICATIONS

Urban Land Institute /American Society of Landscape Architects
Maryland Chapter ASLA, Past Associate-at-Large, Past Member-at-Large, Past Secretary
Maryland ASLA Awards: Morgan State University, Gwynn Oak Park, Hammonds Park, Reedbird Park, Kings Contrivance Village Center
LASN Bonnie View Park Playground

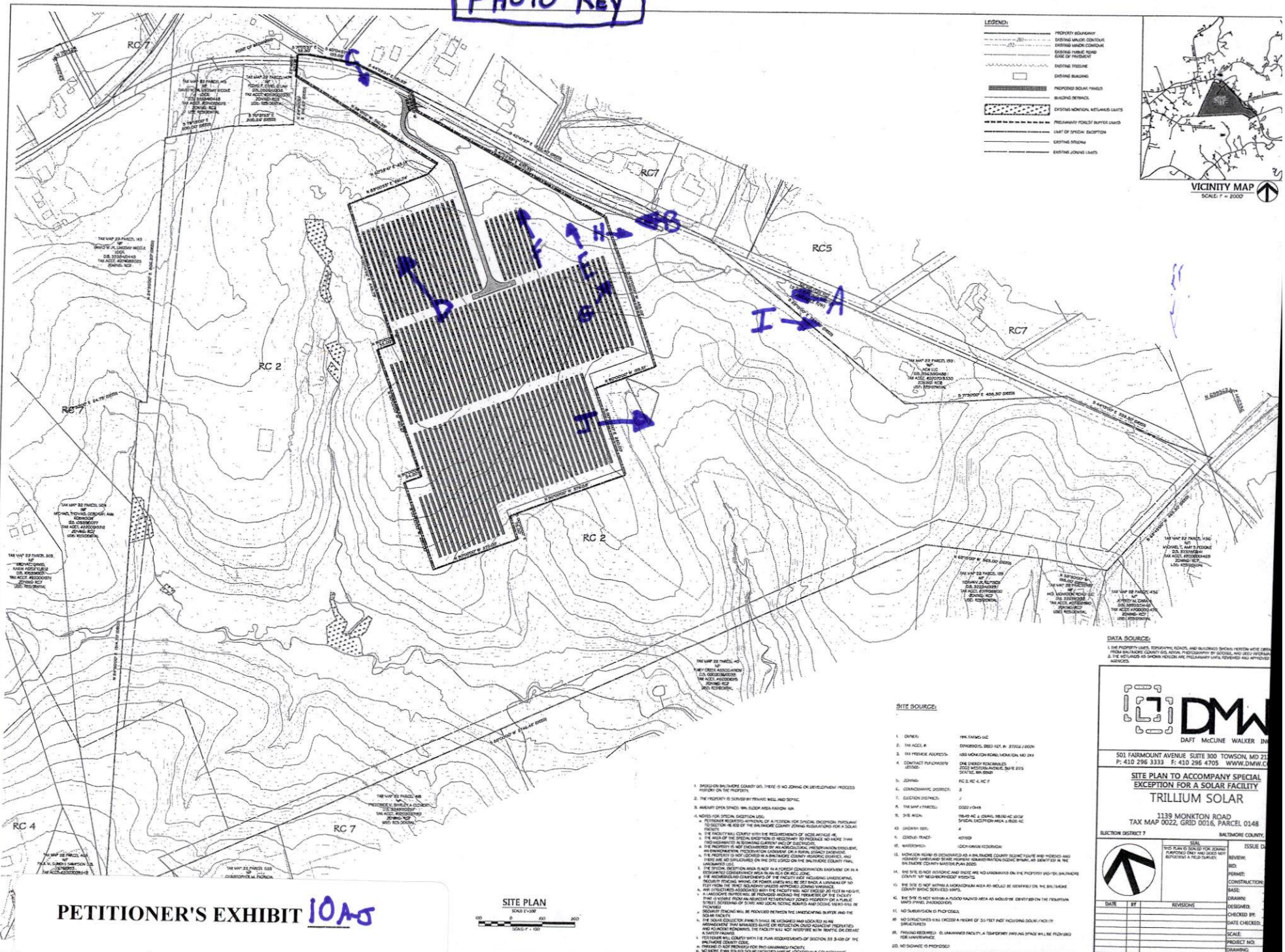
PROFESSIONAL EXPERIENCE

Daft-McCune-Walker, Inc., Towson, Maryland, 1995 - Present
Crozier Associates, Baltimore, MD, 1980-1995
Ted Human & Associates, Cockeysville, MD, 1976-1980

Towson: 501 Fairmount Avenue, Suite 300, Towson, MD 21286 p: 410 296 3333 f: 410 296 4705
Frederick: 8 East Second Street, Suite 201, Frederick, MD 21701 p: 301 696 9040 f: 301 696 9041

PETITIONER'S EXHIBIT 9

PHOTO KEY



PETITIONER'S EXHIBIT 10A5

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KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

May 3, 2018

Daft McCune Walker (DMW)
Mr. Mitch Kellman
501 Fairmount Avenue
Towson, Maryland 21286
Phone: 410-296-3333

Subject: Trillium Solar
Zoning Case # 2018-0030-X
1139 Monkton Road,
Monkton, Maryland 21111

Dear Mr. Kellman:

This is in response to your request for review of the Schematic Landscape Plan dated May 2, 2018. It has been reviewed and there are a number of comments to address landscape screening design, locations, etc. Based on a recent meeting held on May 3, 2018 with the design team, it is anticipated that the comments will be addressed as part of the next Schematic Landscape Plan submission and can be approved, provided the Special Exception is granted.

Sincerely,

James Hermann, RLA.
Landscape Architect, Development Plans Review

cc:

PETITIONER'S EXHIBIT 11

MITCHELL J. KELLMAN

VICE PRESIDENT - DIRECTOR OF ZONING SERVICES

Education

Towson University, BA, Geography and Environmental Planning, Urban Planning

Towson University, Masters, Geography and Environmental Planning, Urban Planning

Professional Summary

Mr. Kellman has over 30 years of experience working in zoning, subdivision, and development regulations for the public and private sector; 15 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authority. Additionally, he supervised county review staff, met with professionals and the public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, Administrative Law Judges, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings. He is also a member of Baltimore County's Design Review Panel, which formulates design recommendations to the Planning staff and Administrative Law Judges, and the Landmarks Preservation Commission.

Partial List of Projects

Saint Michael's Roman Catholic Church, Howard County, MD

Hunt Valley Towne Centre, Baltimore County, MD

Charlestown Retirement Community, Baltimore County, MD

Goucher College, Baltimore County, MD

Greenspring Quarry, Baltimore County, MD

Norris Acura West, Howard County, MD

Sheppard Pratt Health Systems (Elkridge Campus), Howard County, MD

Towson Town Center, Baltimore County, MD

Corridor 95 Business Park, Howard County, MD

Memberships and Associations

Baltimore County Landmarks Preservation Commission, 2014, 2015, 2016, 2017, 2018

Baltimore County Design Review Panel, 2012, 2013, 2014, 2015, 2016, 2017, 2018

Greater Towson Committee, Planning & Development Sub-Committee, 2012, 2013, 2014, 2015, 2016, 2017, 2018

Greater Towson Committee, Government Relations Sub-Committee Chair, 2013, 2014, 2015

Greater Towson Committee Board of Directors – 2014 (Secretary), 2015, 2016, 2017, 2018

Leadership Baltimore County, 2013

Leadership Baltimore County, Class Interviewer, Member, 2015

Professional Experience

Daft-McCune-Walker, Inc., Towson, MD: 2000-Present

Baltimore County Zoning Review Office, Towson, MD: 1985-2000

PETITIONER'S EXHIBIT 12

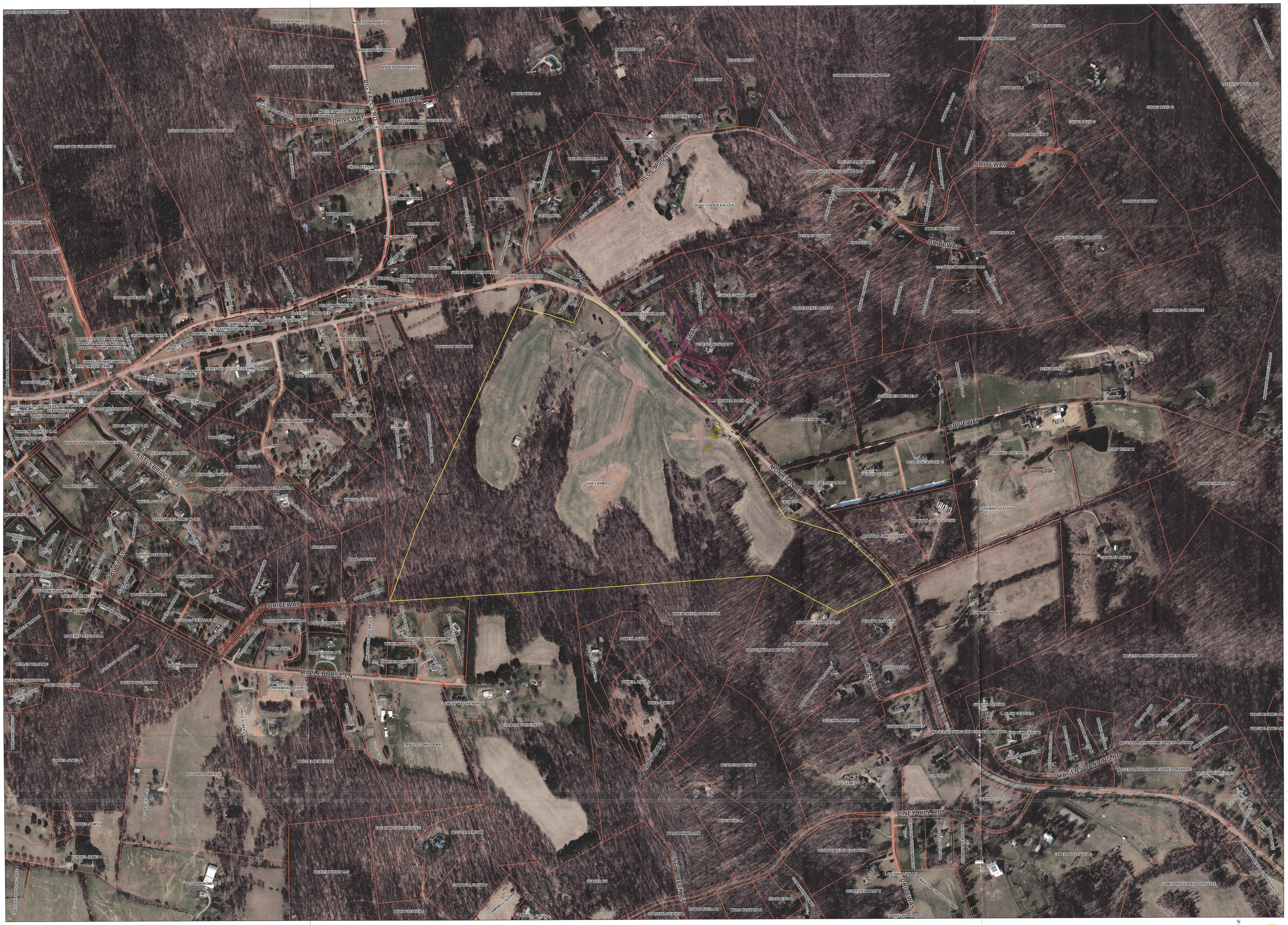
Protestant
CBA Exhibit
15 pg 6-c

Protestant
CBA Exhibit
15C

Protestant
CBA Exhibit
156

SCALE: 1" = 200'

Protestant
CBA Exhibit
40



Prepared by Geographic Information Services
Baltimore County Office of Information Technology
Date: July 9, 2018
2017 Imagery

1 Inch = 200 feet
0 90 180 360 540 720
Feet

People's Counsel
CBA Exhibit
8

SITE PLAN

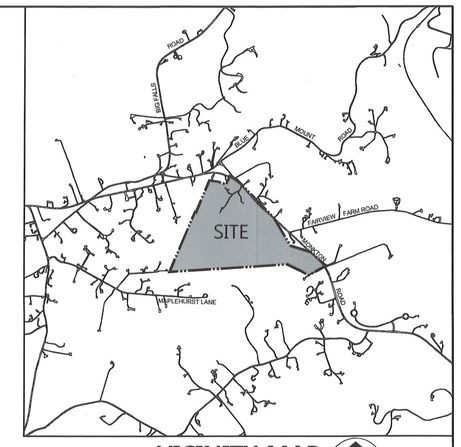
SCALE: 1"=100'

100 0 100 200

SCALE: 1" = 100'

LEGEND:

- PROPERTY BOUNDARY
- 290 EXISTING MAJOR CONTOUR
- 292 EXISTING MINOR CONTOUR
- EXISTING PUBLIC ROAD EDGE OF PAVEMENT
- EXISTING TREELINE
- EXISTING BUILDING
- PROPOSED SOLAR PANELS
- BUILDING SETBACK
- EXISTING NONTIDAL WETLANDS LIMITS
- PRELIMINARY FOREST BUFFER LIMITS
- LIMIT OF SPECIAL EXCEPTION
- EXISTING STREAM
- EXISTING ZONING LIMITS



VICINITY MAP

SCALE: 1" = 2000'

DATA SOURCE:

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2. THE WETLANDS AS SHOWN HEREON ARE PRELIMINARY UNTIL REVIEWED AND APPROVED BY ALL AGENCIES.

SITE SOURCE:

1.	OWNER:	HHK FARMS LLC
2.	TAX ACCT. #:	0711689075, DEED REF. #: 37926 / 00011
3.	TAX PREMISE ADDRESS:	1139 MONKTON ROAD, MONKTON, MD 21111
4.	CONTRACT PURCHASER/ LESSEE:	ONE ENERGY RENEWABLES 2003 WESTERN AVENUE, SUITE 225 SEATTLE, WA 98121
5.	ZONING:	RC 2, RC 4, RC 7
6.	COUNCILMANIC DISTRICT:	3
7.	ELECTION DISTRICT:	7
8.	TAX MAP / PARCEL:	0022 / 0148
9.	SITE AREA:	98.49 AC ± (SDAT), 98.00 AC (GIS)/ SPECIAL EXCEPTION AREA ±19.06 AC
10.	GROWTH TIER:	4
11.	CENSUS TRACT:	407001
12.	WATERSHED:	LOCH RAVEN RESERVOIR
13.	MONKTON ROAD IS DESIGNATED AS A BALTIMORE COUNTY SCENIC ROUTE AND "HORSES AND HOUNDS" MARYLAND STATE HIGHWAY ADMINISTRATION SCENIC BYWAY, AS IDENTIFIED IN THE BALTIMORE COUNTY MASTER PLAN 2020.	
14.	THE SITE IS NOT HISTORIC AND THERE ARE NO LANDMARKS ON THE PROPERTY (AS PER BALTIMORE COUNTY "MY NEIGHBORHOOD" WEBSITE).	
15.	THE SITE IS NOT WITHIN A MORATORIUM AREA AS WOULD BE IDENTIFIED ON THE BALTIMORE COUNTY BASIC SERVICES MAPS.	
16.	THE SITE IS NOT WITHIN A FLOOD HAZARD AREA AS WOULD BE IDENTIFIED ON THE FIRM/FEMA MAPS (PANEL 24005100110F).	
17.	NO SUBDIVISION IS PROPOSED.	
18.	NO STRUCTURES WILL EXCEED A HEIGHT OF 35 FEET (NOT INCLUDING SOLAR FACILITY STRUCTURES)	
19.	PARKING REQUIRED: 0, UNMANNED FACILITY. A TEMPORARY PARKING SPACE WILL BE PROVIDED FOR MAINTENANCE.	
20.	NO SIGNAGE IS PROPOSED.	
21.	THERE ARE NO ACTIVE BUILDING PERMITS IN THE AREA OF THE PROPOSED SOLAR PANELS (BASED UPON REVIEWED COUNTY RECORDS).	

1. BASED ON BALTIMORE COUNTY GIS, THERE IS NO ZONING OR DEVELOPMENT PROCESS HISTORY ON THE PROPERTY.
2. THE PROPERTY IS SERVED BY PRIVATE WELL AND SEPTIC.
3. AMENITY OPEN SPACE: N/A; FLOOR AREA RATION: N/A
4. NOTES FOR SPECIAL EXCEPTION USE:
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   b. THE FACILITY WILL COMPLY WITH THE REQUIREMENTS OF BCZR ARTICLE 4E.
   c. THE AREA OF THE SPECIAL EXCEPTION IS NECESSARY TO PRODUCE NO MORE THAN TWO MEGAWATTS ALTERNATING CURRENT (AC) OF ELECTRICITY.
   d. THE PROPERTY IS NOT ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT, AN ENVIRONMENTAL PRESERVATION EASEMENT OR A RURAL LEGACY EASEMENT.
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   g. THE ABOVEGROUND COMPONENTS OF THE FACILITY (NOT INCLUDING LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES) WILL BE SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY UNLESS APPROVED ZONING VARIANCE.
   h. ANY STRUCTURES ASSOCIATED WITH THE FACILITY WILL NOT EXCEED 20 FEET IN HEIGHT.
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   n. NO MORE THAN TEN (10) SOLAR FACILITIES MAY BE LOCATED IN A COUNCILMANIC DISTRICT.

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

SITE PLAN TO ACCOMPANY SPECIAL EXCEPTION FOR A SOLAR FACILITY

TRILLIUM SOLAR

1139 MONKTON ROAD
TAX MAP 0022, GRID 0016, PARCEL 0148

ELECTION DISTRICT 7 BALTIMORE COUNTY, MARYLAND

SEAL

THIS PLAN IS SEALED FOR ZONING PURPOSED ONLY AND DOES NOT REPRESENT A FIELD SURVEY.

DATE	BY	REVISIONS

PETITIONER'S EXHIBIT NO. 2

ISSUE DATES

REVIEW:	
BID:	
PERMIT:	
CONSTRUCTION:	
BASE:	
DRAWN:	CHP
DESIGNED:	EJC/MJK
CHECKED BY:	
DATE CHECKED:	
SCALE:	1"=100'
PROJECT NO:	17026
DRAWING:	1 of 1

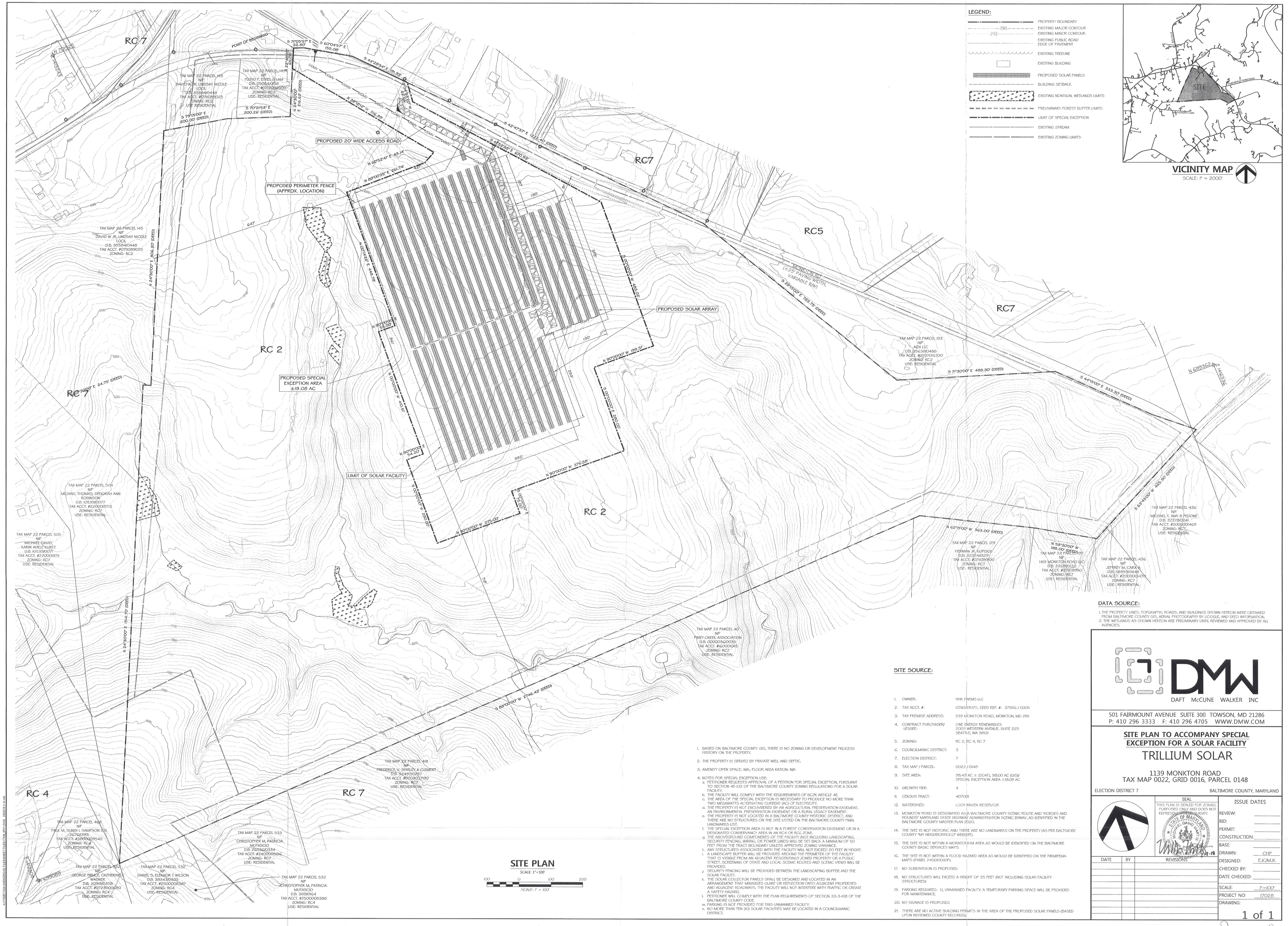
A:\17026\17026_ENGINEERING\17026_PLOTTED\17026_AERIAL.DWG 5/20/19 10:02 AM

At Installation

Protestant
CBA Exhibit
7

Three Years Growth

Petitioner
CBA Exhibit
7



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5.	ZONING:	RC 2, RC 4, RC 7
6.	COUNCILMANIC DISTRICT:	3
7.	ELECTION DISTRICT:	7
8.	TAX MAP / PARCEL:	0022 / 0148
9.	SITE AREA:	98.43 AC ± (GOAT), 99.00 AC (GIS)/ SPECIAL EXCEPTION AREA ±19.08 AC
10.	GROWTH TIER:	4
11.	CENSUS TRACT:	407001
12.	WATERSHED:	LOCH RAVEN RESERVOIR

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SITE PLAN TO ACCOMPANY SPECIAL EXCEPTION FOR A SOLAR FACILITY

TRILLIUM SOLAR

1139 MONKTON ROAD
TAX MAP 0022, GRID 0016, PARCEL 0148

ELECTION DISTRICT 7 — BALTIMORE COUNTY, MARYLAND

SEAL

THIS PLAN IS SEALED FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT ANY ENGINEERING, SURVEY, OR ARCHITECTURAL WORK.

STATE OF MARYLAND — DAVID W. LOCK — No. 21627 — PROFESSIONAL ENGINEER

5-21-19

DATE	BY	REVISIONS

ISSUE DATES

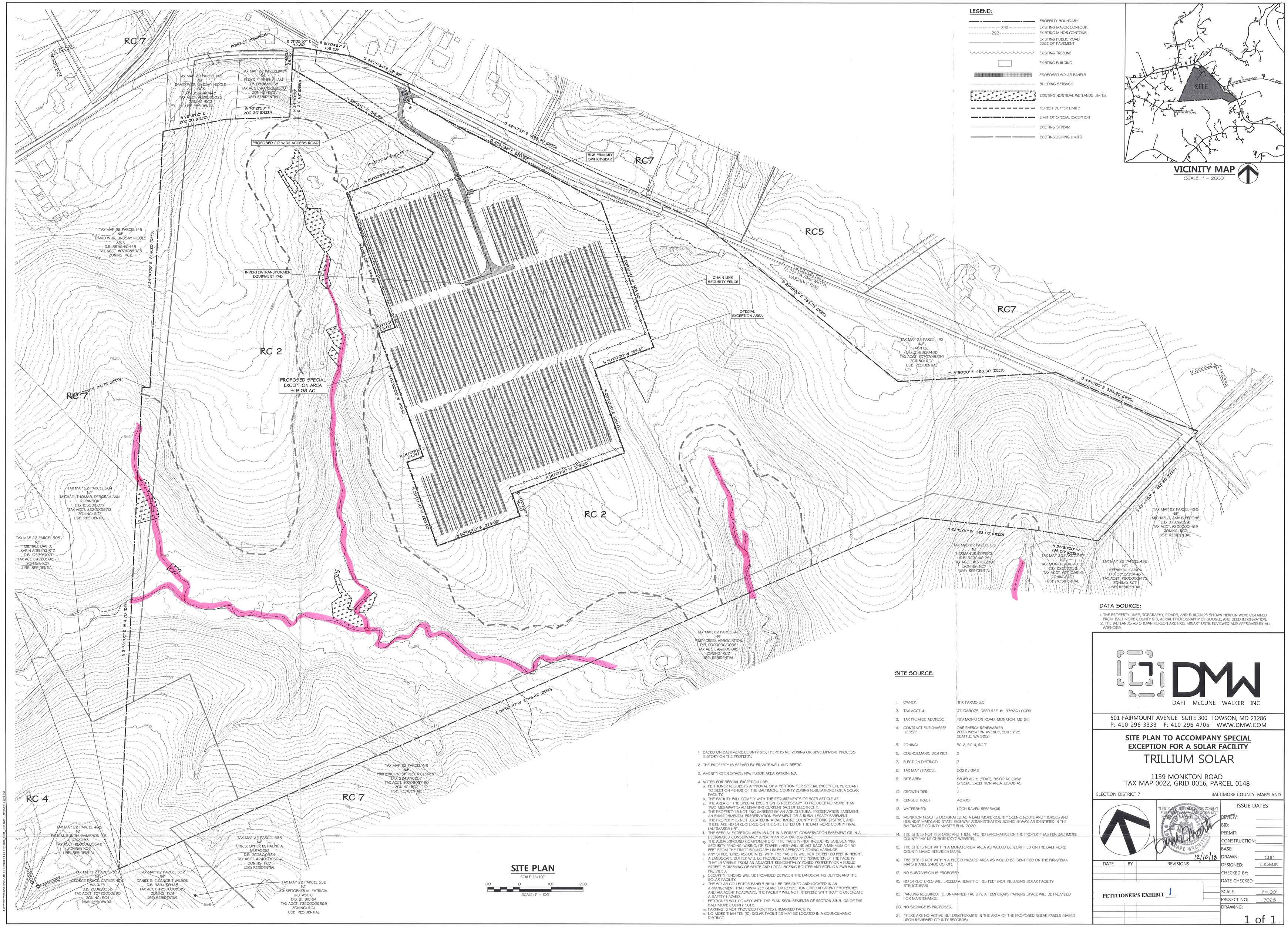
REVIEW:	
BID:	
PERMIT:	
CONSTRUCTION:	
BASE:	
DRAWN:	CHP
DESIGNED:	EJC/MJK
CHECKED BY:	
DATE CHECKED:	
SCALE:	1"=100'
PROJECT NO:	17028
DRAWING:	

1 of 1

Revised

A:\17028\17028-LOGPROAD FILES\SHEET FILES\17028_ZEX1.DWG 5/20/19 2:40 PM

RC 7
RC 2
RC 4
RC5
POINT OF BEGINNING
S 71°05'57" E 32.60'
S 60°04'57" E 155.06'
S 44°23'41" E 1123.40' (DEED)
S 71°30'00" E 498.30' (DEED)
S 44°15'00" E 333.30' (DEED)
S 63°15'00" W 363.00' (DEED)
S 58°30'00" W 155.00' (DEED)
S 28°00'00" W 234.42' (DEED)
N 24°30'00" E 1340.00' (DEED)
S 70°21'53" E 600.29' (DEED)
S 79°15'00" E 200.00' (DEED)
N 24°30'00" E 854.70' (DEED)
N 63°00'00" W 2.46' (DEED)
N 24°30'00" E 1340.00' (DEED)
N 63°52'41" E 43.14'
N 24°00'35" E 261.74'
S 65°59'25" W 489.51'
S 00°00'00" E 580.00'
N 90°00'00" W 376.58'
N 00°00'00" W 45.00'
N 90°00'00" E 54.80'
N 00°00'00" W 260.00'
N 90°00'00" W 275.09'
N 69°36'42" W 189.51'
N 00°00'00" W 45.00'
N 90°00'00" E 54.80'
N 00°00'00" W 260.00'
N 90°00'00" W 275.09'
BGE PRIMARY SWITCHGEAR
INVERTER/TRANSFORMER EQUIPMENT PAD
CHAIN LINK SECURITY FENCE
SPECIAL EXCEPTION AREA
MONKTON RD (4.2%± PAVING WIDTH, VARIABLE R/W)
TAX MAP 22 PARCEL 193 N/F D. K. ACH, LLC D.B. 35636/0466 TAX ACCT. #0707015 ZONING: RC5 USE: RESIDENTIAL
TAX MAP 22 PARCEL 532 N/F CHRISTOPHER M. PATRICIA MUTASCIO D.B. 31819/0464 TAX ACCT. #2500008356 ZONING: RC4 USE: RESIDENTIAL
TAX MAP 22 PARCEL 533 N/F CHRISTOPHER M. PATRICIA MUTASCIO D.B. 31819/0464 TAX ACCT. #2500008356 ZONING: RC7 USE: RESIDENTIAL
TAX MAP 22 PARCEL 532 N/F DANIEL S. ELEANOR T. WILSON D.B. 5053/0435 TAX ACCT. #2500008347 ZONING: RC4 USE: RESIDENTIAL
TAX MAP 22 PARCEL 533 N/F H.M. SNYDER LLC RC7/C0183 CCT. #2000021 ZONING: RC7 USE: RESIDENTIAL
TAX MAP 22 PARCEL 533 N/F JOHN EXNER & ASSOCIATES D.B. 6007/0465 TAX ACCT. #2500008356 ZONING: RC7 USE: RESIDENTIAL
TAX MAP 22 PARCEL 193 N/F D. K. ACH, LLC D.B. 35636/0466 TAX ACCT. #0707015 ZONING: RC5



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TRILLIUM SOLAR

1139 MONKTON ROAD
TAX MAP 0022, GRID 0016, PARCEL 0148

ELECTION DISTRICT 7 — BALTIMORE COUNTY, MARYLAND

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ISSUE DATES

REVIEW:	
BID:	
PERMIT:	
CONSTRUCTION:	

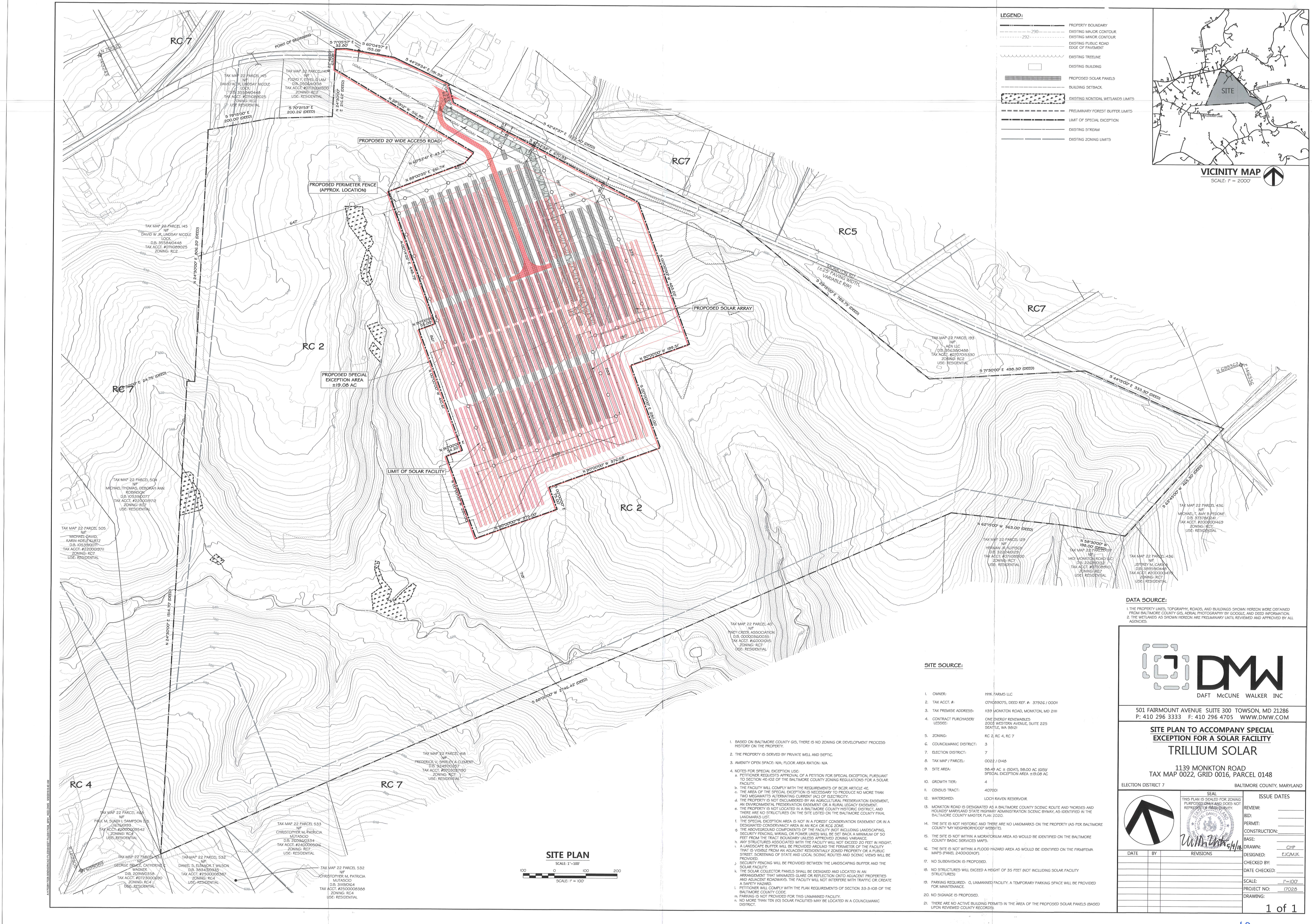
DATE	BY	REVISIONS

BASE:	
DRAWN:	CHP
DESIGNED:	EJC/MJK
CHECKED BY:	
DATE CHECKED:	
SCALE:	1"=100'
PROJECT NO:	17028
DRAWING:	1 of 1

PETITIONER'S EXHIBIT 1

12/10/19

AUTODESK DOCUMENTS://17028 TRILLIUM SOLAR/17028_SITE PLAN.RVT 12/10/2019 1:18:13 PM



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   f. THE SPECIAL EXCEPTION AREA IS NOT IN A FOREST CONSERVATION EASEMENT OR IN A DESIGNATED CONSERVANCY AREA IN AN RC4 OR RC6 ZONE.
   g. THE ABOVEGROUND COMPONENTS OF THE FACILITY (NOT INCLUDING LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES) WILL BE SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY UNLESS APPROVED ZONING VARIANCE.
   h. ANY STRUCTURES ASSOCIATED WITH THE FACILITY WILL NOT EXCEED 20 FEET IN HEIGHT.
   i. A LANDSCAPE BUFFER WILL BE PROVIDED AROUND THE PERIMETER OF THE FACILITY THAT IS VISIBLE FROM AN ADJACENT RESIDENTIALLY ZONED PROPERTY OR A PUBLIC STREET. SCREENING OF STATE AND LOCAL SCENIC ROUTES AND SCENIC VIEWS WILL BE PROVIDED.
   j. SECURITY FENCING WILL BE PROVIDED BETWEEN THE LANDSCAPING BUFFER AND THE SOLAR FACILITY.
   k. THE SOLAR COLLECTOR PANELS SHALL BE DESIGNED AND LOCATED IN AN ARRANGEMENT THAT MINIMIZES GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS. THE FACILITY WILL NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.
   l. PETITIONER WILL COMPLY WITH THE PLAN REQUIREMENTS OF SECTION 33-3-108 OF THE BALTIMORE COUNTY CODE.
   m. PARKING IS NOT PROVIDED FOR THIS UNMANNED FACILITY.
   n. NO MORE THAN TEN (10) SOLAR FACILITIES MAY BE LOCATED IN A COUNCILMANIC DISTRICT.

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

SITE PLAN TO ACCOMPANY SPECIAL EXCEPTION FOR A SOLAR FACILITY

TRILLIUM SOLAR

1139 MONKTON ROAD
TAX MAP 0022, GRID 0016, PARCEL 0148

ELECTION DISTRICT 7 — BALTIMORE COUNTY, MARYLAND

SEAL

THIS PLAN IS SEALED FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT FIELD SURVEY.

CHRISTOPHER HARRIS DAVIS — 21431 — STATE OF MARYLAND — PROFESSIONAL ENGINEER

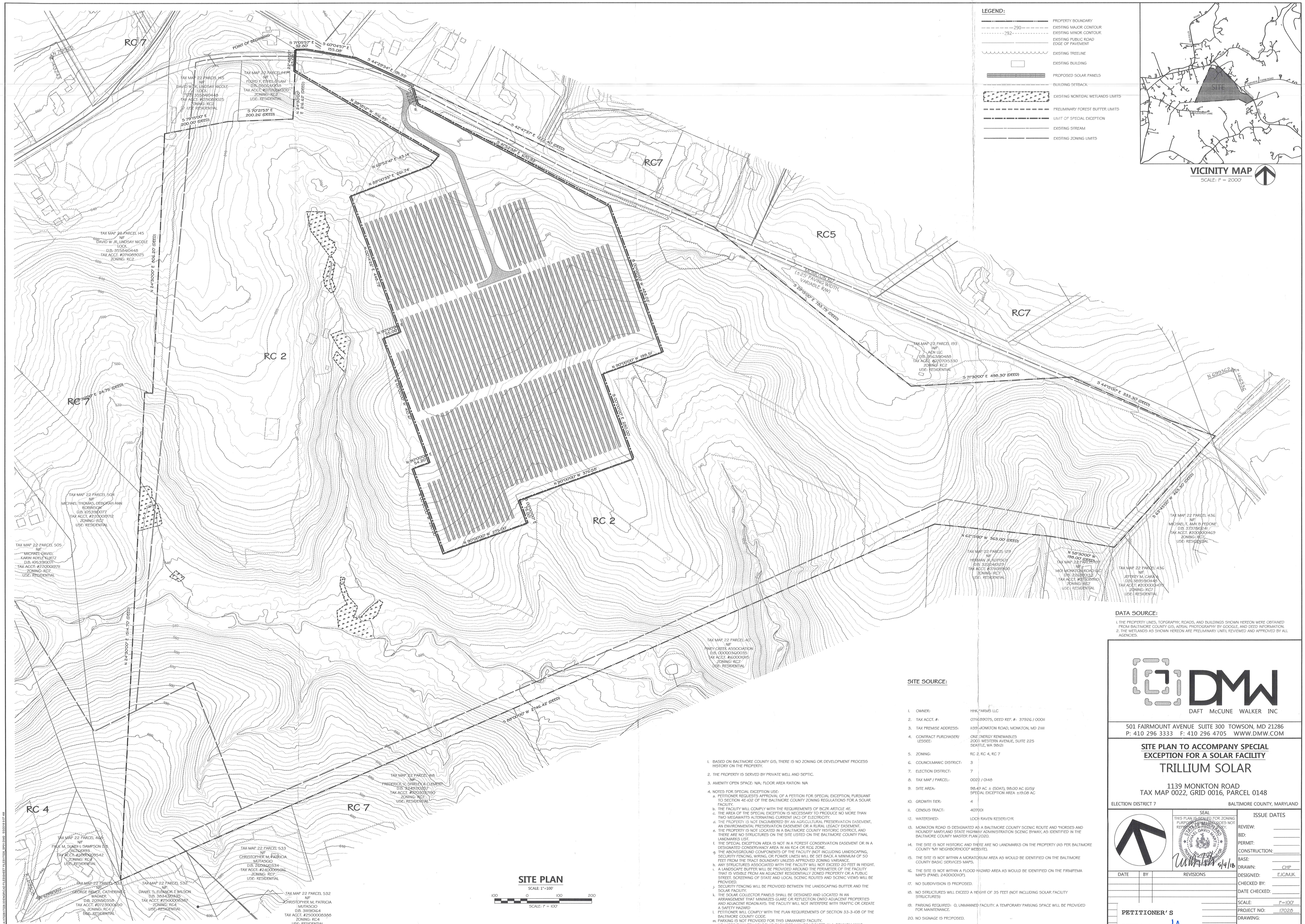
6/4/18

DATE	BY	REVISIONS

ISSUE DATES

REVIEW:	
BID:	
PERMIT:	
CONSTRUCTION:	
BASE:	
DRAWN:	CHP
DESIGNED:	EJG/MJK
CHECKED BY:	
DATE CHECKED:	
SCALE:	1"=100'
PROJECT NO:	17028
DRAWING:	1 of 1

1B



DATA SOURCE:

1. THE PROPERTY LINES, TOPGRAPHY, ROADS, AND BUILDINGS SHOWN HEREON WERE OBTAINED FROM BALTIMORE COUNTY GIS, AERIAL PHOTOGRAPHY BY GOOGLE, AND DEED INFORMATION.
2. THE WETLANDS AS SHOWN HEREON ARE PRELIMINARY UNTIL REVIEWED AND APPROVED BY ALL AGENCIES.

SITE SOURCE:

1.	OWNER:	HHK FARMS LLC
2.	TAX ACCT. #:	0711069075, DEED REF. #: 37926 / 00011
3.	TAX PREMISE ADDRESS:	1139 MONKTON ROAD, MONKTON, MD 21111
4.	CONTRACT PURCHASER/ LESSEE:	ONE ENERGY RENEWABLES 2005 WESTERN AVENUE, SUITE 225 SEATTLE, WA 98121
5.	ZONING:	RC 2, RC 4, RC 7
6.	COUNCILMANIC DISTRICT:	3
7.	ELECTION DISTRICT:	7
8.	TAX MAP / PARCEL:	0022 / 0148
9.	SITE AREA:	98.49 AC ± (SOAT), 98.00 AC (GIS)/ SPECIAL EXCEPTION AREA ±19.08 AC
10.	GROWTH TIER:	4
11.	CENSUS TRACT:	407001
12.	WATERSHED:	LOCH RAVEN RESERVOIR
13.	MONKTON ROAD IS DESIGNATED AS A BALTIMORE COUNTY SCENIC ROUTE AND "HORSES AND HOUNDS" MARYLAND STATE HIGHWAY ADMINISTRATION SCENIC BYWAY, AS IDENTIFIED IN THE BALTIMORE COUNTY MASTER PLAN 2020.	
14.	THE SITE IS NOT HISTORIC AND THERE ARE NO LANDMARKS ON THE PROPERTY (AS PER BALTIMORE COUNTY "MY NEIGHBORHOOD" WEBSITE).	
15.	THE SITE IS NOT WITHIN A MORATORIUM AREA AS WOULD BE IDENTIFIED ON THE BALTIMORE COUNTY BASIC SERVICES MAPS.	
16.	THE SITE IS NOT WITHIN A FLOOD HAZARD AREA AS WOULD BE IDENTIFIED ON THE FIRM/FEMA MAPS (PANEL 24005C0110F).	
17.	NO SUBDIVISION IS PROPOSED.	
18.	NO STRUCTURES WILL EXCEED A HEIGHT OF 35 FEET (NOT INCLUDING SOLAR FACILITY STRUCTURES)	
19.	PARKING REQUIRED: 0, UNMANNED FACILITY. A TEMPORARY PARKING SPACE WILL BE PROVIDED FOR MAINTENANCE.	
20.	NO SIGNAGE IS PROPOSED.	
21.	THERE ARE NO ACTIVE BUILDING PERMITS IN THE AREA OF THE PROPOSED SOLAR PANELS (BASED UPON REVIEWED COUNTY RECORDS).	

1. BASED ON BALTIMORE COUNTY GIS, THERE IS NO ZONING OR DEVELOPMENT PROCESS HISTORY ON THE PROPERTY.
2. THE PROPERTY IS SERVED BY PRIVATE WELL AND SEPTIC.
3. AMENITY OPEN SPACE: N/A; FLOOR AREA RATION: N/A
4. NOTES FOR SPECIAL EXCEPTION USE:
   a. PETITIONER REQUESTS APPROVAL OF A PETITION FOR SPECIAL EXCEPTION, PURSUANT TO SECTION 4E-102 OF THE BALTIMORE COUNTY ZONING REGULATIONS FOR A SOLAR FACILITY.
   b. THE FACILITY WILL COMPLY WITH THE REQUIREMENTS OF BCZR ARTICLE 4E.
   c. THE AREA OF THE SPECIAL EXCEPTION IS NECESSARY TO PRODUCE NO MORE THAN TWO MEGAWATTS ALTERNATING CURRENT (AC) OF ELECTRICITY.
   d. THE PROPERTY IS NOT ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT, AN ENVIRONMENTAL PRESERVATION EASEMENT OR A RURAL LEGACY EASEMENT.
   e. THE PROPERTY IS NOT LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT, AND THERE ARE NO STRUCTURES ON THE SITE LISTED ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.
   f. THE SPECIAL EXCEPTION AREA IS NOT IN A FOREST CONSERVATION EASEMENT OR IN A DESIGNATED CONSERVANCY AREA IN AN RC4 OR RCG ZONE.
   g. THE ABOVEGROUND COMPONENTS OF THE FACILITY (NOT INCLUDING LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES) WILL BE SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY UNLESS APPROVED ZONING VARIANCE.
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ELECTION DISTRICT 7 — BALTIMORE COUNTY, MARYLAND

SEAL
THIS PLAN IS PREPARED FOR ZONING PURPOSES ONLY AND DOES NOT REPRESENT A BOUNDARY SURVEY
STATE OF MARYLAND — DANIEL DAVID MAY — 21431 — REGISTERED PROFESSIONAL ENGINEER
9/4/18

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REVIEW:
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CONSTRUCTION:

DATE	BY	REVISIONS

BASE:
DRAWN: CHP
DESIGNED: EJC/MJK
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SCALE: 1"=100'
PROJECT NO: 17025
DRAWING:

PETITIONER'S EXHIBIT NO. 1A

1 of 1